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SENATE BILL 6225

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State of Washington

58th Legislature

2004 Regular Session

By Senators Deccio, Keiser, Parlette, Winsley and Rasmussen

Read first time 01/14/2004. Referred to Committee on Health & Long-Term 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 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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