
HOUSE BILL 2098

State of Washington

53rd Legislature

1993 Regular Session

By Representative Valle; by request of Department of Social and Health Services

Read first time 03/05/93. Referred to Committee on Human Services.

1 AN ACT Relating to options in long-term care; nursing homes-
2 resident care, operating standards; health planning and development;
3 amending RCW 74.42.010, 70.38.111, and 70.128.130; reenacting and
4 amending RCW 70.38.115; adding a new chapter to Title 74 RCW; creating
5 a new section; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that the
8 aging of the population and advanced medical technology have resulted
9 in a growing number of functionally disabled persons who require
10 assistance. The primary resource for long-term care continues to be
11 family and friends. However, these traditional caregivers are
12 increasingly employed outside the home. There is a growing demand for
13 improvement and expansion of home and community-based long-term care
14 services to support and complement the services provided by these
15 informal caregivers.

16 The legislature finds that while high quality nursing homes are
17 required for those who need that level of care, consumers and their
18 families express a clear preference for home and community-based
19 services. The legislature recognizes that, historically, the federal

1 medicaid system has encouraged the use of nursing home care and
2 constrained the development of home and community-based services.

3 The legislature further finds that the public interest would be
4 best served by a well balanced long-term care system that supports
5 functionally disabled persons at home or in the community whenever
6 practicable and which promotes individual autonomy, dignity, and choice
7 among a wide range of cost-effective services.

8 The legislature finds that as other long-term care options become
9 more available, the relative need for nursing home beds is likely to
10 decline. Savings from the reduced need for publicly funded nursing
11 home services should allow for further expansion of needed home and
12 community-based services. The legislature recognizes, however, that
13 nursing home care will continue to be a critical part of the state's
14 long-term care system, and that such services should promote individual
15 dignity, autonomy, and a homelike environment.

16 NEW SECTION. **Sec. 2.** PURPOSE AND INTENT. It is the legislature's
17 intent that:

18 (1) Long-term care services administered by the aging and adult
19 services administration of the department of social and health services
20 include a balanced array of health, social, and supportive services
21 that promote individual choice, dignity, and the highest practicable
22 level of independence;

23 (2) Home and community-based services be developed, expanded, or
24 maintained in order to meet the needs of consumers and to maximize
25 effective use of limited resources;

26 (3) Long-term care services be responsive and appropriate to
27 individual need and also cost-effective for the state;

28 (4) Nursing home care is provided in such a manner and in such an
29 environment as will promote maintenance or enhancement of the quality
30 of life of each resident and timely discharge to a less restrictive
31 care setting when appropriate; and

32 (5) State health planning for nursing home bed supply take into
33 account increased availability and consumer preference for home and
34 community-based service options.

35 NEW SECTION. **Sec. 3.** COMPREHENSIVE PROGRAM. (1) The secretary of
36 the department of social and health services, through the aging and
37 adult services administration, shall administer a state-wide

1 comprehensive long-term care program that responds to consumer needs
2 and preferences. The comprehensive long-term care program administered
3 through the aging and adult services administration shall consist of:

4 (a) Home and community-based services, which shall include but not
5 be limited to the following:

6 (i) Chore services, under RCW 74.08.541;

7 (ii) Medicaid personal care, under RCW 74.09.520;

8 (iii) COPES medicaid waiver services, under chapter 74.09 RCW;

9 (iv) Adult family homes, under RCW 70.128.175;

10 (v) Assisted living, under this chapter;

11 (vi) Private duty nursing, under RCW 74.09.520;

12 (vii) Congregate care facilities, under RCW 74.08.045; and

13 (viii) Respite care, under chapter 74.41 RCW.

14 (b) Nursing homes, under chapter 18.51 RCW.

15 (2) The aging and adult services administration shall develop long-
16 term care service options that enable functionally disabled clients to
17 live at home or in nonmedical residential settings for as long as
18 practicable.

