

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2056

Chapter 10, Laws of 2012

62nd Legislature
2012 Regular Session

ASSISTED LIVING FACILITIES

EFFECTIVE DATE: 06/07/12

Passed by the House February 9, 2012
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 27, 2012
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved March 7, 2012, 1:53 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2056** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 7, 2012

**Secretary of State
State of Washington**

1 establishment, and enforcement of standards for the maintenance and
2 operation of (~~boarding homes~~) assisted living facilities, which, in
3 the light of advancing knowledge, will promote safe and adequate care
4 of the individuals therein. It is further the intent of the
5 legislature that (~~boarding homes~~) assisted living facilities be
6 available to meet the needs of those for whom they care by recognizing
7 the capabilities of individuals to direct their self-medication or to
8 use supervised self-medication techniques when ordered and approved by
9 a physician licensed under chapter 18.57 or 18.71 RCW or a podiatric
10 physician and surgeon licensed under chapter 18.22 RCW.

11 The legislature finds that many residents of community-based long-
12 term care facilities are vulnerable and their health and well-being are
13 dependent on their caregivers. The quality, skills, and knowledge of
14 their caregivers are often the key to good care. The legislature finds
15 that the need for well-trained caregivers is growing as the state's
16 population ages and residents' needs increase. The legislature intends
17 that current training standards be enhanced.

18 **Sec. 2.** RCW 18.20.020 and 2011 c 366 s 2 are each reenacted and
19 amended to read as follows:

20 (~~As used in this chapter:~~) The definitions in this section apply
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Adult day services" means care and services provided to a
23 nonresident individual by the (~~boarding home~~) assisted living
24 facility on the (~~boarding home~~) assisted living facility premises,
25 for a period of time not to exceed ten continuous hours, and does not
26 involve an overnight stay.

27 (2) "Basic services" means housekeeping services, meals, nutritious
28 snacks, laundry, and activities.

29 (3) "~~(Boarding home)~~ Assisted living facility" means any home or
30 other institution, however named, which is advertised, announced, or
31 maintained for the express or implied purpose of providing housing,
32 basic services, and assuming general responsibility for the safety and
33 well-being of the residents, and may also provide domiciliary care,
34 consistent with chapter 142, Laws of 2004, to seven or more residents
35 after July 1, 2000. However, (~~a boarding home~~) an assisted living
36 facility that is licensed for three to six residents prior to or on
37 July 1, 2000, may maintain its (~~boarding home~~) assisted living

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

11 (4) "Department" means the state department of social and health
12 services.

13 (5) "Domiciliary care" means: Assistance with activities of daily
14 living provided by the ((~~boarding home~~) assisted living facility
15 either directly or indirectly; or health support services, if provided
16 directly or indirectly by the ((~~boarding home~~) assisted living
17 facility; or intermittent nursing services, if provided directly or
18 indirectly by the ((~~boarding home~~) assisted living facility.

19 (6) "General responsibility for the safety and well-being of the
20 resident" means the provision of the following: Prescribed general low
21 sodium diets; prescribed general diabetic diets; prescribed mechanical
22 soft foods; emergency assistance; monitoring of the resident; arranging
23 health care appointments with outside health care providers and
24 reminding residents of such appointments as necessary; coordinating
25 health care services with outside health care providers consistent with
26 RCW 18.20.380; assisting the resident to obtain and maintain glasses,
27 hearing aids, dentures, canes, crutches, walkers, wheelchairs, and
28 assistive communication devices; observation of the resident for
29 changes in overall functioning; blood pressure checks as scheduled;
30 responding appropriately when there are observable or reported changes
31 in the resident's physical, mental, or emotional functioning; or
32 medication assistance as permitted under RCW 69.41.085 and as defined
33 in RCW 69.41.010.

34 (7) "Legal representative" means a person or persons identified in
35 RCW 7.70.065 who may act on behalf of the resident pursuant to the
36 scope of their legal authority. The legal representative shall not be
37 affiliated with the licensee, ((~~boarding home~~) assisted living

1 facility, or management company, unless the affiliated person is a
2 family member of the resident.

3 (8) "Nonresident individual" means a person who resides in
4 independent senior housing, independent living units in continuing care
5 retirement communities, or in other similar living environments or in
6 an unlicensed room located within (~~(a boarding home)~~) an assisted
7 living facility. Nothing in this chapter prohibits nonresidents from
8 receiving one or more of the services listed in RCW 18.20.030(5) or
9 requires licensure as (~~(a boarding home)~~) an assisted living facility
10 when one or more of the services listed in RCW 18.20.030(5) are
11 provided to nonresidents. A nonresident individual may not receive
12 domiciliary care, as defined in this chapter, directly or indirectly by
13 the (~~(boarding home)~~) assisted living facility and may not receive the
14 items and services listed in subsection (6) of this section, except
15 during the time the person is receiving adult day services as defined
16 in this section.

17 (9) "Person" means any individual, firm, partnership, corporation,
18 company, association, or joint stock association, and the legal
19 successor thereof.

20 (10) "Resident" means an individual who is not related by blood or
21 marriage to the operator of the (~~(boarding home)~~) assisted living
22 facility, and by reason of age or disability, chooses to reside in the
23 (~~(boarding home)~~) assisted living facility and receives basic services
24 and one or more of the services listed under general responsibility for
25 the safety and well-being of the resident and may receive domiciliary
26 care or respite care provided directly or indirectly by the (~~(boarding~~
27 ~~home)~~) assisted living facility and shall be permitted to receive
28 hospice care through an outside service provider when arranged by the
29 resident or the resident's legal representative under RCW 18.20.380.

30 (11) "Resident applicant" means an individual who is seeking
31 admission to a licensed (~~(boarding home)~~) assisted living facility and
32 who has completed and signed an application for admission, or such
33 application for admission has been completed and signed in their behalf
34 by their legal representative if any, and if not, then the designated
35 representative if any.

36 (12) "Resident's representative" means a person designated
37 voluntarily by a competent resident, in writing, to act in the
38 resident's behalf concerning the care and services provided by the

1 ((~~boarding home~~)) assisted living facility and to receive information
2 from the ((~~boarding home~~)) assisted living facility, if there is no
3 legal representative. The resident's competence shall be determined
4 using the criteria in RCW 11.88.010(1)(e). The resident's
5 representative may not be affiliated with the licensee, ((~~boarding~~
6 ~~home~~)) assisted living facility, or management company, unless the
7 affiliated person is a family member of the resident. The resident's
8 representative shall not have authority to act on behalf of the
9 resident once the resident is no longer competent.

10 (13) "Secretary" means the secretary of social and health services.

11 **Sec. 3.** RCW 18.20.030 and 2011 c 366 s 3 are each amended to read
12 as follows:

13 (1) After January 1, 1958, no person shall operate or maintain ((~~a~~
14 ~~boarding home~~)) an assisted living facility as defined in this chapter
15 within this state without a license under this chapter.

16 (2) ((~~A boarding home~~)) An assisted living facility license is not
17 required for the housing, or services, that are customarily provided
18 under landlord tenant agreements governed by the residential landlord-
19 tenant act, chapter 59.18 RCW, or when housing nonresident individuals
20 who chose to participate in programs or services under subsection (5)
21 of this section, when offered by the ((~~boarding home~~)) assisted living
22 facility licensee or the licensee's contractor. This subsection does
23 not prohibit the licensee from furnishing written information
24 concerning available community resources to the nonresident individual
25 or the individual's family members or legal representatives. The
26 licensee may not require the use of any particular service provider.

27 (3) Residents receiving domiciliary care, directly or indirectly by
28 the ((~~boarding home~~)) assisted living facility, are not considered
29 nonresident individuals for the purposes of this section.

30 (4) ((~~A boarding home~~)) An assisted living facility license is
31 required when any person other than an outside service provider, under
32 RCW 18.20.380, or family member:

33 (a) Assumes general responsibility for the safety and well-being of
34 a resident;

35 (b) Provides assistance with activities of daily living, either
36 directly or indirectly;

1 (c) Provides health support services, either directly or
2 indirectly; or

3 (d) Provides intermittent nursing services, either directly or
4 indirectly.

5 (5) (~~(A boarding home)~~) An assisted living facility license is not
6 required for one or more of the following services that may, upon the
7 request of the nonresident, be provided to a nonresident individual:

- 8 (a) Emergency assistance provided on an intermittent or nonroutine
9 basis; (b) systems, including technology-based monitoring devices,
10 employed by independent senior housing, or independent living units in
11 continuing care retirement communities, to respond to the potential
12 need for emergency services; (c) scheduled and nonscheduled blood
13 pressure checks; (d) nursing assessment services to determine whether
14 referral to an outside health care provider is recommended; (e) making
15 and reminding the nonresident of health care appointments; (f)
16 preadmission assessment for the purposes of transitioning to a licensed
17 care setting; (g) medication assistance which may include reminding or
18 coaching the nonresident, opening the nonresident's medication
19 container, using an enabler, and handing prefilled insulin syringes to
20 the nonresident; (h) falls risk assessment; (i) nutrition management
21 and education services; (j) dental services; (k) wellness programs; (l)
22 prefilling insulin syringes when performed by a nurse licensed under
23 chapter 18.79 RCW; or (m) services customarily provided under landlord
24 tenant agreements governed by the residential landlord-tenant act,
25 chapter 59.18 RCW.

26 **Sec. 4.** RCW 18.20.050 and 2011 1st sp.s. c 3 s 402 are each
27 amended to read as follows:

28 (1)(a) Upon receipt of an application for license, if the applicant
29 and the (~~(boarding home's)~~) facilities of the assisted living facility
30 meet the requirements established under this chapter, the department
31 may issue a license. If there is a failure to comply with the
32 provisions of this chapter or the rules adopted under this chapter, the
33 department may in its discretion issue a provisional license to an
34 applicant for a license or for the renewal of a license. A provisional
35 license permits the operation of the (~~(boarding home)~~) assisted living
36 facility for a period to be determined by the department, but not to

1 exceed twelve months and is not subject to renewal. The department may
2 also place conditions on the license under RCW 18.20.190.

3 (b) At the time of the application for or renewal of a license or
4 provisional license, the licensee shall pay a license fee. Beginning
5 July 1, 2011, and thereafter, the per bed license fee must be
6 established in the omnibus appropriations act and any amendment or
7 additions made to that act. The license fees established in the
8 omnibus appropriations act and any amendment or additions made to that
9 act may not exceed the department's annual licensing and oversight
10 activity costs and must include the department's cost of paying
11 providers for the amount of the license fee attributed to medicaid
12 clients.

13 (c) A license issued under this chapter may not exceed twelve
14 months in duration and expires on a date set by the department. ((A
15 ~~boarding home~~)) An assisted living facility license must be issued only
16 to the person that applied for the license. All applications for
17 renewal of a license shall be made not later than thirty days prior to
18 the date of expiration of the license. Each license shall be issued
19 only for the premises and persons named in the application, and no
20 license shall be transferable or assignable. Licenses shall be posted
21 in a conspicuous place on the licensed premises.

22 (2) A licensee who receives notification of the department's
23 initiation of a denial, suspension, nonrenewal, or revocation of ((a
24 ~~boarding home~~)) an assisted living facility license may, in lieu of
25 appealing the department's action, surrender or relinquish the license.
26 The department shall not issue a new license to or contract with the
27 licensee, for the purposes of providing care to vulnerable adults or
28 children, for a period of twenty years following the surrendering or
29 relinquishment of the former license. The licensing record shall
30 indicate that the licensee relinquished or surrendered the license,
31 without admitting the violations, after receiving notice of the
32 department's initiation of a denial, suspension, nonrenewal, or
33 revocation of a license.

34 (3) The department shall establish, by rule, the circumstances
35 requiring a change in licensee, which include, but are not limited to,
36 a change in ownership or control of the ((~~boarding home~~)) assisted
37 living facility or licensee, a change in the licensee's form of legal
38 organization, such as from sole proprietorship to partnership or

1 corporation, and a dissolution or merger of the licensed entity with
2 another legal organization. The new licensee is subject to the
3 provisions of this chapter, the rules adopted under this chapter, and
4 other applicable law. In order to ensure that the safety of residents
5 is not compromised by a change in licensee, the new licensee is
6 responsible for correction of all violations that may exist at the time
7 of the new license.

8 (4) The department may deny, suspend, modify, revoke, or refuse to
9 renew a license when the department finds that the applicant or
10 licensee or any partner, officer, director, managerial employee, or
11 majority owner of the applicant or licensee:

12 (a) Operated (~~(a-boarding-home)~~) an assisted living facility
13 without a license or under a revoked or suspended license; or

14 (b) Knowingly or with reason to know made a false statement of a
15 material fact (i) in an application for license or any data attached to
16 the application, or (ii) in any matter under investigation by the
17 department; or

18 (c) Refused to allow representatives or agents of the department to
19 inspect (i) the books, records, and files required to be maintained, or
20 (ii) any portion of the premises of the (~~(boarding-home)~~) assisted
21 living facility; or

22 (d) Willfully prevented, interfered with, or attempted to impede in
23 any way (i) the work of any authorized representative of the
24 department, or (ii) the lawful enforcement of any provision of this
25 chapter; or

26 (e) Has a history of significant noncompliance with federal or
27 state regulations in providing care or services to vulnerable adults or
28 children. In deciding whether to deny, suspend, modify, revoke, or
29 refuse to renew a license under this section, the factors the
30 department considers shall include the gravity and frequency of the
31 noncompliance.

32 (5) The department shall serve upon the applicant a copy of the
33 decision granting or denying an application for a license. An
34 applicant shall have the right to contest denial of his or her
35 application for a license as provided in chapter 34.05 RCW by
36 requesting a hearing in writing within twenty-eight days after receipt
37 of the notice of denial.

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

3 The department shall adopt, amend, and promulgate such rules,
4 regulations, and standards with respect to all ((~~boarding-homes~~))
5 assisted_living_facilities and operators thereof to be licensed
6 hereunder as may be designed to further the accomplishment of the
7 purposes of this chapter in promoting safe and adequate care of
8 individuals in ((~~boarding-homes~~)) assisted_living_facilities and the
9 sanitary, hygienic and safe conditions of the ((~~boarding-home~~))
10 assisted_living_facility in the interest of public health, safety, and
11 welfare.

12 **Sec. 6.** RCW 18.20.110 and 2004 c 144 s 3 are each amended to read
13 as follows:

14 The department shall make or cause to be made, at least every
15 eighteen months with an annual average of fifteen months, an inspection
16 and investigation of all ((~~boarding-homes~~)) assisted_living_facilities.
17 However, the department may delay an inspection to twenty-four months
18 if the ((~~boarding-home~~)) assisted_living_facility has had three
19 consecutive inspections with no written notice of violations and has
20 received no written notice of violations resulting from complaint
21 investigation during that same time period. The department may at
22 anytime make an unannounced inspection of a licensed ((~~home~~)) facility
23 to assure that the licensee is in compliance with this chapter and the
24 rules adopted under this chapter. Every inspection shall focus
25 primarily on actual or potential resident outcomes, and may include an
26 inspection of every part of the premises and an examination of all
27 records, methods of administration, the general and special dietary,
28 and the stores and methods of supply; however, the department shall not
29 have access to financial records or to other records or reports
30 described in RCW 18.20.390. Financial records of the ((~~boarding-home~~))
31 assisted_living_facility may be examined when the department has
32 reasonable cause to believe that a financial obligation related to
33 resident care or services will not be met, such as a complaint that
34 staff wages or utility costs have not been paid, or when necessary for
35 the department to investigate alleged financial exploitation of a
36 resident. Following such an inspection or inspections, written notice
37 of any violation of this law or the rules adopted hereunder shall be

1 given to the applicant or licensee and the department. The department
2 may prescribe by rule that any licensee or applicant desiring to make
3 specified types of alterations or additions to its facilities or to
4 construct new facilities shall, before commencing such alteration,
5 addition, or new construction, submit plans and specifications therefor
6 to the agencies responsible for plan reviews for preliminary inspection
7 and approval or recommendations with respect to compliance with the
8 rules and standards herein authorized.

9 **Sec. 7.** RCW 18.20.115 and 2001 c 85 s 1 are each amended to read
10 as follows:

11 The department shall, within available funding for this purpose,
12 develop and make available to ((~~boarding-homes~~)) assisted_living
13 facilities a quality improvement consultation program using the
14 following principles:

15 (1) The system shall be resident-centered and promote privacy,
16 independence, dignity, choice, and a home or home-like environment for
17 residents consistent with chapter 70.129 RCW.

18 (2) The goal of the system is continuous quality improvement with
19 the focus on resident satisfaction and outcomes for residents. The
20 quality improvement consultation program shall be offered to ((~~boarding~~
21 ~~homes~~)) assisted_living_facilities on a voluntary basis. Based on
22 requests for the services of the quality improvement consultation
23 program, the department may establish a process for prioritizing
24 service availability.

25 (3) ((~~Boarding-homes~~)) Assisted_living_facilities should be
26 supported in their efforts to improve quality and address problems, as
27 identified by the licensee, initially through training, consultation,
28 and technical assistance. At a minimum, the department may, within
29 available funding, at the request of the ((~~boarding-home~~)) assisted
30 living facility, conduct on-site visits and telephone consultations.

31 (4) To facilitate collaboration and trust between the ((~~boarding~~
32 ~~homes~~)) assisted_living_facilities and the department's quality
33 improvement consultation program staff, the consultation program staff
34 shall not simultaneously serve as department licensors, complaint
35 investigators, or participate in any enforcement-related decisions,
36 within the region in which they perform consultation activities; except
37 such staff may investigate on an emergency basis, complaints anywhere

1 in the state when the complaint indicates high risk to resident health
2 or safety. Any records or information gained as a result of their work
3 under the quality improvement consultation program shall not be
4 disclosed to or shared with nonmanagerial department licensing or
5 complaint investigation staff, unless necessary to carry out duties
6 described under chapter 74.34 RCW. The emphasis should be on problem
7 prevention. Nothing in this section shall limit or interfere with the
8 consultant's mandated reporting duties under chapter 74.34 RCW.

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

15 **Sec. 8.** RCW 18.20.130 and 2000 c 47 s 6 are each amended to read
16 as follows:

17 Standards for fire protection and the enforcement thereof, with
18 respect to all ((~~boarding-homes~~)) assisted living facilities to be
19 licensed hereunder, shall be the responsibility of the chief of the
20 Washington state patrol, through the director of fire protection, who
21 shall adopt such recognized standards as may be applicable to
22 ((~~boarding-homes~~)) assisted living facilities for the protection of
23 life against the cause and spread of fire and fire hazards. The
24 department, upon receipt of an application for a license, shall submit
25 to the chief of the Washington state patrol, through the director of
26 fire protection, in writing, a request for an inspection, giving the
27 applicant's name and the location of the premises to be licensed. Upon
28 receipt of such a request, the chief of the Washington state patrol,
29 through the director of fire protection, or his or her deputy, shall
30 make an inspection of the ((~~boarding-home~~)) assisted living facility to
31 be licensed, and if it is found that the premises do not comply with
32 the required safety standards and fire rules as adopted by the chief of
33 the Washington state patrol, through the director of fire protection,
34 he or she shall promptly make a written report to the ((~~boarding-home~~))
35 assisted living facility and the department as to the manner and time
36 allowed in which the premises must qualify for a license and set forth
37 the conditions to be remedied with respect to fire rules. The

1 department, applicant, or licensee shall notify the chief of the
2 Washington state patrol, through the director of fire protection, upon
3 completion of any requirements made by him or her, and the chief of the
4 Washington state patrol, through the director of fire protection, or
5 his or her deputy, shall make a reinspection of such premises.
6 Whenever the ((~~boarding home~~)) assisted living facility to be licensed
7 meets with the approval of the chief of the Washington state patrol,
8 through the director of fire protection, he or she shall submit to the
9 department a written report approving same with respect to fire
10 protection before a full license can be issued. The chief of the
11 Washington state patrol, through the director of fire protection, shall
12 make or cause to be made inspections of such ((~~homes~~)) facilities at
13 least annually.

14 In cities which have in force a comprehensive building code, the
15 provisions of which are determined by the chief of the Washington state
16 patrol, through the director of fire protection, to be equal to the
17 minimum standards of the code for ((~~boarding homes~~)) assisted living
18 facilities adopted by the chief of the Washington state patrol, through
19 the director of fire protection, the chief of the fire department,
20 provided the latter is a paid chief of a paid fire department, shall
21 make the inspection with the chief of the Washington state patrol,
22 through the director of fire protection, or his or her deputy, and they
23 shall jointly approve the premises before a full license can be issued.

24 **Sec. 9.** RCW 18.20.140 and 1957 c 253 s 14 are each amended to read
25 as follows:

26 Any person operating or maintaining any ((~~boarding home~~)) assisted
27 living facility without a license under this chapter shall be guilty of
28 a misdemeanor and each day of a continuing violation shall be
29 considered a separate offense.

30 **Sec. 10.** RCW 18.20.150 and 1957 c 253 s 15 are each amended to
31 read as follows:

32 Notwithstanding the existence or use of any other remedy, the
33 department, may, in the manner provided by law, upon the advice of the
34 attorney general who shall represent the department in the proceedings,
35 maintain an action in the name of the state for an injunction or other

1 process against any person to restrain or prevent the operation or
2 maintenance of (~~a boarding home~~) an assisted living facility without
3 a license under this chapter.

4 **Sec. 11.** RCW 18.20.160 and 2004 c 142 s 12 are each amended to
5 read as follows:

6 No person operating (~~a boarding home~~) an assisted living facility
7 licensed under this chapter shall admit to or retain in the (~~boarding~~
8 ~~home~~) assisted living facility any aged person requiring nursing or
9 medical care of a type provided by institutions licensed under chapters
10 18.51, 70.41 or 71.12 RCW, except that when registered nurses are
11 available, and upon a doctor's order that a supervised medication
12 service is needed, it may be provided. Supervised medication services,
13 as defined by the department and consistent with chapters 69.41 and
14 18.79 RCW, may include an approved program of self-medication or self-
15 directed medication. Such medication service shall be provided only to
16 residents who otherwise meet all requirements for residency in (~~a~~
17 ~~boarding-home~~) an assisted living facility. No (~~boarding-home~~)
18 assisted living facility shall admit or retain a person who requires
19 the frequent presence and frequent evaluation of a registered nurse,
20 excluding persons who are receiving hospice care or persons who have a
21 short-term illness that is expected to be resolved within fourteen
22 days.

