

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6544

Chapter 272, Laws of 1998

(partial veto)

55th Legislature
1998 Regular Session

ADULT FAMILY HOMES, BOARDING HOMES, AND LONG-TERM CARE--REVISIONS

EFFECTIVE DATE: 4/1/98 - Except section 5 which becomes effective on 7/1/98.

Passed by the Senate March 12, 1998
YEAS 43 NAYS 3

BRAD OWEN

President of the Senate

Passed by the House March 11, 1998
YEAS 95 NAYS 3

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved April 1, 1998, with the exception of sections 18, 19, 20 and 21, which are vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6544** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

April 1, 1998 - 3:15 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6544

AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Deccio, Franklin, Wood, Wojahn and Winsley)

Read first time 02/10/98.

1 AN ACT Relating to improving long-term care; amending RCW
2 70.128.070, 70.129.030, 18.88A.210, 18.88A.230, 18.20.020, 18.20.190,
3 18.20.160, and 70.128.060; amending 1995 1st sp.s. c 18 s 54
4 (uncodified); adding new sections to chapter 18.20 RCW; adding new
5 sections to chapter 70.128 RCW; adding new sections to chapter 18.48
6 RCW; creating new sections; making an appropriation; providing an
7 effective date; providing an expiration date; providing a contingent
8 expiration date; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that many residents of
11 long-term care facilities and recipients of in-home personal care
12 services are exceptionally vulnerable and their health and well-being
13 are heavily dependent on their caregivers. The legislature further
14 finds that the quality of staff in long-term care facilities is often
15 the key to good care. The need for well-trained staff and well-managed
16 facilities is growing as the state's population ages and the acuity of
17 the health care problems of residents increases. In order to better
18 protect and care for residents, the legislature directs that the
19 minimum training standards be reviewed for management and caregiving

1 staff, including those serving residents with special needs, such as
2 mental illness, dementia, or a developmental disability, that
3 management and caregiving staff receive appropriate training, and that
4 the training delivery system be improved.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.20 RCW
6 to read as follows:

7 (1) The department of social and health services shall review, in
8 coordination with the department of health, the nursing care quality
9 assurance commission, adult family home providers, boarding home
10 providers, in-home personal care providers, and long-term care
11 consumers and advocates, training standards for administrators and
12 resident caregiving staff. The departments and the commission shall
13 submit to the appropriate committees of the house of representatives
14 and the senate by December 1, 1998, specific recommendations on
15 training standards and the delivery system, including necessary
16 statutory changes and funding requirements. Any proposed enhancements
17 shall be consistent with this section, shall take into account and not
18 duplicate other training requirements applicable to boarding homes and
19 staff, and shall be developed with the input of boarding home and
20 resident representatives, health care professionals, and other vested
21 interest groups. Training standards and the delivery system shall be
22 relevant to the needs of residents served by the boarding home and
23 recipients of long-term in-home personal care services and shall be
24 sufficient to ensure that administrators and caregiving staff have the
25 skills and knowledge necessary to provide high quality, appropriate
26 care.

27 (2) The recommendations on training standards and the delivery
28 system developed under subsection (1) of this section shall be based on
29 a review and consideration of the following: Quality of care;
30 availability of training; affordability, including the training costs
31 incurred by the department of social and health services and private
32 providers; portability of existing training requirements; competency
33 testing; practical and clinical course work; methods of delivery of
34 training; standards for management and caregiving staff training; and
35 necessary enhancements for special needs populations and resident
36 rights training. Residents with special needs include, but are not
37 limited to, residents with a diagnosis of mental illness, dementia, or
38 developmental disability.

1 (3) The department of social and health services shall report to
2 the appropriate committees of the house of representatives and the
3 senate by December 1, 1998, on the cost of implementing the proposed
4 training standards for state-funded residents, and on the extent to
5 which that cost is covered by existing state payment rates.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.128 RCW
7 to read as follows:

8 (1) The department of social and health services shall review, in
9 coordination with the department of health, the nursing care quality
10 assurance commission, adult family home providers, boarding home
11 providers, in-home personal care providers, and long-term care
12 consumers and advocates, training standards for providers, resident
13 managers, and resident caregiving staff. The departments and the
14 commission shall submit to the appropriate committees of the house of
15 representatives and the senate by December 1, 1998, specific
16 recommendations on training standards and the delivery system,
17 including necessary statutory changes and funding requirements. Any
18 proposed enhancements shall be consistent with this section, shall take
19 into account and not duplicate other training requirements applicable
20 to adult family homes and staff, and shall be developed with the input
21 of adult family home and resident representatives, health care
22 professionals, and other vested interest groups. Training standards
23 and the delivery system shall be relevant to the needs of residents
24 served by the adult family home and recipients of long-term in-home
25 personal care services and shall be sufficient to ensure that
26 providers, resident managers, and caregiving staff have the skills and
27 knowledge necessary to provide high quality, appropriate care.

28 (2) The recommendations on training standards and the delivery
29 system developed under subsection (1) of this section shall be based on
30 a review and consideration of the following: Quality of care;
31 availability of training; affordability, including the training costs
32 incurred by the department of social and health services and private
33 providers; portability of existing training requirements; competency
34 testing; practical and clinical course work; methods of delivery of
35 training; standards for management; uniform caregiving staff training;
36 necessary enhancements for special needs populations; and resident
37 rights training. Residents with special needs include, but are not
38 limited to, residents with a diagnosis of mental illness, dementia, or

1 developmental disability. Development of training recommendations for
2 developmental disabilities services shall be coordinated with the study
3 requirements in section 6 of this act.

4 (3) The department of social and health services shall report to
5 the appropriate committees of the house of representatives and the
6 senate by December 1, 1998, on the cost of implementing the proposed
7 training standards for state-funded residents, and on the extent to
8 which that cost is covered by existing state payment rates.