19 (3) The secretary of the department of social and health services
20 shall report by December 1 of each year to the fiscal committees of the
21 house of representatives and the senate regarding the changes in care
22 delivery for persons receiving long-term care services administered
23 through aging and adult services administration. The report shall
24 include:

25 (a) Recommendations regarding cost-saving measures that can be
26 combined with improved care delivery;

27 (b) A review of the effect of current home and community-based
28 rates on the state-wide availability of such services;

29 (c) A review, made in consultation with the department of health,
30 of obstacles to expanded availability of home and community-based
31 services;

32 (d) Information regarding savings made in publicly funded nursing
33 home services that result from consumers choosing home and community-
34 based services; and

35 (e) Recommendations for shifting any savings in nursing home
36 services to needed home and community-based services.

37 NEW SECTION. **Sec. 4.** ASSISTED LIVING. To the extent of available
38 funding, the department of social and health services may contract with

1 licensed boarding homes for assisted living services. The department
2 shall develop rules that ensure that such services:

3 (1) Recognize individual needs, privacy, and autonomy;

4 (2) Include, but not be limited to, personal care, nursing
5 services, medication administration, and supportive services that
6 promote independence and self-sufficiency;

7 (3) Are of sufficient scope to assure that each resident who
8 chooses to remain in assisted living may do so, unless nursing care
9 needs exceed the level of care defined by the department;

10 (4) Are directed first to those persons most at risk of hospital,
11 nursing facility, or other out-of-home placement due to severe
12 functional disability; and

13 (5) Are provided in compliance with applicable department of health
14 facility and professional licensing laws and rules.

15 NEW SECTION. **Sec. 5.** ACCESS TO LONG-TERM CARE SERVICES. The
16 aging and adult services administration:

17 (1) Shall ensure the provision of information and assistance,
18 comprehensive assessment, and case management services that are timely
19 and respectful of individual expectations of service quality;

20 (2) Shall ensure that, in addition to financial eligibility as
21 determined under chapter 74.08 RCW, an individual's need for publicly
22 assisted long-term care is determined by comprehensive assessment of
23 functional disability and the availability of informal support from
24 family and friends. The comprehensive assessment shall document
25 medical condition, health history, psychosocial information, functional
26 abilities, and availability of family support;

27 (3) May provide a comprehensive assessment for private-pay
28 consumers who request such assistance; and

29 (4) Shall provide information to nursing home residents regarding
30 available and appropriate alternative services and may provide
31 assistance relocating any resident who chooses an alternative service.

32 NEW SECTION. **Sec. 6.** The department of social and health services
33 shall adopt rules pursuant to chapter 34.05 RCW necessary to carry out
34 the policies and provisions of this chapter.

35 **Sec. 7.** RCW 74.42.010 and 1979 ex.s. c 211 s 1 are each amended to
36 read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Department" means the department of social and health services
4 and the department's employees.

5 (2) "Facility" refers to a nursing home as defined in RCW
6 18.51.010.

7 (3) "Licensed practical nurse" means a person licensed to practice
8 practical nursing under chapter 18.78 RCW.

9 (4) "Medicaid" means Title XIX of the Social Security Act enacted
10 by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79
11 Stat. 343), as amended.

12 (5) "Nursing care" means that care provided by a registered nurse,
13 a licensed practical nurse, or a nursing assistant in the regular
14 performance of their duties.

15 (6) "Qualified therapist" means:

16 (a) An activities specialist who has specialized education,
17 training, or experience specified by the department.

18 (b) An audiologist who is eligible for a certificate of clinical
19 competence in audiology or who has the equivalent education and
20 clinical experience.

21 (c) A mental health professional as defined in chapter 71.05 RCW.

22 (d) A mental retardation professional who is a qualified therapist
23 or a therapist approved by the department and has specialized training
24 or one year experience in treating or working with the mentally
25 retarded or developmentally disabled.

26 (e) An occupational therapist who is a graduate of a program in
27 occupational therapy or who has equivalent education or training.

28 (f) A physical therapist as defined in chapter 18.74 RCW.

29 (g) A social worker who is a graduate of a school of social work.