23 **Sec. 12.** RCW 18.20.170 and 1957 c 253 s 17 are each amended to
24 read as follows:

25 Nothing in this chapter or the rules and regulations adopted
26 pursuant thereto shall be construed as authorizing the supervision,
27 regulation, or control of the remedial care or treatment of residents
28 in any (~~boarding-home~~) assisted living facility conducted for those
29 who rely upon treatment by prayer or spiritual means in accordance with
30 the creed or tenets of any well-recognized church or religious
31 denomination.

32 **Sec. 13.** RCW 18.20.190 and 2003 c 231 s 6 are each amended to read
33 as follows:

34 (1) The department of social and health services is authorized to

1 take one or more of the actions listed in subsection (2) of this
2 section in any case in which the department finds that ((a-boarding
3 home)) an assisted living facility provider has:

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

6 (b) Operated ((a-boarding-home)) an assisted living facility
7 without a license or under a revoked license;

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

12 (d) Willfully prevented or interfered with any inspection or
13 investigation by the department.

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

16 (a) Refuse to issue a license;

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

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

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

23 (e) Suspend admissions to the ((boarding-home)) assisted living
24 facility by imposing stop placement; or

25 (f) Suspend admission of a specific category or categories of
26 residents as related to the violation by imposing a limited stop
27 placement.

28 (3) When the department orders stop placement or a limited stop
29 placement, the facility shall not admit any new resident until the stop
30 placement or limited stop placement order is terminated. The
31 department may approve readmission of a resident to the facility from
32 a hospital or nursing home during the stop placement or limited stop
33 placement. The department shall terminate the stop placement or
34 limited stop placement when: (a) The violations necessitating the stop
35 placement or limited stop placement have been corrected; and (b) the
36 provider exhibits the capacity to maintain correction of the violations
37 previously found deficient. However, if upon the revisit the
38 department finds new violations that the department reasonably believes

1 will result in a new stop placement or new limited stop placement, the
2 previous stop placement or limited stop placement shall remain in
3 effect until the new stop placement or new limited stop placement is
4 imposed.

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

23 (5) RCW 43.20A.205 governs notice of a license denial, revocation,
24 suspension, or modification. Chapter 34.05 RCW applies to department
25 actions under this section, except that orders of the department
26 imposing license suspension, stop placement, limited stop placement, or
27 conditions for continuation of a license are effective immediately upon
28 notice and shall continue pending any hearing.

29 (6) For the purposes of this section, "limited stop placement"
30 means the ability to suspend admission of a specific category or
31 categories of residents.

32 **Sec. 14.** RCW 18.20.220 and 1997 c 164 s 1 are each amended to read
33 as follows:

34 For the purpose of encouraging a nursing home licensed under
35 chapter 18.51 RCW to convert a portion or all of its licensed bed
36 capacity to provide enhanced adult residential care contracted services
37 under chapter 74.39A RCW, the department shall:

1 (1) Find the nursing home to be in satisfactory compliance with RCW
2 18.20.110 and 18.20.130, upon application for (~~boarding-home~~)
3 assisted living facility licensure and the production of copies of its
4 most recent nursing home inspection reports demonstrating compliance
5 with the safety standards and fire regulations, as required by RCW
6 18.51.140, and the state building code, as required by RCW 18.51.145,
7 including any waivers that may have been granted. However, (~~boarding~~
8 ~~home~~) assisted living facility licensure requirements pertaining to
9 resident to bathing fixture/toilet ratio, corridor call system,
10 resident room door closures, and resident room windows may require
11 modification, unless determined to be functionally equivalent, based
12 upon a prelicensure survey inspection.

13 (2) Allow residents receiving enhanced adult residential care
14 services to make arrangements for on-site health care services,
15 consistent with Title 18 RCW regulating health care professions, to the
16 extent that such services can be provided while maintaining the
17 resident's right to privacy and safety in treatment, but this in no way
18 means that such services may only be provided in a private room. The
19 provision of on-site health care services must otherwise be consistent
20 with RCW 18.20.160 and the rules adopted under RCW 18.20.160.

21 **Sec. 15.** RCW 18.20.230 and 1999 c 372 s 3 are each amended to read
22 as follows:

23 (1) The department of social and health services shall review, in
24 coordination with the department of health, the nursing care quality
25 assurance commission, adult family home providers, (~~boarding-home~~)
26 assisted living facility providers, in-home personal care providers,
27 and long-term care consumers and advocates, training standards for
28 administrators and resident caregiving staff. Any proposed
29 enhancements shall be consistent with this section, shall take into
30 account and not duplicate other training requirements applicable to
31 (~~boarding-homes~~) assisted living facilities and staff, and shall be
32 developed with the input of (~~boarding-home~~) assisted living facility
33 and resident representatives, health care professionals, and other
34 vested interest groups. Training standards and the delivery system
35 shall be relevant to the needs of residents served by the (~~boarding~~
36 ~~home~~) assisted living facility and recipients of long-term in-home

1 personal care services and shall be sufficient to ensure that
2 administrators and caregiving staff have the skills and knowledge
3 necessary to provide high quality, appropriate care.

4 (2) The recommendations on training standards and the delivery
5 system developed under subsection (1) of this section shall be based on
6 a review and consideration of the following: Quality of care;
7 availability of training; affordability, including the training costs
8 incurred by the department of social and health services and private
9 providers; portability of existing training requirements; competency
10 testing; practical and clinical course work; methods of delivery of
11 training; standards for management and caregiving staff training; and
12 necessary enhancements for special needs populations and resident
13 rights training. Residents with special needs include, but are not
14 limited to, residents with a diagnosis of mental illness, dementia, or
15 developmental disability.

16 **Sec. 16.** RCW 18.20.270 and 2002 c 233 s 1 are each amended to read
17 as follows:

18 (1) The definitions in this subsection apply throughout this
19 section unless the context clearly requires otherwise.

20 (a) "Caregiver" includes any person who provides residents with
21 hands-on personal care on behalf of (~~(a boarding home)~~) an assisted
22 living facility, except volunteers who are directly supervised.

23 (b) "Direct supervision" means oversight by a person who has
24 demonstrated competency in the core areas or has been fully exempted
25 from the training requirements pursuant to this section, is on the
26 premises, and is quickly and easily available to the caregiver.

27 (2) Training must have the following components: Orientation,
28 basic training, specialty training as appropriate, and continuing
29 education. All (~~(boarding home)~~) assisted living facility employees or
30 volunteers who routinely interact with residents shall complete
31 orientation. (~~(Boarding — home)~~) Assisted — living — facility
32 administrators, or their designees, and caregivers shall complete
33 orientation, basic training, specialty training as appropriate, and
34 continuing education.

35 (3) Orientation consists of introductory information on residents'
36 rights, communication skills, fire and life safety, and universal
37 precautions. Orientation must be provided at the facility by

1 appropriate ((~~boarding-home~~)) assisted living facility staff to all
2 ((~~boarding-home~~)) assisted living facility employees before the
3 employees have routine interaction with residents.

4 (4) Basic training consists of modules on the core knowledge and
5 skills that caregivers need to learn and understand to effectively and
6 safely provide care to residents. Basic training must be outcome-
7 based, and the effectiveness of the basic training must be measured by
8 demonstrated competency in the core areas through the use of a
9 competency test. Basic training must be completed by caregivers within
10 one hundred twenty days of the date on which they begin to provide
11 hands-on care or within one hundred twenty days of September 1, 2002,
12 whichever is later. Until competency in the core areas has been
13 demonstrated, caregivers shall not provide hands-on personal care to
14 residents without direct supervision. ((~~Boarding-home~~)) Assisted
15 living facility administrators, or their designees, must complete basic
16 training and demonstrate competency within one hundred twenty days of
17 employment or within one hundred twenty days of September 1, 2002,
18 whichever is later.

19 (5) For ((~~boarding-homes~~)) assisted living facilities that serve
20 residents with special needs such as dementia, developmental
21 disabilities, or mental illness, specialty training is required of
22 administrators, or designees, and caregivers. Specialty training
23 consists of modules on the core knowledge and skills that caregivers
24 need to effectively and safely provide care to residents with special
25 needs. Specialty training should be integrated into basic training
26 wherever appropriate. Specialty training must be outcome-based, and
27 the effectiveness of the specialty training measured by demonstrated
28 competency in the core specialty areas through the use of a competency
29 test. Specialty training must be completed by caregivers within one
30 hundred twenty days of the date on which they begin to provide hands-on
31 care to a resident having special needs or within one hundred twenty
32 days of September 1, 2002, whichever is later. However, if specialty
33 training is not integrated with basic training, the specialty training
34 must be completed within ninety days of completion of basic training.
35 Until competency in the core specialty areas has been demonstrated,
36 caregivers shall not provide hands-on personal care to residents with
37 special needs without direct supervision. ((~~Boarding-home~~)) Assisted
38 living facility administrators, or their designees, must complete

1 specialty training and demonstrate competency within one hundred twenty
2 days of September 1, 2002, or one hundred twenty days from the date on
3 which the administrator or his or her designee is hired, whichever is
4 later, if the ((~~boarding home~~)) assisted living facility serves one or
5 more residents with special needs.

6 (6) Continuing education consists of ongoing delivery of
7 information to caregivers on various topics relevant to the care
8 setting and care needs of residents. Competency testing is not
9 required for continuing education. Continuing education is not
10 required in the same calendar year in which basic or modified basic
11 training is successfully completed. Continuing education is required
12 in each calendar year thereafter. If specialty training is completed,
13 the specialty training applies toward any continuing education
14 requirement for up to two years following the completion of the
15 specialty training.

16 (7) Persons who successfully challenge the competency test for
17 basic training are fully exempt from the basic training requirements of
18 this section. Persons who successfully challenge the specialty
19 training competency test are fully exempt from the specialty training
20 requirements of this section.

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

24 (9) In an effort to improve access to training and education and
25 reduce costs, especially for rural communities, the coordinated system
26 of long-term care training and education must include the use of
27 innovative types of learning strategies such as internet resources,
28 videotapes, and distance learning using satellite technology
29 coordinated through community colleges or other entities, as defined by
30 the department.

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

33 (11) ((~~Boarding homes~~)) assisted living facilities that desire to
34 deliver facility-based training with facility designated trainers, or
35 ((~~boarding homes~~)) assisted living facilities that desire to pool their
36 resources to create shared training systems, must be encouraged by the
37 department in their efforts. The department shall develop criteria for
38 reviewing and approving trainers and training materials that are

1 substantially similar to or better than the materials developed by the
2 department. The department may approve a curriculum based upon
3 attestation by ~~((a—boarding—home))~~ an assisted living facility
4 administrator that the ~~((boarding home's))~~ assisted living facility's
5 training curriculum addresses basic and specialty training competencies
6 identified by the department, and shall review a curriculum to verify
7 that it meets these requirements. The department may conduct the
8 review as part of the next regularly scheduled yearly inspection and
9 investigation required under RCW 18.20.110. The department shall
10 rescind approval of any curriculum if it determines that the curriculum
11 does not meet these requirements.

12 (12) The department shall adopt rules by September 1, 2002, for the
13 implementation of this section.

14 (13) The orientation, basic training, specialty training, and
15 continuing education requirements of this section commence September 1,
16 2002, or one hundred twenty days from the date of employment, whichever
17 is later, and shall be applied to (a) employees hired subsequent to
18 September 1, 2002; and (b) existing employees that on September 1,
19 2002, have not successfully completed the training requirements under
20 RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who
21 have not successfully completed the training requirements under RCW
22 74.39A.010 or 74.39A.020 shall be subject to all applicable
23 requirements of this section. However, prior to September 1, 2002,
24 nothing in this section affects the current training requirements under
25 RCW 74.39A.010.

26 **Sec. 17.** RCW 18.20.280 and 2003 c 231 s 7 are each amended to read
27 as follows:

28 (1) The ~~((boarding—home))~~ assisted living facility must assume
29 general responsibility for each resident and must promote each
30 resident's health, safety, and well-being consistent with the resident
31 negotiated care plan.

32 (2) The ~~((boarding—home))~~ assisted living facility is not required
33 to supervise the activities of a person providing care or services to
34 a resident when the resident, or legal representative, has
35 independently arranged for or contracted with the person and the person
36 is not directly or indirectly controlled or paid by the ~~((boarding~~
37 ~~home))~~ assisted living facility. However, the ~~((boarding—home))~~

1 assisted living facility is required to coordinate services with such
2 person to the extent allowed by the resident, or legal representative,
3 and consistent with the resident's negotiated care plan. Further, the
4 (~~(boarding home)~~) assisted living facility is required to observe the
5 resident and respond appropriately to any changes in the resident's
6 overall functioning consistent with chapter 70.129 RCW, this chapter,
7 and rules adopted under this chapter.

8 **Sec. 18.** RCW 18.20.290 and 2006 c 64 s 1 are each amended to read
9 as follows:

10 (1) When (~~(a boarding home)~~) an assisted living facility contracts
11 with the department to provide adult residential care services,
12 enhanced adult residential care services, or assisted living services
13 under chapter 74.39A RCW, the (~~(boarding home)~~) assisted living
14 facility must hold a medicaid eligible resident's room or unit when
15 short-term care is needed in a nursing home or hospital, the resident
16 is likely to return to the (~~(boarding home)~~) assisted living facility,
17 and payment is made under subsection (2) of this section.

18 (2) The medicaid resident's bed or unit shall be held for up to
19 twenty days. The per day bed or unit hold compensation amount shall be
20 seventy percent of the daily rate paid for the first seven days the bed
21 or unit is held for the resident who needs short-term nursing home care
22 or hospitalization. The rate for the eighth through the twentieth day
23 a bed is held shall be established in rule, but shall be no lower than
24 ten dollars per day the bed or unit is held.

25 (3) The (~~(boarding home)~~) assisted living facility may seek third-
26 party payment to hold a bed or unit for twenty-one days or longer. The
27 third-party payment shall not exceed the medicaid daily rate paid to
28 the facility for the resident. If third-party payment is not
29 available, the medicaid resident may return to the first available and
30 appropriate bed or unit, if the resident continues to meet the
31 admission criteria under this chapter.

32 **Sec. 19.** RCW 18.20.300 and 2004 c 142 s 2 are each amended to read
33 as follows:

34 (1) (~~(A boarding home)~~) An assisted living facility, licensed under
35 this chapter, may provide domiciliary care services, as defined in this

1 chapter, and shall disclose the scope of care and services that it
2 chooses to provide.

3 (2) The ((~~boarding-home~~)) assisted living facility licensee shall
4 disclose to the residents, the residents' legal representative if any,
5 and if not, the residents' representative if any, and to interested
6 consumers upon request, the scope of care and services offered, using
7 the form developed and provided by the department, in addition to any
8 supplemental information that may be provided by the licensee. The
9 form that the department develops shall be standardized, reasonable in
10 length, and easy to read. The ((~~boarding-home's~~)) assisted living
11 facility's disclosure statement shall indicate the scope of domiciliary
12 care assistance provided and shall indicate that it permits the
13 resident or the resident's legal representative to independently
14 arrange for outside services under RCW 18.20.380.

15 (3)(a) If the ((~~boarding-home~~)) assisted living facility licensee
16 decreases the scope of services that it provides due to circumstances
17 beyond the licensee's control, the licensee shall provide a minimum of
18 thirty days' written notice to the residents, the residents' legal
19 representative if any, and if not, the residents' representative if
20 any, before the effective date of the decrease in the scope of care or
21 services provided.

22 (b) If the licensee voluntarily decreases the scope of services,
23 and any such decrease in the scope of services provided will result in
24 the discharge of one or more residents, then ninety days' written
25 notice shall be provided prior to the effective date of the decrease.
26 Notice shall be provided to the affected residents, the residents'
27 legal representative if any, and if not, the residents' representative
28 if any.

29 (c) If the ((~~boarding-home~~)) assisted living facility licensee
30 increases the scope of services that it chooses to provide, the
31 licensee shall promptly provide written notice to the residents, the
32 residents' legal representative if any, and if not, the residents'
33 representative if any, and shall indicate the date on which the
34 increase in the scope of care or services is effective.

35 (4) When the care needs of a resident exceed the disclosed scope of
36 care or services that ((~~a boarding-home~~)) an assisted living facility
37 licensee provides, the licensee may exceed the care or services
38 disclosed consistent with RCW 70.129.030(3) and 70.129.110(3)(a).

1 Providing care or services to a resident that exceed the care and
2 services disclosed may or may not mean that the provider is capable of
3 or required to provide the same care or services to other residents.

4 (5) Even though the ((~~boarding-home~~)) assisted living facility
5 licensee may disclose that it can provide certain care or services to
6 resident applicants or to their legal representative if any, and if
7 not, to the resident applicants' representative if any, the licensee
8 may deny admission to a resident applicant when the licensee determines
9 that the needs of the resident applicant cannot be met, as long as the
10 provider operates in compliance with state and federal law, including
11 RCW 70.129.030(3).

12 (6) The disclosure form is intended to assist consumers in
13 selecting ((~~boarding-home~~)) assisted living facility services and,
14 therefore, shall not be construed as an implied or express contract
15 between the ((~~boarding-home~~)) assisted living facility licensee and the
16 resident.

17 **Sec. 20.** RCW 18.20.310 and 2004 c 142 s 3 are each amended to read
18 as follows:

19 (1) ((~~Boarding-homes~~)) Assisted living facilities are not required
20 to provide assistance with one or more activities of daily living.

21 (2) If ((~~a-boarding-home~~)) an assisted living facility licensee
22 chooses to provide assistance with activities of daily living, the
23 licensee shall provide at least the minimal level of assistance for all
24 activities of daily living consistent with subsection (3) of this
25 section and consistent with the reasonable accommodation requirements
26 in state or federal laws. Activities of daily living are limited to
27 and include the following:

- 28 (a) Bathing;
- 29 (b) Dressing;
- 30 (c) Eating;
- 31 (d) Personal hygiene;
- 32 (e) Transferring;
- 33 (f) Toileting; and
- 34 (g) Ambulation and mobility.

35 (3) The department shall, in rule, define the minimum level of
36 assistance that will be provided for all activities of daily living,

1 however, such rules shall not require more than occasional stand-by
2 assistance or more than occasional physical assistance.

3 (4) The licensee shall clarify, through the disclosure form, the
4 assistance with activities of daily living that may be provided, and
5 any limitations or conditions that may apply. The licensee shall also
6 clarify through the disclosure form any additional services that may be
7 provided.

8 (5) In providing assistance with activities of daily living, the
9 (~~boarding home~~) assisted living facility shall observe the resident
10 for changes in overall functioning and respond appropriately when there
11 are observable or reported changes in the resident's physical, mental,
12 or emotional functioning.

13 **Sec. 21.** RCW 18.20.320 and 2004 c 142 s 4 are each amended to read
14 as follows:

15 (1) The (~~boarding home~~) assisted living facility licensee may
16 choose to provide any of the following health support services,
17 however, the facility may or may not need to provide additional health
18 support services to comply with the reasonable accommodation
19 requirements in federal or state law:

- 20 (a) Blood glucose testing;
- 21 (b) Puree diets;
- 22 (c) Calorie controlled diabetic diets;
- 23 (d) Dementia care;
- 24 (e) Mental health care; and
- 25 (f) Developmental disabilities care.

26 (2) The licensee shall clarify on the disclosure form any
27 limitations, additional services, or conditions that may apply.

28 (3) In providing health support services, the (~~boarding home~~)
29 assisted living facility shall observe the resident for changes in
30 overall functioning and respond appropriately when there are observable
31 or reported changes in the resident's physical, mental, or emotional
32 functioning.

33 **Sec. 22.** RCW 18.20.330 and 2004 c 142 s 5 are each amended to read
34 as follows:

35 (1) (~~Boarding homes~~) Assisted living facilities are not required
36 to provide intermittent nursing services. The (~~boarding home~~)

1 assisted living facility licensee may choose to provide any of the
2 following intermittent nursing services through appropriately licensed
3 and credentialed staff, however, the facility may or may not need to
4 provide additional intermittent nursing services to comply with the
5 reasonable accommodation requirements in federal or state law:

- 6 (a) Medication administration;
- 7 (b) Administration of health care treatments;
- 8 (c) Diabetic management;
- 9 (d) Nonroutine ostomy care;
- 10 (e) Tube feeding; and
- 11 (f) Nurse delegation consistent with chapter 18.79 RCW.

12 (2) The licensee shall clarify on the disclosure form any
13 limitations, additional services, or conditions that may apply under
14 this section.

15 (3) In providing intermittent nursing services, the (~~boarding~~
16 ~~home~~) assisted living facility shall observe the resident for changes
17 in overall functioning and respond appropriately when there are
18 observable or reported changes in the resident's physical, mental, or
19 emotional functioning.

20 (4) The (~~boarding-home~~) assisted living facility may provide
21 intermittent nursing services to the extent permitted by RCW 18.20.160.

22 **Sec. 23.** RCW 18.20.340 and 2004 c 142 s 6 are each amended to read
23 as follows:

24 (1) (~~A boarding-home~~) An assisted living facility licensee may
25 permit a resident's family member to administer medications or
26 treatments or to provide medication or treatment assistance to the
27 resident. The licensee shall disclose to the department, residents,
28 the residents' legal representative if any, and if not, the residents'
29 representative if any, and to interested consumers upon request,
30 information describing whether the licensee permits such family
31 administration or assistance and, if so, the extent of limitations or
32 conditions thereof.

33 (2) If (~~a boarding-home~~) an assisted living facility licensee
34 permits a resident's family member to administer medications or
35 treatments or to provide medication or treatment assistance, the
36 licensee shall request that the family member submit to the licensee a

1 written medication or treatment plan. At a minimum, the written
2 medication or treatment plan shall identify:

3 (a) By name, the family member who will administer the medication
4 or treatment or provide assistance therewith;

5 (b) The medication or treatment administration or assistance that
6 the family member will provide consistent with subsection (1) of this
7 section. This will be referred to as the primary plan;

8 (c) An alternate plan that will meet the resident's medication or
9 treatment needs if the family member is unable to fulfill his or her
10 duties as specified in the primary plan; and

11 (d) An emergency contact person and telephone number if the
12 (~~boarding home~~) assisted living facility licensee observes changes in
13 the resident's overall functioning or condition that may relate to the
14 medication or treatment plan.

15 (3) The (~~boarding home~~) assisted living facility licensee may
16 require that the primary or alternate medication or treatment plan
17 include other information in addition to that specified in subsection
18 (2) of this section.

19 (4) The medication or treatment plan shall be signed and dated by:

20 (a) The resident, if able;

21 (b) The resident's legal representative, if any, and, if not, the
22 resident's representative, if any;

23 (c) The resident's family member; and

24 (d) The (~~boarding home~~) assisted living facility licensee.