9 **Sec. 4.** RCW 70.128.070 and 1995 1st sp.s. c 18 s 22 are each
10 amended to read as follows:

11 ~~(1) ((A license shall be valid for one year.~~

12 ~~(2) At least sixty days prior to expiration of the license, the~~
13 ~~provider shall submit an application for renewal of a license. The~~
14 ~~department shall send the provider an application for renewal prior to~~
15 ~~this time. The department shall have the authority to investigate any~~
16 ~~information included in the application for renewal of a license.~~

17 ~~(3))~~ A license shall remain valid unless voluntarily surrendered,
18 suspended, or revoked in accordance with this chapter.

19 (2)(a) Homes applying for a license shall be inspected at the time
20 of licensure.

21 (b) Homes licensed by the department shall be inspected at least
22 every eighteen months, subject to available funds.

23 (c) The department may make an unannounced inspection of a licensed
24 home at any time to assure that the home and provider are in compliance
25 with this chapter and the rules adopted under this chapter.

26 ~~((4))~~ (3) If the department finds that the home is not in
27 compliance with this chapter, it shall require the home to correct any
28 violations as provided in this chapter. ~~((If the department finds that~~
29 ~~the home is in compliance with this chapter and the rules adopted under~~
30 ~~this chapter, the department shall renew the license of the home.))~~

31 **Sec. 5.** RCW 70.129.030 and 1997 c 386 s 31 are each amended to
32 read as follows:

33 (1) The facility must inform the resident both orally and in
34 writing in a language that the resident understands of his or her
35 rights and all rules and regulations governing resident conduct and
36 responsibilities during the stay in the facility. The notification

1 must be made prior to or upon admission. Receipt of the information
2 must be acknowledged in writing.

3 (2) The resident or his or her legal representative has the right:

4 (a) Upon an oral or written request, to access all records
5 pertaining to himself or herself including clinical records within
6 twenty-four hours; and

7 (b) After receipt of his or her records for inspection, to purchase
8 at a cost not to exceed the community standard photocopies of the
9 records or portions of them upon request and two working days' advance
10 notice to the facility.

11 (3) The facility shall only admit or retain individuals whose needs
12 it can safely and appropriately serve in the facility with appropriate
13 available staff and through the provision of reasonable accommodations
14 required by state or federal law. Except in cases of genuine
15 emergency, the facility shall not admit an individual before obtaining
16 a thorough assessment of the resident's needs and preferences. The
17 assessment shall contain, unless unavailable despite the best efforts
18 of the facility, the resident applicant, and other interested parties,
19 the following minimum information: Recent medical history; necessary
20 and contraindicated medications; a licensed medical or other health
21 professional's diagnosis, unless the individual objects for religious
22 reasons; significant known behaviors or symptoms that may cause concern
23 or require special care; mental illness, except where protected by
24 confidentiality laws; level of personal care needs; activities and
25 service preferences; and preferences regarding other issues important
26 to the resident applicant, such as food and daily routine.

27 (4) The facility must inform each resident in writing in a language
28 the resident or his or her representative understands before~~((, or at~~
29 ~~the time of))~~ admission, and at least once every twenty-four months
30 thereafter of: (a) Services, items, and activities customarily
31 available in the facility or arranged for by the facility as permitted
32 by the facility's license; (b) charges for those services, items, and
33 activities including charges for services, items, and activities not
34 covered by the facility's per diem rate or applicable public benefit
35 programs; and (c) the rules of facility operations required under RCW
36 70.129.140(2). Each resident and his or her representative must be
37 informed in writing in advance of changes in the availability or the
38 charges for services, items, or activities, or of changes in the
39 facility's rules. Except in emergencies, thirty days' advance notice

1 must be given prior to the change. However, for facilities licensed
2 for six or fewer residents, if there has been a substantial and
3 continuing change in the resident's condition necessitating
4 substantially greater or lesser services, items, or activities, then
5 the charges for those services, items, or activities may be changed
6 upon fourteen days' advance written notice.

7 ~~((4))~~ (5) The facility must furnish a written description of
8 residents rights that includes:

9 (a) A description of the manner of protecting personal funds, under
10 RCW 70.129.040;

11 (b) A posting of names, addresses, and telephone numbers of the
12 state survey and certification agency, the state licensure office, the
13 state ombudsmen program, and the protection and advocacy systems; and

14 (c) A statement that the resident may file a complaint with the
15 appropriate state licensing agency concerning alleged resident abuse,
16 neglect, and misappropriation of resident property in the facility.

17 ~~((5))~~ (6) Notification of changes.

18 (a) A facility must immediately consult with the resident's
19 physician, and if known, make reasonable efforts to notify the
20 resident's legal representative or an interested family member when
21 there is:

22 (i) An accident involving the resident which requires or has the
23 potential for requiring physician intervention;

24 (ii) A significant change in the resident's physical, mental, or
25 psychosocial status (i.e., a deterioration in health, mental, or
26 psychosocial status in either life-threatening conditions or clinical
27 complications).

28 (b) The facility must promptly notify the resident or the
29 resident's representative shall make reasonable efforts to notify an
30 interested family member, if known, when there is:

31 (i) A change in room or roommate assignment; or

32 (ii) A decision to transfer or discharge the resident from the
33 facility.

34 (c) The facility must record and update the address and phone
35 number of the resident's representative or interested family member,
36 upon receipt of notice from them.

