

---

SENATE BILL 5510

---

State of Washington

58th Legislature

2003 Regular Session

By Senators Deccio, Keiser, Fairley, Thibaudeau, Parlette, Kohl-Welles and Winsley

Read first time 01/28/2003. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to creating a license for assisted living  
2 facilities; adding a new chapter to Title 18 RCW; and prescribing  
3 penalties.

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

5 NEW SECTION. **Sec. 1.** The purpose of this chapter is to provide  
6 for the development, establishment, and enforcement of standards for  
7 the maintenance and operation of assisted living facilities. Assisted  
8 living is a housing option in long-term care that maximizes residents'  
9 independence and dignity in combining personal care and possibly  
10 health-related services in a residential setting. An assisted living  
11 residence is not a nursing home. The distinguishing characteristic of  
12 assisted living is its philosophy of supporting the particular and  
13 changing needs of the individual, supporting lifestyle choices, and  
14 minimizing the need to move. Taking into account the advancing  
15 knowledge in the care of the aged, assisted living facilities promote  
16 safe and adequate care as well as accommodate individual resident's  
17 changing needs and preferences; protect residents' rights; maximize  
18 residents' dignity, autonomy, privacy, independence, choice, safety,

1 quality of life, and quality of care and encourage family and community  
2 involvement of the individuals who have chosen to make an assisted  
3 living facility their home.

4 It is further the intent of the legislature that assisted living  
5 facilities be available to meet the needs of those for whom they care  
6 by recognizing the capabilities of individuals to direct their self-  
7 medication or to use supervised self-medication techniques when ordered  
8 and approved by a physician licensed under chapter 18.57 or 18.71 RCW  
9 or a podiatric physician and surgeon licensed under chapter 18.22 RCW.

10 The legislature finds that many residents of community-based long-  
11 term care facilities are vulnerable, and their health and well-being  
12 are dependent on their caregivers. The quality, skills, and knowledge  
13 of their caregivers are often the key to good care. The legislature  
14 finds that the need for well-trained caregivers is growing as the  
15 state's population ages and residents' needs increase. The legislature  
16 intends that current training standards be enhanced without unduly  
17 creating impediments for those who wish to become caregivers.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply  
19 throughout this chapter unless the context clearly requires otherwise.

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

23 (2) "Assisted living facility" means any residential setting that  
24 provides twenty-four-hour response to assistance with the activities of  
25 daily living on a scheduled and unscheduled basis determined by a  
26 negotiated service plan, and that may provide or coordinate health-  
27 related services. Other services provided include, but are not limited  
28 to: Social and recreational services, meals, housekeeping, and  
29 laundry. "Assisted living facility" does not include facilities  
30 certified as group training homes pursuant to RCW 71A.22.040, boarding  
31 homes licensed under RCW 18.20.030, nor any home, institution, or  
32 section thereof which is otherwise licensed and regulated under the  
33 provisions of state law providing specifically for the licensing and  
34 regulation of such home, institution, or section thereof. Nor does it  
35 include any independent senior housing, independent living units in  
36 continuing care retirement communities, or other similar living

1 situations including those subsidized by the department of housing and  
2 urban development.

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

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

7 (5) "Department" means the department of social and health  
8 services.

9 NEW SECTION. **Sec. 3.** After January 1, 2004, no person may  
10 operate or maintain an assisted living facility within this state  
11 without a license under this chapter.

12 NEW SECTION. **Sec. 4.** An application for a license must be made  
13 to the department upon forms provided by the department and must  
14 contain such information as the department reasonably requires, which  
15 includes affirmative evidence of ability to comply with rules adopted  
16 by the department.

17 NEW SECTION. **Sec. 5.** Upon receipt of an application for a  
18 license, if the applicant and the assisted living facilities meet the  
19 requirements established under this chapter and the facilities are  
20 approved under section 11 of this act, the department shall issue a  
21 license. If there is a failure to comply with the provisions of this  
22 chapter or the standards and rules adopted under this chapter, the  
23 department may in its discretion issue to an applicant for a license,  
24 or for the renewal of a license, a provisional license that permits the  
25 operation of the assisted living facility for a period to be determined  
26 by the department, but not to exceed twelve months. The provisional  
27 license is not subject to renewal. At the time of the application for  
28 or renewal of a license or provisional license, the licensee shall pay  
29 a license fee as established by the department under RCW 43.20B.110.  
30 All licenses issued under this chapter expire on a date to be set by  
31 the department, but no license issued pursuant to this chapter may  
32 exceed twelve months in duration. However, when the annual license  
33 renewal date of a previously licensed assisted living facility is set  
34 by the department on a date less than twelve months prior to the  
35 expiration date of a license in effect at the time of reissuance, the

1 license fee must be prorated on a monthly basis and a credit allowed at  
2 the first renewal of a license for any period of one month or more  
3 covered by the previous license. All applications for renewal of a  
4 license must be made not later than thirty days prior to the date of  
5 expiration of the license. Each license must be issued only for the  
6 premises and persons named in the application, and no license is  
7 transferable or assignable. Licenses must be posted in a conspicuous  
8 place on the licensed premises.