25 (5) The (~~boarding home~~) assisted living facility may through
26 policy or procedure require the resident's family member to immediately
27 notify the (~~boarding home~~) assisted living facility licensee of any
28 change in the primary or alternate medication or treatment plan.

29 (6) When (~~a boarding home~~) an assisted living facility licensee
30 permits residents' family members to assist with or administer
31 medications or treatments, the licensee's duty of care, and any
32 negligence that may be attributed thereto, shall be limited to:
33 Observation of the resident for changes in overall functioning
34 consistent with RCW 18.20.280; notification to the person or persons
35 identified in RCW 70.129.030 when there are observed changes in the
36 resident's overall functioning or condition, or when the (~~boarding
37 home~~) assisted living facility is aware that both the primary and

1 alternate plan are not implemented; and appropriately responding to
2 obtain needed assistance when there are observable or reported changes
3 in the resident's physical or mental functioning.

4 **Sec. 24.** RCW 18.20.350 and 2008 c 146 s 3 are each amended to read
5 as follows:

6 (1) The ((~~boarding-home~~)) assisted living facility licensee shall
7 conduct a preadmission assessment for each resident applicant. The
8 preadmission assessment shall include the following information, unless
9 unavailable despite the best efforts of the licensee:

10 (a) Medical history;

11 (b) Necessary and contraindicated medications;

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

14 (d) Significant known behaviors or symptoms that may cause concern
15 or require special care;

16 (e) Mental illness diagnosis, except where protected by
17 confidentiality laws;

18 (f) Level of personal care needs;

19 (g) Activities and service preferences; and

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

22 (2) The ((~~boarding-home~~)) assisted living facility licensee shall
23 complete the preadmission assessment before admission unless there is
24 an emergency. If there is an emergency admission, the preadmission
25 assessment shall be completed within five days of the date of
26 admission. For purposes of this section, "emergency" includes, but is
27 not limited to: Evening, weekend, or Friday afternoon admissions if
28 the resident applicant would otherwise need to remain in an unsafe
29 setting or be without adequate and safe housing.

30 (3) The ((~~boarding-home~~)) assisted living facility licensee shall
31 complete an initial resident service plan upon move-in to identify the
32 resident's immediate needs and to provide direction to staff and
33 caregivers relating to the resident's immediate needs. The initial
34 resident service plan shall include as much information as can be
35 obtained, under subsection (1) of this section.

36 (4) When a facility provides respite care, before or at the time of

1 admission, the facility must obtain sufficient information to meet the
2 individual's anticipated needs. At a minimum, such information must
3 include:

4 (a) The name, address, and telephone number of the individual's
5 attending physician, and alternate physician if any;

6 (b) Medical and social history, which may be obtained from a
7 respite care assessment and service plan performed by a case manager
8 designated by an area agency on aging under contract with the
9 department, and mental and physical assessment data;

10 (c) Physician's orders for diet, medication, and routine care
11 consistent with the individual's status on admission;

12 (d) Ensure the individuals have assessments performed, where
13 needed, and where the assessment of the individual reveals symptoms of
14 tuberculosis, follow required tuberculosis testing requirements; and

15 (e) With the participation of the individual and, where
16 appropriate, their representative, develop a plan of care to maintain
17 or improve their health and functional status during their stay in the
18 facility.

19 **Sec. 25.** RCW 18.20.360 and 2004 c 142 s 8 are each amended to read
20 as follows:

21 (1) The ((~~boarding-home~~)) assisted living facility licensee shall
22 within fourteen days of the resident's date of move-in, unless extended
23 by the department for good cause, and thereafter at least annually,
24 complete a full reassessment addressing the following:

25 (a) The individual's recent medical history, including, but not
26 limited to: A health professional's diagnosis, unless the resident
27 objects for religious reasons; chronic, current, and potential skin
28 conditions; known allergies to foods or medications; or other
29 considerations for providing care or services;

30 (b) Current necessary and contraindicated medications and
31 treatments for the individual, including:

32 (i) Any prescribed medications and over-the-counter medications
33 that are commonly taken by the individual, and that the individual is
34 able to independently self-administer or safely and accurately direct
35 others to administer to him or her;

36 (ii) Any prescribed medications and over-the-counter medications

1 that are commonly taken by the individual and that the individual is
2 able to self-administer when he or she has the assistance of a
3 resident-care staff person; and

4 (iii) Any prescribed medications and over-the-counter medications
5 that are commonly taken by the individual and that the individual is
6 not able to self-administer;

7 (c) The individual's nursing needs when the individual requires the
8 services of a nurse on the ((~~boarding-home~~)) assisted living facility
9 premises;

10 (d) The individual's sensory abilities, including vision and
11 hearing;

12 (e) The individual's communication abilities, including modes of
13 expression, ability to make himself or herself understood, and ability
14 to understand others;

15 (f) Significant known behaviors or symptoms of the individual
16 causing concern or requiring special care, including: History of
17 substance abuse; history of harming self, others, or property, or other
18 conditions that may require behavioral intervention strategies; the
19 individual's ability to leave the ((~~boarding-home~~)) assisted living
20 facility unsupervised; and other safety considerations that may pose a
21 danger to the individual or others, such as use of medical devices or
22 the individual's ability to smoke unsupervised, if smoking is permitted
23 in the ((~~boarding-home~~)) assisted living facility;

24 (g) The individual's special needs, by evaluating available
25 information, or selecting and using an appropriate tool to determine
26 the presence of symptoms consistent with, and implications for care and
27 services of: Mental illness, or needs for psychological or mental
28 health services, except where protected by confidentiality laws;
29 developmental disability; dementia; or other conditions affecting
30 cognition, such as traumatic brain injury;

31 (h) The individual's level of personal care needs, including:
32 Ability to perform activities of daily living; medication management
33 ability, including the individual's ability to obtain and appropriately
34 use over-the-counter medications; and how the individual will obtain
35 prescribed medications for use in the ((~~boarding-home~~)) assisted living
36 facility;

37 (i) The individual's activities, typical daily routines, habits,
38 and service preferences;

1 (j) The individual's personal identity and lifestyle, to the extent
2 the individual is willing to share the information, and the manner in
3 which they are expressed, including preferences regarding food,
4 community contacts, hobbies, spiritual preferences, or other sources of
5 pleasure and comfort; and

6 (k) Who has decision-making authority for the individual,
7 including: The presence of any advance directive, or other legal
8 document that will establish a substitute decision maker in the future;
9 the presence of any legal document that establishes a current
10 substitute decision maker; and the scope of decision-making authority
11 of any substitute decision maker.

12 (2) The assisted living facility shall complete a limited
13 assessment of a resident's change of condition when the resident's
14 negotiated service agreement no longer addresses the resident's current
15 needs.

16 **Sec. 26.** RCW 18.20.370 and 2004 c 142 s 9 are each amended to read
17 as follows:

18 (1) The ((~~boarding-home~~)) assisted living facility licensee shall
19 complete a negotiated service agreement using the preadmission
20 assessment, initial resident service plan, and full reassessment
21 information obtained under RCW 18.20.350 and 18.20.360. The licensee
22 shall include the resident and the resident's legal representative if
23 any, or the resident's representative if any, in the development of the
24 negotiated service agreement. If the resident is a medicaid client,
25 the department's case manager shall also be involved.

26 (2) The negotiated service agreement shall be completed or updated:

27 (a) Within thirty days of the date of move-in;

28 (b) As necessary following the annual full assessment of the
29 resident; and

30 (c) Whenever the resident's negotiated service agreement no longer
31 adequately addresses the resident's current needs and preferences.

32 **Sec. 27.** RCW 18.20.380 and 2004 c 142 s 10 are each amended to
33 read as follows:

34 (1) The ((~~boarding-home~~)) assisted living facility licensee shall
35 permit the resident, or the resident's legal representative if any, to
36 independently arrange for or contract with a practitioner licensed

1 under Title 18 RCW regulating health care professions, or a home
2 health, hospice, or home care agency licensed under chapter 70.127 RCW,
3 to provide on-site care and services to the resident, consistent with
4 RCW 18.20.160 and chapter 70.129 RCW. The ((~~boarding-home~~)) licensee
5 may permit the resident, or the resident's legal representative if any,
6 to independently arrange for other persons to provide on-site care and
7 services to the resident.

8 (2) The ((~~boarding-home~~)) assisted living facility licensee may
9 establish policies and procedures that describe limitations,
10 conditions, or requirements that must be met prior to an outside
11 service provider being allowed on-site.

12 (3) When the resident or the resident's legal representative
13 independently arranges for outside services under subsection (1) of
14 this section, the licensee's duty of care, and any negligence that may
15 be attributed thereto, shall be limited to: The responsibilities
16 described under subsection (4) of this section, excluding supervising
17 the activities of the outside service provider; observation of the
18 resident for changes in overall functioning, consistent with RCW
19 18.20.280; notification to the person or persons identified in RCW
20 70.129.030 when there are observed changes in the resident's overall
21 functioning or condition; and appropriately responding to obtain needed
22 assistance when there are observable or reported changes in the
23 resident's physical or mental functioning.

24 (4) Consistent with RCW 18.20.280, the ((~~boarding-home~~)) assisted
25 living facility licensee shall not be responsible for supervising the
26 activities of the outside service provider. When information sharing
27 is authorized by the resident or the resident's legal representative,
28 the licensee shall request such information and integrate relevant
29 information from the outside service provider into the resident's
30 negotiated service agreement, only to the extent that such information
31 is actually shared with the licensee.

32 **Sec. 28.** RCW 18.20.390 and 2006 c 209 s 3 are each amended to read
33 as follows:

34 (1) To ensure the proper delivery of services and the maintenance
35 and improvement in quality of care through self-review, any ((~~boarding~~
36 ~~home~~)) assisted living facility licensed under this chapter may
37 maintain a quality assurance committee that, at a minimum, includes:

1 (a) A licensed registered nurse under chapter 18.79 RCW;

2 (b) The administrator; and

3 (c) Three other members from the staff of the ((~~boarding-home~~))
4 assisted living facility.

5 (2) When established, the quality assurance committee shall meet at
6 least quarterly to identify issues that may adversely affect quality of
7 care and services to residents and to develop and implement plans of
8 action to correct identified quality concerns or deficiencies in the
9 quality of care provided to residents.

10 (3) To promote quality of care through self-review without the fear
11 of reprisal, and to enhance the objectivity of the review process, the
12 department shall not require, and the long-term care ombudsman program
13 shall not request, disclosure of any quality assurance committee
14 records or reports, unless the disclosure is related to the committee's
15 compliance with this section, if:

16 (a) The records or reports are not maintained pursuant to statutory
17 or regulatory mandate; and

18 (b) The records or reports are created for and collected and
19 maintained by the committee.

20 (4) If the ((~~boarding-home~~)) assisted living facility refuses to
21 release records or reports that would otherwise be protected under this
22 section, the department may then request only that information that is
23 necessary to determine whether the ((~~boarding-home~~)) assisted living
24 facility has a quality assurance committee and to determine that it is
25 operating in compliance with this section. However, if the ((~~boarding~~
26 ~~home~~)) assisted living facility offers the department documents
27 generated by, or for, the quality assurance committee as evidence of
28 compliance with ((~~boarding — home~~)) assisted living facility
29 requirements, the documents are protected as quality assurance
30 committee documents under subsections (6) and (8) of this section when
31 in the possession of the department. The department is not liable for
32 an inadvertent disclosure, a disclosure related to a required federal
33 or state audit, or disclosure of documents incorrectly marked as
34 quality assurance committee documents by the facility.

35 (5) Good faith attempts by the committee to identify and correct
36 quality deficiencies shall not be used as a basis for sanctions.

37 (6) Information and documents, including the analysis of complaints
38 and incident reports, created specifically for, and collected and

1 maintained by, a quality assurance committee are not subject to
2 discovery or introduction into evidence in any civil action, and no
3 person who was in attendance at a meeting of such committee or who
4 participated in the creation, collection, or maintenance of information
5 or documents specifically for the committee shall be permitted or
6 required to testify as to the content of such proceedings or the
7 documents and information prepared specifically for the committee.
8 This subsection does not preclude:

9 (a) In any civil action, the discovery of the identity of persons
10 involved in the care that is the basis of the civil action whose
11 involvement was independent of any quality improvement committee
12 activity;

13 (b) In any civil action, the testimony of any person concerning the
14 facts which form the basis for the institution of such proceedings of
15 which the person had personal knowledge acquired independently of their
16 participation in the quality assurance committee activities.

17 (7) A quality assurance committee under subsection (1) of this
18 section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 may share
19 information and documents, including the analysis of complaints and
20 incident reports, created specifically for, and collected and
21 maintained by, the committee, with one or more other quality assurance
22 committees created under subsection (1) of this section, RCW 70.41.200,
23 74.42.640, 4.24.250, or 43.70.510 for the improvement of the quality of
24 care and services rendered to (~~boarding-home~~) assisted_living
25 facility residents. Information and documents disclosed by one quality
26 assurance committee to another quality assurance committee and any
27 information and documents created or maintained as a result of the
28 sharing of information and documents shall not be subject to the
29 discovery process and confidentiality shall be respected as required by
30 subsections (6) and (8) of this section, RCW 43.70.510(4),
31 70.41.200(3), 4.24.250(1), and 74.42.640 (7) and (9). The privacy
32 protections of chapter 70.02 RCW and the federal health insurance
33 portability and accountability act of 1996 and its implementing
34 regulations apply to the sharing of individually identifiable patient
35 information held by a coordinated quality improvement program. Any
36 rules necessary to implement this section shall meet the requirements
37 of applicable federal and state privacy laws.

1 (8) Information and documents, including the analysis of complaints
2 and incident reports, created specifically for, and collected and
3 maintained by, a quality assurance committee are exempt from disclosure
4 under chapter 42.56 RCW.

5 (9) Notwithstanding any records created for the quality assurance
6 committee, the facility shall fully set forth in the resident's
7 records, available to the resident, the department, and others as
8 permitted by law, the facts concerning any incident of injury or loss
9 to the resident, the steps taken by the facility to address the
10 resident's needs, and the resident outcome.

11 **Sec. 29.** RCW 18.20.400 and 2004 c 144 s 4 are each amended to read
12 as follows:

13 If during an inspection, reinspection, or complaint investigation
14 by the department, (~~a boarding home~~) an assisted living facility
15 corrects a violation or deficiency that the department discovers, the
16 department shall record and consider such violation or deficiency for
17 purposes of the facility's compliance history, however the licensor or
18 complaint investigator shall not include in the facility report the
19 violation or deficiency if the violation or deficiency:

20 (1) Is corrected to the satisfaction of the department prior to the
21 exit conference;

22 (2) Is not recurring; and

23 (3) Did not pose a significant risk of harm or actual harm to a
24 resident.

25 For the purposes of this section, "recurring" means that the
26 violation or deficiency was found under the same regulation or statute
27 in one of the two most recent preceding inspections, reinspections, or
28 complaint investigations.

29 **Sec. 30.** RCW 18.20.410 and 2005 c 505 s 1 are each amended to read
30 as follows:

31 The department of health, the department, and the building code
32 council shall develop standards for small (~~boarding homes~~) assisted
33 living facilities between seven and sixteen beds that address at least
34 the following issues:

35 (1) Domestic food refrigeration and freezer storage;

36 (2) Sinks and sink placement;

- 1 (3) Dishwashers;
- 2 (4) Use of heat supplements for water temperature in clothes
- 3 washers;
- 4 (5) Yard shrubbery;
- 5 (6) Number of janitorial rooms in a facility;
- 6 (7) Number and cross-purpose of dirty rooms;
- 7 (8) Instant hot water faucets;
- 8 (9) Medication refrigeration; and
- 9 (10) Walled and gated facilities.

10 Based on the standards developed under this section, the department
11 of health and the building code council shall study the risks and
12 benefits of modifying and simplifying construction and equipment
13 standards for ((boarding-homes)) assisted living facilities with a
14 capacity of seven to sixteen persons. The study shall include
15 coordination with the department. The department of health shall
16 report its findings and recommendations to appropriate committees of
17 the legislature no later than December 1, 2005.

18 **Sec. 31.** RCW 18.20.420 and 2007 c 162 s 1 are each amended to read
19 as follows:

20 (1) If the department determines that the health, safety, or
21 welfare of residents is immediately jeopardized by ((a-boarding
22 home's)) an assisted living facility's failure or refusal to comply
23 with the requirements of this chapter or the rules adopted under this
24 chapter, and the department summarily suspends the ((boarding-home))
25 assisted living facility license, the department may appoint a
26 temporary manager of the ((boarding-home)) assisted living facility, or
27 the licensee may, subject to the department's approval, voluntarily
28 participate in the temporary management program.

29 The purposes of the temporary management program are as follows:

30 (a) To mitigate dislocation and transfer trauma of residents while
31 the department and licensee may pursue dispute resolution or appeal of
32 a summary suspension of license;

33 (b) To facilitate the continuity of safe and appropriate resident
34 care and services;

35 (c) To protect the health, safety, and welfare of residents, by
36 providing time for an orderly closure of the ((boarding-home)) assisted

1 living facility, or for the deficiencies that necessitated temporary
2 management to be corrected; and

3 (d) To preserve a residential option that meets a specialized
4 service need or is in a geographical area that has a lack of available
5 providers.

6 (2) The department may recruit, approve, and appoint qualified
7 individuals, partnerships, corporations, and other entities interested
8 in serving as a temporary manager of (~~(a boarding home)~~) an assisted
9 living facility. These individuals and entities shall satisfy the
10 criteria established under this chapter or by the department for
11 approving licensees. The department shall not approve or appoint any
12 person, including partnerships and other entities, if that person is
13 affiliated with the (~~(boarding home)~~) assisted living facility subject
14 to the temporary management, or has owned or operated (~~(a boarding~~
15 ~~home)~~) an assisted living facility ordered into temporary management or
16 receivership in any state. When approving or appointing a temporary
17 manager, the department shall consider the temporary manager's past
18 experience in long-term care, the quality of care provided, the
19 temporary manager's availability, and the person's familiarity with
20 applicable state and federal laws. Subject to the provisions of this
21 section and RCW 18.20.430, the department's authority to approve or
22 appoint a temporary manager is discretionary and not subject to the
23 administrative procedure act, chapter 34.05 RCW.

24 (3) When the department appoints a temporary manager, the
25 department shall enter into a contract with the temporary manager and
26 shall order the licensee to cease operating the (~~(boarding home)~~)
27 assisted living facility and immediately turn over to the temporary
28 manager possession and control of the (~~(boarding home)~~) assisted living
29 facility, including but not limited to all resident care records,
30 financial records, and other records necessary for operation of the
31 facility while temporary management is in effect. If the department
32 has not appointed a temporary manager and the licensee elects to
33 participate in the temporary management program, the licensee shall
34 select the temporary manager, subject to the department's approval, and
35 enter into a contract with the temporary manager, consistent with this
36 section. The department has the discretion to approve or revoke any
37 temporary management arrangements made by the licensee.

1 (4) When the department appoints a temporary manager, the costs
2 associated with the temporary management may be paid for through the
3 (~~boarding home~~) assisted living facility temporary management account
4 established by RCW 18.20.430, or from other departmental funds, or a
5 combination thereof. All funds must be administered according to
6 department procedures. The department may enter into an agreement with
7 the licensee allowing the licensee to pay for some of the costs
8 associated with a temporary manager appointed by the department. If
9 the department has not appointed a temporary manager and the licensee
10 elects to participate in the temporary management program, the licensee
11 is responsible for all costs related to administering the temporary
12 management program at the (~~boarding home~~) assisted living facility
13 and contracting with the temporary manager.

14 (5) The temporary manager shall assume full responsibility for the
15 daily operations of the (~~boarding home~~) assisted living facility and
16 is responsible for correcting cited deficiencies and ensuring that all
17 minimum licensing requirements are met. The temporary manager must
18 comply with all state and federal laws and regulations applicable to
19 (~~boarding homes~~) assisted living facilities. The temporary manager
20 shall protect the health, safety, and welfare of the residents for the
21 duration of the temporary management and shall perform all acts
22 reasonably necessary to ensure residents' needs are met. The temporary
23 management contract shall address the responsibility of the temporary
24 manager to pay past due debts. The temporary manager's specific
25 responsibilities may include, but are not limited to:

26 (a) Receiving and expending in a prudent and business-like manner
27 all current revenues of the (~~boarding home~~) assisted living facility,
28 provided that priority is given to debts and expenditures directly
29 related to providing care and meeting residents' needs;

30 (b) Hiring and managing all consultants and employees and firing
31 them for good cause;

32 (c) Making necessary purchases, repairs, and replacements, provided
33 that such expenditures in excess of five thousand dollars by a
34 temporary manager appointed by the department must be approved by the
35 department;

36 (d) Entering into contracts necessary for the operation of the
37 (~~boarding home~~) assisted living facility;

38 (e) Preserving resident trust funds and resident records; and

1 (f) Preparing all department-required reports, including a detailed
2 monthly accounting of all expenditures and liabilities, which shall be
3 sent to the department and the licensee.

4 (6) The licensee and department shall provide written notification
5 immediately to all residents, resident representatives, interested
6 family members, and the state long-term care ombudsman program of the
7 temporary management and the reasons for it. This notification shall
8 include notice that residents may move from the ((~~boarding-home~~))
9 assisted living facility without notifying the licensee or temporary
10 manager in advance, and without incurring any charges, fees, or costs
11 otherwise available for insufficient advance notice, during the
12 temporary management period. The notification shall also inform
13 residents and their families or representatives that the temporary
14 management team will provide residents help with relocation and
15 appropriate discharge planning and coordination if desired. The
16 department shall provide assistance with relocation to residents who
17 are department clients and may provide such assistance to other
18 residents. The temporary manager shall meet regularly with staff,
19 residents, residents' representatives, and families to inform them of
20 the plans for and progress achieved in the correction of deficiencies,
21 and of the plans for facility closure or continued operation.

22 (7) The department shall terminate temporary management:

23 (a) After sixty days unless good cause is shown to continue the
24 temporary management. Good cause for continuing the temporary
25 management exists when returning the ((~~boarding-home~~)) assisted living
26 facility to its former licensee would subject residents to a threat to
27 health, safety, or welfare;

28 (b) When all residents are transferred and the ((~~boarding-home~~))
29 assisted living facility is closed;

30 (c) When deficiencies threatening residents' health, safety, or
31 welfare are eliminated and the former licensee agrees to
32 department-specified conditions regarding the continued facility
33 operation; or

34 (d) When a new licensee assumes control of the ((~~boarding-home~~))
35 assisted living facility.