37 NEW SECTION. Sec. 6. The division of developmental disabilities
38 in the department of social and health services, in coordination with

1 advocacy, self-advocacy, and provider organizations, shall review
2 administrator and resident caregiver staff training standards for
3 agency contracted supported living services, including intensive tenant
4 support, tenant support, supportive living, and in-home personal care
5 services for children. The division and the advocates shall coordinate
6 specialty training recommendations with the larger study group
7 referenced in sections 2(1) and 3(1) of this act and submit specific
8 recommendations on training standards, including necessary statutory
9 changes and funding requirements to the appropriate committees of the
10 house of representatives and the senate by December 1, 1998.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.48 RCW
12 to read as follows:

13 Adult family homes have developed rapidly in response to the health
14 and social needs of the aging population in community settings,
15 especially as the aging population has increased in proportion to the
16 general population. The growing demand for elder care with a new focus
17 on issues affecting senior citizens, including persons with
18 developmental disabilities, mental illness, or dementia, has prompted
19 a growing professionalization of adult family home providers to address
20 quality care and quality of life issues consistent with standards of
21 accountability and regulatory safeguards for the health and safety of
22 the residents. The establishment of an advisory committee to the
23 department of health and the department of social and health services
24 under section 8 of this act formalizes a stable process for discussing
25 and considering these issues among residents and their advocates,
26 regulatory officials, and adult family home providers. The dialogue
27 among all stakeholders interested in maintaining a healthy option for
28 the aging population in community settings assures the highest regard
29 for the well-being of these residents within a benign and functional
30 regulatory environment.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.48 RCW
32 to read as follows:

33 (1) The secretary, in consultation with the secretary of social and
34 health services, shall appoint an advisory committee on matters
35 relating to the regulation, administrative rules, enforcement process,
36 staffing, and training requirements of adult family homes. The
37 advisory committee shall be composed of six members, of which two

1 members shall be resident advocates, three members shall represent
2 adult family home providers, and one member shall represent the public
3 and serve as chair. The members shall generally represent the
4 interests of aging residents, residents with dementia, residents with
5 mental illness, and residents with developmental disabilities
6 respectively. Members representing adult family home providers must
7 have at least two years' experience as licensees. The membership must
8 generally reflect urban and rural areas and western and eastern parts
9 of the state. A member may not serve more than two consecutive terms.

10 (2) The secretary may remove a member of the advisory committee for
11 cause as specified by rule adopted by the department. If there is a
12 vacancy, the secretary shall appoint a member to serve for the
13 remainder of the unexpired term.

14 (3) The advisory committee shall meet at the times and places
15 designated by the secretary and shall hold meetings during the year as
16 necessary to provide advice to the secretary on matters relating to the
17 regulation of adult family homes. A majority of the members may
18 request a meeting of the committee for any express purpose directly
19 related to the regulation of adult family homes. A majority of members
20 currently serving shall constitute a quorum.

21 (4) Establishment of the advisory committee shall not prohibit the
22 department of health from utilizing other advisory activities that the
23 department of health deems necessary for program development.

24 (5) Each member of the advisory committee shall serve without
25 compensation but may be reimbursed for travel expenses as authorized in
26 RCW 43.03.060.

27 (6) The secretary, members of the advisory committee, or
28 individuals acting on their behalf are immune from civil liability for
29 official acts performed in the course of their duties.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.128 RCW
31 to read as follows:

32 Adult family homes have developed rapidly in response to the health
33 and social needs of the aging population in community settings,
34 especially as the aging population has increased in proportion to the
35 general population. The growing demand for elder care with a new focus
36 on issues affecting senior citizens, including persons with
37 developmental disabilities, mental illness, or dementia, has prompted
38 a growing professionalization of adult family home providers to address

1 quality care and quality of life issues consistent with standards of
2 accountability and regulatory safeguards for the health and safety of
3 the residents. The establishment of an advisory committee to the
4 department of health and the department of social and health services
5 under section 8 of this act formalizes a stable process for discussing
6 and considering these issues among residents and their advocates,
7 regulatory officials, and adult family home providers. The dialogue
8 among all stakeholders interested in maintaining a healthy option for
9 the aging population in community settings assures the highest regard
10 for the well-being of these residents within a benign and functional
11 regulatory environment. The secretary shall be advised by an advisory
12 committee on adult family homes established under section 8 of this
13 act.

14 Establishment of the advisory committee shall not prohibit the
15 department of social and health services from utilizing other advisory
16 activities that the department of social and health services deems
17 necessary for program development.

18 **Sec. 10.** RCW 18.88A.210 and 1995 1st sp.s. c 18 s 46 are each
19 amended to read as follows:

20 (1) A nurse may delegate specific care tasks to nursing assistants
21 meeting the requirements of this section and who provide care to
22 individuals in community residential programs for the developmentally
23 disabled certified by the department of social and health services
24 under chapter 71A.12 RCW, to individuals residing in adult family homes
25 licensed under chapter 70.128 RCW, and to individuals residing in
26 boarding homes licensed under chapter 18.20 RCW contracting with the
27 department of social and health services to provide assisted living
28 services pursuant to RCW 74.39A.010.

29 (2) For the purposes of this section, "nursing assistant" means a
30 nursing assistant-registered or a nursing assistant-certified. Nothing
31 in this section may be construed to affect the authority of nurses to
32 delegate nursing tasks to other persons, including licensed practical
33 nurses, as authorized by law.

34 (3) Before commencing any specific nursing care tasks authorized
35 under this chapter, the nursing assistant must (a) provide to the
36 delegating nurse a certificate of completion issued by the department
37 of social and health services indicating the completion of basic core
38 training as provided in this section, (b) be regulated by the

1 department of health pursuant to this chapter, subject to the uniform
2 disciplinary act under chapter 18.130 RCW, and (c) meet any additional
3 training requirements identified by the nursing care quality assurance
4 commission and authorized by this section.

5 (4) A nurse may delegate the following care tasks:

6 (a) Oral and topical medications and ointments;

7 (b) Nose, ear, eye drops, and ointments;

8 (c) Dressing changes and catheterization using clean techniques as
9 defined by the nursing care quality assurance commission;

10 (d) Suppositories, enemas, ostomy care;

11 (e) Blood glucose monitoring;

12 (f) Gastrostomy feedings in established and healed condition.

13 (5) On or before September 1, 1995, the nursing care quality
14 assurance commission, in conjunction with the professional nursing
15 organizations, shall develop rules for nurse delegation protocols and
16 by December 5, 1995, identify training beyond the core training that is
17 deemed necessary for the delegation of complex tasks and patient care.