30 (h) A speech pathologist who is eligible for a certificate of
31 clinical competence in speech pathology or who has equivalent education
32 and clinical experience.

33 (7) "Registered nurse" means a person practicing nursing under
34 chapter 18.88 RCW.

35 (8) "Resident" means an individual (~~recipient of medical benefits~~
36 ~~pursuant to chapter 74.09 RCW, except as to RCW 74.42.030 through~~
37 ~~74.42.130 which shall apply to all patients~~) residing in a nursing
38 home, as defined in RCW 18.51.010.

1 (9) "Physician's assistant" means a person practicing pursuant to
2 chapters 18.57A and 18.71A RCW.

3 (10) "Nurse practitioner" means a person practicing such expanded
4 acts of nursing as are authorized by the board of nursing pursuant to
5 RCW 18.88.030.

6 **Sec. 8.** RCW 70.38.111 and 1992 c 27 s 2 are each amended to read
7 as follows:

8 (1) The department shall not require a certificate of need for the
9 offering of an inpatient tertiary health service by:

10 (a) A health maintenance organization or a combination of health
11 maintenance organizations if (i) the organization or combination of
12 organizations has, in the service area of the organization or the
13 service areas of the organizations in the combination, an enrollment of
14 at least fifty thousand individuals, (ii) the facility in which the
15 service will be provided is or will be geographically located so that
16 the service will be reasonably accessible to such enrolled individuals,
17 and (iii) at least seventy-five percent of the patients who can
18 reasonably be expected to receive the tertiary health service will be
19 individuals enrolled with such organization or organizations in the
20 combination;

21 (b) A health care facility if (i) the facility primarily provides
22 or will provide inpatient health services, (ii) the facility is or will
23 be controlled, directly or indirectly, by a health maintenance
24 organization or a combination of health maintenance organizations which
25 has, in the service area of the organization or service areas of the
26 organizations in the combination, an enrollment of at least fifty
27 thousand individuals, (iii) the facility is or will be geographically
28 located so that the service will be reasonably accessible to such
29 enrolled individuals, and (iv) at least seventy-five percent of the
30 patients who can reasonably be expected to receive the tertiary health
31 service will be individuals enrolled with such organization or
32 organizations in the combination; or

33 (c) A health care facility (or portion thereof) if (i) the facility
34 is or will be leased by a health maintenance organization or
35 combination of health maintenance organizations which has, in the
36 service area of the organization or the service areas of the
37 organizations in the combination, an enrollment of at least fifty
38 thousand individuals and, on the date the application is submitted

1 under subsection (2) of this section, at least fifteen years remain in
2 the term of the lease, (ii) the facility is or will be geographically
3 located so that the service will be reasonably accessible to such
4 enrolled individuals, and (iii) at least seventy-five percent of the
5 patients who can reasonably be expected to receive the tertiary health
6 service will be individuals enrolled with such organization;
7 if, with respect to such offering or obligation by a nursing home, the
8 department has, upon application under subsection (2) of this section,
9 granted an exemption from such requirement to the organization,
10 combination of organizations, or facility.

11 (2) A health maintenance organization, combination of health
12 maintenance organizations, or health care facility shall not be exempt
13 under subsection (1) of this section from obtaining a certificate of
14 need before offering a tertiary health service unless:

15 (a) It has submitted at least thirty days prior to the offering of
16 services reviewable under RCW 70.38.105(4)(d) an application for such
17 exemption; and

18 (b) The application contains such information respecting the
19 organization, combination, or facility and the proposed offering or
20 obligation by a nursing home as the department may require to determine
21 if the organization or combination meets the requirements of subsection
22 (1) of this section or the facility meets or will meet such
23 requirements; and

24 (c) The department approves such application. The department shall
25 approve or disapprove an application for exemption within thirty days
26 of receipt of a completed application. In the case of a proposed
27 health care facility (or portion thereof) which has not begun to
28 provide tertiary health services on the date an application is
29 submitted under this subsection with respect to such facility (or
30 portion), the facility (or portion) shall meet the applicable
31 requirements of subsection (1) of this section when the facility first
32 provides such services. The department shall approve an application
33 submitted under this subsection if it determines that the applicable
34 requirements of subsection (1) of this section are met.