36 Nothing in this section precludes the department from revoking its
37 approval of the temporary management or exercising its licensing

1 enforcement authority under this chapter. The department's decision
2 whether to approve or to revoke a temporary management arrangement is
3 not subject to the administrative procedure act, chapter 34.05 RCW.

4 (8) The department shall indemnify, defend, and hold harmless any
5 temporary manager appointed or approved under this section against
6 claims made against the temporary manager for any actions by the
7 temporary manager or its agents that do not amount to intentional torts
8 or criminal behavior.

9 (9) The department may adopt rules implementing this section. In
10 the development of rules or policies implementing this section, the
11 department shall consult with residents and their representatives,
12 resident advocates, financial professionals, (~~(boarding home)~~) assisted
13 living facility providers, and organizations representing (~~(boarding~~
14 ~~homes)~~) assisted living facilities.

15 **Sec. 32.** RCW 18.20.430 and 2007 c 162 s 2 are each amended to read
16 as follows:

17 The (~~(boarding home)~~) assisted living facility temporary management
18 account is created in the custody of the state treasurer. All receipts
19 from civil penalties imposed under this chapter must be deposited into
20 the account. Only the director or the director's designee may
21 authorize expenditures from the account. The account is subject to
22 allotment procedures under chapter 43.88 RCW, but an appropriation is
23 not required for expenditures. Expenditures from the account may be
24 used only for the protection of the health, safety, welfare, or
25 property of residents of (~~(boarding homes)~~) assisted living facilities
26 found to be deficient. Uses of the account include, but are not
27 limited to:

28 (1) Payment for the costs of relocation of residents to other
29 facilities;

30 (2) Payment to maintain operation of (~~(a-boarding-home)~~) an
31 assisted living facility pending correction of deficiencies or closure,
32 including payment of costs associated with temporary management
33 authorized under this chapter; and

34 (3) Reimbursement of residents for personal funds or property lost
35 or stolen when the resident's personal funds or property cannot be
36 recovered from the (~~(boarding home)~~) assisted living facility or third-
37 party insurer.

1 **Sec. 33.** RCW 18.20.440 and 2008 c 251 s 1 are each amended to read
2 as follows:

3 (1) If ((~~a boarding home~~)) an assisted living facility voluntarily
4 withdraws from participation in a state medicaid program for
5 residential care and services under chapter 74.39A RCW, but continues
6 to provide services of the type provided by ((~~boarding homes~~)) assisted
7 living _ facilities, the facility's voluntary withdrawal from
8 participation is not an acceptable basis for the transfer or discharge
9 of residents of the facility (a) who were receiving medicaid on the day
10 before the effective date of the withdrawal; or (b) who have been
11 paying the facility privately for at least two years and who become
12 eligible for medicaid within one hundred eighty days of the date of
13 withdrawal.

14 (2) ((~~A boarding home~~)) An assisted living facility that has
15 withdrawn from the state medicaid program for residential care and
16 services under chapter 74.39A RCW must provide the following oral and
17 written notices to prospective residents. The written notice must be
18 prominent and must be written on a page that is separate from the other
19 admission documents. The notice shall provide that:

20 (a) The facility will not participate in the medicaid program with
21 respect to that resident; and

22 (b) The facility may transfer or discharge the resident from the
23 facility for nonpayment, even if the resident becomes eligible for
24 medicaid.

25 (3) Notwithstanding any other provision of this section, the
26 medicaid contract under chapter 74.39A RCW that exists on the day the
27 facility withdraws from medicaid participation is deemed to continue in
28 effect as to the persons described in subsection (1) of this section
29 for the purposes of:

30 (a) Department payments for the residential care and services
31 provided to such persons;

32 (b) Maintaining compliance with all requirements of the medicaid
33 contract between the department and the facility; and

34 (c) Ongoing inspection, contracting, and enforcement authority
35 under the medicaid contract, regulations, and law.

36 (4) Except as provided in subsection (1) of this section, this
37 section shall not apply to a person who begins residence in a facility

1 on or after the effective date of the facility's withdrawal from
2 participation in the medicaid program for residential care and
3 services.

4 (5) (~~(A-boarding-home)~~) An assisted living facility that is
5 providing residential care and services under chapter 74.39A RCW shall
6 give the department and its residents sixty days' advance notice of the
7 facility's intent to withdraw from participation in the medicaid
8 program.

9 (6) Prior to admission to the facility, (~~(a-boarding-home)~~) an
10 assisted living facility participating in the state medicaid program
11 for residential care and services under chapter 74.39A RCW must provide
12 the following oral and written notices to prospective residents. The
13 written notice must be prominent and must be written on a page that is
14 separate from the other admission documents, and must provide that:

15 (a) In the future, the facility may choose to withdraw from
16 participating in the medicaid program;

17 (b) If the facility withdraws from the medicaid program, it will
18 continue to provide services to residents (i) who were receiving
19 medicaid on the day before the effective date of the withdrawal; or
20 (ii) who have been paying the facility privately for at least two years
21 and who will become eligible for medicaid within one hundred eighty
22 days of the date of withdrawal;

23 (c) After a facility withdraws from the medicaid program, it may
24 transfer or discharge residents who do not meet the criteria described
25 in this section for nonpayment, even if the resident becomes eligible
26 for medicaid.

27 **Sec. 34.** RCW 18.20.900 and 1957 c 253 s 20 are each amended to
28 read as follows:

29 If any part, or parts, of this chapter shall be held
30 unconstitutional, the remaining provisions shall be given full force
31 and effect, as completely as if the part held unconstitutional had not
32 been included herein, if any such remaining part can then be
33 administered for the purpose of establishing and maintaining standards
34 for (~~(boarding-homes)~~) assisted living facilities.

35 **Sec. 35.** RCW 18.51.010 and 1983 c 236 s 1 are each amended to read
36 as follows:

1 (1) "Nursing home" means any home, place or institution which
2 operates or maintains facilities providing convalescent or chronic
3 care, or both, for a period in excess of twenty-four consecutive hours
4 for three or more patients not related by blood or marriage to the
5 operator, who by reason of illness or infirmity, are unable properly to
6 care for themselves. Convalescent and chronic care may include but not
7 be limited to any or all procedures commonly employed in waiting on the
8 sick, such as administration of medicines, preparation of special
9 diets, giving of bedside nursing care, application of dressings and
10 bandages, and carrying out of treatment prescribed by a duly licensed
11 practitioner of the healing arts. It may also include care of mentally
12 incompetent persons. It may also include community-based care.
13 Nothing in this definition shall be construed to include general
14 hospitals or other places which provide care and treatment for the
15 acutely ill and maintain and operate facilities for major surgery or
16 obstetrics, or both. Nothing in this definition shall be construed to
17 include any (~~boarding-home~~) assisted living facility, guest home,
18 hotel or related institution which is held forth to the public as
19 providing, and which is operated to give only board, room and laundry
20 to persons not in need of medical or nursing treatment or supervision
21 except in the case of temporary acute illness. The mere designation by
22 the operator of any place or institution as a hospital, sanitarium, or
23 any other similar name, which does not provide care for the acutely ill
24 and maintain and operate facilities for major surgery or obstetrics, or
25 both, shall not exclude such place or institution from the provisions
26 of this chapter: PROVIDED, That any nursing home providing psychiatric
27 treatment shall, with respect to patients receiving such treatment,
28 comply with the provisions of RCW 71.12.560 and 71.12.570.

29 (2) "Person" means any individual, firm, partnership, corporation,
30 company, association, or joint stock association, and the legal
31 successor thereof.

32 (3) "Secretary" means the secretary of the department of social and
33 health services.

34 (4) "Department" means the state department of social and health
35 services.

36 (5) "Community-based care" means but is not limited to the
37 following:

38 (a) Home delivered nursing services;

- 1 (b) Personal care;
- 2 (c) Day care;
- 3 (d) Nutritional services, both in-home and in a communal dining
- 4 setting;
- 5 (e) Habilitation care; and
- 6 (f) Respite care.

7 **Sec. 36.** RCW 18.52C.020 and 2001 c 319 s 3 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Secretary" means the secretary of the department of health.

12 (2) "Health care facility" means a nursing home, hospital, hospice
13 care facility, home health care agency, hospice agency, (~~boarding~~
14 ~~home~~) assisted living facility, group home, or other entity for the
15 delivery of health care or long-term care services, including chore
16 services provided under chapter 74.39A RCW.

17 (3) "Nursing home" means any nursing home facility licensed
18 pursuant to chapter 18.52 RCW.

19 (4) "Nursing pool" means any person engaged in the business of
20 providing, procuring, or referring health care or long-term care
21 personnel for temporary employment in health care facilities, such as
22 licensed nurses or practical nurses, nursing assistants, and chore
23 service providers. "Nursing pool" does not include an individual who
24 only engages in providing his or her own services.

25 (5) "Person" includes an individual, firm, corporation,
26 partnership, or association.

27 (6) "Adult family home" means a residential home licensed pursuant
28 to chapter 70.128 RCW.

29 **Sec. 37.** RCW 18.79.260 and 2009 c 203 s 1 are each amended to read
30 as follows:

31 (1) A registered nurse under his or her license may perform for
32 compensation nursing care, as that term is usually understood, to
33 individuals with illnesses, injuries, or disabilities.

34 (2) A registered nurse may, at or under the general direction of a
35 licensed physician and surgeon, dentist, osteopathic physician and
36 surgeon, naturopathic physician, optometrist, podiatric physician and

1 surgeon, physician assistant, osteopathic physician assistant, or
2 advanced registered nurse practitioner acting within the scope of his
3 or her license, administer medications, treatments, tests, and
4 inoculations, whether or not the severing or penetrating of tissues is
5 involved and whether or not a degree of independent judgment and skill
6 is required. Such direction must be for acts which are within the
7 scope of registered nursing practice.

8 (3) A registered nurse may delegate tasks of nursing care to other
9 individuals where the registered nurse determines that it is in the
10 best interest of the patient.

11 (a) The delegating nurse shall:

12 (i) Determine the competency of the individual to perform the
13 tasks;

14 (ii) Evaluate the appropriateness of the delegation;

15 (iii) Supervise the actions of the person performing the delegated
16 task; and

17 (iv) Delegate only those tasks that are within the registered
18 nurse's scope of practice.

19 (b) A registered nurse, working for a home health or hospice agency
20 regulated under chapter 70.127 RCW, may delegate the application,
21 instillation, or insertion of medications to a registered or certified
22 nursing assistant under a plan of care.

23 (c) Except as authorized in (b) or (e) of this subsection, a
24 registered nurse may not delegate the administration of medications.
25 Except as authorized in (e) of this subsection, a registered nurse may
26 not delegate acts requiring substantial skill, and may not delegate
27 piercing or severing of tissues. Acts that require nursing judgment
28 shall not be delegated.

29 (d) No person may coerce a nurse into compromising patient safety
30 by requiring the nurse to delegate if the nurse determines that it is
31 inappropriate to do so. Nurses shall not be subject to any employer
32 reprisal or disciplinary action by the nursing care quality assurance
33 commission for refusing to delegate tasks or refusing to provide the
34 required training for delegation if the nurse determines delegation may
35 compromise patient safety.

36 (e) For delegation in community-based care settings or in-home care
37 settings, a registered nurse may delegate nursing care tasks only to
38 registered or certified nursing assistants. Simple care tasks such as

1 blood pressure monitoring, personal care service, diabetic insulin
2 device set up, verbal verification of insulin dosage for sight-impaired
3 individuals, or other tasks as defined by the nursing care quality
4 assurance commission are exempted from this requirement.

5 (i) "Community-based care settings" includes: Community
6 residential programs for people with developmental disabilities,
7 certified by the department of social and health services under chapter
8 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and
9 (~~boarding homes~~) assisted living facilities licensed under chapter
10 18.20 RCW. Community-based care settings do not include acute care or
11 skilled nursing facilities.

12 (ii) "In-home care settings" include an individual's place of
13 temporary or permanent residence, but does not include acute care or
14 skilled nursing facilities, and does not include community-based care
15 settings as defined in (e)(i) of this subsection.

16 (iii) Delegation of nursing care tasks in community-based care
17 settings and in-home care settings is only allowed for individuals who
18 have a stable and predictable condition. "Stable and predictable
19 condition" means a situation in which the individual's clinical and
20 behavioral status is known and does not require the frequent presence
21 and evaluation of a registered nurse.

22 (iv) The determination of the appropriateness of delegation of a
23 nursing task is at the discretion of the registered nurse. Other than
24 delegation of the administration of insulin by injection for the
25 purpose of caring for individuals with diabetes, the administration of
26 medications by injection, sterile procedures, and central line
27 maintenance may never be delegated.

28 (v) When delegating insulin injections under this section, the
29 registered nurse delegator must instruct the individual regarding
30 proper injection procedures and the use of insulin, demonstrate proper
31 injection procedures, and must supervise and evaluate the individual
32 performing the delegated task weekly during the first four weeks of
33 delegation of insulin injections. If the registered nurse delegator
34 determines that the individual is competent to perform the injection
35 properly and safely, supervision and evaluation shall occur at least
36 every ninety days thereafter.

37 (vi) The registered nurse shall verify that the nursing assistant

1 has completed the required core nurse delegation training required in
2 chapter 18.88A RCW prior to authorizing delegation.

3 (vii) The nurse is accountable for his or her own individual
4 actions in the delegation process. Nurses acting within the protocols
5 of their delegation authority are immune from liability for any action
6 performed in the course of their delegation duties.

7 (viii) Nursing task delegation protocols are not intended to
8 regulate the settings in which delegation may occur, but are intended
9 to ensure that nursing care services have a consistent standard of
10 practice upon which the public and the profession may rely, and to
11 safeguard the authority of the nurse to make independent professional
12 decisions regarding the delegation of a task.

13 (f) The nursing care quality assurance commission may adopt rules
14 to implement this section.

15 (4) Only a person licensed as a registered nurse may instruct
16 nurses in technical subjects pertaining to nursing.

17 (5) Only a person licensed as a registered nurse may hold herself
18 or himself out to the public or designate herself or himself as a
19 registered nurse.

20 **Sec. 38.** RCW 18.100.140 and 2011 c 336 s 503 are each amended to
21 read as follows:

22 Nothing in this chapter shall authorize a director, officer,
23 shareholder, agent, or employee of a corporation organized under this
24 chapter, or a corporation itself organized under this chapter, to do or
25 perform any act which would be illegal, unethical, or unauthorized
26 conduct under the provisions of the following acts: (1) Physicians and
27 surgeons, chapter 18.71 RCW; (2) anti-rebating act, chapter 19.68 RCW;
28 (3) state bar act, chapter 2.48 RCW; (4) professional accounting act,
29 chapter 18.04 RCW; (5) professional architects act, chapter 18.08 RCW;
30 (6) professional auctioneers act, chapter 18.11 RCW; (7)
31 cosmetologists, barbers, and manicurists, chapter 18.16 RCW; (8)
32 (~~boarding homes~~) assisted living facilities act, chapter 18.20 RCW;
33 (9) podiatric medicine and surgery, chapter 18.22 RCW; (10)
34 chiropractic act, chapter 18.25 RCW; (11) registration of contractors,
35 chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28 RCW; (13)
36 dental hygienist act, chapter 18.29 RCW; (14) dentistry, chapter 18.32
37 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16) naturopathic

1 physicians, chapter 18.36A RCW; (17) embalmers and funeral directors,
2 chapter 18.39 RCW; (18) engineers and land surveyors, chapter 18.43
3 RCW; (19) escrow agents registration act, chapter 18.44 RCW; (20)
4 birthing centers, chapter 18.46 RCW; (21) midwifery, chapter 18.50 RCW;
5 (22) nursing homes, chapter 18.51 RCW; (23) optometry, chapter 18.53
6 RCW; (24) osteopathic physicians and surgeons, chapter 18.57 RCW; (25)
7 pharmacists, chapter 18.64 RCW; (26) physical therapy, chapter 18.74
8 RCW; (27) registered nurses, advanced registered nurse practitioners,
9 and practical nurses, chapter 18.79 RCW; (28) psychologists, chapter
10 18.83 RCW; (29) real estate brokers and salespersons, chapter 18.85
11 RCW; (30) veterinarians, chapter 18.92 RCW.

12 **Sec. 39.** RCW 35.21.766 and 2011 c 139 s 1 are each amended to read
13 as follows:

14 (1) Whenever a regional fire protection service authority
15 determines that the fire protection jurisdictions that are members of
16 the authority are not adequately served by existing private ambulance
17 service, the governing board of the authority may by resolution provide
18 for the establishment of a system of ambulance service to be operated
19 by the authority as a public utility or operated by contract after a
20 call for bids.

21 (2) The legislative authority of any city or town may establish an
22 ambulance service to be operated as a public utility. However, the
23 legislative authority of the city or town shall not provide for the
24 establishment of an ambulance service utility that would compete with
25 any existing private ambulance service, unless the legislative
26 authority of the city or town determines that the city or town, or a
27 substantial portion of the city or town, is not adequately served by an
28 existing private ambulance service. In determining the adequacy of an
29 existing private ambulance service, the legislative authority of the
30 city or town shall take into consideration objective generally accepted
31 medical standards and reasonable levels of service which shall be
32 published by the city or town legislative authority. The decision of
33 the city council or legislative body shall be a discretionary,
34 legislative act. When it is preliminarily concluded that the private
35 ambulance service is inadequate, before issuing a call for bids or
36 before the city or town establishes an ambulance service utility, the
37 legislative authority of the city or town shall allow a minimum of

1 sixty days for the private ambulance service to meet the generally
2 accepted medical standards and reasonable levels of service. In the
3 event of a second preliminary conclusion of inadequacy within a twenty-
4 four month period, the legislative authority of the city or town may
5 immediately issue a call for bids or establish an ambulance service
6 utility and is not required to afford the private ambulance service
7 another sixty-day period to meet the generally accepted medical
8 standards and reasonable levels of service. Nothing in chapter 482,
9 Laws of 2005 is intended to supersede requirements and standards
10 adopted by the department of health. A private ambulance service which
11 is not licensed by the department of health or whose license is denied,
12 suspended, or revoked shall not be entitled to a sixty-day period
13 within which to demonstrate adequacy and the legislative authority may
14 immediately issue a call for bids or establish an ambulance service
15 utility.

16 (3) The city or town legislative authority is authorized to set and
17 collect rates and charges in an amount sufficient to regulate, operate,
18 and maintain an ambulance utility. Prior to setting such rates and
19 charges, the legislative authority must determine, through a cost-of-
20 service study, the total cost necessary to regulate, operate, and
21 maintain the ambulance utility. Total costs shall not include capital
22 cost for the construction, major renovation, or major repair of the
23 physical plant. Once the legislative authority determines the total
24 costs, the legislative authority shall then identify that portion of
25 the total costs that are attributable to the availability of the
26 ambulance service and that portion of the total costs that are
27 attributable to the demand placed on the ambulance utility.

28 (a) Availability costs are those costs attributable to the basic
29 infrastructure needed to respond to a single call for service within
30 the utility's response criteria. Availability costs may include costs
31 for dispatch, labor, training of personnel, equipment, patient care
32 supplies, and maintenance of equipment.

33 (b) Demand costs are those costs that are attributable to the
34 burden placed on the ambulance service by individual calls for
35 ambulance service. Demand costs shall include costs related to
36 frequency of calls, distances from hospitals, and other factors
37 identified in the cost-of-service study conducted to assess burdens
38 imposed on the ambulance utility.

1 (4) A city or town legislative authority is authorized to set and
2 collect rates and charges as follows:

3 (a) The rate attributable to costs for availability described under
4 subsection (3)(a) of this section shall be uniformly applied across
5 user classifications within the utility;

6 (b) The rate attributable to costs for demand described under
7 subsection (3)(b) of this section shall be established and billed to
8 each utility user classification based on each user classification's
9 burden on the utility;

10 (c) The fee charged by the utility shall reflect a combination of
11 the availability cost and the demand cost;

12 (d)(i) Except as provided in (d)(ii) of this subsection, the
13 combined rates charged shall reflect an exemption for persons who are
14 medicaid eligible and who reside in a nursing facility, (~~boarding~~
15 ~~home~~) assisted living facility, adult family home, or receive in-home
16 services. The combined rates charged may reflect an exemption or
17 reduction for designated classes consistent with Article VIII, section
18 7 of the state Constitution. The amounts of exemption or reduction
19 shall be a general expense of the utility, and designated as an
20 availability cost, to be spread uniformly across the utility user
21 classifications.

22 (ii) For cities with a population less than two thousand five
23 hundred that established an ambulance utility before May 6, 2004, the
24 combined rates charged may reflect an exemption or reduction for
25 persons who are medicaid eligible, and for designated classes
26 consistent with Article VIII, section 7 of the state Constitution;

27 (e)(i) Except as provided in (e)(ii) of this subsection (4), the
28 legislative authority must continue to allocate at least seventy
29 percent of the total amount of general fund revenues expended, as of
30 May 5, 2004, toward the total costs necessary to regulate, operate, and
31 maintain the ambulance service utility. However, cities or towns that
32 operated an ambulance service before May 6, 2004, and commingled
33 general fund dollars and ambulance service dollars, may reasonably
34 estimate that portion of general fund dollars that were, as of May 5,
35 2004, applied toward the operation of the ambulance service, and at
36 least seventy percent of such estimated amount must then continue to be
37 applied toward the total cost necessary to regulate, operate, and
38 maintain the ambulance utility. Cities and towns which first

1 established an ambulance service utility after May 6, 2004, must
2 allocate, from the general fund or emergency medical service levy
3 funds, or a combination of both, at least an amount equal to seventy
4 percent of the total costs necessary to regulate, operate, and maintain
5 the ambulance service utility as of May 5, 2004, or the date that the
6 utility is established.