9 A licensee who receives notification of the department's initiation  
10 of a denial, suspension, nonrenewal, or revocation of an assisted  
11 living facility license may, in lieu of appealing the department's  
12 action, surrender or relinquish the license. The department shall not  
13 issue a new license to or contract with the licensee, for the purposes  
14 of providing care to vulnerable adults or children, for a period of  
15 twenty years following the surrender or relinquishment of the former  
16 license. The licensing record must indicate that the licensee  
17 relinquished or surrendered the license, without admitting the  
18 violations, after receiving notice of the department's initiation of a  
19 denial, suspension, nonrenewal, or revocation of a license.

20 NEW SECTION. **Sec. 6.** The department shall adopt rules with  
21 respect to all assisted living facilities and operators to be licensed  
22 under this chapter designed to further the accomplishment of the  
23 purposes of this chapter to promote safe and adequate care; respect  
24 resident's rights; and maximize residents' dignity, autonomy, privacy,  
25 independence, choice, safety, quality of life, and the interest of  
26 public health, safety, and welfare. These rules may not restrict the  
27 ability of individuals to negotiate their care with the assisted living  
28 providers.

29 NEW SECTION. **Sec. 7.** The department shall make or cause to be  
30 made at least a yearly inspection of all assisted living facilities.  
31 Every inspection must focus primarily on actual or potential resident  
32 outcomes and satisfaction, and may include an inspection of every part  
33 of the premises and an examination of all records other than financial  
34 records, methods of administration, the general and special dietary,  
35 and the stores and methods of supply. The focus of the inspection  
36 shall not be on physical plant, procedural, and documentations

1 standards. Following such an inspection, written notice of any  
2 violation of this chapter or the rules adopted under this chapter must  
3 be given to the applicant or licensee and the department. The written  
4 notice must include specific statutes or rules violated, the specific  
5 facts of the violation, and the rationale for any remedy or punitive  
6 action imposed on the assisted living facility, including any  
7 department policies, procedures, interpretative guidelines, or advisory  
8 letters. The department may require by rule that any licensee or  
9 applicant desiring to make specified types of alterations or additions  
10 to its facilities or to construct new facilities shall, before  
11 commencing such alteration, addition, or new construction, submit plans  
12 and specifications to the agencies responsible for plan reviews for  
13 preliminary inspection and approval or recommendations with respect to  
14 compliance with state and local building codes. After the final  
15 approval of the alterations or additions to facilities or the  
16 construction of new facilities has been granted, the department shall  
17 no longer inspect the physical plant for compliance, unless a  
18 substantial change to the physical plant is noticed by the inspector  
19 during an inspection or compliance investigation. Oversight of the  
20 housing component is a function of local health and safety enforcement  
21 agencies.

22 NEW SECTION. **Sec. 8.** The department shall develop and make  
23 available to assisted living facilities a quality improvement  
24 consultation program using the following principles:

25 (1) The program must be resident-centered and promote privacy,  
26 independence, dignity, choice, and a home or home-like environment for  
27 residents consistent with chapter 70.129 RCW.

28 (2) The goal of the program is continuous quality improvement with  
29 the focus on resident satisfaction and outcomes for residents. The  
30 quality improvement consultation program must be offered to assisted  
31 living facilities on a voluntary basis. Based on requests for the  
32 services of the quality improvement consultation program, the  
33 department may establish a process for prioritizing service  
34 availability.

35 (3) Assisted living facilities should be supported in their efforts  
36 to improve quality and address problems, as identified by the licensee,  
37 initially through training, consultation, and technical assistance. At

1 a minimum, the department may, within available funding, at the request  
2 of the assisted living facility, conduct on-site visits and telephone  
3 consultations.

4 (4) To facilitate collaboration and trust between the assisted  
5 living facility and the department's quality improvement consultation  
6 program staff, the consultation program staff shall not simultaneously  
7 serve as department licensors, complaint investigators, or participants  
8 in any enforcement-related decisions, within the region in which they  
9 perform consultation activities; except such staff may investigate, on  
10 an emergency basis, complaints anywhere in the state when the complaint  
11 indicates high risk to resident health or safety. Any records or  
12 information gained as a result of quality improvement consultation  
13 program work may not be disclosed to or shared with nonmanagerial  
14 department licensing or complaint investigation staff, unless necessary  
15 to carry out duties described under chapter 74.34 RCW. The emphasis  
16 should be on problem prevention. Nothing in this section limits or  
17 interferes with the consultant's mandated reporting duties under  
18 chapter 74.34 RCW.