35 (3) A health care facility (or any part thereof) with respect to
36 which an exemption was granted under subsection (1) of this section may
37 not be sold or leased and a controlling interest in such facility or in
38 a lease of such facility may not be acquired and a health care facility
39 described in (1)(c) which was granted an exemption under subsection (1)

1 of this section may not be used by any person other than the lessee
2 described in (1)(c) unless:

3 (a) The department issues a certificate of need approving the sale,
4 lease, acquisition, or use; or

5 (b) The department determines, upon application, that (i) the
6 entity to which the facility is proposed to be sold or leased, which
7 intends to acquire the controlling interest, or which intends to use
8 the facility is a health maintenance organization or a combination of
9 health maintenance organizations which meets the requirements of
10 (1)(a)(i), and (ii) with respect to such facility, meets the
11 requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i)
12 and (ii).

13 (4) In the case of a health maintenance organization, an ambulatory
14 care facility, or a health care facility, which ambulatory or health
15 care facility is controlled, directly or indirectly, by a health
16 maintenance organization or a combination of health maintenance
17 organizations, the department may under the program apply its
18 certificate of need requirements only to the offering of inpatient
19 tertiary health services and then only to the extent that such offering
20 is not exempt under the provisions of this section.

21 (5)(a) The department shall not require a certificate of need for
22 the construction, development, or other establishment of a nursing
23 home, or the addition of beds to an existing nursing home, that is
24 owned and operated by a continuing care retirement community that:

25 (i) Offers services only to contractual members;

26 (ii) Provides its members a contractually guaranteed range of
27 services from independent living through skilled nursing, including
28 some assistance with daily living activities;

29 (iii) Contractually assumes responsibility for the cost of services
30 exceeding the member's financial responsibility under the contract, so
31 that no third party, with the exception of insurance purchased by the
32 retirement community or its members, but including the medicaid
33 program, is liable for costs of care even if the member depletes his or
34 her personal resources;

35 (iv) Has offered continuing care contracts and operated a nursing
36 home continuously since January 1, 1988, or has obtained a certificate
37 of need to establish a nursing home;

1 (v) Maintains a binding agreement with the state assuring that
2 financial liability for services to members, including nursing home
3 services, will not fall upon the state;

4 (vi) Does not operate, and has not undertaken a project that would
5 result in a number of nursing home beds in excess of one for every four
6 living units operated by the continuing care retirement community,
7 exclusive of nursing home beds; and

8 (vii) Has obtained a professional review of pricing and long-term
9 solvency within the prior five years which was fully disclosed to
10 members.

11 (b) A continuing care retirement community shall not be exempt
12 under this subsection from obtaining a certificate of need unless:

13 (i) It has submitted an application for exemption at least thirty
14 days prior to commencing construction of, is submitting an application
15 for the licensure of, or is commencing operation of a nursing home,
16 whichever comes first; and

17 (ii) The application documents to the department that the
18 continuing care retirement community qualifies for exemption.

19 (c) The sale, lease, acquisition, or use of part or all of a
20 continuing care retirement community nursing home that qualifies for
21 exemption under this subsection shall require prior certificate of need
22 approval to qualify for licensure as a nursing home unless the
23 department determines such sale, lease, acquisition, or use is by a
24 continuing care retirement community that meets the conditions of (a)
25 of this subsection.

26 (6) A rural hospital, as defined by the department, reducing the
27 number of licensed beds to become a rural primary care hospital under
28 the provisions of Part A Title XVIII of the Social Security Act Section
29 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction
30 of beds licensed under chapter 70.41 RCW, increase the number of
31 licensed beds to no more than the previously licensed number without
32 being subject to the provisions of this chapter.

