
HOUSE BILL 2528

State of Washington 58th Legislature 2004 Regular Session

By Representatives Darneille and Benson

Read first time 01/15/2004. Referred to Committee on Health Care.

1 AN ACT Relating to boarding homes; amending RCW 18.20.020,
2 18.20.090, 18.20.160, 18.20.290, 74.39A.009, 74.39A.020, and
3 70.129.110; adding new sections to chapter 18.20 RCW; providing an
4 effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 18.20.020 and 2003 c 231 s 2 are each amended to read
7 as follows:

8 As used in this chapter:

9 (1) "Boarding home" means any home or other institution, however
10 named, which is advertised, announced, or maintained for the express or
11 implied purpose of providing ~~((board and))~~ housing and assuming general
12 responsibility for the safety and well-being of the residents,
13 consistent with RCW 18.20.280, and may also provide domiciliary care,
14 consistent with section 2 of this act, to seven or more residents after
15 July 1, 2000. However, a boarding home that is licensed to provide
16 ~~((board and))~~ housing and assume general responsibility for the safety
17 and well-being of the residents consistent with RCW 18.20.280, and
18 which may also provide domiciliary care, consistent with section 2 of
19 this act, to three to six residents on July 1, 2000, may maintain its

1 boarding home license as long as it is continually licensed as a
2 boarding home. "Boarding home" shall not include facilities certified
3 as group training homes pursuant to RCW 71A.22.040, nor any home,
4 institution or section thereof which is otherwise licensed and
5 regulated under the provisions of state law providing specifically for
6 the licensing and regulation of such home, institution or section
7 thereof. Nor shall it include any independent senior housing,
8 independent living units in continuing care retirement communities, or
9 other similar living situations including those subsidized by the
10 department of housing and urban development.

11 (2) "Person" means any individual, firm, partnership, corporation,
12 company, association, or joint stock association, and the legal
13 successor thereof.

14 (3) "Secretary" means the secretary of social and health services.

15 (4) "Department" means the state department of social and health
16 services.

17 (5) "Designated representative" means a person under RCW 7.70.065,
18 or a person appointed by the resident to act on the resident's behalf
19 and at the direction of the resident. The designated representative
20 may not be an employee of the boarding home.

21 (6) "Domiciliary care" means: Assistance with activities of daily
22 living provided by the boarding home either directly or indirectly; or
23 (~~assuming general responsibility for the safety and well-being of the~~
24 ~~resident~~) health support services, if provided directly or indirectly
25 by the boarding home; or intermittent nursing services, if provided
26 directly or indirectly by the boarding home. ("Domiciliary care" does
27 not include general observation or preadmission assessment for the
28 purposes of transitioning to a licensed care setting.

29 ~~(6)~~ (7) "General responsibility for the safety and well-being of
30 the resident" includes the provision of: Meals, nutritious snacks,
31 laundry, emergency assistance, activities, housekeeping services, and
32 observation of residents for changes in overall functioning. However,
33 observation of residents for changes in overall functioning shall not
34 be construed to include systems or methods employed by independent
35 senior housing, independent living units in continuing care retirement
36 communities, or other similar living situations including those
37 subsidized by the department of housing and urban development, to
38 monitor the well-being of nonresident individuals.

1 (8) "General responsibility for the safety and well-being of the
2 resident" does not include: (a) Emergency assistance provided on an
3 intermittent or nonroutine basis to any nonresident individual; ((~~or~~))
4 (b) blood pressure checks for nonresident individuals; (c) nurse
5 consultation services provided at the request of a nonresident
6 individual to determine whether referral to an outside health care
7 provider is recommended; (d) making health care appointments at the
8 request of nonresident individuals; (e) reminding nonresident
9 individuals of scheduled outside health care appointments; (f) one-time
10 or short term treatment, including but not limited to removing sutures
11 or staples for nonresident individuals or applying eye drops following
12 eye surgery for nonresident individuals when performed pursuant to an
13 outside health care provider's instructions and the treatment is
14 performed at the request of any nonresident individual, and the
15 activity is within the scope of practice of the available licensed
16 nurse; (g) periodic observation or preadmission assessment for the
17 purposes of transitioning to a licensed care setting; or (h) services
18 customarily provided under landlord tenant agreements governed by the
19 residential landlord-tenant act, chapter 59.18 RCW. Such services do
20 not include continual care or supervision for any nonresident
21 individual.