18 (6) Nursing task delegation protocols are not intended to regulate
19 the settings in which delegation may occur but are intended to ensure
20 that nursing care services have a consistent standard of practice upon
21 which the public and profession may rely and to safeguard the authority
22 of the nurse to make independent professional decisions regarding the
23 delegation of a task. Protocols shall include at least the following:

24 (a) Ensure that determination of the appropriateness of delegation
25 of a nursing task is at the discretion of the nurse;

26 (b) Allow delegation of a nursing care task only for patients who
27 have a stable and predictable condition. "Stable and predictable
28 condition" means a situation, as defined by rule by the nursing care
29 quality assurance commission, in which the patient's clinical and
30 behavioral status is known and does not require frequent presence and
31 evaluation of a registered nurse;

32 (c) Assure that the (~~delegations of nursing tasks pursuant to this~~
33 ~~chapter have the written informed consent of the patient consistent~~
34 ~~with the provisions for informed consent under chapter 7.70 RCW, as~~
35 ~~well as with the consent of the delegating nurse and nursing assistant.~~
36 ~~The delegating nurse shall inform patients of the level of training of~~
37 ~~all care providers in the setting)) initial delegating nurse obtains
38 written consent to the nurse delegation process from the patient or a
39 person authorized under RCW 7.70.065. Written consent is only~~

1 necessary at the initial use of the nurse delegation process for each
2 patient and is not necessary for task additions or changes or if a
3 different nurse or nursing assistant will be participating in the
4 process. The written consent must include at a minimum the following:

5 (i) A list of the tasks that could potentially be delegated per RCW
6 18.88A.210; and

7 (ii) A statement that a nursing assistant through the nurse
8 delegation process will be performing a task that would previously have
9 been performed by a registered or licensed practical nurse;

10 (d) Verify that the nursing assistant has completed the core
11 training;

12 (e) Require assessment by the nurse of the ability and willingness
13 of the nursing assistant to perform the delegated nursing task in the
14 absence of direct nurse supervision and to refrain from delegation if
15 the nursing assistant is not able or willing to perform the task;

16 (f) Require the nurse to analyze the complexity of the nursing task
17 that is considered for delegation and determine the appropriate level
18 of training and any need of additional training for the nursing
19 assistant;

20 (g) Require the teaching of the nursing care task to the nursing
21 assistant ((including)) utilizing one or more of the following: (i)
22 Verification of competency via return demonstration ((under observation
23 while performing the task)); (ii) other methods for verification of
24 competency to perform the nursing task; or (iii) assurance that the
25 nursing assistant is competent to perform the nursing task as a result
26 of systems in place in the community residential program for the
27 developmentally disabled, adult family home, or boarding home providing
28 assisted living services;

29 (h) Require a plan of nursing supervision and reevaluation of the
30 delegated nursing task. "Nursing supervision" means that the
31 registered nurse monitors by direct observation or by whatever means is
32 deemed appropriate by the registered nurse the skill and ability of the
33 nursing assistant to perform delegated nursing tasks. Frequency of
34 supervision is at the discretion of the registered nurse but shall
35 occur at least every sixty days;

36 (i) Require instruction to the nursing assistant that the delegated
37 nursing task is specific to a patient and is not transferable;

1 (j) Require documentation and written instruction related to the
2 delegated nursing task be provided to the nursing assistant and a copy
3 maintained in the patient record;

4 (k) Ensure that the nursing assistant is prepared to effectively
5 deal with the predictable outcomes of performing the nursing task;

6 (l) Include in the delegation of tasks an awareness of the nature
7 of the condition requiring treatment, risks of the treatment, side
8 effects, and interaction of prescribed medications;

9 (m) Require documentation in the patient's record of the rationale
10 for delegating or not delegating nursing tasks.

11 (7) A basic core training curriculum on providing care for
12 individuals in community residential programs for the developmentally
13 disabled certified by the department of social and health services
14 under chapter 71A.12 RCW shall be in addition to the training
15 requirements specified in subsection (5) of this section. Basic core
16 training shall be developed and adopted by rule by the secretary of the
17 department of social and health services. The department of social and
18 health services shall appoint an advisory panel to assist in the
19 development of core training comprised of representatives of the
20 following:

21 (a) The division of developmental disabilities;

22 (b) The nursing care quality assurance commission;

23 (c) Professional nursing organizations;

24 (d) A state-wide organization of community residential service
25 providers whose members are programs certified by the department under
26 chapter 71A.12 RCW.

27 (8) A basic core training curriculum on providing care to residents
28 in residential settings licensed under chapter 70.128 RCW, or in
29 assisted living pursuant to RCW 74.39A.010 shall be mandatory for
30 nursing assistants prior to assessment by a nurse regarding the ability
31 and willingness to perform a delegated nursing task. Core training
32 shall be developed and adopted by rule by the secretary of the
33 department of social and health services, in conjunction with an
34 advisory panel. The advisory panel shall be comprised of
35 representatives from, at a minimum, the following:

36 (a) The nursing care quality assurance commission;

37 (b) Professional nurse organizations;

1 (c) A state-wide association of community residential service
2 providers whose members are programs certified by the department under
3 chapter 71A.12 RCW;

4 (d) Aging consumer groups;

5 (e) Associations representing homes licensed under chapters 70.128
6 and 18.20 RCW; and

7 (f) Associations representing home health, hospice, and home care
8 agencies licensed under chapter 70.127 RCW.

9 **Sec. 11.** RCW 18.88A.230 and 1997 c 275 s 6 are each amended to
10 read as follows:

11 (1) The nurse and nursing assistant shall be accountable for their
12 own individual actions in the delegation process. Nurses acting within
13 the protocols of their delegation authority shall be immune from
14 liability for any action performed in the course of their delegation
15 duties. Nursing assistants following written delegation instructions
16 from registered nurses performed in the course of their accurately
17 written, delegated duties shall be immune from liability.