33 (7) A rural health care facility licensed under RCW 70.175.100
34 formerly licensed as a hospital under chapter 70.41 RCW may, within
35 three years of the effective date of the rural health care facility
36 license, apply to the department for a hospital license and not be
37 subject to the requirements of RCW 70.38.105(4)(a) as the construction,
38 development, or other establishment of a new hospital, provided there
39 is no increase in the number of beds previously licensed under chapter

1 70.41 RCW and there is no redistribution in the number of beds used for
2 acute care or long-term care, the rural health care facility has been
3 in continuous operation, and the rural health care facility has not
4 been purchased or leased.

5 (8) A nursing home that voluntarily reduces the number of its
6 licensed beds to convert part or all of its facility to assisted living
7 units under a boarding home license may, within four years of the
8 reduction of licensed nursing home beds, convert the original facility
9 or portion of the facility back and thereby increase the number of its
10 licensed nursing home beds to no more than the previously licensed
11 number of nursing home beds without being subject to the provisions of
12 this chapter except under RCW 70.38.105(4)(d), provided the facility
13 has been in continuous operation, the facility has not been purchased
14 or leased, and the conversion back to nursing home beds occurs on or
15 before July 1, 1999. Nursing home beds that have been converted to
16 assisted living units under the provisions of this section shall be
17 counted as available nursing home beds for the purposes of evaluating
18 need under RCW 70.38.115(2) (a) and (k) until the earlier of July 1,
19 1999, or the date upon which the department receives irrevocable
20 notification that the beds shall not be converted back to nursing home
21 beds.

22 **Sec. 9.** RCW 70.38.115 and 1989 1st ex.s. c 9 s 605 and 1989 c 175
23 s 126 are each reenacted and amended to read as follows:

24 (1) Certificates of need shall be issued, denied, suspended, or
25 revoked by the designee of the secretary in accord with the provisions
26 of this chapter and rules of the department which establish review
27 procedures and criteria for the certificate of need program.

28 (2) Criteria for the review of certificate of need applications,
29 except as provided in subsection (3) of this section for health
30 maintenance organizations, shall include but not be limited to
31 consideration of the following:

32 ~~(a) ((Until June 30, 1990, the relationship of the health services~~
33 ~~being reviewed to the applicable health plans;~~

34 ~~(b))~~ The need that the population served or to be served by such
35 services has for such services;

36 ~~((e))~~ (b) The availability of less costly or more effective
37 alternative methods of providing such services;

1 ~~((d))~~ (c) The financial feasibility and the probable impact of
2 the proposal on the cost of and charges for providing health services
3 in the community to be served;

4 ~~((e))~~ (d) In the case of health services to be provided, (i) the
5 availability of alternative uses of project resources for the provision
6 of other health services, (ii) the extent to which such proposed
7 services will be accessible to all residents of the area to be served,
8 and (iii) the need for and the availability in the community of
9 services and facilities for osteopathic and allopathic physicians and
10 their patients. The department shall consider the application in terms
11 of its impact on existing and proposed institutional training programs
12 for doctors of osteopathy and medicine at the student, internship, and
13 residency training levels;

14 ~~((f))~~ (e) In the case of a construction project, the costs and
15 methods of the proposed construction, including the cost and methods of
16 energy provision, and the probable impact of the construction project
17 reviewed (i) on the cost of providing health services by the person
18 proposing such construction project and (ii) on the cost and charges to
19 the public of providing health services by other persons;

20 ~~((g))~~ (f) The special needs and circumstances of osteopathic
21 hospitals, nonallopathic services and children's hospitals;

22 ~~((h))~~ (g) Improvements or innovations in the financing and
23 delivery of health services which foster cost containment and serve to
24 promote quality assurance and cost-effectiveness;

25 ~~((i))~~ (h) In the case of health services proposed to be provided,
26 the efficiency and appropriateness of the use of existing services and
27 facilities similar to those proposed;

28 ~~((j))~~ (i) In the case of existing services or facilities, the
29 quality of care provided by such services or facilities in the past;
30 ~~((and~~

31 ~~((k))~~ (j) In the case of hospital certificate of need applications,
32 whether the hospital meets or exceeds the regional average level of
33 charity care, as determined by the secretary; and

34 (k) In the case of nursing home applications:

35 (i) The availability of other nursing home beds in the planning
36 area to be served; and

37 (ii) The availability of alternative services in the community to
38 be served. Data used to determine the availability of alternative
39 services will include but not be limited to data provided by the aging

1 and adult services administration of the department of social and
2 health services.