22 ((~~+7~~)) (9) "Nonresident individual" means a person who resides in
23 independent senior housing, independent living units in continuing care
24 retirement communities, or in other similar living environments
25 including those subsidized by the department of housing and urban
26 development.

27 (10) "Resident" means an individual who~~((~~Lives in a boarding~~~~
28 ~~home, including those receiving respite care;))~~ is not related by blood
29 or marriage to the operator of the boarding home~~((~~+~~))~~ and by reason of
30 age or disability, resides in the boarding home and may receive~~((~~s~~))~~
31 domiciliary care, respite care, or hospice care provided either
32 directly or indirectly by the boarding home.

33 (11) "Resident applicant" means an individual who has completed and
34 signed an application for admission to a licensed boarding home.

35 NEW SECTION. Sec. 2. A new section is added to chapter 18.20 RCW
36 to read as follows:

37 (1) A boarding home licensed under this chapter may select the

1 level and scope of care or services that it chooses to provide from the
2 list of domiciliary care services described in subsection (2), (3), or
3 (4) of this section. In addition to the care and services described in
4 subsections (2), (3), and (4) of this section, the boarding home
5 licensee may provide additional care and services, as long as the
6 resident does not require medical or nursing care, and as long as such
7 additional care or services are disclosed in accordance with this
8 section.

9 (a) The boarding home licensee shall disclose the level and scope
10 of care or services that it chooses to provide to the department,
11 residents or a resident's designated representative, and interested
12 consumers upon request.

13 (b) If the boarding home licensee changes the level or scope of
14 services that it chooses to provide, the licensee shall provide a
15 minimum of thirty days' notice to the department and to residents
16 before the effective date of any change in the level or scope of care
17 or services provided.

18 (c) The disclosure of any services or care that a boarding home
19 licensee offers to provide may include exceptions to allow the licensee
20 to, on a limited basis, meet the needs of residents pending discharge.
21 Providing care or services to one or more residents on a limited basis,
22 pending discharge, shall not be construed to mean that the licensee can
23 or will reasonably accommodate other residents' similar needs
24 throughout their boarding home stay.

25 (d) Even though the boarding home licensee may disclose that it can
26 provide certain care or services to residents or resident applicants,
27 the licensee reserves the right to deny admission to a resident
28 applicant or to discharge any resident when the licensee determines
29 that the needs of the resident applicant or the resident cannot be met
30 based upon the cumulative need for care or services of all residents or
31 the medical complexity of the resident or the resident applicant. The
32 licensee may immediately discharge a resident when the licensee
33 determines that it can no longer meet the residents' needs or when the
34 resident requires care or services that are beyond those that the
35 licensee has disclosed. The department shall, at the request of the
36 licensee, secure an alternative placement for the resident.

37 (e) The boarding home licensee shall use the following form, or one

1 that is substantially similar, to disclose the care or services that
2 the licensee may choose to provide:

3 Boarding Home Name:
4 Address:
5 Telephone: Web Address, if applicable:
6 Boarding Home License Number: Number of License Boarding Home Beds:
7 This boarding home does not accept Medicaid as a source of payment
8 may accept Medicaid payments, with the following conditions/limitations:
9

10 This Disclosure Statement is not intended to take the place of
11 visiting the boarding home, communicating with boarding home staff, or
12 understanding the boarding home's fee schedule for services outlined
13 below, and other offered services.

14 This licensed boarding home has selected the level and scope of
15 care or services that it chooses to provide from the list of
16 domiciliary care services outlined below. Should the boarding home
17 change the level or scope of services that it chooses to provide, the
18 provider shall provide a minimum of 30 days' notice to the Department
19 of Social and Health Services and to residents before the effective
20 date of any change in the level or scope of care or services provided.

21 The disclosure of any services or care that a boarding home offers
22 to provide may include exceptions to allow the provider to, on a
23 limited basis, meet the needs of residents pending discharge.
24 Providing care or services to one or more residents on a limited basis,
25 pending discharge, shall not be construed to mean that the provider can
26 or will reasonably accommodate other residents' similar needs
27 throughout their boarding home stay.

28 This boarding home provides assistance with one or more of the
29 following Activities of Daily Living:

30 Bathing:

31 Minimal assistance - The resident requires oversight or reminding
32 only. The resident is capable of bathing without assistance or
33 supervision, but must be reminded occasionally or cannot get into the
34 tub or shower alone. Help is limited to standby assistance only.