18 (2) No person may coerce a nurse into compromising patient safety
19 by requiring the nurse to delegate if the nurse determines it is
20 inappropriate to do so. Nurses shall not be subject to any employer
21 reprisal or disciplinary action by the Washington nursing care quality
22 assurance commission for refusing to delegate tasks or refusing to
23 provide the required training for delegation if the nurse determines
24 delegation may compromise patient safety. Nursing assistants shall not
25 be subject to any employer reprisal or disciplinary action by the
26 nursing care quality assurance commission for refusing to accept
27 delegation of a nursing task based on patient safety issues. No
28 community residential program, adult family home, or boarding home
29 contracting to provide assisted-living services may discriminate or
30 retaliate in any manner against a person because the person made a
31 complaint or cooperated in the investigation of a complaint.

32 (3) The department of social and health services (~~shall~~) may
33 impose a civil fine of not less than two hundred fifty dollars nor more
34 than one thousand dollars on a community residential program, adult
35 family home, or boarding home under chapter 18, Laws of 1995 1st sp.
36 sess. that knowingly permits an employee to perform a nursing task
37 except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st
38 sp. sess.

1 **Sec. 12.** 1995 1st sp.s. c 18 s 54 (uncodified) is amended to read
2 as follows:

3 A special legislative task force is established to monitor
4 implementation of sections 45 through 53 of this act. The task force
5 shall consist of four members from the house of representatives, no
6 more than two of whom shall be members of the same caucus, who shall be
7 appointed by the speaker of the house of representatives, and four
8 members from the senate, no more than two of whom shall be members of
9 the same caucus, who shall be appointed by the president of the senate.
10 The task force shall:

11 (1) Review the proposed nurse delegation protocols developed by the
12 nursing care quality assurance commission;

13 (2) Review the proposed core and specialized training curricula
14 developed by the department of social and health services and by the
15 nursing care quality assurance commission;

16 (3) Review the program and reimbursement policies, and the
17 identified barriers to nurse delegation, developed by the department of
18 health and department of social and health services;

19 (4) Submit an interim report of its findings and recommendations on
20 the above actions to the legislature by January 1, 1996;

21 (5) During 1996, conduct hearings to assess the effectiveness with
22 which the delegation protocols, the core training, and nurse oversight
23 are being implemented, and their impact on patient care and quality of
24 life;

25 (6) Review and approve the proposed study designs;

26 (7) By February 1, 1997, recommend to the legislature a mechanism
27 and time frame for extending nurse delegation provisions similar to
28 those described in this act to persons residing in their own homes;

29 (8) During ((1997)) 1998, receive interim reports on the findings
30 of the studies conducted in accordance with this act, and conduct
31 additional fact-finding hearings on the implementation and impact of
32 the nurse delegation provisions of sections 45 through 53 of this act.

33 The office of program research and senate committee services shall
34 provide staff support to the task force. The department of health, the
35 department of social and health services, and the nursing care quality
36 assurance commission shall provide technical support as needed. The
37 task force shall cease to exist on January 1, ((1998)) 1999, unless
38 extended by act of the legislature.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 18.20 RCW
2 to read as follows:

3 (1) Powers and duties regarding boarding homes, previously assigned
4 under this chapter to the department of health and to the secretary of
5 health, are by this section transferred to the department of social and
6 health services and to the secretary of social and health services,
7 respectively. This section further provides that, regarding boarding
8 homes, all references within the Revised Code of Washington to the
9 department of health and to the secretary of health mean the department
10 of social and health services and the secretary of social and health
11 services, respectively.

12 (2)(a) The department of health shall deliver to the department of
13 social and health services all reports, documents, surveys, books,
14 records, data, files, papers, and written material pertaining to
15 boarding homes and the powers, functions, and duties transferred by
16 this section. The department of health shall make available to the
17 department of social and health services all cabinets, furniture,
18 office equipment, motor vehicles, and other tangible property employed
19 by the department of health in carrying out the powers, functions, and
20 duties transferred by this section. The department of health shall
21 assign to the department of social and health services all funds,
22 credits, and other assets that the department of health possesses in
23 connection with the power, functions, and duties transferred by this
24 section.

25 (b) On the effective date of this section, the department of health
26 shall transfer to the department of social and health services any
27 appropriations and license fees made to or possessed by the department
28 of health for carrying out the powers, functions, and duties
29 transferred by this section.

30 (c) When a question arises regarding the transfer of personnel,
31 funds, books, documents, records, papers, files, equipment, or other
32 tangible property used or held in the exercise of the powers,
33 functions, and duties transferred by this section, the director of
34 financial management shall determine the proper allocation and shall
35 certify that determination to the state agencies concerned.

36 (3) The department of social and health services shall continue and
37 shall act upon all rules and pending business before the department of
38 health pertaining to the powers, functions, and duties transferred by
39 this section.

1 (4) The transfer of powers, functions, duties, and personnel from
2 the department of health to the department of social and health
3 services, as mandated by this section, will not affect the validity of
4 any act performed by the department of health regarding boarding homes
5 before the effective date of this section.

6 (5) If apportionments of budgeted funds are required because of the
7 transfers mandated by this section, the director of financial
8 management shall certify the apportionments to the agencies affected,
9 the state auditor, and the state treasurer. Each of these shall make
10 the necessary transfers and adjustments in funds, appropriation
11 accounts, and equipment records in accordance with the certification.

12 (6) Nothing contained in this section alters any existing
13 collective bargaining unit or the provisions of any existing collective
14 bargaining agreement until the agreement expires or until the
15 bargaining unit is modified by action of the personnel board as
16 provided by law.

17 **Sec. 14.** RCW 18.20.020 and 1991 c 3 s 34 are each amended to read
18 as follows:

19 As used in this chapter:

20 (1) "Aged person" means a person of the age sixty-five years or
21 more, or a person of less than sixty-five years who by reason of
22 infirmity requires domiciliary care.