7 (ii) After January 1, 2012, the legislative authority may allocate
8 general fund revenues toward the total costs necessary to regulate,
9 operate, and maintain the ambulance service utility in an amount less
10 than required by (e)(i) of this subsection (4). However, before making
11 any reduction to the general fund allocation, the legislative authority
12 must hold a public hearing, preceded by at least thirty days' notice
13 provided in each ratepayer's utility bill, at which the legislative
14 authority must allow for public comment and present:

- 15 (A) The utility's most recent cost of service study;
- 16 (B) A summary of the utility's current revenue sources;
- 17 (C) A proposed budget reflecting the reduced allocation of general
18 fund revenues;

19 (D) Any proposed change to utility rates; and

20 (E) Any anticipated impact to the utility's level of service;

21 (f) The legislative authority must allocate available emergency
22 medical service levy funds, in an amount proportionate to the
23 percentage of the ambulance service costs to the total combined
24 operating costs for emergency medical services and ambulance services,
25 towards the total costs necessary to regulate, operate, and maintain
26 the ambulance utility;

27 (g) The legislative authority must allocate all revenues received
28 through direct billing to the individual user of the ambulance service
29 to the demand-related costs under subsection (3)(b) of this section;

30 (h) The total revenue generated by the rates and charges shall not
31 exceed the total costs necessary to regulate, operate, and maintain an
32 ambulance utility; and

33 (i) Revenues generated by the rates and charges must be deposited
34 in a separate fund or funds and be used only for the purpose of paying
35 for the cost of regulating, maintaining, and operating the ambulance
36 utility.

37 (5) Ambulance service rates charged pursuant to this section do not

1 constitute taxes or charges under RCW 82.02.050 through 82.02.090, or
2 35.21.768, or charges otherwise prohibited by law.

3 **Sec. 40.** RCW 35A.70.020 and 1967 ex.s. c 119 s 35A.70.020 are each
4 amended to read as follows:

5 A code city may exercise the powers relating to enforcement of
6 regulations for (~~boarding homes as authorized by RCW 18.20.100, in~~
7 ~~accordance with the procedures therein prescribed and subject to any~~
8 ~~limitations therein provided~~) assisted living facilities.

9 **Sec. 41.** RCW 43.43.832 and 2011 c 253 s 6 are each amended to read
10 as follows:

11 (1) The legislature finds that businesses and organizations
12 providing services to children, developmentally disabled persons, and
13 vulnerable adults need adequate information to determine which
14 employees or licensees to hire or engage. The legislature further
15 finds that many developmentally disabled individuals and vulnerable
16 adults desire to hire their own employees directly and also need
17 adequate information to determine which employees or licensees to hire
18 or engage. Therefore, the Washington state patrol identification and
19 criminal history section shall disclose, upon the request of a business
20 or organization as defined in RCW 43.43.830, a developmentally disabled
21 person, or a vulnerable adult as defined in RCW 43.43.830 or his or her
22 guardian, an applicant's conviction record as defined in chapter 10.97
23 RCW.

24 (2) The legislature also finds that the Washington professional
25 educator standards board may request of the Washington state patrol
26 criminal identification system information regarding a certificate
27 applicant's conviction record under subsection (1) of this section.

28 (3) The legislature also finds that law enforcement agencies, the
29 office of the attorney general, prosecuting authorities, and the
30 department of social and health services may request this same
31 information to aid in the investigation and prosecution of child,
32 developmentally disabled person, and vulnerable adult abuse cases and
33 to protect children and adults from further incidents of abuse.

34 (4) The legislature further finds that the secretary of the
35 department of social and health services must establish rules and set
36 standards to require specific action when considering the information

1 listed in subsection (1) of this section, and when considering
2 additional information including but not limited to civil adjudication
3 proceedings as defined in RCW 43.43.830 and any out-of-state
4 equivalent, in the following circumstances:

5 (a) When considering persons for state employment in positions
6 directly responsible for the supervision, care, or treatment of
7 children, vulnerable adults, or individuals with mental illness or
8 developmental disabilities;

9 (b) When considering persons for state positions involving
10 unsupervised access to vulnerable adults to conduct comprehensive
11 assessments, financial eligibility determinations, licensing and
12 certification activities, investigations, surveys, or case management;
13 or for state positions otherwise required by federal law to meet
14 employment standards;

15 (c) When licensing agencies or facilities with individuals in
16 positions directly responsible for the care, supervision, or treatment
17 of children, developmentally disabled persons, or vulnerable adults,
18 including but not limited to agencies or facilities licensed under
19 chapter 74.15 or 18.51 RCW;

20 (d) When contracting with individuals or businesses or
21 organizations for the care, supervision, case management, or treatment,
22 including peer counseling, of children, developmentally disabled
23 persons, or vulnerable adults, including but not limited to services
24 contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A
25 RCW or Title 71A RCW;

26 (e) When individual providers are paid by the state or providers
27 are paid by home care agencies to provide in-home services involving
28 unsupervised access to persons with physical, mental, or developmental
29 disabilities or mental illness, or to vulnerable adults as defined in
30 chapter 74.34 RCW, including but not limited to services provided under
31 chapter 74.39 or 74.39A RCW.

32 (5) The director of the department of early learning shall
33 investigate the conviction records, pending charges, and other
34 information including civil adjudication proceeding records of current
35 employees and of any person actively being considered for any position
36 with the department who will or may have unsupervised access to
37 children, or for state positions otherwise required by federal law to
38 meet employment standards. "Considered for any position" includes

1 decisions about (a) initial hiring, layoffs, reallocations, transfers,
2 promotions, or demotions, or (b) other decisions that result in an
3 individual being in a position that will or may have unsupervised
4 access to children as an employee, an intern, or a volunteer.

5 (6) The director of the department of early learning shall adopt
6 rules and investigate conviction records, pending charges, and other
7 information including civil adjudication proceeding records, in the
8 following circumstances:

9 (a) When licensing or certifying agencies with individuals in
10 positions that will or may have unsupervised access to children who are
11 in child day care, in early learning programs, or receiving early
12 childhood education services, including but not limited to licensees,
13 agency staff, interns, volunteers, contracted providers, and persons
14 living on the premises who are sixteen years of age or older;

15 (b) When authorizing individuals who will or may have unsupervised
16 access to children who are in child day care, in early learning
17 programs, or receiving early childhood learning education services in
18 licensed or certified agencies, including but not limited to licensees,
19 agency staff, interns, volunteers, contracted providers, and persons
20 living on the premises who are sixteen years of age or older;

21 (c) When contracting with any business or organization for
22 activities that will or may have unsupervised access to children who
23 are in child day care, in early learning programs, or receiving early
24 childhood learning education services;

25 (d) When establishing the eligibility criteria for individual
26 providers to receive state paid subsidies to provide child day care or
27 early learning services that will or may involve unsupervised access to
28 children.

29 (7) Whenever a state conviction record check is required by state
30 law, persons may be employed or engaged as volunteers or independent
31 contractors on a conditional basis pending completion of the state
32 background investigation. Whenever a national criminal record check
33 through the federal bureau of investigation is required by state law,
34 a person may be employed or engaged as a volunteer or independent
35 contractor on a conditional basis pending completion of the national
36 check. The Washington personnel resources board shall adopt rules to
37 accomplish the purposes of this subsection as it applies to state
38 employees.

1 (8)(a) For purposes of facilitating timely access to criminal
2 background information and to reasonably minimize the number of
3 requests made under this section, recognizing that certain health care
4 providers change employment frequently, health care facilities may,
5 upon request from another health care facility, share copies of
6 completed criminal background inquiry information.

7 (b) Completed criminal background inquiry information may be shared
8 by a willing health care facility only if the following conditions are
9 satisfied: The licensed health care facility sharing the criminal
10 background inquiry information is reasonably known to be the person's
11 most recent employer, no more than twelve months has elapsed from the
12 date the person was last employed at a licensed health care facility to
13 the date of their current employment application, and the criminal
14 background information is no more than two years old.

15 (c) If criminal background inquiry information is shared, the
16 health care facility employing the subject of the inquiry must require
17 the applicant to sign a disclosure statement indicating that there has
18 been no conviction or finding as described in RCW 43.43.842 since the
19 completion date of the most recent criminal background inquiry.

20 (d) Any health care facility that knows or has reason to believe
21 that an applicant has or may have a disqualifying conviction or finding
22 as described in RCW 43.43.842, subsequent to the completion date of
23 their most recent criminal background inquiry, shall be prohibited from
24 relying on the applicant's previous employer's criminal background
25 inquiry information. A new criminal background inquiry shall be
26 requested pursuant to RCW 43.43.830 through 43.43.842.

27 (e) Health care facilities that share criminal background inquiry
28 information shall be immune from any claim of defamation, invasion of
29 privacy, negligence, or any other claim in connection with any
30 dissemination of this information in accordance with this subsection.

31 (f) Health care facilities shall transmit and receive the criminal
32 background inquiry information in a manner that reasonably protects the
33 subject's rights to privacy and confidentiality.

34 (g) For the purposes of this subsection, "health care facility"
35 means a nursing home licensed under chapter 18.51 RCW, (~~a boarding~~
36 ~~home~~) an assisted living facility licensed under chapter 18.20 RCW, or
37 an adult family home licensed under chapter 70.128 RCW.

1 **Sec. 42.** RCW 46.19.020 and 2010 c 161 s 702 are each amended to
2 read as follows:

3 (1) The following organizations may apply for special parking
4 privileges:

5 (a) Public transportation authorities;

6 (b) Nursing homes licensed under chapter 18.51 RCW;

7 (c) (~~Boarding homes~~) Assisted living facilities licensed under
8 chapter 18.20 RCW;

9 (d) Senior citizen centers;

10 (e) Private nonprofit corporations, as defined in RCW 24.03.005;
11 and

12 (f) Cabulance companies that regularly transport persons with
13 disabilities who have been determined eligible for special parking
14 privileges under this section and who are registered with the
15 department under chapter 46.72 RCW.

16 (2) An organization that qualifies for special parking privileges
17 may receive, upon application, parking license plates or placards, or
18 both, for persons with disabilities as defined by the department.

19 (3) Public transportation authorities, nursing homes, (~~boarding
20 homes~~) assisted living facilities, senior citizen centers, private
21 nonprofit corporations, and cabulance services are responsible for
22 ensuring that the special placards and license plates are not used
23 improperly and are responsible for all fines and penalties for improper
24 use.

25 (4) The department shall adopt rules to determine organization
26 eligibility.

27 **Sec. 43.** RCW 48.43.125 and 1999 c 312 s 2 are each amended to read
28 as follows:

29 (1) A carrier that provides coverage for a person at a long-term
30 care facility following the person's hospitalization shall, upon the
31 request of the person or his or her legal representative as authorized
32 in RCW 7.70.065, provide such coverage at the facility in which the
33 person resided immediately prior to the hospitalization if:

34 (a) The person's primary care physician determines that the medical
35 care needs of the person can be met at the requested facility;

36 (b) The requested facility has all applicable licenses and

1 certifications, and is not under a stop placement order that prevents
2 the person's readmission;

3 (c) The requested facility agrees to accept payment from the
4 carrier for covered services at the rate paid to similar facilities
5 that otherwise contract with the carrier to provide such services; and

6 (d) The requested facility, with regard to the following, agrees to
7 abide by the standards, terms, and conditions required by the carrier
8 of similar facilities with which the carrier otherwise contracts: (i)
9 Utilization review, quality assurance, and peer review; and (ii)
10 management and administrative procedures, including data and financial
11 reporting that may be required by the carrier.

12 (2) For purposes of this section, "long-term care facility" or
13 "facility" means a nursing facility licensed under chapter 18.51 RCW,
14 continuing care retirement community defined under RCW 70.38.025,
15 (~~boarding home~~) or assisted living facility licensed under chapter
16 18.20 RCW(~~, or assisted living facility~~).

17 **Sec. 44.** RCW 69.41.010 and 2009 c 549 s 1024 are each amended to
18 read as follows:

19 As used in this chapter, the following terms have the meanings
20 indicated unless the context clearly requires otherwise:

21 (1) "Administer" means the direct application of a legend drug
22 whether by injection, inhalation, ingestion, or any other means, to the
23 body of a patient or research subject by:

24 (a) A practitioner; or

25 (b) The patient or research subject at the direction of the
26 practitioner.

27 (2) "Community-based care settings" include: Community residential
28 programs for the developmentally disabled, certified by the department
29 of social and health services under chapter 71A.12 RCW; adult family
30 homes licensed under chapter 70.128 RCW; and (~~boarding homes~~)
31 assisted living facilities licensed under chapter 18.20 RCW.
32 Community-based care settings do not include acute care or skilled
33 nursing facilities.

34 (3) "Deliver" or "delivery" means the actual, constructive, or
35 attempted transfer from one person to another of a legend drug, whether
36 or not there is an agency relationship.

37 (4) "Department" means the department of health.

1 (5) "Dispense" means the interpretation of a prescription or order
2 for a legend drug and, pursuant to that prescription or order, the
3 proper selection, measuring, compounding, labeling, or packaging
4 necessary to prepare that prescription or order for delivery.

5 (6) "Dispenser" means a practitioner who dispenses.

6 (7) "Distribute" means to deliver other than by administering or
7 dispensing a legend drug.

8 (8) "Distributor" means a person who distributes.

9 (9) "Drug" means:

10 (a) Substances recognized as drugs in the official United States
11 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
12 or official national formulary, or any supplement to any of them;

13 (b) Substances intended for use in the diagnosis, cure, mitigation,
14 treatment, or prevention of disease in human beings or animals;

15 (c) Substances (other than food, minerals or vitamins) intended to
16 affect the structure or any function of the body of human beings or
17 animals; and

18 (d) Substances intended for use as a component of any article
19 specified in (a), (b), or (c) of this subsection. It does not include
20 devices or their components, parts, or accessories.

21 (10) "Electronic communication of prescription information" means
22 the communication of prescription information by computer, or the
23 transmission of an exact visual image of a prescription by facsimile,
24 or other electronic means for original prescription information or
25 prescription refill information for a legend drug between an authorized
26 practitioner and a pharmacy or the transfer of prescription information
27 for a legend drug from one pharmacy to another pharmacy.

28 (11) "In-home care settings" include an individual's place of
29 temporary and permanent residence, but does not include acute care or
30 skilled nursing facilities, and does not include community-based care
31 settings.

32 (12) "Legend drugs" means any drugs which are required by state law
33 or regulation of the state board of pharmacy to be dispensed on
34 prescription only or are restricted to use by practitioners only.

35 (13) "Legible prescription" means a prescription or medication
36 order issued by a practitioner that is capable of being read and
37 understood by the pharmacist filling the prescription or the nurse or

1 other practitioner implementing the medication order. A prescription
2 must be hand printed, typewritten, or electronically generated.

3 (14) "Medication assistance" means assistance rendered by a
4 nonpractitioner to an individual residing in a community-based care
5 setting or in-home care setting to facilitate the individual's self-
6 administration of a legend drug or controlled substance. It includes
7 reminding or coaching the individual, handing the medication container
8 to the individual, opening the individual's medication container, using
9 an enabler, or placing the medication in the individual's hand, and
10 such other means of medication assistance as defined by rule adopted by
11 the department. A nonpractitioner may help in the preparation of
12 legend drugs or controlled substances for self-administration where a
13 practitioner has determined and communicated orally or by written
14 direction that such medication preparation assistance is necessary and
15 appropriate. Medication assistance shall not include assistance with
16 intravenous medications or injectable medications, except prefilled
17 insulin syringes.

18 (15) "Person" means individual, corporation, government or
19 governmental subdivision or agency, business trust, estate, trust,
20 partnership or association, or any other legal entity.

21 (16) "Practitioner" means:

22 (a) A physician under chapter 18.71 RCW, an osteopathic physician
23 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
24 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
25 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
26 registered nurse, advanced registered nurse practitioner, or licensed
27 practical nurse under chapter 18.79 RCW, an optometrist under chapter
28 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
29 an osteopathic physician assistant under chapter 18.57A RCW, a
30 physician assistant under chapter 18.71A RCW, a naturopath licensed
31 under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or,
32 when acting under the required supervision of a dentist licensed under
33 chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

34 (b) A pharmacy, hospital, or other institution licensed,
35 registered, or otherwise permitted to distribute, dispense, conduct
36 research with respect to, or to administer a legend drug in the course
37 of professional practice or research in this state; and

1 (c) A physician licensed to practice medicine and surgery or a
2 physician licensed to practice osteopathic medicine and surgery in any
3 state, or province of Canada, which shares a common border with the
4 state of Washington.

5 (17) "Secretary" means the secretary of health or the secretary's
6 designee.

7 **Sec. 45.** RCW 69.41.085 and 2003 c 140 s 12 are each amended to
8 read as follows:

9 Individuals residing in community-based care settings, such as
10 adult family homes, (~~boarding homes~~) assisted living facilities, and
11 residential care settings for (~~the — developmentally — disabled~~)
12 individuals with developmental disabilities, including an individual's
13 home, may receive medication assistance. Nothing in this chapter
14 affects the right of an individual to refuse medication or requirements
15 relating to informed consent.

16 **Sec. 46.** RCW 69.50.308 and 2001 c 248 s 1 are each amended to read
17 as follows:

18 (a) A controlled substance may be dispensed only as provided in
19 this section.

20 (b) Except when dispensed directly by a practitioner authorized to
21 prescribe or administer a controlled substance, other than a pharmacy,
22 to an ultimate user, a substance included in Schedule II may not be
23 dispensed without the written prescription of a practitioner.

24 (1) Schedule II narcotic substances may be dispensed by a pharmacy
25 pursuant to a facsimile prescription under the following circumstances:

26 (i) The facsimile prescription is transmitted by a practitioner to
27 the pharmacy; and

28 (ii) The facsimile prescription is for a patient in a long-term
29 care facility. "Long-term care facility" means nursing homes licensed
30 under chapter 18.51 RCW, (~~boarding homes~~) assisted living facilities
31 licensed under chapter 18.20 RCW, and adult family homes licensed under
32 chapter 70.128 RCW; or

33 (iii) The facsimile prescription is for a patient of a hospice
34 program certified or paid for by medicare under Title XVIII; or

35 (iv) The facsimile prescription is for a patient of a hospice
36 program licensed by the state; and

1 (v) The practitioner or the practitioner's agent notes on the
2 facsimile prescription that the patient is a long-term care or hospice
3 patient.

4 (2) Injectable Schedule II narcotic substances that are to be
5 compounded for patient use may be dispensed by a pharmacy pursuant to
6 a facsimile prescription if the facsimile prescription is transmitted
7 by a practitioner to the pharmacy.

8 (3) Under (1) and (2) of this subsection the facsimile prescription
9 shall serve as the original prescription and shall be maintained as
10 other Schedule II narcotic substances prescriptions.

11 (c) In emergency situations, as defined by rule of the state board
12 of pharmacy, a substance included in Schedule II may be dispensed upon
13 oral prescription of a practitioner, reduced promptly to writing and
14 filed by the pharmacy. Prescriptions shall be retained in conformity
15 with the requirements of RCW 69.50.306. A prescription for a substance
16 included in Schedule II may not be refilled.

17 (d) Except when dispensed directly by a practitioner authorized to
18 prescribe or administer a controlled substance, other than a pharmacy,
19 to an ultimate user, a substance included in Schedule III or IV, which
20 is a prescription drug as determined under RCW 69.04.560, may not be
21 dispensed without a written or oral prescription of a practitioner.
22 Any oral prescription must be promptly reduced to writing. The
23 prescription shall not be filled or refilled more than six months after
24 the date thereof or be refilled more than five times, unless renewed by
25 the practitioner.

26 (e) A valid prescription or lawful order of a practitioner, in
27 order to be effective in legalizing the possession of controlled
28 substances, must be issued in good faith for a legitimate medical
29 purpose by one authorized to prescribe the use of such controlled
30 substance. An order purporting to be a prescription not in the course
31 of professional treatment is not a valid prescription or lawful order
32 of a practitioner within the meaning and intent of this chapter; and
33 the person who knows or should know that the person is filling such an
34 order, as well as the person issuing it, can be charged with a
35 violation of this chapter.

36 (f) A substance included in Schedule V must be distributed or
37 dispensed only for a medical purpose.

1 (g) A practitioner may dispense or deliver a controlled substance
2 to or for an individual or animal only for medical treatment or
3 authorized research in the ordinary course of that practitioner's
4 profession. Medical treatment includes dispensing or administering a
5 narcotic drug for pain, including intractable pain.

6 (h) No administrative sanction, or civil or criminal liability,
7 authorized or created by this chapter may be imposed on a pharmacist
8 for action taken in reliance on a reasonable belief that an order
9 purporting to be a prescription was issued by a practitioner in the
10 usual course of professional treatment or in authorized research.

11 (i) An individual practitioner may not dispense a substance
12 included in Schedule II, III, or IV for that individual practitioner's
13 personal use.

14 **Sec. 47.** RCW 70.38.105 and 2009 c 315 s 1 and 2009 c 242 s 3 are
15 each reenacted and amended to read as follows:

16 (1) The department is authorized and directed to implement the
17 certificate of need program in this state pursuant to the provisions of
18 this chapter.

19 (2) There shall be a state certificate of need program which is
20 administered consistent with the requirements of federal law as
21 necessary to the receipt of federal funds by the state.

22 (3) No person shall engage in any undertaking which is subject to
23 certificate of need review under subsection (4) of this section without
24 first having received from the department either a certificate of need
25 or an exception granted in accordance with this chapter.