19 (5) The department shall promote the development of a training  
20 system that is practical and relevant to the needs of residents and  
21 staff. To improve access to training, especially for rural  
22 communities, the training system may include, but is not limited to,  
23 the use of satellite technology distance learning that is coordinated  
24 through community colleges or other appropriate organizations.

25 NEW SECTION. **Sec. 9.** Information received by the department  
26 through filed reports or inspections, or as otherwise authorized under  
27 this chapter, may not be disclosed publicly in any manner that  
28 identifies individuals or assisted living facilities, except at the  
29 specific request of a member of the public if disclosure is consistent  
30 with RCW 42.17.260(1).

31 NEW SECTION. **Sec. 10.** (1) Monitoring must be outcome-based and  
32 responsive to resident complaints and a clear set of health, quality of  
33 care, and safety standards that are easily understandable and have been  
34 made available to facilities. When conducting licensing inspections,  
35 the department shall interview an appropriate percentage of residents,

1 family members, and advocates in addition to interviewing appropriate  
2 staff.

3 (2) Prompt and specific enforcement remedies must be implemented  
4 without delay, consistent with section 18 of this act, for facilities  
5 found to have delivered care or failed to deliver care resulting in  
6 problems that are serious, recurring, or uncorrected, or that create a  
7 hazard that is causing or likely to cause death or serious harm to one  
8 or more residents. Enforcement remedies may also include, when  
9 appropriate, reasonable conditions on a license. In the selection of  
10 remedies, the safety, health, and well-being of residents must be of  
11 paramount importance.

12 (3) To the extent funding is available, the licensee,  
13 administrator, and their staff must be screened through background  
14 checks in a uniform and timely manner to ensure that they do not have  
15 a criminal history that would disqualify them from working with  
16 vulnerable adults. Employees may be provisionally hired pending the  
17 results of the background check if they have been given three positive  
18 references.

19 (4) No licensee, administrator, or staff, or prospective licensee,  
20 administrator, or staff, with a stipulated finding of fact, conclusion  
21 of law, and agreed order, or finding of fact, conclusion of law, or  
22 final order issued by a disciplining authority, a court of law, or  
23 entered into the state registry, finding him or her guilty of abuse,  
24 neglect, exploitation, or abandonment of a minor or a vulnerable adult  
25 as defined in chapter 74.34 RCW may be employed in the care of and have  
26 unsupervised access to vulnerable adults.

27 NEW SECTION. **Sec. 11.** Standards for fire protection and their  
28 enforcement, with respect to all assisted living facilities to be  
29 licensed under this chapter, is the responsibility of the chief of the  
30 Washington state patrol, through the director of fire protection, who  
31 shall adopt standards applicable to assisted living facilities for the  
32 protection of life against the cause and spread of fire and fire  
33 hazards. The department, upon receipt of an application for a license,  
34 shall submit to the chief of the Washington state patrol, through the  
35 director of fire protection, in writing, a request for an inspection,  
36 giving the applicant's name and the location of the premises to be  
37 licensed. Upon receipt of the request, the chief of the Washington

1 state patrol, through the director of fire protection, or his or her  
2 deputy, shall make an inspection of the assisted living facility to be  
3 licensed. If it is found that the premises do not comply with the  
4 required safety standards and fire rules, the chief of the Washington  
5 state patrol, through the director of fire protection, shall promptly  
6 make a written report to the assisted living facility and the  
7 department as to the manner and time allowed for the premises to  
8 qualify for a license and the conditions to be remedied with respect to  
9 fire rules. The department, applicant, or licensee shall notify the  
10 chief of the Washington state patrol, through the director of fire  
11 protection, upon completion of any requirements, and the chief of the  
12 Washington state patrol, through the director of fire protection, or  
13 his or her deputy, shall make a reinspection of the premises. The  
14 chief of the Washington state patrol, through the director of fire  
15 protection, shall submit to the department a written report when the  
16 assisted living facility is approved with respect to fire protection.  
17 The chief of the Washington state patrol, through the director of fire  
18 protection, shall make or cause to be made inspections of assisted  
19 living facilities at least annually.

20 In cities which have a paid chief of a paid fire department and  
21 have in force a comprehensive building code, the provisions of which  
22 are determined by the chief of the Washington state patrol, through the  
23 director of fire protection, to be equal to the minimum standards of  
24 the code for assisted living facilities adopted by the chief of the  
25 Washington state patrol, through the director of fire protection, the  
26 chief of the fire department shall make the inspection with the chief  
27 of the Washington state patrol, through the director of fire  
28 protection, or his or her deputy, and they must jointly approve the  
29 premises.