1 Substantial assistance - The resident requires physical
2 assistance with a significant part of the bathing activity, for
3 example, to lather, wash and/or rinse the resident's hair or body, or
4 physical assistance into a tub or shower is needed.

5 Total assistance - The resident is dependent upon caregivers to
6 provide a complete bath.

7 Clarification/Other Comments:

8 Dressing:

9 Minimal assistance - The resident can dress and undress but may
10 need clothing laid out and/or needs to be reminded or supervised on
11 occasion.

12 Substantial assistance - The resident can assist in dressing or
13 undressing but frequently or most of the time needs some physical
14 assistance.

15 Total assistance - The resident is dependent upon caregivers to
16 do all dressing and undressing.

17 Clarification/Other Comments:

18 Eating:

19 Minimal assistance - The resident may need assistance cutting or
20 preparing food or beverages for consumption.

21 Substantial assistance - The resident can self-feed but needs
22 standby assistance for occasional gagging, choking, or swallowing
23 difficulty. The resident may need reminding or assistance with
24 adaptive feeding equipment.

25 Total assistance - The resident must be fed some or all food by
26 a caregiver and/or frequently gags or chokes due to difficulty in
27 swallowing.

28 Clarification/Other Comments:

29 Personal hygiene:

30 Minimal assistance - The resident can manage personal hygiene and
31 grooming tasks but must be reminded, supervised, or have personal
32 grooming items set out, at least some of the time. The resident may
33 require occasional assistance with both personal hygiene and grooming.

34 Substantial assistance - The resident regularly requires
35 assistance with personal hygiene and grooming.

- 1 Total assistance - The resident is dependent upon caregivers to
- 2 provide all personal hygiene and grooming.
- 3 Clarification/Other Comments:
- 4 Transferring:
- 5 Minimal assistance - The resident occasionally requires verbal
- 6 cuing or standby assistance for transfers.
- 7 Substantial assistance - The resident occasionally requires a
- 8 light touch to guide or steady the resident in transferring.
- 9 Total assistance - The resident requires physical assistance with
- 10 some or all transfers.
- 11 Clarification/Other Comments:
- 12 Toileting:
- 13 Minimal assistance - The resident needs reminding to toilet or
- 14 to change a protective garment.
- 15 Substantial assistance - The resident needs occasional assistance
- 16 with parts of the toileting tasks.
- 17 Total assistance - The resident needs physical assistance to use
- 18 the toilet on a scheduled toileting or incontinence program which may
- 19 include management of a closed drainage system if the resident has a
- 20 catheter or sheath.
- 21 Clarification/Other Comments:
- 22 Ambulation and Mobility:
- 23 Minimal assistance - The resident is ambulatory or mobile, with
- 24 or without assistive devices, but requires verbal cuing some of the
- 25 time.
- 26 Substantial assistance - The resident is ambulatory or mobile but
- 27 needs occasional standby light touch assistance to guide or steady the
- 28 resident during ambulation or mobility.
- 29 Total assistance - The resident is only ambulatory or mobile,
- 30 with or without assistive devices, with the physical assistance of a
- 31 caregiver.
- 32 Clarification/Other Comments:
- 33 This boarding home provides one or more of the following Health
- 34 Support Services:

- 1 Medication assistance Clarification/Other Comments:
- 2 Assistance with treatments Clarification/Other Comments:
- 3 Blood glucose testing Clarification/Other Comments:
- 4 Low sodium diets Clarification/Other Comments:
- 5 General diabetic diets Clarification/Other Comments:
- 6 Puree diets Clarification/Other Comments:
- 7 Mechanical soft diets Clarification/Other Comments:
- 8 Calorie-controlled diabetic diets Clarification/Other Comments:
- 9 Other diets Clarification/Other Comments:

10

11 Arrangement of health care appointments with outside health care providers
12 Clarification/Other Comments:

13 Coordination of health care services with outside health care providers
14 Clarification/Other Comments:

15 Assistance with obtaining and maintaining glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs,
16 and assistive communication devices Clarification/Other Comments:

17 Other Health Support Services:

18

19 This boarding home provides one or more of the following Intermittent Nursing Services:

20 Medication administration Clarification/Other Comments:

21 Administration of health care treatments Clarification/Other Comments:

22 Blood glucose monitoring Clarification/Other Comments:

23 Ostomy care Clarification/Other Comments:

24 Tube feeding Clarification/Other Comments:

25 Insertion of indwelling urinary catheter Clarification/Other Comments:

26 Other Intermittent Nursing Services:

27

28 Admission/Discharge/Transfer

29 Even though the licensee may disclose that it can provide certain care
30 or services to residents or resident applicants, the licensee may deny
31 admission to a resident applicant or to discharge a resident when the
32 licensee determines that the needs of the resident applicant or the
33 resident cannot be met based upon the cumulative need for care or
34 services of all residents or the medical complexity of the resident or
35 the resident applicant. Notwithstanding RCW 70.129.110 (1)(a) and
36 (4)(a), the licensee may immediately discharge a resident when the
37 licensee determines that it can no longer meet the residents' needs or

1 Email:

2 Phone No.: Date:

3
4 Signature:

5 (2) Activities of daily living assistance may include one or more
6 of the following:

7 (a) Bathing:

8 (i) Minimal assistance. The resident requires oversight or
9 reminding only. The resident is capable of bathing without assistance
10 or supervision, but must be reminded occasionally or cannot get into
11 the tub or shower alone. Help is limited to standby assistance only.

12 (ii) Substantial assistance. The resident requires physical
13 assistance with a significant part of the bathing activity, for
14 example, to lather, wash and/or rinse the resident's hair or body, or
15 physical assistance into a tub or shower is needed.

16 (iii) Total assistance. The resident is dependent upon caregivers
17 to provide a complete bath.

18 (b) Dressing:

19 (i) Minimal assistance. The resident can dress and undress but may
20 need clothing laid out and/or needs to be reminded or supervised on
21 occasion.

22 (ii) Substantial assistance. The resident can assist in dressing
23 or undressing but frequently or most of the time needs some physical
24 assistance.

25 (iii) Total assistance. The resident is dependent upon caregivers
26 to do all dressing and undressing.

27 (c) Eating:

28 (i) Minimal assistance. The resident may need assistance cutting
29 or preparing food or beverages for consumption.

30 (ii) Substantial assistance. The resident can self-feed but needs
31 standby assistance for occasional gagging, choking, or swallowing
32 difficulty. The resident may need reminding or assistance with
33 adaptive feeding equipment.

34 (iii) Total assistance. The resident must be fed some or all food
35 by a caregiver and/or frequently gags or chokes due to difficulty in
36 swallowing.

1 (d) Personal Hygiene:

2 (i) Minimal assistance. The resident can manage personal hygiene
3 and grooming tasks but must occasionally be reminded, supervised, or
4 have personal grooming items set out. The resident may require
5 occasional assistance with both personal hygiene and grooming.

6 (ii) Substantial assistance. The resident regularly requires
7 assistance with personal hygiene and grooming.

8 (iii) Total assistance. The resident is dependent upon caregivers
9 to provide all personal hygiene and grooming.

10 (e) Transferring:

11 (i) Minimal assistance. The resident occasionally requires verbal
12 cuing or standby assistance for transfers.

13 (ii) Substantial assistance. The resident occasionally requires
14 light touch to guide or steady the resident in transferring.

15 (iii) Total assistance. The resident requires physical assistance
16 with some or all transfers.

17 (f) Toileting:

18 (i) Minimal assistance. The resident needs reminding to toilet or
19 to change a protective garment.

20 (ii) Substantial assistance. The resident needs occasional
21 assistance with parts of the toileting tasks.

22 (iii) Total assistance. The resident needs physical assistance to
23 use the toilet on a scheduled toileting, or incontinence program which
24 may include management of a closed drainage system if the resident has
25 a catheter or sheath.

26 (g) Ambulation and Mobility:

27 (i) Minimal assistance. The resident is ambulatory or mobile, with
28 or without assistive devices, but requires occasional verbal cuing.

29 (ii) Substantial assistance. The resident is ambulatory or mobile
30 but needs occasional standby assistance or light touch assistance to
31 guide or steady during ambulation or mobility.

32 (iii) Total assistance. The resident is only ambulatory or mobile,
33 with or without assistive devices, with the physical assistance of a
34 caregiver.

1 (3) Health support services may include one or more of the
2 following:

- 3 (a) Medication assistance;
- 4 (b) Assistance with treatments;
- 5 (c) Blood glucose testing;
- 6 (d) Low sodium diets;
- 7 (e) General diabetic diets;
- 8 (f) Puree diets;
- 9 (g) Mechanical soft foods;
- 10 (h) Calorie-controlled diabetic diets;
- 11 (i) Arrangement of health care appointments with outside health
12 care providers;
- 13 (j) Coordination of health care services with outside health care
14 providers; and
- 15 (k) Assistance with obtaining and maintaining glasses, hearing
16 aids, dentures, canes, crutches, walkers, wheelchairs, and assistive
17 communication devices.