26 (4) The following shall be subject to certificate of need review
27 under this chapter:

28 (a) The construction, development, or other establishment of a new
29 health care facility including, but not limited to, a hospital
30 constructed, developed, or established by a health maintenance
31 organization or by a combination of health maintenance organizations
32 except as provided in subsection (7)(a) of this section;

33 (b) The sale, purchase, or lease of part or all of any existing
34 hospital as defined in RCW 70.38.025 including, but not limited to, a
35 hospital sold, purchased, or leased by a health maintenance
36 organization or by a combination of health maintenance organizations
37 except as provided in subsection (7)(b) of this section;

1 (c) Any capital expenditure for the construction, renovation, or
2 alteration of a nursing home which substantially changes the services
3 of the facility after January 1, 1981, provided that the substantial
4 changes in services are specified by the department in rule;

5 (d) Any capital expenditure for the construction, renovation, or
6 alteration of a nursing home which exceeds the expenditure minimum as
7 defined by RCW 70.38.025. However, a capital expenditure which is not
8 subject to certificate of need review under (a), (b), (c), or (e) of
9 this subsection and which is solely for any one or more of the
10 following is not subject to certificate of need review:

11 (i) Communications and parking facilities;

12 (ii) Mechanical, electrical, ventilation, heating, and air
13 conditioning systems;

14 (iii) Energy conservation systems;

15 (iv) Repairs to, or the correction of, deficiencies in existing
16 physical plant facilities which are necessary to maintain state
17 licensure, however, other additional repairs, remodeling, or
18 replacement projects that are not related to one or more deficiency
19 citations and are not necessary to maintain state licensure are not
20 exempt from certificate of need review except as otherwise permitted by
21 (d)(vi) of this subsection or RCW 70.38.115(13);

22 (v) Acquisition of equipment, including data processing equipment,
23 which is not or will not be used in the direct provision of health
24 services;

25 (vi) Construction or renovation at an existing nursing home which
26 involves physical plant facilities, including administrative, dining
27 areas, kitchen, laundry, therapy areas, and support facilities, by an
28 existing licensee who has operated the beds for at least one year;

29 (vii) Acquisition of land; and

30 (viii) Refinancing of existing debt;

31 (e) A change in bed capacity of a health care facility which
32 increases the total number of licensed beds or redistributes beds among
33 acute care, nursing home care, and (~~(boarding home)~~) assisted living
34 facility care if the bed redistribution is to be effective for a period
35 in excess of six months, or a change in bed capacity of a rural health
36 care facility licensed under RCW 70.175.100 that increases the total
37 number of nursing home beds or redistributes beds from acute care or
38 (~~(boarding home)~~) assisted living facility care to nursing home care if

1 the bed redistribution is to be effective for a period in excess of six
2 months. A health care facility certified as a critical access hospital
3 under 42 U.S.C. 1395i-4 may increase its total number of licensed beds
4 to the total number of beds permitted under 42 U.S.C. 1395i-4 for acute
5 care and may redistribute beds permitted under 42 U.S.C. 1395i-4 among
6 acute care and nursing home care without being subject to certificate
7 of need review. If there is a nursing home licensed under chapter
8 18.51 RCW within twenty-seven miles of the critical access hospital,
9 the critical access hospital is subject to certificate of need review
10 except for:

11 (i) Critical access hospitals which had designated beds to provide
12 nursing home care, in excess of five swing beds, prior to December 31,
13 2003;

14 (ii) Up to five swing beds; or

15 (iii) Up to twenty-five swing beds for critical access hospitals
16 which do not have a nursing home licensed under chapter 18.51 RCW
17 within the same city or town limits. Up to one-half of the additional
18 beds designated for swing bed services under this subsection
19 (4)(e)(iii) may be so designated before July 1, 2010, with the balance
20 designated on or after July 1, 2010.

21 Critical access hospital beds not subject to certificate of need
22 review under this subsection (4)(e) will not be counted as either acute
23 care or nursing home care for certificate of need review purposes. If
24 a health care facility ceases to be certified as a critical access
25 hospital under 42 U.S.C. 1395i-4, the hospital may revert back to the
26 type and number of licensed hospital beds as it had when it requested
27 critical access hospital designation;

28 (f) Any new tertiary health services which are offered in or
29 through a health care facility or rural health care facility licensed
30 under RCW 70.175.100, and which were not offered on a regular basis by,
31 in, or through such health care facility or rural health care facility
32 within the twelve-month period prior to the time such services would be
33 offered;

34 (g) Any expenditure for the construction, renovation, or alteration
35 of a nursing home or change in nursing home services in excess of the
36 expenditure minimum made in preparation for any undertaking under this
37 subsection (4) of this section and any arrangement or commitment made
38 for financing such undertaking. Expenditures of preparation shall

1 include expenditures for architectural designs, plans, working
2 drawings, and specifications. The department may issue certificates of
3 need permitting predevelopment expenditures, only, without authorizing
4 any subsequent undertaking with respect to which such predevelopment
5 expenditures are made; and

6 (h) Any increase in the number of dialysis stations in a kidney
7 disease center.

8 (5) The department is authorized to charge fees for the review of
9 certificate of need applications and requests for exemptions from
10 certificate of need review. The fees shall be sufficient to cover the
11 full cost of review and exemption, which may include the development of
12 standards, criteria, and policies.

13 (6) No person may divide a project in order to avoid review
14 requirements under any of the thresholds specified in this section.

15 (7)(a) The requirement that a health maintenance organization
16 obtain a certificate of need under subsection (4)(a) of this section
17 for the construction, development, or other establishment of a hospital
18 does not apply to a health maintenance organization operating a group
19 practice that has been continuously licensed as a health maintenance
20 organization since January 1, 2009;

21 (b) The requirement that a health maintenance organization obtain
22 a certificate of need under subsection (4)(b) of this section to sell,
23 purchase, or lease a hospital does not apply to a health maintenance
24 organization operating a group practice that has been continuously
25 licensed as a health maintenance organization since January 1, 2009.

26 **Sec. 48.** RCW 70.38.111 and 2009 c 315 s 2 and 2009 c 89 s 1 are
27 each reenacted and amended to read as follows:

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

30 (a) A health maintenance organization or a combination of health
31 maintenance organizations if (i) the organization or combination of
32 organizations has, in the service area of the organization or the
33 service areas of the organizations in the combination, an enrollment of
34 at least fifty thousand individuals, (ii) the facility in which the
35 service will be provided is or will be geographically located so that
36 the service will be reasonably accessible to such enrolled individuals,
37 and (iii) at least seventy-five percent of the patients who can

1 reasonably be expected to receive the tertiary health service will be
2 individuals enrolled with such organization or organizations in the
3 combination;

4 (b) A health care facility if (i) the facility primarily provides
5 or will provide inpatient health services, (ii) the facility is or will
6 be controlled, directly or indirectly, by a health maintenance
7 organization or a combination of health maintenance organizations which
8 has, in the service area of the organization or service areas of the
9 organizations in the combination, an enrollment of at least fifty
10 thousand individuals, (iii) the facility is or will be geographically
11 located so that the service will be reasonably accessible to such
12 enrolled individuals, and (iv) at least seventy-five percent of the
13 patients who can reasonably be expected to receive the tertiary health
14 service will be individuals enrolled with such organization or
15 organizations in the combination; or

16 (c) A health care facility (or portion thereof) if (i) the facility
17 is or will be leased by a health maintenance organization or
18 combination of health maintenance organizations which has, in the
19 service area of the organization or the service areas of the
20 organizations in the combination, an enrollment of at least fifty
21 thousand individuals and, on the date the application is submitted
22 under subsection (2) of this section, at least fifteen years remain in
23 the term of the lease, (ii) the facility is or will be geographically
24 located so that the service will be reasonably accessible to such
25 enrolled individuals, and (iii) at least seventy-five percent of the
26 patients who can reasonably be expected to receive the tertiary health
27 service will be individuals enrolled with such organization;

28 if, with respect to such offering or obligation by a nursing home, the
29 department has, upon application under subsection (2) of this section,
30 granted an exemption from such requirement to the organization,
31 combination of organizations, or facility.

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

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

1 (b) The application contains such information respecting the
2 organization, combination, or facility and the proposed offering or
3 obligation by a nursing home as the department may require to determine
4 if the organization or combination meets the requirements of subsection
5 (1) of this section or the facility meets or will meet such
6 requirements; and

7 (c) The department approves such application. The department shall
8 approve or disapprove an application for exemption within thirty days
9 of receipt of a completed application. In the case of a proposed
10 health care facility (or portion thereof) which has not begun to
11 provide tertiary health services on the date an application is
12 submitted under this subsection with respect to such facility (or
13 portion), the facility (or portion) shall meet the applicable
14 requirements of subsection (1) of this section when the facility first
15 provides such services. The department shall approve an application
16 submitted under this subsection if it determines that the applicable
17 requirements of subsection (1) of this section are met.

18 (3) A health care facility (or any part thereof) with respect to
19 which an exemption was granted under subsection (1) of this section may
20 not be sold or leased and a controlling interest in such facility or in
21 a lease of such facility may not be acquired and a health care facility
22 described in (1)(c) which was granted an exemption under subsection (1)
23 of this section may not be used by any person other than the lessee
24 described in (1)(c) unless:

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

27 (b) The department determines, upon application, that (i) the
28 entity to which the facility is proposed to be sold or leased, which
29 intends to acquire the controlling interest, or which intends to use
30 the facility is a health maintenance organization or a combination of
31 health maintenance organizations which meets the requirements of
32 (1)(a)(i), and (ii) with respect to such facility, meets the
33 requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i)
34 and (ii).

35 (4) In the case of a health maintenance organization, an ambulatory
36 care facility, or a health care facility, which ambulatory or health
37 care facility is controlled, directly or indirectly, by a health
38 maintenance organization or a combination of health maintenance

1 organizations, the department may under the program apply its
2 certificate of need requirements to the offering of inpatient tertiary
3 health services to the extent that such offering is not exempt under
4 the provisions of this section or RCW 70.38.105(7).

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

9 (i) Offers services only to contractual members;

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

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

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

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

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

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

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

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

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

3 (c) The sale, lease, acquisition, or use of part or all of a
4 continuing care retirement community nursing home that qualifies for
5 exemption under this subsection shall require prior certificate of need
6 approval to qualify for licensure as a nursing home unless the
7 department determines such sale, lease, acquisition, or use is by a
8 continuing care retirement community that meets the conditions of (a)
9 of this subsection.

10 (6) A rural hospital, as defined by the department, reducing the
11 number of licensed beds to become a rural primary care hospital under
12 the provisions of Part A Title XVIII of the Social Security Act Section
13 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction
14 of beds licensed under chapter 70.41 RCW, increase the number of
15 licensed beds to no more than the previously licensed number without
16 being subject to the provisions of this chapter.

17 (7) A rural health care facility licensed under RCW 70.175.100
18 formerly licensed as a hospital under chapter 70.41 RCW may, within
19 three years of the effective date of the rural health care facility
20 license, apply to the department for a hospital license and not be
21 subject to the requirements of RCW 70.38.105(4)(a) as the construction,
22 development, or other establishment of a new hospital, provided there
23 is no increase in the number of beds previously licensed under chapter
24 70.41 RCW and there is no redistribution in the number of beds used for
25 acute care or long-term care, the rural health care facility has been
26 in continuous operation, and the rural health care facility has not
27 been purchased or leased.

28 (8)(a) A nursing home that voluntarily reduces the number of its
29 licensed beds to provide assisted living, licensed (~~(boarding home)~~)
30 assisted living facility care, adult day care, adult day health,
31 respite care, hospice, outpatient therapy services, congregate meals,
32 home health, or senior wellness clinic, or to reduce to one or two the
33 number of beds per room or to otherwise enhance the quality of life for
34 residents in the nursing home, may convert the original facility or
35 portion of the facility back, and thereby increase the number of
36 nursing home beds to no more than the previously licensed number of
37 nursing home beds without obtaining a certificate of need under this
38 chapter, provided the facility has been in continuous operation and has

1 not been purchased or leased. Any conversion to the original licensed
2 bed capacity, or to any portion thereof, shall comply with the same
3 life and safety code requirements as existed at the time the nursing
4 home voluntarily reduced its licensed beds; unless waivers from such
5 requirements were issued, in which case the converted beds shall
6 reflect the conditions or standards that then existed pursuant to the
7 approved waivers.

8 (b) To convert beds back to nursing home beds under this
9 subsection, the nursing home must:

10 (i) Give notice of its intent to preserve conversion options to the
11 department of health no later than thirty days after the effective date
12 of the license reduction; and

13 (ii) Give notice to the department of health and to the department
14 of social and health services of the intent to convert beds back. If
15 construction is required for the conversion of beds back, the notice of
16 intent to convert beds back must be given, at a minimum, one year prior
17 to the effective date of license modification reflecting the restored
18 beds; otherwise, the notice must be given a minimum of ninety days
19 prior to the effective date of license modification reflecting the
20 restored beds. Prior to any license modification to convert beds back
21 to nursing home beds under this section, the licensee must demonstrate
22 that the nursing home meets the certificate of need exemption
23 requirements of this section.

24 The term "construction," as used in (b)(ii) of this subsection, is
25 limited to those projects that are expected to equal or exceed the
26 expenditure minimum amount, as determined under this chapter.

27 (c) Conversion of beds back under this subsection must be completed
28 no later than four years after the effective date of the license
29 reduction. However, for good cause shown, the four-year period for
30 conversion may be extended by the department of health for one
31 additional four-year period.

32 (d) Nursing home beds that have been voluntarily reduced under this
33 section shall be counted as available nursing home beds for the purpose
34 of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the
35 facility retains the ability to convert them back to nursing home use
36 under the terms of this section.

37 (e) When a building owner has secured an interest in the nursing
38 home beds, which are intended to be voluntarily reduced by the licensee

1 under (a) of this subsection, the applicant shall provide the
2 department with a written statement indicating the building owner's
3 approval of the bed reduction.

4 (9)(a) The department shall not require a certificate of need for
5 a hospice agency if:

6 (i) The hospice agency is designed to serve the unique religious or
7 cultural needs of a religious group or an ethnic minority and commits
8 to furnishing hospice services in a manner specifically aimed at
9 meeting the unique religious or cultural needs of the religious group
10 or ethnic minority;

11 (ii) The hospice agency is operated by an organization that:

12 (A) Operates a facility, or group of facilities, that offers a
13 comprehensive continuum of long-term care services, including, at a
14 minimum, a licensed, medicare-certified nursing home, assisted living,
15 independent living, day health, and various community-based support
16 services, designed to meet the unique social, cultural, and religious
17 needs of a specific cultural and ethnic minority group;

18 (B) Has operated the facility or group of facilities for at least
19 ten continuous years prior to the establishment of the hospice agency;

20 (iii) The hospice agency commits to coordinating with existing
21 hospice programs in its community when appropriate;

22 (iv) The hospice agency has a census of no more than forty
23 patients;

24 (v) The hospice agency commits to obtaining and maintaining
25 medicare certification;

26 (vi) The hospice agency only serves patients located in the same
27 county as the majority of the long-term care services offered by the
28 organization that operates the agency; and

29 (vii) The hospice agency is not sold or transferred to another
30 agency.

31 (b) The department shall include the patient census for an agency
32 exempted under this subsection (9) in its calculations for future
33 certificate of need applications.

34 **Sec. 49.** RCW 70.79.090 and 2009 c 90 s 4 are each amended to read
35 as follows:

36 The following boilers and unfired pressure vessels shall be exempt
37 from the requirements of RCW 70.79.220 and 70.79.240 through 70.79.330:

1 (1) Boilers or unfired pressure vessels located on farms and used
2 solely for agricultural purposes;

3 (2) Unfired pressure vessels that are part of fertilizer applicator
4 rigs designed and used exclusively for fertilization in the conduct of
5 agricultural operations;

6 (3) Steam boilers used exclusively for heating purposes carrying a
7 pressure of not more than fifteen pounds per square inch gauge and
8 which are located in private residences or in apartment houses of less
9 than six families;

10 (4) Hot water heating boilers carrying a pressure of not more than
11 thirty pounds per square inch and which are located in private
12 residences or in apartment houses of less than six families;

13 (5) Approved pressure vessels (hot water heaters, hot water storage
14 tanks, hot water supply boilers, and hot water heating boilers listed
15 by a nationally recognized testing agency), with approved safety
16 devices including a pressure relief valve, with a nominal water
17 containing capacity of one hundred twenty gallons or less having a heat
18 input of two hundred thousand b.t.u.'s per hour or less, at pressure of
19 one hundred sixty pounds per square inch or less, and at temperatures
20 of two hundred ten degrees Fahrenheit or less: PROVIDED, HOWEVER, That
21 such pressure vessels are not installed in schools, child care centers,
22 public and private hospitals, nursing (~~and boarding~~) homes, assisted
23 living facilities, churches, public buildings owned or leased and
24 maintained by the state or any political subdivision thereof, and
25 assembly halls;

26 (6) Unfired pressure vessels containing only water under pressure
27 for domestic supply purposes, including those containing air, the
28 compression of which serves only as a cushion or airlift pumping
29 systems, when located in private residences or in apartment houses of
30 less than six families, or in public water systems as defined in RCW
31 70.119.020;

32 (7) Unfired pressure vessels containing liquified petroleum gases.

33 **Sec. 50.** RCW 70.87.305 and 2004 c 66 s 3 are each amended to read
34 as follows:

35 (1) The department shall, by rule, establish licensing requirements
36 for conveyance work performed on private residence conveyances. These
37 rules shall include an exemption from licensing for maintenance work on

1 private residence conveyances performed by an owner or at the direction
2 of the owner, provided the owner resides in the residence at which the
3 conveyance is located and the conveyance is not accessible to the
4 general public. However, maintenance work performed on private
5 residence conveyances located in or at adult family homes licensed
6 under chapter 70.128 RCW, (~~boarding homes~~) assisted living facilities
7 licensed under chapter 18.20 RCW, or similarly licensed caregiving
8 facilities must comply with the licensing requirements of this chapter.

9 (2) The rules adopted under this section take effect July 1, 2004.

10 **Sec. 51.** RCW 70.97.060 and 2005 c 504 s 408 are each amended to
11 read as follows:

12 (1)(a) The department shall not license an enhanced services
13 facility that serves any residents under sixty-five years of age for a
14 capacity to exceed sixteen residents.

15 (b) The department may contract for services for the operation of
16 enhanced services facilities only to the extent that funds are
17 specifically provided for that purpose.

18 (2) The facility shall provide an appropriate level of security for
19 the characteristics, behaviors, and legal status of the residents.

20 (3) An enhanced services facility may hold only one license but, to
21 the extent permitted under state and federal law and medicaid
22 requirements, a facility may be located in the same building as another
23 licensed facility, provided that:

24 (a) The enhanced services facility is in a location that is totally
25 separate and discrete from the other licensed facility; and

26 (b) The two facilities maintain separate staffing, unless an
27 exception to this is permitted by the department in rule.

28 (4) Nursing homes under chapter 18.51 RCW, (~~boarding homes~~)
29 assisted living facilities under chapter 18.20 RCW, or adult family
30 homes under chapter 70.128 RCW, that become licensed as facilities
31 under this chapter shall be deemed to meet the applicable state and
32 local rules, regulations, permits, and code requirements. All other
33 facilities are required to meet all applicable state and local rules,
34 regulations, permits, and code requirements.

35 **Sec. 52.** RCW 70.97.090 and 2005 c 504 s 411 are each amended to
36 read as follows:

1 This chapter does not apply to the following residential
2 facilities:

- 3 (1) Nursing homes licensed under chapter 18.51 RCW;
- 4 (2) (~~Boarding homes~~) Assisted living facilities licensed under
5 chapter 18.20 RCW;
- 6 (3) Adult family homes licensed under chapter 70.128 RCW;
- 7 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 8 (5) Residential treatment facilities licensed under chapter 71.12
9 RCW; and
- 10 (6) Hospitals licensed under chapter 70.41 RCW.

11 **Sec. 53.** RCW 70.122.020 and 1992 c 98 s 2 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions
14 contained in this section shall apply throughout this chapter.

15 (1) "Adult person" means a person who has attained the age of
16 majority as defined in RCW 26.28.010 and 26.28.015, and who has the
17 capacity to make health care decisions.

18 (2) "Attending physician" means the physician selected by, or
19 assigned to, the patient who has primary responsibility for the
20 treatment and care of the patient.

21 (3) "Directive" means a written document voluntarily executed by
22 the declarer generally consistent with the guidelines of RCW
23 70.122.030.

24 (4) "Health facility" means a hospital as defined in RCW
25 70.41.020(~~(+2)~~) (4) or a nursing home as defined in RCW 18.51.010, a
26 home health agency or hospice agency as defined in RCW 70.126.010, or
27 (~~a boarding home~~) an assisted living facility as defined in RCW
28 18.20.020.

29 (5) "Life-sustaining treatment" means any medical or surgical
30 intervention that uses mechanical or other artificial means, including
31 artificially provided nutrition and hydration, to sustain, restore, or
32 replace a vital function, which, when applied to a qualified patient,
33 would serve only to prolong the process of dying. "Life-sustaining
34 treatment" shall not include the administration of medication or the
35 performance of any medical or surgical intervention deemed necessary
36 solely to alleviate pain.

1 (6) "Permanent unconscious condition" means an incurable and
2 irreversible condition in which the patient is medically assessed
3 within reasonable medical judgment as having no reasonable probability
4 of recovery from an irreversible coma or a persistent vegetative state.

5 (7) "Physician" means a person licensed under chapters 18.71 or
6 18.57 RCW.

7 (8) "Qualified patient" means an adult person who is a patient
8 diagnosed in writing to have a terminal condition by the patient's
9 attending physician, who has personally examined the patient, or a
10 patient who is diagnosed in writing to be in a permanent unconscious
11 condition in accordance with accepted medical standards by two
12 physicians, one of whom is the patient's attending physician, and both
13 of whom have personally examined the patient.

14 (9) "Terminal condition" means an incurable and irreversible
15 condition caused by injury, disease, or illness, that, within
16 reasonable medical judgment, will cause death within a reasonable
17 period of time in accordance with accepted medical standards, and where
18 the application of life-sustaining treatment serves only to prolong the
19 process of dying.

20 **Sec. 54.** RCW 70.127.040 and 2011 c 366 s 6 are each amended to
21 read as follows:

22 The following are not subject to regulation for the purposes of
23 this chapter:

24 (1) A family member providing home health, hospice, or home care
25 services;

26 (2) A person who provides only meal services in an individual's
27 permanent or temporary residence;

28 (3) An individual providing home care through a direct agreement
29 with a recipient of care in an individual's permanent or temporary
30 residence;

31 (4) A person furnishing or delivering home medical supplies or
32 equipment that does not involve the provision of services beyond those
33 necessary to deliver, set up, and monitor the proper functioning of the
34 equipment and educate the user on its proper use;

35 (5) A person who provides services through a contract with a
36 licensed agency;

- 1 (6) An employee or volunteer of a licensed agency who provides
2 services only as an employee or volunteer;
- 3 (7) Facilities and institutions, including but not limited to
4 nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41
5 RCW, adult family homes under chapter 70.128 RCW, (~~boarding homes~~)
6 assisted living facilities under chapter 18.20 RCW, developmental
7 disability residential programs under chapter 71A.12 RCW, other
8 entities licensed under chapter 71.12 RCW, or other licensed facilities
9 and institutions, only when providing services to persons residing
10 within the facility or institution;
- 11 (8) Local and combined city-county health departments providing
12 services under chapters 70.05 and 70.08 RCW;
- 13 (9) An individual providing care to ill individuals, individuals
14 with disabilities, or vulnerable individuals through a contract with
15 the department of social and health services;
- 16 (10) Nursing homes, hospitals, or other institutions, agencies,
17 organizations, or persons that contract with licensed home health,
18 hospice, or home care agencies for the delivery of services;
- 19 (11) In-home assessments of an ill individual, an individual with
20 a disability, or a vulnerable individual that does not result in
21 regular ongoing care at home;
- 22 (12) Services conducted by and for the adherents of a church or
23 religious denomination that rely upon spiritual means alone through
24 prayer for healing in accordance with the tenets and practices of such
25 church or religious denomination and the bona fide religious beliefs
26 genuinely held by such adherents;
- 27 (13) A medicare-approved dialysis center operating a medicare-
28 approved home dialysis program;
- 29 (14) A person providing case management services. For the purposes
30 of this subsection, "case management" means the assessment,
31 coordination, authorization, planning, training, and monitoring of home
32 health, hospice, and home care, and does not include the direct
33 provision of care to an individual;
- 34 (15) Pharmacies licensed under RCW 18.64.043 that deliver
35 prescription drugs and durable medical equipment that does not involve
36 the use of professional services beyond those authorized to be
37 performed by licensed pharmacists pursuant to chapter 18.64 RCW and

1 those necessary to set up and monitor the proper functioning of the
2 equipment and educate the person on its proper use;

3 (16) A volunteer hospice complying with the requirements of RCW
4 70.127.050;

5 (17) A person who provides home care services without compensation;
6 and

7 (18) Nursing homes that provide telephone or web-based transitional
8 care management services.