30 NEW SECTION. **Sec. 12.** Any person operating or maintaining an  
31 assisted living facility without a license under this chapter is guilty  
32 of a misdemeanor. Each day of a continuing violation is to be  
33 considered a separate offense.

34 NEW SECTION. **Sec. 13.** Notwithstanding the existence or use of  
35 any other remedy, the department may, in the manner provided by law,  
36 upon the advice of the attorney general who shall represent the



1 department in the proceedings, maintain an action in the name of the  
2 state for an injunction or other process against any person to restrain  
3 or prevent the operation or maintenance of an assisted living facility  
4 without a license under this chapter.

5 NEW SECTION. **Sec. 14.** No person operating an assisted living  
6 facility licensed under this chapter shall admit to or retain in the  
7 assisted living facility any aged person requiring nursing or medical  
8 care of a type provided by institutions licensed under chapter 18.51,  
9 70.41, or 71.12 RCW, except that supervised medication service may be  
10 provided when registered nurses are available and upon a doctor's order  
11 that a supervised medication service is needed. Supervised medication  
12 services, as defined by the department, may include an approved program  
13 of self-medication or self-directed medication. Such medication  
14 service may be provided only to residents who otherwise meet all  
15 requirements for residency in an assisted living facility.

16 NEW SECTION. **Sec. 15.** Nothing in this chapter or the rules  
17 adopted under this chapter are to be construed as authorizing the  
18 supervision, regulation, or control of the remedial care or treatment  
19 of residents in any assisted living facility conducted for those who  
20 rely upon treatment by prayer or spiritual means in accordance with the  
21 creed or tenets of any well-recognized church or religious  
22 denomination.

23 NEW SECTION. **Sec. 16.** RCW 70.129.005 through 70.129.030,  
24 70.129.040(1), and 70.129.050 through 70.129.170 apply to this chapter  
25 and persons regulated under this chapter.

26 NEW SECTION. **Sec. 17.** (1) The department shall establish and  
27 maintain a toll-free telephone number for receiving complaints  
28 regarding a facility that the department licenses.

29 (2) All facilities that are licensed under this chapter shall post  
30 in a place and manner clearly visible to residents and visitors the  
31 department's toll-free complaint telephone number and the toll-free  
32 number and program description of the long-term care ombudsman as  
33 provided by RCW 43.190.050.

1 (3) The department shall investigate complaints if the subject of  
2 the complaint is within its authority unless the department determines  
3 that: (a) The complaint is intended to willfully harass a licensee or  
4 employee of the licensee; or (b) there is no reasonable basis for  
5 investigation; or (c) corrective action has been taken as determined by  
6 the ombudsman or the department.

7 (4) The department shall refer complaints to appropriate state  
8 agencies, law enforcement agencies, the attorney general, the long-term  
9 care ombudsman, or other entities if the department lacks authority to  
10 investigate or if its investigation reveals that a follow-up referral  
11 to one or more of these entities is appropriate.

12 (5) The department shall adopt rules that include the following  
13 complaint investigation protocols:

14 (a) Upon receipt of a complaint, the department shall make a  
15 preliminary review of the complaint, assess the severity of the  
16 complaint, and assign an appropriate response time. Complaints  
17 involving imminent danger to the health, safety, or well-being of a  
18 resident must be responded to within two days. When appropriate, the  
19 department shall make an on-site investigation within a reasonable time  
20 after receipt of the complaint or otherwise ensure that complaints are  
21 responded to.

22 (b) The complainant must be: Promptly contacted by the department,  
23 unless anonymous or unavailable despite several attempts by the  
24 department, and informed of the right to discuss alleged violations  
25 with the inspector and to provide other information the complainant  
26 believes will assist the inspector; informed of the department's course  
27 of action; and informed of the right to receive a written copy of the  
28 investigation report.

29 (c) In conducting the investigation, the department shall interview  
30 the complainant, unless anonymous, and shall use its best efforts to  
31 interview the resident or residents allegedly harmed by the violations,  
32 and, in addition to facility staff, any available independent sources  
33 of relevant information, including if appropriate the family members of  
34 the resident.

35 (d) Substantiated complaints involving harm to a resident, if an  
36 applicable law or rule has been violated, are subject to one or more of  
37 the actions provided in Section 18 of this act. Whenever appropriate,

1 the department shall also give consultation and technical assistance to  
2 the facility.