18 (4) Intermittent nursing services may include one or more of the
19 following:

- 20 (a) Medication administration;
- 21 (b) Administration of health care treatments;
- 22 (c) Blood glucose monitoring;
- 23 (d) Ostomy care;
- 24 (e) Tube feeding; and
- 25 (f) Insertion of indwelling urinary catheters.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.20 RCW
27 to read as follows:

28 (1) A boarding home licensee may permit residents' designated
29 representatives to administer medications or treatments or to provide
30 medication or treatment assistance to residents. If the licensee
31 permits this, the licensee may establish conditions under which such
32 assistance may occur. The licensee shall disclose to the department,
33 residents, and each resident's designated representative, and to
34 interested consumers upon request, information describing whether the
35 licensee permits assistance with or permits the administration of

1 medications or treatments and, if so, whether there are any limitations
2 or conditions and the extent thereof.

3 (2) A resident's designated representative may only administer or
4 provide assistance with medications or treatments on behalf of the
5 resident who has granted the designated representative the authority to
6 so act.

7 (3) If a licensee permits residents' designated representatives to
8 administer medications or treatments or to provide medication or
9 treatment assistance, the licensee shall request that each designated
10 representative submit to the licensee a written medication or treatment
11 plan. At a minimum, the written medication or treatment plan shall
12 identify:

13 (a) By name, the designated representative who will administer the
14 medication or treatment or provide assistance therewith;

15 (b) The primary medication or treatment administration or
16 assistance that the designated representative will provide consistent
17 with subsection (1) of this section. This will be referred to as the
18 primary plan;

19 (c) An alternate plan that will meet the resident's medication or
20 treatment needs if the designated representative is unable to fulfill
21 his or her duties as specified in the primary plan; and

22 (d) An emergency contact person and telephone number if the
23 boarding home licensee observes changes in the resident's functioning
24 or condition that may relate to the medication or treatment plan.

25 (4) The boarding home licensee may require that the primary or
26 alternate medication or treatment plan include other information in
27 addition to that specified in subsection (3) of this section.

28 (5) The medication or treatment plan shall be signed and dated by
29 the resident, the resident's designated representative, and the
30 boarding home licensee.

31 (6) The designated representative shall immediately notify the
32 boarding home licensee of any change in the primary or alternate
33 medication or treatment plan.

34 (7) When a boarding home licensee permits residents' designated
35 representatives to assist with or administer medications or treatments,
36 the licensee must observe the resident for changes in overall
37 functioning consistent with RCW 18.20.280. The licensee's duty of care
38 under this section, and any negligence that may be attributed thereto,

1 is limited to the licensee's failure to observe the resident for a
2 change in overall functioning, and then to the extent that such change
3 in overall functioning would have been observed by a reasonable person
4 having the same skill and knowledge as the licensee.

5 **Sec. 4.** RCW 18.20.090 and 1985 c 213 s 6 are each amended to read
6 as follows:

7 The department shall adopt, amend, and promulgate such rules,
8 regulations, and standards with respect to all boarding homes and
9 operators thereof to be licensed hereunder as may be designed to
10 further the accomplishment of the purposes of this chapter in promoting
11 safe and adequate care of individuals in boarding homes and the
12 sanitary, hygienic and safe conditions of the boarding home in the
13 interest of public health, safety, and welfare. However, the
14 department may not adopt or amend rules, with respect to matters
15 pertaining to chapter 18.79 RCW, or any other health professional
16 licensing matters that are under the purview of the department of
17 health. The department may, by reference, incorporate any such rules
18 adopted under chapter 18.79 RCW.

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

21 (1) The boarding home licensee shall conduct an initial assessment
22 for each resident applicant. The initial assessment shall include the
23 following minimum information:

24 (a) Medical history;

25 (b) Necessary and contraindicated medications;

26 (c) A licensed medical or health professional's diagnosis, unless
27 the individual objects for religious reasons;

28 (d) Significant known behaviors or symptoms that may cause concern
29 or require special care. The licensee shall complete the initial
30 assessment before admission unless there is an emergency. In an
31 emergency admission, the initial assessment must be completed within
32 five days of the date of admission. For purposes of this section, an
33 emergency includes, but is not limited to, evenings, weekends, or
34 Friday afternoons and the resident applicant would otherwise need to
35 remain in a licensed hospital, nursing facility, adult family home, an
36 unsafe home environment, or be without adequate and safe housing.