9 **Sec. 55.** RCW 70.128.030 and 1989 c 427 s 17 are each amended to
10 read as follows:

11 The following residential facilities shall be exempt from the
12 operation of this chapter:

- 13 (1) Nursing homes licensed under chapter 18.51 RCW;
- 14 (2) (~~Boarding homes~~) Assisted living facilities licensed under
15 chapter 18.20 RCW;
- 16 (3) Facilities approved and certified under chapter 71A.22 RCW;
- 17 (4) Residential treatment centers for (~~the mentally ill~~)
18 individuals with mental illness licensed under chapter 71.24 RCW;
- 19 (5) Hospitals licensed under chapter 70.41 RCW;
- 20 (6) Homes for (~~the developmentally disabled~~) individuals with
21 developmental disabilities licensed under chapter 74.15 RCW.

22 **Sec. 56.** RCW 70.128.210 and 1998 c 272 s 3 are each amended to
23 read as follows:

24 (1) The department of social and health services shall review, in
25 coordination with the department of health, the nursing care quality
26 assurance commission, adult family home providers, (~~boarding home~~)
27 assisted living facility providers, in-home personal care providers,
28 and long-term care consumers and advocates, training standards for
29 providers, resident managers, and resident caregiving staff. The
30 departments and the commission shall submit to the appropriate
31 committees of the house of representatives and the senate by December
32 1, 1998, specific recommendations on training standards and the
33 delivery system, including necessary statutory changes and funding
34 requirements. Any proposed enhancements shall be consistent with this
35 section, shall take into account and not duplicate other training
36 requirements applicable to adult family homes and staff, and shall be

1 developed with the input of adult family home and resident
2 representatives, health care professionals, and other vested interest
3 groups. Training standards and the delivery system shall be relevant
4 to the needs of residents served by the adult family home and
5 recipients of long-term in-home personal care services and shall be
6 sufficient to ensure that providers, resident managers, and caregiving
7 staff have the skills and knowledge necessary to provide high quality,
8 appropriate care.

9 (2) The recommendations on training standards and the delivery
10 system developed under subsection (1) of this section shall be based on
11 a review and consideration of the following: Quality of care;
12 availability of training; affordability, including the training costs
13 incurred by the department of social and health services and private
14 providers; portability of existing training requirements; competency
15 testing; practical and clinical course work; methods of delivery of
16 training; standards for management; uniform caregiving staff training;
17 necessary enhancements for special needs populations; and resident
18 rights training. Residents with special needs include, but are not
19 limited to, residents with a diagnosis of mental illness, dementia, or
20 developmental disability. Development of training recommendations for
21 developmental disabilities services shall be coordinated with the study
22 requirements in section 6, chapter 272, Laws of 1998.

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

28 **Sec. 57.** RCW 70.129.005 and 1994 c 214 s 1 are each amended to
29 read as follows:

30 The legislature recognizes that long-term care facilities are a
31 critical part of the state's long-term care services system. It is the
32 intent of the legislature that individuals who reside in long-term care
33 facilities receive appropriate services, be treated with courtesy, and
34 continue to enjoy their basic civil and legal rights.

35 It is also the intent of the legislature that long-term care
36 facility residents have the opportunity to exercise reasonable control
37 over life decisions. The legislature finds that choice, participation,

1 privacy, and the opportunity to engage in religious, political, civic,
2 recreational, and other social activities foster a sense of self-worth
3 and enhance the quality of life for long-term care residents.

4 The legislature finds that the public interest would be best served
5 by providing the same basic resident rights in all long-term care
6 settings. Residents in nursing facilities are guaranteed certain
7 rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R.
8 part 483. It is the intent of the legislature to extend those basic
9 rights to residents in veterans' homes, (~~boarding-homes~~) assisted
10 living facilities, and adult family homes.

11 The legislature intends that a facility should care for its
12 residents in a manner and in an environment that promotes maintenance
13 or enhancement of each resident's quality of life. A resident should
14 have a safe, clean, comfortable, and homelike environment, allowing the
15 resident to use his or her personal belongings to the extent possible.

16 **Sec. 58.** RCW 70.129.160 and 1998 c 245 s 113 are each amended to
17 read as follows:

18 The long-term care ombudsman shall monitor implementation of this
19 chapter and determine the degree to which veterans' homes, nursing
20 facilities, adult family homes, and (~~boarding-homes~~) assisted living
21 facilities ensure that residents are able to exercise their rights.
22 The long-term care ombudsman shall consult with the departments of
23 health and social and health services, long-term care facility
24 organizations, resident groups, (~~and~~) senior (~~and disabled~~) citizen
25 organizations, and organizations concerning individuals with
26 disabilities.

27 **Sec. 59.** RCW 71.24.025 and 2008 c 261 s 2 are each amended to read
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

31 (1) "Acutely mentally ill" means a condition which is limited to a
32 short-term severe crisis episode of:

33 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
34 of a child, as defined in RCW 71.34.020;

35 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the

1 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
2 or

3 (c) Presenting a likelihood of serious harm as defined in RCW
4 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

5 (2) "Available resources" means funds appropriated for the purpose
6 of providing community mental health programs, federal funds, except
7 those provided according to Title XIX of the Social Security Act, and
8 state funds appropriated under this chapter or chapter 71.05 RCW by the
9 legislature during any biennium for the purpose of providing
10 residential services, resource management services, community support
11 services, and other mental health services. This does not include
12 funds appropriated for the purpose of operating and administering the
13 state psychiatric hospitals.

14 (3) "Child" means a person under the age of eighteen years.

15 (4) "Chronically mentally ill adult" or "adult who is chronically
16 mentally ill" means an adult who has a mental disorder and meets at
17 least one of the following criteria:

18 (a) Has undergone two or more episodes of hospital care for a
19 mental disorder within the preceding two years; or

20 (b) Has experienced a continuous psychiatric hospitalization or
21 residential treatment exceeding six months' duration within the
22 preceding year; or

23 (c) Has been unable to engage in any substantial gainful activity
24 by reason of any mental disorder which has lasted for a continuous
25 period of not less than twelve months. "Substantial gainful activity"
26 shall be defined by the department by rule consistent with Public Law
27 92-603, as amended.

28 (5) "Clubhouse" means a community-based program that provides
29 rehabilitation services and is certified by the department of social
30 and health services.

31 (6) "Community mental health program" means all mental health
32 services, activities, or programs using available resources.

33 (7) "Community mental health service delivery system" means public
34 or private agencies that provide services specifically to persons with
35 mental disorders as defined under RCW 71.05.020 and receive funding
36 from public sources.

37 (8) "Community support services" means services authorized,
38 planned, and coordinated through resource management services

1 including, at a minimum, assessment, diagnosis, emergency crisis
2 intervention available twenty-four hours, seven days a week,
3 prescreening determinations for persons who are mentally ill being
4 considered for placement in nursing homes as required by federal law,
5 screening for patients being considered for admission to residential
6 services, diagnosis and treatment for children who are acutely mentally
7 ill or severely emotionally disturbed discovered under screening
8 through the federal Title XIX early and periodic screening, diagnosis,
9 and treatment program, investigation, legal, and other nonresidential
10 services under chapter 71.05 RCW, case management services, psychiatric
11 treatment including medication supervision, counseling, psychotherapy,
12 assuring transfer of relevant patient information between service
13 providers, recovery services, and other services determined by regional
14 support networks.

15 (9) "Consensus-based" means a program or practice that has general
16 support among treatment providers and experts, based on experience or
17 professional literature, and may have anecdotal or case study support,
18 or that is agreed but not possible to perform studies with random
19 assignment and controlled groups.

20 (10) "County authority" means the board of county commissioners,
21 county council, or county executive having authority to establish a
22 community mental health program, or two or more of the county
23 authorities specified in this subsection which have entered into an
24 agreement to provide a community mental health program.

25 (11) "Department" means the department of social and health
26 services.

27 (12) "Designated mental health professional" means a mental health
28 professional designated by the county or other authority authorized in
29 rule to perform the duties specified in this chapter.

30 (13) "Emerging best practice" or "promising practice" means a
31 practice that presents, based on preliminary information, potential for
32 becoming a research-based or consensus-based practice.

33 (14) "Evidence-based" means a program or practice that has had
34 multiple site random controlled trials across heterogeneous populations
35 demonstrating that the program or practice is effective for the
36 population.

37 (15) "Licensed service provider" means an entity licensed according
38 to this chapter or chapter 71.05 RCW or an entity deemed to meet state

1 minimum standards as a result of accreditation by a recognized
2 behavioral health accrediting body recognized and having a current
3 agreement with the department, that meets state minimum standards or
4 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
5 applies to registered nurses and advanced registered nurse
6 practitioners.

7 (16) "Long-term inpatient care" means inpatient services for
8 persons committed for, or voluntarily receiving intensive treatment
9 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-
10 term inpatient care" as used in this chapter does not include: (a)
11 Services for individuals committed under chapter 71.05 RCW who are
12 receiving services pursuant to a conditional release or a court-ordered
13 less restrictive alternative to detention; or (b) services for
14 individuals voluntarily receiving less restrictive alternative
15 treatment on the grounds of the state hospital.

16 (17) "Mental health services" means all services provided by
17 regional support networks and other services provided by the state for
18 persons who are mentally ill.

19 (18) "Mentally ill persons," "persons who are mentally ill," and
20 "the mentally ill" mean persons and conditions defined in subsections
21 (1), (4), (27), and (28) of this section.

22 (19) "Recovery" means the process in which people are able to live,
23 work, learn, and participate fully in their communities.

24 (20) "Regional support network" means a county authority or group
25 of county authorities or other entity recognized by the secretary in
26 contract in a defined region.

27 (21) "Registration records" include all the records of the
28 department, regional support networks, treatment facilities, and other
29 persons providing services to the department, county departments, or
30 facilities which identify persons who are receiving or who at any time
31 have received services for mental illness.

32 (22) "Research-based" means a program or practice that has some
33 research demonstrating effectiveness, but that does not yet meet the
34 standard of evidence-based practices.

35 (23) "Residential services" means a complete range of residences
36 and supports authorized by resource management services and which may
37 involve a facility, a distinct part thereof, or services which support
38 community living, for persons who are acutely mentally ill, adults who

1 are chronically mentally ill, children who are severely emotionally
2 disturbed, or adults who are seriously disturbed and determined by the
3 regional support network to be at risk of becoming acutely or
4 chronically mentally ill. The services shall include at least
5 evaluation and treatment services as defined in chapter 71.05 RCW,
6 acute crisis respite care, long-term adaptive and rehabilitative care,
7 and supervised and supported living services, and shall also include
8 any residential services developed to service persons who are mentally
9 ill in nursing homes, (~~boarding homes~~) assisted living facilities,
10 and adult family homes, and may include outpatient services provided as
11 an element in a package of services in a supported housing model.
12 Residential services for children in out-of-home placements related to
13 their mental disorder shall not include the costs of food and shelter,
14 except for children's long-term residential facilities existing prior
15 to January 1, 1991.

16 (24) "Resilience" means the personal and community qualities that
17 enable individuals to rebound from adversity, trauma, tragedy, threats,
18 or other stresses, and to live productive lives.

19 (25) "Resource management services" mean the planning,
20 coordination, and authorization of residential services and community
21 support services administered pursuant to an individual service plan
22 for: (a) Adults and children who are acutely mentally ill; (b) adults
23 who are chronically mentally ill; (c) children who are severely
24 emotionally disturbed; or (d) adults who are seriously disturbed and
25 determined solely by a regional support network to be at risk of
26 becoming acutely or chronically mentally ill. Such planning,
27 coordination, and authorization shall include mental health screening
28 for children eligible under the federal Title XIX early and periodic
29 screening, diagnosis, and treatment program. Resource management
30 services include seven day a week, twenty-four hour a day availability
31 of information regarding enrollment of adults and children who are
32 mentally ill in services and their individual service plan to
33 designated mental health professionals, evaluation and treatment
34 facilities, and others as determined by the regional support network.

35 (26) "Secretary" means the secretary of social and health services.

36 (27) "Seriously disturbed person" means a person who:

37 (a) Is gravely disabled or presents a likelihood of serious harm to

1 himself or herself or others, or to the property of others, as a result
2 of a mental disorder as defined in chapter 71.05 RCW;

3 (b) Has been on conditional release status, or under a less
4 restrictive alternative order, at some time during the preceding two
5 years from an evaluation and treatment facility or a state mental
6 health hospital;

7 (c) Has a mental disorder which causes major impairment in several
8 areas of daily living;

9 (d) Exhibits suicidal preoccupation or attempts; or

10 (e) Is a child diagnosed by a mental health professional, as
11 defined in chapter 71.34 RCW, as experiencing a mental disorder which
12 is clearly interfering with the child's functioning in family or school
13 or with peers or is clearly interfering with the child's personality
14 development and learning.

15 (28) "Severely emotionally disturbed child" or "child who is
16 severely emotionally disturbed" means a child who has been determined
17 by the regional support network to be experiencing a mental disorder as
18 defined in chapter 71.34 RCW, including those mental disorders that
19 result in a behavioral or conduct disorder, that is clearly interfering
20 with the child's functioning in family or school or with peers and who
21 meets at least one of the following criteria:

22 (a) Has undergone inpatient treatment or placement outside of the
23 home related to a mental disorder within the last two years;

24 (b) Has undergone involuntary treatment under chapter 71.34 RCW
25 within the last two years;

26 (c) Is currently served by at least one of the following child-
27 serving systems: Juvenile justice, child-protection/welfare, special
28 education, or developmental disabilities;

29 (d) Is at risk of escalating maladjustment due to:

30 (i) Chronic family dysfunction involving a caretaker who is
31 mentally ill or inadequate;

32 (ii) Changes in custodial adult;

33 (iii) Going to, residing in, or returning from any placement
34 outside of the home, for example, psychiatric hospital, short-term
35 inpatient, residential treatment, group or foster home, or a
36 correctional facility;

37 (iv) Subject to repeated physical abuse or neglect;

38 (v) Drug or alcohol abuse; or

1 (vi) Homelessness.

2 (29) "State minimum standards" means minimum requirements
3 established by rules adopted by the secretary and necessary to
4 implement this chapter for: (a) Delivery of mental health services;
5 (b) licensed service providers for the provision of mental health
6 services; (c) residential services; and (d) community support services
7 and resource management services.

8 (30) "Treatment records" include registration and all other records
9 concerning persons who are receiving or who at any time have received
10 services for mental illness, which are maintained by the department, by
11 regional support networks and their staffs, and by treatment
12 facilities. Treatment records do not include notes or records
13 maintained for personal use by a person providing treatment services
14 for the department, regional support networks, or a treatment facility
15 if the notes or records are not available to others.

16 (31) "Tribal authority," for the purposes of this section and RCW
17 71.24.300 only, means: The federally recognized Indian tribes and the
18 major Indian organizations recognized by the secretary insofar as these
19 organizations do not have a financial relationship with any regional
20 support network that would present a conflict of interest.

21 **Sec. 60.** RCW 74.09.120 and 2011 1st sp.s. c 15 s 9 are each
22 amended to read as follows:

23 (1) The department shall purchase nursing home care by contract and
24 payment for the care shall be in accordance with the provisions of
25 chapter 74.46 RCW and rules adopted by the department. No payment
26 shall be made to a nursing home which does not permit inspection by the
27 authority and the department of every part of its premises and an
28 examination of all records, including financial records, methods of
29 administration, general and special dietary programs, the disbursement
30 of drugs and methods of supply, and any other records the authority or
31 the department deems relevant to the regulation of nursing home
32 operations, enforcement of standards for resident care, and payment for
33 nursing home services.

34 (2) The department may purchase nursing home care by contract in
35 veterans' homes operated by the state department of veterans affairs
36 and payment for the care shall be in accordance with the provisions of

1 chapter 74.46 RCW and rules adopted by the department under the
2 authority of RCW 74.46.800.

3 (3) The department may purchase care in institutions for persons
4 with intellectual disabilities, also known as intermediate care
5 facilities for persons with intellectual disabilities. The department
6 shall establish rules for reasonable accounting and reimbursement
7 systems for such care. Institutions for persons with intellectual
8 disabilities include licensed nursing homes, public institutions,
9 licensed (~~boarding-homes~~) assisted living facilities with fifteen
10 beds or less, and hospital facilities certified as intermediate care
11 facilities for persons with intellectual disabilities under the federal
12 medicaid program to provide health, habilitative, or rehabilitative
13 services and twenty-four hour supervision for persons with intellectual
14 disabilities or related conditions and includes in the program "active
15 treatment" as federally defined.

16 (4) The department may purchase care in institutions for mental
17 diseases by contract. The department shall establish rules for
18 reasonable accounting and reimbursement systems for such care.
19 Institutions for mental diseases are certified under the federal
20 medicaid program and primarily engaged in providing diagnosis,
21 treatment, or care to persons with mental diseases, including medical
22 attention, nursing care, and related services.

23 (5) Both the department and the authority may each purchase all
24 other services provided under this chapter by contract or at rates
25 established by the department or the authority respectively.

26 **Sec. 61.** RCW 74.15.020 and 2009 c 520 s 13 are each amended to
27 read as follows:

28 (~~For the purpose of~~) The definitions in this section apply
29 throughout this chapter and RCW 74.13.031(~~, and~~) unless the context
30 clearly requires otherwise (~~clearly indicated by the context thereof,~~
31 ~~the following terms shall mean:~~).

32 (1) "Agency" means any person, firm, partnership, association,
33 corporation, or facility which receives children, expectant mothers, or
34 persons with developmental disabilities for control, care, or
35 maintenance outside their own homes, or which places, arranges the
36 placement of, or assists in the placement of children, expectant
37 mothers, or persons with developmental disabilities for foster care or

1 placement of children for adoption, and shall include the following
2 irrespective of whether there is compensation to the agency or to the
3 children, expectant mothers or persons with developmental disabilities
4 for services rendered:

5 (a) "Child-placing agency" means an agency which places a child or
6 children for temporary care, continued care, or for adoption;

7 (b) "Community facility" means a group care facility operated for
8 the care of juveniles committed to the department under RCW 13.40.185.
9 A county detention facility that houses juveniles committed to the
10 department under RCW 13.40.185 pursuant to a contract with the
11 department is not a community facility;

12 (c) "Crisis residential center" means an agency which is a
13 temporary protective residential facility operated to perform the
14 duties specified in chapter 13.32A RCW, in the manner provided in RCW
15 74.13.032 through 74.13.036;

16 (d) "Emergency respite center" is an agency that may be commonly
17 known as a crisis nursery, that provides emergency and crisis care for
18 up to seventy-two hours to children who have been admitted by their
19 parents or guardians to prevent abuse or neglect. Emergency respite
20 centers may operate for up to twenty-four hours a day, and for up to
21 seven days a week. Emergency respite centers may provide care for
22 children ages birth through seventeen, and for persons eighteen through
23 twenty with developmental disabilities who are admitted with a sibling
24 or siblings through age seventeen. Emergency respite centers may not
25 substitute for crisis residential centers or HOPE centers, or any other
26 services defined under this section, and may not substitute for
27 services which are required under chapter 13.32A or 13.34 RCW;

28 (e) "Foster-family home" means an agency which regularly provides
29 care on a twenty-four hour basis to one or more children, expectant
30 mothers, or persons with developmental disabilities in the family abode
31 of the person or persons under whose direct care and supervision the
32 child, expectant mother, or person with a developmental disability is
33 placed;

34 (f) "Group-care facility" means an agency, other than a foster-
35 family home, which is maintained and operated for the care of a group
36 of children on a twenty-four hour basis;

37 (g) "HOPE center" means an agency licensed by the secretary to
38 provide temporary residential placement and other services to street

1 youth. A street youth may remain in a HOPE center for thirty days
2 while services are arranged and permanent placement is coordinated. No
3 street youth may stay longer than thirty days unless approved by the
4 department and any additional days approved by the department must be
5 based on the unavailability of a long-term placement option. A street
6 youth whose parent wants him or her returned to home may remain in a
7 HOPE center until his or her parent arranges return of the youth, not
8 longer. All other street youth must have court approval under chapter
9 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

10 (h) "Maternity service" means an agency which provides or arranges
11 for care or services to expectant mothers, before or during
12 confinement, or which provides care as needed to mothers and their
13 infants after confinement;

14 (i) "Responsible living skills program" means an agency licensed by
15 the secretary that provides residential and transitional living
16 services to persons ages sixteen to eighteen who are dependent under
17 chapter 13.34 RCW and who have been unable to live in his or her
18 legally authorized residence and, as a result, the minor lived outdoors
19 or in another unsafe location not intended for occupancy by the minor.
20 Dependent minors ages fourteen and fifteen may be eligible if no other
21 placement alternative is available and the department approves the
22 placement;

23 (j) "Service provider" means the entity that operates a community
24 facility.