3 (e) After a department finding of a violation for which a stop  
4 placement has been ordered, the department shall make an on-site  
5 revisit of the provider within fifteen working days from request for  
6 revisit to ensure correction of the violation. For violations that are  
7 serious or recurring or uncorrected following a previous citation, and  
8 create actual or threatened harm to one or more residents' well-being,  
9 including violations of residents' rights, the department shall make an  
10 on-site revisit as soon as appropriate to ensure correction of the  
11 violation. Verification of correction of all other violations may be  
12 made by either a department on-site revisit or by written or  
13 photographic documentation found by the department to be credible.  
14 This subsection does not prevent the department from enforcing license  
15 suspensions or revocations. Nothing in this subsection interferes with  
16 or diminishes the department's authority and duty to ensure that the  
17 provider adequately cares for residents, including departmental on-site  
18 revisits as needed to ensure that the provider protects residents and  
19 to enforce compliance with this chapter.

20 (f) Substantiated complaints of neglect, abuse, exploitation, or  
21 abandonment of residents, or suspected criminal violations, must also  
22 be referred by the department to the appropriate law enforcement  
23 agencies, the attorney general, and appropriate professional  
24 disciplining authority.

25 (6) The department may provide the substance of the complaint to  
26 the licensee before the completion of the investigation by the  
27 department unless such disclosure would reveal the identity of a  
28 complainant, witness, or resident, who chooses to remain anonymous.  
29 Neither the substance of the complaint provided to the licensee or  
30 contractor nor any copy of the complaint or related report published,  
31 released, or made otherwise available may disclose, or reasonably lead  
32 to the disclosure of, the name, title, or identity of any complainant,  
33 or other person mentioned in the complaint, except that the name of the  
34 provider and the name or names of any officer, employee, or agent of  
35 the department conducting the investigation must be disclosed after the  
36 investigation has been closed and the complaint has been substantiated.  
37 The department may disclose the identity of the complainant if such  
38 disclosure is requested in writing by the complainant. Nothing in this

1 subsection is to be construed to interfere with the obligation of the  
2 long-term care ombudsman program to monitor the department's licensing,  
3 contract, and complaint investigation files for long-term care  
4 facilities.

5 (7) A resident has the right to be free of interference, coercion,  
6 discrimination, and reprisal from a facility in exercising his or her  
7 rights, including the right to voice grievances about treatment  
8 furnished or not furnished. A facility licensed under this chapter  
9 shall not discriminate or retaliate in any manner against a resident,  
10 employee, or any other person on the basis or for the reason that such  
11 resident or any other person made a complaint to the department, the  
12 attorney general, law enforcement agencies, or the long-term care  
13 ombudsman, provided information, or otherwise cooperated with the  
14 investigation of such a complaint. Any attempt to discharge a resident  
15 against the resident's wishes, or any type of retaliatory treatment of  
16 a resident by whom or upon whose behalf a complaint substantiated by  
17 the department has been made to the department, the attorney general,  
18 law enforcement agencies, or the long-term care ombudsman, within one  
19 year of the filing of the complaint, raises a rebuttable presumption  
20 that such action was in retaliation for the filing of the complaint.  
21 "Retaliatory treatment" means, but is not limited to, monitoring a  
22 resident's phone, mail, or visits; involuntary seclusion or isolation;  
23 transferring a resident to a different room unless requested or based  
24 upon legitimate management reasons; withholding or threatening to  
25 withhold food or treatment unless authorized by a terminally ill  
26 resident or his or her representative pursuant to law; or persistently  
27 delaying responses to a resident's request for service or assistance.  
28 A facility licensed under this chapter shall not willfully interfere  
29 with the performance of official duties by a long-term care ombudsman.  
30 The department shall sanction and may impose a civil penalty of not  
31 more than three thousand dollars for a violation of this subsection.

32 NEW SECTION. **Sec. 18.** (1) The department may take one or more of  
33 the actions listed in subsection (2) of this section in any case in  
34 which the department finds that an assisted living facility provider  
35 has:

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

1 (b) Operated an assisted living facility without a license or under  
2 a revoked license;

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

6 (d) Willfully prevented or interfered with any inspection or  
7 investigation by the department.

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

10 (a) Refuse to issue a license;

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

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

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

17 (e) Suspend admissions to the assisted living facility by ordering  
18 stop placement.

19 (3) When the department orders stop placement, the facility shall  
20 not admit any new resident until the stop placement order is  
21 terminated. The department may approve readmission of a resident to  
22 the facility from a hospital or nursing home during the stop placement.  
23 The department shall terminate the stop placement when: (a) The  
24 violations necessitating the stop placement have been corrected; and  
25 (b) the provider exhibits the capacity to maintain correction of the  
26 violations previously found deficient. However, if upon the revisit  
27 the department finds new violations that the department reasonably  
28 believes will result in a new stop placement, the previous stop  
29 placement remains in effect until the new stop placement is imposed.