23 (2) "Boarding home" means any home or other institution, however
24 named, which is advertised, announced or maintained for the express or
25 implied purpose of providing board and domiciliary care to three or
26 more aged persons not related by blood or marriage to the operator. It
27 shall not include facilities certified as group training homes pursuant
28 to RCW 71A.22.040, nor any home, institution or section thereof which
29 is otherwise licensed and regulated under the provisions of state law
30 providing specifically for the licensing and regulation of such home,
31 institution or section thereof. Nor shall it include any independent
32 senior housing, independent living units in continuing care retirement
33 communities, or other similar living situations including those
34 subsidized by the department of housing and urban development.

35 (3) "Person" means any individual, firm, partnership, corporation,
36 company, association, or joint stock association, and the legal
37 successor thereof.

38 (4) "Secretary" means the secretary of social and health services.

1 (5) "Department" means the state department of social and health
2 services.

3 (6) "Authorized department" means any city, county, city-county
4 health department or health district authorized by the secretary ((of
5 health)) to carry out the provisions of this chapter.

6 **Sec. 15.** RCW 18.20.190 and 1995 1st sp.s. c 18 s 18 are each
7 amended to read as follows:

8 (1) The department of social and health services is authorized to
9 take one or more of the actions listed in subsection (2) of this
10 section in any case in which the department finds that a boarding home
11 provider has:

12 (a) Failed or refused to comply with the requirements of this
13 chapter or the rules adopted under this chapter;

14 (b) Operated a boarding home without a license or under a revoked
15 license;

16 (c) Knowingly, or with reason to know, made a false statement of
17 material fact on his or her application for license or any data
18 attached thereto, or in any matter under investigation by the
19 department; or

20 (d) Willfully prevented or interfered with any inspection or
21 investigation by the department.

22 (2) When authorized by subsection (1) of this section, the
23 department may take one or more of the following actions:

24 (a) Refuse to issue a license;

25 (b) Impose reasonable conditions on a license, such as correction
26 within a specified time, training, and limits on the type of clients
27 the provider may admit or serve;

28 (c) Impose civil penalties of not more than one hundred dollars per
29 day per violation;

30 (d) Suspend, revoke, or refuse to renew a license; or

31 (e) Suspend admissions to the boarding home by imposing stop
32 placement.

33 (3) When the department orders stop placement, the facility shall
34 not admit any new resident until the stop placement order is
35 terminated. The department may approve readmission of a resident to
36 the facility from a hospital or nursing home during the stop placement.
37 The department shall terminate the stop placement when: (a) The
38 violations necessitating the stop placement have been corrected; and

1 (b) the provider exhibits the capacity to maintain adequate care and
2 service.

3 (4) Chapter 34.05 RCW applies to department actions under this
4 section, except that orders of the department imposing license
5 suspension, stop placement, or conditions for continuation of a license
6 are effective immediately upon notice and shall continue pending any
7 hearing.

8 NEW SECTION. **Sec. 16.** A new section is added to chapter 18.20 RCW
9 to read as follows:

10 The secretary may adopt rules and policies as necessary to entitle
11 the state to participate in federal funding programs and opportunities
12 and to facilitate state and federal cooperation in programs under the
13 department's jurisdiction. The secretary shall ensure that any
14 internal reorganization carried out under the terms of this chapter
15 complies with prerequisites for the receipt of federal funding for the
16 various programs under the department's control. When interpreting any
17 department-related section or provision of law susceptible to more than
18 one interpretation, the secretary shall construe that section or
19 provision in the manner most likely to comply with federal laws and
20 rules entitling the state to receive federal funds for the various
21 programs of the department. If any law or rule dealing with the
22 department is ruled to be in conflict with federal prerequisites to the
23 allocation of federal funding to the state, the department, or its
24 agencies, the secretary shall declare that law or rule inoperative
25 solely to the extent of the conflict.

26 NEW SECTION. **Sec. 17.** (1) The governor shall establish a joint
27 legislative and executive task force on long-term care, safety,
28 quality, and oversight. The joint task force shall consist of seven
29 members. The governor shall appoint three members that include: (a)
30 The secretary of the department of social and health services or his or
31 her designee; (b) the secretary of the department of health or his or
32 her designee; and (c) the state long-term care ombudsman. Four
33 legislative members shall serve on the joint task force as ex officio
34 members and include: Two members of the senate appointed by the
35 president of the senate, one of whom shall be a member of the majority
36 caucus and one whom shall be a member of the minority caucus; and two
37 members of the house of representatives appointed by the speaker of the

1 house of representatives, one of whom shall be a member of the majority
2 caucus and one whom shall be a member of the minority caucus. Primary
3 staff assistance to the joint task force shall be provided by the
4 office of financial management with assistance, as directed by
5 legislative members, by the health care committee of the house of
6 representatives office of program research and the senate health and
7 long-term care committee of senate committee services.

8 (2) The joint task force shall elect a chair and vice-chair. The
9 chair shall serve a one-year term as the chair of the joint task force.
10 The following year, the previously elected vice-chair shall serve as
11 the chair of the joint task force and a new vice-chair shall be elected
12 by the members of the joint task force.

13 (3) The joint task force shall have the ability to create advisory
14 committees and appoint individuals from a variety of disciplines and
15 perspectives including but not limited to patient and resident
16 advocates and representatives of provider organizations, to assist the
17 joint task force with specific issues related to chapter . . . , Laws of
18 1998 (this act).

19 (4) The joint task force may hold meetings, including hearings, to
20 receive public testimony, which shall be open to the public in
21 accordance with law. Records of the joint task force shall be subject
22 to public disclosure in accordance with law. Members shall not receive
23 compensation, but may be reimbursed for travel expenses as authorized
24 under RCW 43.03.050 and 43.03.060. Advisory committee members, if
25 appointed, shall not receive compensation or reimbursement for travel
26 or expenses.