3 (3) A certificate of need application of a health maintenance
4 organization or a health care facility which is controlled, directly or
5 indirectly, by a health maintenance organization, shall be approved by
6 the department if the department finds:

7 (a) Approval of such application is required to meet the needs of
8 the members of the health maintenance organization and of the new
9 members which such organization can reasonably be expected to enroll;
10 and

11 (b) The health maintenance organization is unable to provide,
12 through services or facilities which can reasonably be expected to be
13 available to the organization, its health services in a reasonable and
14 cost-effective manner which is consistent with the basic method of
15 operation of the organization and which makes such services available
16 on a long-term basis through physicians and other health professionals
17 associated with it.

18 A health care facility, or any part thereof, with respect to which
19 a certificate of need was issued under this subsection may not be sold
20 or leased and a controlling interest in such facility or in a lease of
21 such facility may not be acquired unless the department issues a
22 certificate of need approving the sale, acquisition, or lease.

23 (4) Until the final expiration of the state health plan as provided
24 under RCW 70.38.919, the decision of the department on a certificate of
25 need application shall be consistent with the state health plan in
26 effect, except in emergency circumstances which pose a threat to the
27 public health. The department in making its final decision may issue
28 a conditional certificate of need if it finds that the project is
29 justified only under specific circumstances. The conditions shall
30 directly relate to the project being reviewed. The conditions may be
31 released if it can be substantiated that the conditions are no longer
32 valid and the release of such conditions would be consistent with the
33 purposes of this chapter.

34 (5) Criteria adopted for review in accordance with subsection (2)
35 of this section may vary according to the purpose for which the
36 particular review is being conducted or the type of health service
37 reviewed.

38 (6) The department shall specify information to be required for
39 certificate of need applications. Within fifteen days of receipt of

1 the application, the department shall request additional information
2 considered necessary to the application or start the review process.
3 Applicants may decline to submit requested information through written
4 notice to the department, in which case review starts on the date of
5 receipt of the notice. Applications may be denied or limited because
6 of failure to submit required and necessary information.

7 (7) Concurrent review is for the purpose of comparative analysis
8 and evaluation of competing or similar projects in order to determine
9 which of the projects may best meet identified needs. Categories of
10 projects subject to concurrent review include at least new health care
11 facilities, new services, and expansion of existing health care
12 facilities. The department shall specify time periods for the
13 submission of applications for certificates of need subject to
14 concurrent review, which shall not exceed ninety days. Review of
15 concurrent applications shall start fifteen days after the conclusion
16 of the time period for submission of applications subject to concurrent
17 review. Concurrent review periods shall be limited to one hundred
18 fifty days, except as provided for in rules adopted by the department
19 authorizing and limiting amendment during the course of the review, or
20 for an unresolved pivotal issue declared by the department.

21 (8) Review periods for certificate of need applications other than
22 those subject to concurrent review shall be limited to ninety days.
23 Review periods may be extended up to thirty days if needed by a review
24 agency, and for unresolved pivotal issues the department may extend up
25 to an additional thirty days. A review may be extended in any case if
26 the applicant agrees to the extension.

27 (9) The department or its designee, shall conduct a public hearing
28 on a certificate of need application if requested unless the review is
29 expedited or subject to emergency review. The department by rule shall
30 specify the period of time within which a public hearing must be
31 requested and requirements related to public notice of the hearing,
32 procedures, recordkeeping and related matters.