30 (4) After a department finding of a violation for which a stop  
31 placement has been ordered, the department shall make an on-site  
32 revisit of the provider within fifteen working days from a request for  
33 revisit to ensure correction of the violation. For violations that are  
34 serious or recurring or uncorrected following a previous citation, and  
35 create actual or threatened harm to one or more residents' well-being,  
36 including violations of residents' rights, the department shall make an  
37 on-site revisit as soon as appropriate to ensure correction of the  
38 violation. Verification of correction of all other violations may be

1 made by either a department on-site revisit or by written or  
2 photographic documentation found by the department to be credible.  
3 This subsection does not prevent the department from enforcing license  
4 suspensions or revocations. Nothing in this subsection interferes with  
5 or diminishes the department's authority and duty to ensure that the  
6 provider adequately cares for residents, including departmental on-site  
7 revisits as needed to ensure that the provider protects residents and  
8 to enforce compliance with this chapter.

9 (5) RCW 43.20A.205 governs notice of a license denial, revocation,  
10 suspension, or modification. Chapter 34.05 RCW applies to department  
11 actions under this section, except that orders of the department  
12 imposing license suspension, stop placement, or conditions for  
13 continuation of a license are effective immediately upon notice and  
14 continue pending any hearing.

15 NEW SECTION. **Sec. 19.** (1) The licensee or its designee has the  
16 right to an informal dispute resolution process to dispute any  
17 violation found or enforcement remedy imposed by the department during  
18 a licensing inspection or complaint investigation. The purpose of the  
19 informal dispute resolution process is to provide an opportunity for an  
20 exchange of information that may lead to the modification, deletion, or  
21 removal of a violation, or parts of a violation, or enforcement remedy  
22 imposed by the department.

23 (2) The informal dispute resolution process provided by the  
24 department must include, but is not necessarily limited to, an  
25 opportunity for review by a department employee who did not participate  
26 in, or oversee, the determination of the violation or enforcement  
27 remedy under dispute. The department shall develop, or further  
28 develop, an informal dispute resolution process consistent with this  
29 section.

30 (3) A request for an informal dispute resolution must be made to  
31 the department within ten working days from the receipt of a written  
32 finding of a violation or enforcement remedy. The request must  
33 identify the violation or violations and enforcement remedy or remedies  
34 being disputed. The department shall convene a meeting, when possible,  
35 within ten working days of receipt of the request for informal dispute  
36 resolution, unless by mutual agreement a later date is agreed upon.

1 (4) If the department determines that a violation or enforcement  
2 remedy should not be cited or imposed, the department shall delete the  
3 violation or immediately rescind or modify the enforcement remedy.  
4 Upon request, the department shall issue a clean copy of the revised  
5 report, statement of deficiencies, or notice of enforcement action.

6 (5) The request for informal dispute resolution does not delay the  
7 effective date of an enforcement remedy imposed by the department,  
8 except that civil monetary fines are not payable until the exhaustion  
9 of any formal hearing and appeal rights provided under this chapter.  
10 The licensee shall submit to the department, within the time period  
11 prescribed by the department, a plan of correction to address any  
12 undisputed violations, and including any violations that still remain  
13 following the informal dispute resolution.

14 NEW SECTION. **Sec. 20.** The secretary shall suspend the license of  
15 any person who has been certified by a lending agency and reported to  
16 the secretary for nonpayment or default on a federally or state-  
17 guaranteed educational loan or service-conditional scholarship. Prior  
18 to the suspension, the lending agency shall provide the person an  
19 opportunity for a brief adjudicative proceeding under RCW 34.05.485  
20 through 34.05.494 and issue a finding of nonpayment or default on a  
21 federally or state-guaranteed educational loan or service-conditional  
22 scholarship. The person's license may not be reissued until the person  
23 provides the secretary a written release issued by the lending agency  
24 stating that the person is making payments on the loan in accordance  
25 with a repayment agreement approved by the lending agency. If the  
26 person has continued to meet all other requirements for licensure  
27 during the suspension, reinstatement is automatic upon receipt of the  
28 notice and payment of any reinstatement fee the secretary may impose.

29 NEW SECTION. **Sec. 21.** The department shall immediately suspend  
30 the license of a person who has been certified pursuant to RCW  
31 74.20A.320 by the department as a person who is not in compliance with  
32 a support order or visitation order. If the person has continued to  
33 meet all other requirements for reinstatement during the suspension,  
34 reissuance of the license is automatic upon the department's receipt of  
35 a release issued by the department stating that the licensee is in  
36 compliance with the order.