1 (e) Mental illness diagnosis, except where protected by
2 confidentiality laws;

3 (f) Level of personal care needs;

4 (g) Activities and service preferences; and

5 (h) Preferences regarding other issues important to the resident
6 applicant, such as food and daily routine.

7 (2) The boarding home licensee shall complete an initial resident
8 service plan upon move-in to identify the resident's immediate needs
9 and to provide direction to staff and caregivers relating to the
10 resident's immediate needs.

11 (3) The boarding home licensee shall complete a negotiated service
12 agreement involving the resident and the resident's designated
13 representative, within thirty days of a resident's move-in date. The
14 resident's designated representative will not be included in the
15 development of the negotiated service agreement if the resident objects
16 to his or her involvement. If the resident is a Medicaid client, the
17 department's case manager shall also be involved. However, if the case
18 manager is not available, the completion of the negotiated service
19 agreement shall not be delayed but shall be sent to the case manager
20 for review.

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

23 By December 12, 2005, the department shall report on the payment
24 system for licensed boarding homes to the chairs of the senate and
25 house of representatives health care committees. The department shall
26 include in the report findings regarding the average costs of providing
27 care and services for the nonmetropolitan statistical areas,
28 metropolitan statistical areas, and King county to determine whether
29 the rates of payment within the designated areas are, on average,
30 reasonably related to the identified average costs. To protect the
31 confidentiality of the cost data, the department shall work in
32 collaboration with the three statewide associations representing
33 boarding home providers, so that the department does not possess
34 individual provider identifiable cost data. This cost-to-rate
35 comparison study shall assess any cost impacts that may be attributed
36 to the implementation of new boarding home rules occurring between
37 September 1, 2004, and June 30, 2005. If the department adopts new

1 boarding home rules after June 30, 2005, the report to the chairs of
2 the senate and house of representatives health care committees will
3 instead be due by December 12, 2006.

4 **Sec. 7.** RCW 18.20.160 and 1985 c 297 s 2 are each amended to read
5 as follows:

6 Because boarding homes are engaged in the rental or leasing of real
7 property to residents, no person operating a boarding home licensed
8 under this chapter shall admit to or retain in the boarding home any
9 aged person requiring nursing or medical care of a type provided by
10 institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except
11 that when registered nurses are available, and upon a doctor's order
12 that a supervised medication service is needed, it may be provided.
13 Supervised medication services, as defined by the department but not
14 exceeding that which is permitted under chapters 69.41 and 18.79 RCW,
15 may include an approved program of self-medication or self-directed
16 medication. Such medication service shall be provided only to boarders
17 who otherwise meet all requirements for residency in a boarding home.
18 No boarding home shall admit or retain a person requiring twenty-four
19 hours of continuous skilled nursing care or supervision, excluding
20 persons who are receiving hospice care or persons who have a short-term
21 illness that is expected to be resolved within fourteen days.

22 **Sec. 8.** RCW 18.20.290 and 2003 c 231 s 11 are each amended to read
23 as follows:

24 (1) When a boarding home contracts with the department to provide
25 adult residential care services, enhanced adult residential care
26 services, or assisted living services under chapter 74.39A RCW, the
27 boarding home must hold a medicaid eligible resident's room or unit
28 when short-term care is needed in a nursing home or hospital, the
29 resident is likely to return to the boarding home, and payment is made
30 under subsection (2) of this section.

31 (2) The medicaid resident's bed or unit shall be held for up to
32 twenty days. The per day bed or unit hold compensation amount shall be
33 seventy percent of the daily rate paid for the first seven days the bed
34 or unit is held for the resident who needs short-term nursing home care
35 or hospitalization. The rate for the eighth through the twentieth day

1 a bed is held shall be established in rule, but shall be no lower than
2 ten dollars per day the bed or unit is held.

3 (3) The boarding home may seek third-party payment to hold a bed or
4 unit for twenty-one days or longer. The third-party payment shall not
5 exceed eighty-five percent of the average daily private pay and
6 Medicaid rate paid to the facility, and as determined by the facility.
7 If third-party payment is not available, the medicaid resident may
8 return to the first available and appropriate bed or unit, if the
9 resident continues to meet the admission criteria under this chapter.