33 (10) Any applicant denied a certificate of need or whose
34 certificate of need has been suspended or revoked has the right to an
35 adjudicative proceeding. The proceeding is governed by chapter 34.05
36 RCW, the Administrative Procedure Act.

37 (11) An amended certificate of need shall be required for the
38 following modifications of an approved project:

39 (a) A new service requiring review under this chapter;

1 (b) An expansion of a service subject to review beyond that
2 originally approved;

3 (c) An increase in bed capacity;

4 (d) A significant reduction in the scope of a nursing home project
5 without a commensurate reduction in the cost of the nursing home
6 project, or a cost increase (as represented in bids on a nursing home
7 construction project or final cost estimates acceptable to the person
8 to whom the certificate of need was issued) if the total of such
9 increases exceeds twelve percent or fifty thousand dollars, whichever
10 is greater, over the maximum capital expenditure approved. The review
11 of reductions or cost increases shall be restricted to the continued
12 conformance of the nursing home project with the review criteria
13 pertaining to financial feasibility and cost containment.

14 (12) An application for a certificate of need for a nursing home
15 capital expenditure which is determined by the department to be
16 required to eliminate or prevent imminent safety hazards (~~or correct~~
17 ~~violations of applicable licensure and accreditation standards~~) shall
18 be approved, provided the applicant demonstrates that the safety
19 hazards were not preventable with normal care and maintenance.

20 (13) The department shall not approve a certificate of need
21 application to replace existing nursing home beds when a license
22 revocation is pending against the existing facility.

23 (14) In the case of an application for a certificate of need to
24 replace existing nursing home beds, all criteria must be met on the
25 same basis as an application for a certificate of need for a new
26 nursing home, except that the need criteria shall be deemed met if the
27 applicant is an existing licensee who proposes to replace existing beds
28 that the licensee has operated for at least one year with the same or
29 fewer number of beds in the same planning area.

30 **Sec. 10.** RCW 70.128.130 and 1989 c 427 s 26 are each amended to
31 read as follows:

32 (1) Adult family homes shall be maintained internally and
33 externally in good repair and condition. Such homes shall have safe
34 and functioning systems for heating, cooling, hot and cold water,
35 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
36 artificial and natural light, ventilation, and any other feature of the
37 home.

1 (2) Adult family homes shall be maintained in a clean and sanitary
2 manner, including proper sewage disposal, food handling, and hygiene
3 practices.

4 (3) Adult family homes shall develop a fire drill plan for
5 emergency evacuation of residents, shall have smoke detectors in each
6 bedroom where a resident is located, shall have fire extinguishers on
7 each floor of the home, and shall not keep nonambulatory patients above
8 the first floor of the home.

9 (4) Adult family homes shall have clean, functioning, and safe
10 household items and furnishings.

11 (5) Adult family homes shall provide a nutritious and balanced diet
12 and shall recognize residents' needs for special diets.

13 (6) Adult family homes shall establish health care procedures for
14 the care of residents including medication administration and emergency
15 medical care. (~~(a)~~) Adult family home residents shall be permitted
16 to self-administer medications.

17 (~~(b) Adult family home providers may administer medications and
18 deliver special care only to the extent that the provider is a licensed
19 health care professional for whom the administration of medications is
20 within the scope of practice under Washington law.~~)

21 NEW SECTION. **Sec. 11.** Sections 1 through 6, 13, and 14 of this
22 act shall constitute a new chapter in Title 74 RCW.

23 NEW SECTION. **Sec. 12.** Section captions as used in this act
24 constitute no part of the law.

25 NEW SECTION. **Sec. 13.** If any part of this act is found to be in
26 conflict with federal requirements that are a prescribed condition to
27 the allocation of federal funds to the state, the conflicting part of
28 this act is inoperative solely to the extent of the conflict and with
29 respect to the agencies directly affected, and this finding does not
30 affect the operation of the remainder of this act in its application to
31 the agencies concerned. The rules under this act shall meet federal
32 requirements that are a necessary condition to the receipt of federal
33 funds by the state.

34 NEW SECTION. **Sec. 14.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.

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