1        NEW SECTION.    **Sec. 22.** (1) The department shall review training  
2 standards for administrators and resident caregiving staff in  
3 coordination with the department of health, the nursing care quality  
4 assurance commission, adult family home providers, assisted living  
5 facility providers, in-home personal care providers, and long-term care  
6 consumers and advocates. Any proposed enhancements must be consistent  
7 with this section, take into account and not duplicate other training  
8 requirements applicable to assisted living facilities and staff, and be  
9 developed with the input of assisted living facilities and resident  
10 representatives, health care professionals, and other vested interest  
11 groups. Training standards and the delivery system must be relevant to  
12 the needs of residents served by the assisted living facilities and  
13 recipients of long-term in-home personal care services and must be  
14 sufficient to ensure that administrators and caregiving staff have the  
15 skills and knowledge necessary to provide high quality, appropriate  
16 care.

17        (2) The recommendations on training standards and the delivery  
18 system developed under subsection (1) of this section must be based on  
19 a review and consideration of the following: Quality of care;  
20 availability of training; affordability, including the training costs  
21 incurred by the department and private providers; portability of  
22 existing training requirements; competency testing; practical and  
23 clinical coursework; methods of delivery of training; standards for  
24 management and caregiving staff training; and necessary enhancements  
25 for special needs populations and resident rights training. Residents  
26 with special needs include, but are not limited to, residents with a  
27 diagnosis of mental illness, dementia, or developmental disability.

28        NEW SECTION.    **Sec. 23.** The secretary may adopt rules and policies  
29 as necessary to entitle the state to participate in federal funding  
30 programs and opportunities and to facilitate state and federal  
31 cooperation in programs under the department's jurisdiction. The  
32 secretary shall ensure that any internal reorganization carried out  
33 under the terms of this chapter complies with prerequisites for the  
34 receipt of federal funding for the various programs under the  
35 department's control. When interpreting any department-related section  
36 or provision of law susceptible to more than one interpretation, the  
37 secretary shall construe that section or provision in the manner most



1 likely to comply with federal laws and rules entitling the state to  
2 receive federal funds for the various programs of the department. If  
3 any law or rule dealing with the department is ruled to be in conflict  
4 with federal prerequisites to the allocation of federal funding to the  
5 state, the department, or its agencies, the secretary shall declare  
6 that law or rule inoperative solely to the extent of the conflict.

7 NEW SECTION. **Sec. 24.** (1) In an effort to ensure a cooperative  
8 process among the department, assisted living facility provider  
9 representatives, and resident and family representatives on matters  
10 pertaining to the assisted living program, the secretary, or his or her  
11 designee, shall designate an advisory board. The advisory board must  
12 include representatives of the statewide associations representing  
13 assisted living facilities, the state long-term care ombudsman program,  
14 the statewide resident council program, consumers, and family  
15 representatives. Depending on the topic to be discussed, the  
16 department may invite other representatives in addition to the named  
17 members of the advisory board. The secretary, or his or her designee,  
18 shall periodically, but not less than quarterly, convene a meeting of  
19 the advisory board to encourage open dialogue on matters affecting the  
20 assisted living facility program. It is, minimally, expected that the  
21 department will discuss with the advisory board the department's  
22 inspection, enforcement, and quality improvement activities, in  
23 addition to seeking their comments and recommendations on matters  
24 described under subsection (2) of this section.

25 (2) The secretary, or his or her designee, shall seek comments and  
26 recommendations from the advisory board prior to the adoption of rules  
27 and standards, implementation of assisted living facility provider  
28 programs, or development of methods and rates of payment.

29 NEW SECTION. **Sec. 25.** (1) The definitions in this subsection  
30 apply throughout this section unless the context clearly requires  
31 otherwise.

32 (a) "Caregiver" includes any person who provides residents with  
33 hands-on personal care on behalf of an assisted living facility, except  
34 volunteers who are directly supervised.

35 (b) "Direct supervision" means oversight by a person who has

1 demonstrated competency in the core areas or has been fully exempted  
2 from the training requirements pursuant to this section, is on the  
3 premises, and is quickly and easily available to the caregiver.

4 (2) Training must have the following components: Orientation,  
5 basic training, specialty training as appropriate, and continuing  
6 education. All assisted living facility employees or volunteers who  
7 routinely interact with residents shall complete orientation. Assisted  
8 living facility administrators, or their designees, and caregivers  
9 shall complete orientation, basic training, specialty training as  
10 appropriate, and continuing education.

11 (3) Orientation consists of introductory information on residents'  
12 rights, communication skills, fire and life safety, and universal  
13 precautions. Orientation must be provided at the facility by  
14 appropriate assisted living facility staff to all assisted living  
15 facility employees before the employees have routine interaction with  
16 residents.

17 (4) Basic training consists of modules on the core knowledge and  
18 skills that caregivers need to learn and understand to effectively and  
19 safely provide care to residents. Basic training must be outcome-  
20 based, and the effectiveness of the basic training must be measured by  
21 demonstrated competency in the core areas through the use of a  
22 competency test. Basic training must be completed by caregivers within  
23 one hundred twenty days of the date on which they begin to provide  
24 hands-on care or within one hundred twenty days of September 1, 2003,  
25 whichever is later. Until competency in the core areas has been  
26 demonstrated, caregivers shall not provide hands-on personal care to  
27 residents without direct supervision. Assisted living administrators,  
28 or their designees, must complete basic training and demonstrate  
29 competency within one hundred twenty days of employment or within one  
30 hundred twenty days of September 1, 2003, whichever is later.