10 (4) The department shall monitor the use and impact of the policy
11 established under this section and shall report its findings to the
12 appropriate committees of the senate and house of representatives by
13 December 31, 2005.

14 (5) This section expires June 30, 2006.

15 **Sec. 9.** RCW 74.39A.009 and 1997 c 392 s 103 are each amended to
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Adult family home" means a home licensed under chapter 70.128
20 RCW.

21 (2) "Adult residential care" means services provided by a boarding
22 home that is licensed under chapter 18.20 RCW and that has a contract
23 with the department under RCW 74.39A.020 to provide personal care
24 services.

25 (3) "Assisted living services" means services provided by a
26 boarding home that has a contract with the department under RCW
27 74.39A.010 to provide personal care services, intermittent nursing
28 services, and medication administration services, and the resident is
29 housed in a private apartment-like unit.

30 (4) "Boarding home" means a facility licensed under chapter 18.20
31 RCW.

32 (5) "Cost-effective care" means care provided in a setting of an
33 individual's choice that is necessary to promote the most appropriate
34 level of physical, mental, and psychosocial well-being consistent with
35 client choice, in an environment that is appropriate to the care and
36 safety needs of the individual, and such care cannot be provided at a

1 lower cost in any other setting. But this in no way precludes an
2 individual from choosing a different residential setting to achieve his
3 or her desired quality of life.

4 (6) "Department" means the department of social and health
5 services.

6 (7) "Enhanced adult residential care" means services provided by a
7 boarding home that is licensed under chapter 18.20 RCW and that has a
8 contract with the department under RCW 74.39A.010 to provide personal
9 care services, intermittent nursing services, and medication
10 administration services.

11 (8) "Functionally disabled person" is synonymous with chronic
12 functionally disabled and means a person who because of a recognized
13 chronic physical or mental condition or disease, including chemical
14 dependency, is impaired to the extent of being dependent upon others
15 for direct care, support, supervision, or monitoring to perform
16 activities of daily living. "Activities of daily living", in this
17 context, means self-care abilities related to personal care such as
18 bathing, eating, using the toilet, dressing, and transfer.
19 Instrumental activities of daily living may also be used to assess a
20 person's functional abilities as they are related to the mental
21 capacity to perform activities in the home and the community such as
22 cooking, shopping, house cleaning, doing laundry, working, and managing
23 personal finances.

24 (9) "Home and community services" means adult family homes, in-home
25 services, and other services administered or provided by contract by
26 the department directly or through contract with area agencies on aging
27 or similar services provided by facilities and agencies licensed by the
28 department.

29 (10) "Long-term care" is synonymous with chronic care and means
30 care and supports delivered indefinitely, intermittently, or over a
31 sustained time to persons of any age disabled by chronic mental or
32 physical illness, disease, chemical dependency, or a medical condition
33 that is permanent, not reversible or curable, or is long-lasting and
34 severely limits their mental or physical capacity for self-care. The
35 use of this definition is not intended to expand the scope of services,
36 care, or assistance by any individuals, groups, residential care
37 settings, or professions unless otherwise expressed by law.

1 (11) "Nursing home" means a facility licensed under chapter 18.51
2 RCW.

3 (12) "Secretary" means the secretary of social and health services.

4 (13) "Tribally licensed boarding home" means a boarding home
5 licensed by a federally recognized Indian tribe which home provides
6 services similar to boarding homes licensed under chapter 18.20 RCW.

7 **Sec. 10.** RCW 74.39A.020 and 1995 1st sp.s. c 18 s 15 are each
8 amended to read as follows:

9 (1) To the extent of available funding, the department of social
10 and health services may contract for adult residential care (~~and~~
11 ~~enhanced adult residential care~~)).

12 (2) The department shall, by rule, develop terms and conditions for
13 facilities that contract with the department for adult residential care
14 (~~and enhanced adult residential care~~) to establish:

15 (a) Facility service standards consistent with the principles in
16 RCW 74.39A.050 and consistent with chapter 70.129 RCW; and

17 (b) Training requirements for providers and their staff.

18 (3) The department shall, by rule, provide that services in adult
19 residential care (~~and enhanced adult residential care~~) facilities:

20 (a) Recognize individual needs, privacy, and autonomy;

21 (b) Include personal care (~~and limited nursing services~~) and
22 other services that promote independence and self-sufficiency and aging
23 in place;

24 (c) Are directed first to those persons most likely, in the absence
25 of adult residential care (~~and enhanced adult residential care~~)
26 services, to need hospital, nursing facility, or other out-of-home
27 placement; and

28 (d) Are provided in compliance with applicable facility and
29 professional licensing laws and rules.