27 (5) The joint task force shall:

28 (a) Review all long-term care quality and safety standards for all
29 long-term care facilities and services developed, revised, and enforced
30 by the department of social and health services;

31 (b) In cooperation with aging and adult services, the division of
32 developmental disabilities, and the division of mental health and the
33 department of health, develop recommendations to simplify, strengthen,
34 reduce, or eliminate rules, procedures, and burdensome paperwork that
35 prove to be barriers to providing the highest standard of client
36 safety, effective quality of care, effective client protections, and
37 effective coordination of direct services;

38 (c) Review the need for reorganization and reform of long-term care
39 administration and service delivery, including administration and

1 services provided for the aged, for those with mental health needs, and
2 for the developmentally disabled, and recommend the establishment of a
3 single long-term care department or a division of long-term care within
4 the department of social and health services;

5 (d) Suggest cost-effective methods for reallocating funds to unmet
6 needs in direct services;

7 (e) List all nonmeans tested programs and activities funded by the
8 federal older Americans act and state-funded senior citizens act or
9 other such state-funded programs, and recommend methods for integrating
10 such services into existing long-term care programs for the
11 functionally disabled;

12 (f) Suggest methods to establish a single point of entry for
13 service eligibility and delivery for all functionally disabled persons;

14 (g) Evaluate the need for long-term care training and review all
15 long-term care training and education programs conducted by the
16 department of social and health services, and suggest modifications to
17 enhance client safety, to create greater access to training through the
18 use of innovative technology, to reduce training costs, to improve
19 coordination of training between the appropriate divisions and
20 departments and, to enhance the overall uniformity of the long-term
21 care training system;

22 (h) Evaluate the current system used by the department of social
23 and health services for placement of functionally disabled clients,
24 including aging, mentally ill, and developmentally disabled persons,
25 into long-term care settings and services and assess the capacity of
26 each long-term care service or setting to appropriately meet the health
27 and safety needs of functionally disabled clients or residents referred
28 to each service or setting;

29 (i) Evaluate the need for uniform client assessments for
30 determining functional long-term care needs of all persons who receive
31 state-funded, long-term care services;

32 (j) Evaluate the success of the transfer of boarding home
33 responsibilities outlined in chapter . . . , Laws of 1998 (this act) and
34 recommend if any further administrative changes should be made; and

35 (k) Evaluate the need to establish a dementia and Alzheimer's
36 certification requirement for long-term care facilities who choose to
37 provide care to persons who have been diagnosed with Alzheimer's or a
38 related dementia. The evaluation shall also identify the level of
39 disability a resident or client must have before the resident or client

1 is considered for care in a certified long-term care Alzheimer's
2 facility; and

3 (1) Evaluate the effect of requiring regular visits to bedbound
4 patients of boarding homes and adult family homes by licensed
5 practitioners.

6 (6) The joint task force shall report its initial findings and
7 recommendations to the governor and appropriate committees of the
8 legislature by January 1, 1999. The joint task force shall report its
9 final findings and recommendations to the governor and appropriate
10 committees of the legislature by December 12, 1999.

11 **Sec. 18. RCW 18.20.160 and 1985 c 297 s 2 are each amended to*
12 *read as follows:*

13 *(1) No person operating a boarding home licensed under this chapter*
14 *shall admit to or retain in the boarding home any aged person requiring*
15 *nursing or medical care of a type provided by institutions licensed*
16 *under chapters 18.51, 70.41 or 71.12 RCW, except that when registered*
17 *nurses are available, and upon a doctor's order that a supervised*
18 *medication service is needed, it may be provided. Supervised*
19 *medication services, as defined by the department, may include an*
20 *approved program of self-medication or self-directed medication. Such*
21 *medication service shall be provided only to boarders who otherwise*
22 *meet all requirements for residency in a boarding home.*

23 *(2)(a) Notwithstanding any provision contained in this section, in*
24 *no case shall a resident be bedbound, as a result of illness or*
25 *disease, for any continuous period of time exceeding ten days, unless*
26 *a licensed practitioner has seen the resident and assessed the*
27 *resident's medical condition, prescribed a plan of care, and determined*
28 *that a continued stay in the boarding home is appropriate.*

29 *(b) Residents who continue to be bedbound for more than ten*
30 *consecutive days shall be seen by a licensed practitioner at least*
31 *every thirty days, counting from the date of the initial bedbound-*
32 *related licensed practitioner visit, for as long as the resident*
33 *continues to be bedbound.*

34 *(c) The licensed practitioner and the boarding home shall document*
35 *each visit and the licensed practitioner shall, at each visit,*
36 *prescribe a plan of care and redetermine the appropriateness of the*
37 *resident's continued stay in the boarding home.*

1 (3) For the purposes of this section, an illness or disease does
2 not include any illness or disease for which the resident has elected
3 to receive hospice care and chooses to remain in the boarding home.
4 When the resident elects to receive hospice care, an outside licensed
5 agency is responsible for performing timely and appropriate visits and
6 for developing a plan of care.

7 *Sec. 18 was vetoed. See message at end of chapter.

8 *NEW SECTION. Sec. 19. A new section is added to chapter 18.20
9 RCW to read as follows:

10 For the purposes of RCW 18.20.160, "licensed practitioner" includes
11 a physician licensed under chapter 18.71 RCW, a registered nurse
12 licensed under chapter 18.79 RCW, an osteopathic physician and surgeon
13 licensed under chapter 18.57 RCW, an advanced registered nurse
14 practitioner licensed under chapter 18.79 RCW, or a physician assistant
15 licensed under chapter 18.71A RCW.

16 *Sec. 19 was vetoed. See message at end of chapter.

17 *Sec. 20. RCW 70.128.060 and 1995 c 260 s 4 are each amended to
18 read as follows:

19 (1) An application for license shall be made to the department upon
20 forms provided by it and shall contain such information as the
21 department reasonably requires.

22 (2) The department shall issue a license to an adult family home if
23 the department finds that the applicant and the home are in compliance
24 with this chapter and the rules adopted under this chapter, unless (a)
25 the applicant has prior violations of this chapter relating to the
26 adult family home subject to the application or any other adult family
27 home, or of any other law regulating residential care facilities within
28 the past five years that resulted in revocation or nonrenewal of a
29 license; or (b) the applicant has a history of significant
30 noncompliance with federal, state, or local laws, rules, or regulations
31 relating to the provision of care or services to vulnerable adults or
32 to children.