31 (5) For assisted living facilities that serve residents with  
32 special needs such as dementia, developmental disabilities, or mental  
33 illness, specialty training is required of administrators, or  
34 designees, and caregivers. Specialty training consists of modules on  
35 the core knowledge and skills that caregivers need to effectively and  
36 safely provide care to residents with special needs. Specialty  
37 training should be integrated into basic training wherever appropriate.  
38 Specialty training must be outcome-based, and the effectiveness of the

1 specialty training measured by demonstrated competency in the core  
2 specialty areas through the use of a competency test. Specialty  
3 training must be completed by caregivers within one hundred twenty days  
4 of the date on which they begin to provide hands-on care to a resident  
5 having special needs or within one hundred twenty days of September 1,  
6 2003, whichever is later. However, if specialty training is not  
7 integrated with basic training, the specialty training must be  
8 completed within ninety days of completion of basic training. Until  
9 competency in the core specialty areas has been demonstrated,  
10 caregivers shall not provide hands-on personal care to residents with  
11 special needs without direct supervision. Assisted living  
12 administrators, or their designees, must complete specialty training  
13 and demonstrate competency within one hundred twenty days of September  
14 1, 2003, or one hundred twenty days from the date on which the  
15 administrator or his or her designee is hired, whichever is later, if  
16 the assisted living facility serves one or more residents with special  
17 needs.

18 (6) Continuing education consists of ongoing delivery of  
19 information to caregivers on various topics relevant to the care  
20 setting and care needs of residents. Competency testing is not  
21 required for continuing education. Continuing education is not  
22 required in the same calendar year in which basic or modified basic  
23 training is successfully completed. Continuing education is required  
24 in each calendar year thereafter. If specialty training is completed,  
25 the specialty training applies toward any continuing education  
26 requirement for up to two years following the completion of the  
27 specialty training.

28 (7) Persons who successfully challenge the competency test for  
29 basic training are fully exempt from the basic training requirements of  
30 this section. Persons who successfully challenge the specialty  
31 training competency test are fully exempt from the specialty training  
32 requirements of this section.

33 (8) Licensed persons who perform the tasks for which they are  
34 licensed are fully or partially exempt from the training requirements  
35 of this section, as specified by the department in rule.

36 (9) In an effort to improve access to training and education and  
37 reduce costs, especially for rural communities, the coordinated system  
38 of long-term care training and education must include the use of

1 innovative types of learning strategies such as internet resources,  
2 videotapes, and distance learning using satellite technology  
3 coordinated through community colleges or other entities, as defined by  
4 the department.

5 (10) The department shall develop criteria for the approval of  
6 orientation, basic training, and specialty training programs.

7 (11) Assisted living facilities that desire to deliver facility-  
8 based training with facility designated trainers, or assisted living  
9 facilities that desire to pool their resources to create shared  
10 training systems, must be encouraged by the department in their  
11 efforts. The department shall develop criteria for reviewing and  
12 approving trainers and training materials that are substantially  
13 similar to or better than the materials developed by the department.  
14 The department may approve a curriculum based upon attestation by an  
15 assisted living facility administrator that the assisted living  
16 facility's training curriculum addresses basic and specialty training  
17 competencies identified by the department. The department shall review  
18 a curriculum to verify that it meets these requirements. The  
19 department may conduct the review as part of the next regularly  
20 scheduled yearly inspection and investigation required under section 7  
21 of this act. The department shall rescind approval of any curriculum  
22 if it determines that the curriculum does not meet these requirements.

23 (12) The department shall adopt rules by September 1, 2003, for the  
24 implementation of this section.

25 (13) The orientation, basic training, specialty training, and  
26 continuing education requirements of this section commence September 1,  
27 2003, or one hundred twenty days from the date of employment, whichever  
28 is later, and shall be applied to (a) employees hired subsequent to  
29 September 1, 2003; and (b) existing employees that on September 1,  
30 2003, have not successfully completed the training requirements under  
31 RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who  
32 have not successfully completed the training requirements under RCW  
33 74.39A.010 or 74.39A.020 are subject to all applicable requirements of  
34 this section. However, prior to September 1, 2003, nothing in this  
35 section affects the current training requirements under RCW 74.39A.010.

36 NEW SECTION. **Sec. 26.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 27.** Sections 1 through 26 of this act  
5 constitute a new chapter in Title 18 RCW.

--- END ---