30 (4) When a facility contracts with the department for adult
31 residential care (~~and enhanced adult residential care~~), only services
32 and facility standards that are provided to or in behalf of the adult
33 residential care (~~or the enhanced adult residential care~~) client
34 shall be subject to the adult residential care (~~or enhanced adult~~
35 ~~residential care~~) rules.

36 (5) To the extent of available funding, the department may also
37 contract under this section with a tribally licensed boarding home for

1 the provision of services of the same nature as the services provided
2 by adult residential care facilities. The provisions of subsections
3 (2)(a) and (b) and (3)(a) through (d) of this section apply to such a
4 contract.

5 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.20 RCW
6 to read as follows:

7 When the department performs assessments of Medicaid eligible
8 clients to determine whether such persons are eligible for boarding
9 home placement, the department shall not adjust the assessment method,
10 including the algorithms used to categorize clients into assessment
11 categories, for the sole purpose of remaining within the funding amount
12 appropriated by the legislature for boarding homes.

13 **Sec. 12.** RCW 70.129.110 and 1997 c 392 s 205 are each amended to
14 read as follows:

15 (1) The facility must permit each resident to remain in the
16 facility, and not transfer or discharge the resident from the facility
17 unless:

18 (a) Except as provided in section 2 of this act, the transfer or
19 discharge is necessary for the resident's welfare and the resident's
20 needs cannot be met in the facility;

21 (b) The safety of individuals in the facility is endangered;

22 (c) The health of individuals in the facility would otherwise be
23 endangered;

24 (d) The resident has failed to make the required payment for his or
25 her stay; or

26 (e) The facility ceases to operate.

27 (2) All long-term care facilities shall fully disclose to potential
28 residents or their legal representative the service capabilities of the
29 facility prior to admission to the facility. If the care needs of the
30 applicant who is Medicaid eligible are in excess of the facility's
31 service capabilities, the department shall identify other care settings
32 or residential care options consistent with federal law.

33 (3) Before a long-term care facility transfers or discharges a
34 resident, the facility must:

35 (a) First attempt through reasonable accommodations to avoid the
36 transfer or discharge, unless agreed to by the resident;

1 (b) Notify the resident and representative and make a reasonable
2 effort to notify, if known, an interested family member of the transfer
3 or discharge and the reasons for the move in writing and in a language
4 and manner they understand;

5 (c) Record the reasons in the resident's record; and

6 (d) Include in the notice the items described in subsection (5) of
7 this section.

8 (4)(a) Except when specified in this subsection and as provided in
9 section 2 of this act, the notice of transfer or discharge required
10 under subsection (3) of this section must be made by the facility at
11 least thirty days before the resident is transferred or discharged.

12 (b) Notice may be made as soon as practicable before transfer or
13 discharge when:

14 (i) The safety of individuals in the facility would be endangered;

15 (ii) The health of individuals in the facility would be endangered;

16 (iii) An immediate transfer or discharge is required by the
17 resident's urgent medical needs; or

18 (iv) A resident has not resided in the facility for thirty days.

19 (5) The written notice specified in subsection (3) of this section
20 must include the following:

21 (a) The reason for transfer or discharge;

22 (b) The effective date of transfer or discharge;

23 (c) The location to which the resident is transferred or
24 discharged;

25 (d) The name, address, and telephone number of the state long-term
26 care ombudsman;

27 (e) For residents with developmental disabilities, the mailing
28 address and telephone number of the agency responsible for the
29 protection and advocacy of developmentally disabled individuals
30 established under part C of the developmental disabilities assistance
31 and bill of rights act; and

32 (f) For residents who are mentally ill, the mailing address and
33 telephone number of the agency responsible for the protection and
34 advocacy of mentally ill individuals established under the protection
35 and advocacy for mentally ill individuals act.

36 (6) A facility must provide sufficient preparation and orientation
37 to residents to ensure safe and orderly transfer or discharge from the
38 facility.

1 (7) A resident discharged in violation of this section has the
2 right to be readmitted immediately upon the first availability of a
3 gender-appropriate bed in the facility.

4 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately, except that sections 2, 3, and 5 of this act take effect
8 September 1, 2004.

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