33 (3) The license fee shall be submitted with the application.

34 (4) The department shall serve upon the applicant a copy of the
35 decision granting or denying an application for a license. An
36 applicant shall have the right to contest denial of his or her
37 application for a license as provided in chapter 34.05 RCW by

1 requesting a hearing in writing within twenty-eight days after receipt
2 of the notice of denial.

3 (5) The department shall not issue a license to a provider if the
4 department finds that the provider or any partner, officer, director,
5 managerial employee, or owner of five percent or more if the provider
6 has a history of significant noncompliance with federal or state
7 regulations, rules, or laws in providing care or services to vulnerable
8 adults or to children.

9 (6)(a) The department shall license an adult family home for the
10 maximum level of care that the adult family home may provide. However,
11 in no case shall the adult family home admit or retain residents who
12 are bedbound, as a result of illness or disease, for any continuous
13 period of time exceeding ten days, unless a licensed practitioner has
14 seen the resident to assess their medical condition, prescribed a plan
15 of care, and determined that a continued stay in the adult family home
16 is appropriate.

17 (b) Residents who continue to be bedbound for more than ten
18 consecutive days shall be seen by a licensed practitioner at least
19 every thirty days, counting from the date of the initial bedbound-
20 related licensed practitioner visit, for as long as the resident
21 continues to be bedbound.

22 (c) The licensed practitioner and adult family home shall document
23 each visit and the licensed practitioner shall, at each visit,
24 prescribe a plan of care and redetermine the continued appropriateness
25 of the resident remaining in the adult family home.

26 (d) The department shall further define, in rule, license levels
27 based upon the education, training, and caregiving experience of the
28 licensed provider or staff.

29 (e) For the purposes of this section, an illness or disease does
30 not include any illness or disease for which the resident has elected
31 to receive hospice care and chooses to remain in the adult family home.
32 When the resident elects to receive hospice care, an outside licensed
33 agency is responsible for performing timely and appropriate visits and
34 for developing a plan of care.

35 (7) The department shall establish, by rule, standards used to
36 license nonresident providers and multiple facility operators.

37 (8) The department shall establish, by rule, for multiple facility
38 operators educational standards substantially equivalent to recognized
39 national certification standards for residential care administrators.

1 (9) *The license fee shall be set at fifty dollars per year for each*
2 *home. The licensing fee is due each year within thirty days of the*
3 *anniversary date of the license. A fifty dollar processing fee shall*
4 *also be charged each home when the home is initially licensed.*

5 *Sec. 20 was vetoed. See message at end of chapter.

6 *NEW SECTION. *Sec. 21. A new section is added to chapter 70.128*
7 *RCW to read as follows:*

8 *For the purposes of RCW 70.128.060, "licensed practitioner"*
9 *includes a physician licensed under chapter 18.71 RCW, a registered*
10 *nurse licensed under chapter 18.79 RCW, an osteopathic physician and*
11 *surgeon licensed under chapter 18.57 RCW, an advanced registered nurse*
12 *practitioner licensed under chapter 18.79 RCW, or a physician assistant*
13 *licensed under chapter 18.71A RCW.*

14 *Sec. 21 was vetoed. See message at end of chapter.

15 NEW SECTION. **Sec. 22.** *The sum of fifty thousand dollars, or as*
16 *much thereof as may be necessary, is appropriated for the fiscal year*
17 *ending June 30, 1999, from the general fund to the office of financial*
18 *management solely for the purposes of implementing section 17 of this*
19 *act.*

20 NEW SECTION. **Sec. 23.** *Section 5 of this act takes effect July 1,*
21 *1998.*

22 NEW SECTION. **Sec. 24.** (1) *Sections 13 through 16 of this act*
23 *expire July 1, 2000, unless reauthorized by the legislature.*

24 (2) *Section 17 of this act expires December 12, 1999.*

25 NEW SECTION. **Sec. 25.** *If any provision of this act or its*
26 *application to any person or circumstance is held invalid, the*
27 *remainder of the act or the application of the provision to other*
28 *persons or circumstances is not affected.*

29 NEW SECTION. **Sec. 26.** *Except for section 5 of this act, this act*
30 *is necessary for the immediate preservation of the public peace,*
31 *health, or safety, or support of the state government and its existing*
32 *public institutions, and takes effect immediately.*

Passed the Senate March 12, 1998.

Passed the House March 11, 1998.

Approved by the Governor April 1, 1998, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 1998.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 18,
3 19, 20 and 21, Second Substitute Senate Bill No. 6544 entitled:

4 "AN ACT Relating to improving long-term care;"

5 2SSB 6544 takes care of many issues dealing with adult family
6 homes, boarding homes and long-term care, and, most importantly,
7 transfers the oversight of boarding homes from the Department of Health
8 to the Department of Social and Health Services. This is well-
9 conceived and ambitious legislation, and will go far toward ensuring
10 the safety and quality of care for residents of our adult family and
11 boarding homes.

12 Sections 18, 19, 20, and 21 would specify when residents of
13 boarding and adult family homes who become bedbound as the result of
14 illness must be seen by a licensed practitioner, and define those
15 practitioners and their duties. While I agree with the intentions of
16 those sections, they would conflict with current patients' rights to
17 refuse treatment and to maintain their preferred residences. Also,
18 those sections are unclear as to provider and resident responsibilities
19 when disagreements arise from such conflicts. Additionally, the impact
20 on people's abilities to pay for additional service has not been
21 analyzed. Before implementing changes in care requirements, additional
22 comment needs to be sought from residents, families and all interested
23 parties, as well as the joint task force created by this bill.

24 For these reasons, I have vetoed sections 18, 19, 20 and 21 of
25 Second Substitute Senate Bill No. 6544.

26 With the exception of sections 18, 19, 20 and 21, Second Substitute
27 Senate Bill No. 6544 is approved."