25 (2) "Agency" shall not include the following:

26 (a) Persons related to the child, expectant mother, or person with
27 developmental disability in the following ways:

28 (i) Any blood relative, including those of half-blood, and
29 including first cousins, second cousins, nephews or nieces, and persons
30 of preceding generations as denoted by prefixes of grand, great, or
31 great-great;

32 (ii) Stepfather, stepmother, stepbrother, and stepsister;

33 (iii) A person who legally adopts a child or the child's parent as
34 well as the natural and other legally adopted children of such persons,
35 and other relatives of the adoptive parents in accordance with state
36 law;

37 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
38 subsection (2)(a), even after the marriage is terminated;

1 (v) Relatives, as named in (i), (ii), (iii), or (iv) of this
2 subsection (2)(a), of any half sibling of the child; or

3 (vi) Extended family members, as defined by the law or custom of
4 the Indian child's tribe or, in the absence of such law or custom, a
5 person who has reached the age of eighteen and who is the Indian
6 child's grandparent, aunt or uncle, brother or sister, brother-in-law
7 or sister-in-law, niece or nephew, first or second cousin, or
8 stepparent who provides care in the family abode on a twenty-four-hour
9 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

10 (b) Persons who are legal guardians of the child, expectant mother,
11 or persons with developmental disabilities;

12 (c) Persons who care for a neighbor's or friend's child or
13 children, with or without compensation, where the parent and person
14 providing care on a twenty-four-hour basis have agreed to the placement
15 in writing and the state is not providing any payment for the care;

16 (d) A person, partnership, corporation, or other entity that
17 provides placement or similar services to exchange students or
18 international student exchange visitors or persons who have the care of
19 an exchange student in their home;

20 (e) A person, partnership, corporation, or other entity that
21 provides placement or similar services to international children who
22 have entered the country by obtaining visas that meet the criteria for
23 medical care as established by the United States citizenship and
24 immigration services, or persons who have the care of such an
25 international child in their home;

26 (f) Schools, including boarding schools, which are engaged
27 primarily in education, operate on a definite school year schedule,
28 follow a stated academic curriculum, accept only school-age children
29 and do not accept custody of children;

30 (g) Hospitals licensed pursuant to chapter 70.41 RCW when
31 performing functions defined in chapter 70.41 RCW, nursing homes
32 licensed under chapter 18.51 RCW and (~~boarding homes~~) assisted living
33 facilities licensed under chapter 18.20 RCW;

34 (h) Licensed physicians or lawyers;

35 (i) Facilities approved and certified under chapter 71A.22 RCW;

36 (j) Any agency having been in operation in this state ten years
37 prior to June 8, 1967, and not seeking or accepting moneys or

1 assistance from any state or federal agency, and is supported in part
2 by an endowment or trust fund;

3 (k) Persons who have a child in their home for purposes of
4 adoption, if the child was placed in such home by a licensed child-
5 placing agency, an authorized public or tribal agency or court or if a
6 replacement report has been filed under chapter 26.33 RCW and the
7 placement has been approved by the court;

8 (l) An agency operated by any unit of local, state, or federal
9 government or an agency licensed by an Indian tribe pursuant to RCW
10 74.15.190;

11 (m) A maximum or medium security program for juvenile offenders
12 operated by or under contract with the department;

13 (n) An agency located on a federal military reservation, except
14 where the military authorities request that such agency be subject to
15 the licensing requirements of this chapter.

16 (3) "Department" means the state department of social and health
17 services.

18 (4) "Juvenile" means a person under the age of twenty-one who has
19 been sentenced to a term of confinement under the supervision of the
20 department under RCW 13.40.185.

21 (5) "Performance-based contracts" or "contracting" means the
22 structuring of all aspects of the procurement of services around the
23 purpose of the work to be performed and the desired results with the
24 contract requirements set forth in clear, specific, and objective terms
25 with measurable outcomes. Contracts may also include provisions that
26 link the performance of the contractor to the level and timing of the
27 reimbursement.

28 (6) "Probationary license" means a license issued as a disciplinary
29 measure to an agency that has previously been issued a full license but
30 is out of compliance with licensing standards.

31 (7) "Requirement" means any rule, regulation, or standard of care
32 to be maintained by an agency.

33 (8) "Secretary" means the secretary of social and health services.

34 (9) "Street youth" means a person under the age of eighteen who
35 lives outdoors or in another unsafe location not intended for occupancy
36 by the minor and who is not residing with his or her parent or at his
37 or her legally authorized residence.

1 (10) "Supervising agency" means an agency licensed by the state
2 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has
3 entered into a performance-based contract with the department to
4 provide child welfare services.

5 (11) "Transitional living services" means at a minimum, to the
6 extent funds are available, the following:

7 (a) Educational services, including basic literacy and
8 computational skills training, either in local alternative or public
9 high schools or in a high school equivalency program that leads to
10 obtaining a high school equivalency degree;

11 (b) Assistance and counseling related to obtaining vocational
12 training or higher education, job readiness, job search assistance, and
13 placement programs;

14 (c) Counseling and instruction in life skills such as money
15 management, home management, consumer skills, parenting, health care,
16 access to community resources, and transportation and housing options;

17 (d) Individual and group counseling; and

18 (e) Establishing networks with federal agencies and state and local
19 organizations such as the United States department of labor, employment
20 and training administration programs including the workforce investment
21 act which administers private industry councils and the job corps;
22 vocational rehabilitation; and volunteer programs.

23 **Sec. 62.** RCW 74.34.020 and 2011 c 170 s 1 and 2011 c 89 s 18 are
24 each reenacted and amended to read as follows:

25 (~~Unless the context clearly requires otherwise,~~) The definitions
26 in this section apply throughout this chapter unless the context
27 clearly requires otherwise.

28 (1) "Abandonment" means action or inaction by a person or entity
29 with a duty of care for a vulnerable adult that leaves the vulnerable
30 person without the means or ability to obtain necessary food, clothing,
31 shelter, or health care.

32 (2) "Abuse" means the willful action or inaction that inflicts
33 injury, unreasonable confinement, intimidation, or punishment on a
34 vulnerable adult. In instances of abuse of a vulnerable adult who is
35 unable to express or demonstrate physical harm, pain, or mental
36 anguish, the abuse is presumed to cause physical harm, pain, or mental

1 anguish. Abuse includes sexual abuse, mental abuse, physical abuse,
2 and exploitation of a vulnerable adult, which have the following
3 meanings:

4 (a) "Sexual abuse" means any form of nonconsensual sexual contact,
5 including but not limited to unwanted or inappropriate touching, rape,
6 sodomy, sexual coercion, sexually explicit photographing, and sexual
7 harassment. Sexual abuse includes any sexual contact between a staff
8 person, who is not also a resident or client, of a facility or a staff
9 person of a program authorized under chapter 71A.12 RCW, and a
10 vulnerable adult living in that facility or receiving service from a
11 program authorized under chapter 71A.12 RCW, whether or not it is
12 consensual.

13 (b) "Physical abuse" means the willful action of inflicting bodily
14 injury or physical mistreatment. Physical abuse includes, but is not
15 limited to, striking with or without an object, slapping, pinching,
16 choking, kicking, shoving, prodding, or the use of chemical restraints
17 or physical restraints unless the restraints are consistent with
18 licensing requirements, and includes restraints that are otherwise
19 being used inappropriately.

20 (c) "Mental abuse" means any willful action or inaction of mental
21 or verbal abuse. Mental abuse includes, but is not limited to,
22 coercion, harassment, inappropriately isolating a vulnerable adult from
23 family, friends, or regular activity, and verbal assault that includes
24 ridiculing, intimidating, yelling, or swearing.

25 (d) "Exploitation" means an act of forcing, compelling, or exerting
26 undue influence over a vulnerable adult causing the vulnerable adult to
27 act in a way that is inconsistent with relevant past behavior, or
28 causing the vulnerable adult to perform services for the benefit of
29 another.

30 (3) "Consent" means express written consent granted after the
31 vulnerable adult or his or her legal representative has been fully
32 informed of the nature of the services to be offered and that the
33 receipt of services is voluntary.

34 (4) "Department" means the department of social and health
35 services.

36 (5) "Facility" means a residence licensed or required to be
37 licensed under chapter 18.20 RCW, (~~boarding homes~~) assisted living
38 facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult

1 family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20
2 RCW, residential habilitation centers; or any other facility licensed
3 or certified by the department.

4 (6) "Financial exploitation" means the illegal or improper use,
5 control over, or withholding of the property, income, resources, or
6 trust funds of the vulnerable adult by any person or entity for any
7 person's or entity's profit or advantage other than for the vulnerable
8 adult's profit or advantage. "Financial exploitation" includes, but is
9 not limited to:

10 (a) The use of deception, intimidation, or undue influence by a
11 person or entity in a position of trust and confidence with a
12 vulnerable adult to obtain or use the property, income, resources, or
13 trust funds of the vulnerable adult for the benefit of a person or
14 entity other than the vulnerable adult;

15 (b) The breach of a fiduciary duty, including, but not limited to,
16 the misuse of a power of attorney, trust, or a guardianship
17 appointment, that results in the unauthorized appropriation, sale, or
18 transfer of the property, income, resources, or trust funds of the
19 vulnerable adult for the benefit of a person or entity other than the
20 vulnerable adult; or

21 (c) Obtaining or using a vulnerable adult's property, income,
22 resources, or trust funds without lawful authority, by a person or
23 entity who knows or clearly should know that the vulnerable adult lacks
24 the capacity to consent to the release or use of his or her property,
25 income, resources, or trust funds.

26 (7) "Financial institution" has the same meaning as in RCW
27 30.22.040 and 30.22.041. For purposes of this chapter only, "financial
28 institution" also means a "broker-dealer" or "investment adviser" as
29 defined in RCW 21.20.005.

30 (8) "Incapacitated person" means a person who is at a significant
31 risk of personal or financial harm under RCW 11.88.010(1) (a), (b),
32 (c), or (d).

33 (9) "Individual provider" means a person under contract with the
34 department to provide services in the home under chapter 74.09 or
35 74.39A RCW.

36 (10) "Interested person" means a person who demonstrates to the
37 court's satisfaction that the person is interested in the welfare of
38 the vulnerable adult, that the person has a good faith belief that the

1 court's intervention is necessary, and that the vulnerable adult is
2 unable, due to incapacity, undue influence, or duress at the time the
3 petition is filed, to protect his or her own interests.

4 (11) "Mandated reporter" is an employee of the department; law
5 enforcement officer; social worker; professional school personnel;
6 individual provider; an employee of a facility; an operator of a
7 facility; an employee of a social service, welfare, mental health,
8 adult day health, adult day care, home health, home care, or hospice
9 agency; county coroner or medical examiner; Christian Science
10 practitioner; or health care provider subject to chapter 18.130 RCW.

11 (12) "Neglect" means (a) a pattern of conduct or inaction by a
12 person or entity with a duty of care that fails to provide the goods
13 and services that maintain physical or mental health of a vulnerable
14 adult, or that fails to avoid or prevent physical or mental harm or
15 pain to a vulnerable adult; or (b) an act or omission that demonstrates
16 a serious disregard of consequences of such a magnitude as to
17 constitute a clear and present danger to the vulnerable adult's health,
18 welfare, or safety, including but not limited to conduct prohibited
19 under RCW 9A.42.100.

20 (13) "Permissive reporter" means any person, including, but not
21 limited to, an employee of a financial institution, attorney, or
22 volunteer in a facility or program providing services for vulnerable
23 adults.

24 (14) "Protective services" means any services provided by the
25 department to a vulnerable adult with the consent of the vulnerable
26 adult, or the legal representative of the vulnerable adult, who has
27 been abandoned, abused, financially exploited, neglected, or in a state
28 of self-neglect. These services may include, but are not limited to
29 case management, social casework, home care, placement, arranging for
30 medical evaluations, psychological evaluations, day care, or referral
31 for legal assistance.

32 (15) "Self-neglect" means the failure of a vulnerable adult, not
33 living in a facility, to provide for himself or herself the goods and
34 services necessary for the vulnerable adult's physical or mental
35 health, and the absence of which impairs or threatens the vulnerable
36 adult's well-being. This definition may include a vulnerable adult who
37 is receiving services through home health, hospice, or a home care

1 agency, or an individual provider when the neglect is not a result of
2 inaction by that agency or individual provider.

3 (16) "Social worker" means:

4 (a) A social worker as defined in RCW 18.320.010(2); or

5 (b) Anyone engaged in a professional capacity during the regular
6 course of employment in encouraging or promoting the health, welfare,
7 support, or education of vulnerable adults, or providing social
8 services to vulnerable adults, whether in an individual capacity or as
9 an employee or agent of any public or private organization or
10 institution.

11 (17) "Vulnerable adult" includes a person:

12 (a) Sixty years of age or older who has the functional, mental, or
13 physical inability to care for himself or herself; or

14 (b) Found incapacitated under chapter 11.88 RCW; or

15 (c) Who has a developmental disability as defined under RCW
16 71A.10.020; or

17 (d) Admitted to any facility; or

18 (e) Receiving services from home health, hospice, or home care
19 agencies licensed or required to be licensed under chapter 70.127 RCW;
20 or

21 (f) Receiving services from an individual provider; or

22 (g) Who self-directs his or her own care and receives services from
23 a personal aide under chapter 74.39 RCW.

24 **Sec. 63.** RCW 74.39A.009 and 2009 c 580 s 1 are each amended to
25 read as follows:

26 (~~Unless the context clearly requires otherwise,~~) The definitions
27 in this section apply throughout this chapter unless the context
28 clearly requires otherwise.

29 (1) "Adult family home" means a home licensed under chapter 70.128
30 RCW.

31 (2) "Adult residential care" means services provided by ((a
32 ~~boarding-home~~)) an assisted living facility that is licensed under
33 chapter 18.20 RCW and that has a contract with the department under RCW
34 74.39A.020 to provide personal care services.

35 (3) "Assisted living services" means services provided by ((a
36 ~~boarding-home~~)) an assisted living facility that has a contract with

1 the department under RCW 74.39A.010 to provide personal care services,
2 intermittent nursing services, and medication administration services,
3 and the resident is housed in a private apartment-like unit.

4 (4) "~~((Boarding home))~~ Assisted living facility" means a facility
5 licensed under chapter 18.20 RCW.

6 (5) "Core competencies" means basic training topics, including but
7 not limited to, communication skills, worker self-care, problem
8 solving, maintaining dignity, consumer directed care, cultural
9 sensitivity, body mechanics, fall prevention, skin and body care, long-
10 term care worker roles and boundaries, supporting activities of daily
11 living, and food preparation and handling.

12 (6) "Cost-effective care" means care provided in a setting of an
13 individual's choice that is necessary to promote the most appropriate
14 level of physical, mental, and psychosocial well-being consistent with
15 client choice, in an environment that is appropriate to the care and
16 safety needs of the individual, and such care cannot be provided at a
17 lower cost in any other setting. But this in no way precludes an
18 individual from choosing a different residential setting to achieve his
19 or her desired quality of life.

20 (7) "Department" means the department of social and health
21 services.

22 (8) "Developmental disability" has the same meaning as defined in
23 RCW 71A.10.020.

24 (9) "Direct care worker" means a paid caregiver who provides
25 direct, hands-on personal care services to persons with disabilities or
26 the elderly requiring long-term care.

27 (10) "Enhanced adult residential care" means services provided by
28 ~~((a boarding home))~~ an assisted living facility that is licensed under
29 chapter 18.20 RCW and that has a contract with the department under RCW
30 74.39A.010 to provide personal care services, intermittent nursing
31 services, and medication administration services.

32 (11) "Functionally disabled person" or "person who is functionally
33 disabled" is synonymous with chronic functionally disabled and means a
34 person who because of a recognized chronic physical or mental condition
35 or disease, or developmental disability, including chemical dependency,
36 is impaired to the extent of being dependent upon others for direct
37 care, support, supervision, or monitoring to perform activities of
38 daily living. "Activities of daily living", in this context, means

1 self-care abilities related to personal care such as bathing, eating,
2 using the toilet, dressing, and transfer. Instrumental activities of
3 daily living may also be used to assess a person's functional abilities
4 as they are related to the mental capacity to perform activities in the
5 home and the community such as cooking, shopping, house cleaning, doing
6 laundry, working, and managing personal finances.

7 (12) "Home and community services" means adult family homes, in-
8 home services, and other services administered or provided by contract
9 by the department directly or through contract with area agencies on
10 aging or similar services provided by facilities and agencies licensed
11 by the department.

12 (13) "Home care aide" means a long-term care worker who has
13 obtained certification as a home care aide by the department of health.

14 (14) "Individual provider" is defined according to RCW 74.39A.240.

15 (15) "Long-term care" is synonymous with chronic care and means
16 care and supports delivered indefinitely, intermittently, or over a
17 sustained time to persons of any age disabled by chronic mental or
18 physical illness, disease, chemical dependency, or a medical condition
19 that is permanent, not reversible or curable, or is long-lasting and
20 severely limits their mental or physical capacity for self-care. The
21 use of this definition is not intended to expand the scope of services,
22 care, or assistance by any individuals, groups, residential care
23 settings, or professions unless otherwise expressed by law.

24 (16)(a) "Long-term care workers for the elderly or persons with
25 disabilities" or "long-term care workers" includes all persons who are
26 long-term care workers for the elderly or persons with disabilities,
27 including but not limited to individual providers of home care
28 services, direct care employees of home care agencies, providers of
29 home care services to persons with developmental disabilities under
30 Title 71 RCW, all direct care workers in state-licensed (~~boarding~~
31 ~~homes,~~) assisted living facilities, and adult family homes, respite
32 care providers, community residential service providers, and any other
33 direct care worker providing home or community-based services to the
34 elderly or persons with functional disabilities or developmental
35 disabilities.

36 (b) "Long-term care workers" do not include: (i) Persons employed
37 by the following facilities or agencies: Nursing homes subject to
38 chapter 18.51 RCW, hospitals or other acute care settings, residential

1 habilitation centers under chapter 71A.20 RCW, facilities certified
2 under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127
3 RCW, adult day care centers, and adult day health care centers; or (ii)
4 persons who are not paid by the state or by a private agency or
5 facility licensed by the state to provide personal care services.

6 (17) "Nursing home" means a facility licensed under chapter 18.51
7 RCW.

8 (18) "Personal care services" means physical or verbal assistance
9 with activities of daily living and instrumental activities of daily
10 living provided because of a person's functional disability.

11 (19) "Population specific competencies" means basic training topics
12 unique to the care needs of the population the long-term care worker is
13 serving, including but not limited to, mental health, dementia,
14 developmental disabilities, young adults with physical disabilities,
15 and older adults.

16 (20) "Qualified instructor" means a registered nurse or other
17 person with specific knowledge, training, and work experience in the
18 provision of direct, hands-on personal care and other assistance
19 services to the elderly or persons with disabilities requiring
20 long-term care.

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

22 (22) "Secretary of health" means the secretary of health or the
23 secretary's designee.

24 (23) "Training partnership" means a joint partnership or trust that
25 includes the office of the governor and the exclusive bargaining
26 representative of individual providers under RCW 74.39A.270 with the
27 capacity to provide training, peer mentoring, and workforce
28 development, or other services to individual providers.

29 (24) "Tribally licensed (~~(boarding home)~~) assisted living facility"
30 means (~~(a boarding home)~~) an assisted living facility licensed by a
31 federally recognized Indian tribe in which (~~(home)~~) a facility provides
32 services similar to (~~(boarding homes)~~) assisted living facilities
33 licensed under chapter 18.20 RCW.

34 **Sec. 64.** RCW 74.39A.010 and 1995 1st sp.s. c 18 s 14 are each
35 amended to read as follows:

36 (1) To the extent of available funding, the department of social
37 and health services may contract with licensed (~~(boarding homes)~~)

1 assisted living facilities under chapter 18.20 RCW and tribally
2 licensed (~~(boarding homes)~~) assisted living facilities for assisted
3 living services and enhanced adult residential care. The department
4 shall develop rules for facilities that contract with the department
5 for assisted living services or enhanced adult residential care to
6 establish:

7 (a) Facility service standards consistent with the principles in
8 RCW (~~(74.39A.050)~~) 74.39A.051 and consistent with chapter 70.129 RCW;

9 (b) Standards for resident living areas consistent with RCW
10 74.39A.030;

11 (c) Training requirements for providers and their staff.

12 (2) The department's rules shall provide that services in assisted
13 living and enhanced adult residential care:

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

15 (b) Include, but not be limited to, personal care, nursing
16 services, medication administration, and supportive services that
17 promote independence and self-sufficiency;

18 (c) Are of sufficient scope to assure that each resident who
19 chooses to remain in the assisted living or enhanced adult residential
20 care may do so, to the extent that the care provided continues to be
21 cost-effective and safe and promote the most appropriate level of
22 physical, mental, and psychosocial well-being consistent with client
23 choice;

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

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

29 (3) When a facility contracts with the department for assisted
30 living services or enhanced adult residential care, only services and
31 facility standards that are provided to or in behalf of the assisted
32 living services or enhanced adult residential care client shall be
33 subject to the department's rules.

34 **Sec. 65.** RCW 74.39A.020 and 2004 c 142 s 15 are each amended to
35 read as follows:

36 (1) To the extent of available funding, the department of social
37 and health services may contract for adult residential care.

1 (2) The department shall, by rule, develop terms and conditions for
2 facilities that contract with the department for adult residential care
3 to establish:

4 (a) Facility service standards consistent with the principles in
5 RCW ((74.39A.050)) 74.39A.051 and consistent with chapter 70.129 RCW;
6 and

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

8 (3) The department shall, by rule, provide that services in adult
9 residential care facilities:

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

11 (b) Include personal care and other services that promote
12 independence and self-sufficiency and aging in place;

13 (c) Are directed first to those persons most likely, in the absence
14 of adult residential care services, to need hospital, nursing facility,
15 or other out-of-home placement; and

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

18 (4) When a facility contracts with the department for adult
19 residential care, only services and facility standards that are
20 provided to or in behalf of the adult residential care client shall be
21 subject to the adult residential care rules.

22 (5) To the extent of available funding, the department may also
23 contract under this section with a tribally licensed ((boarding home))
24 assisted living facility for the provision of services of the same
25 nature as the services provided by adult residential care facilities.
26 The provisions of subsections (2)(a) and (b) and (3)(a) through (d) of
27 this section apply to such a contract.

28 **Sec. 66.** RCW 74.39A.030 and 2002 c 3 s 10 are each amended to read
29 as follows:

30 (1) To the extent of available funding, the department shall expand
31 cost-effective options for home and community services for consumers
32 for whom the state participates in the cost of their care.

33 (2) In expanding home and community services, the department shall:

34 (a) Take full advantage of federal funding available under Title XVIII
35 and Title XIX of the federal social security act, including home
36 health, adult day care, waiver options, and state plan services; and

37 (b) be authorized to use funds available under its community options

1 program entry system waiver granted under section 1915(c) of the
2 federal social security act to expand the availability of in-home,
3 adult residential care, adult family homes, enhanced adult residential
4 care, and assisted living services. By June 30, 1997, the department
5 shall undertake to reduce the nursing home medicaid census by at least
6 one thousand six hundred by assisting individuals who would otherwise
7 require nursing facility services to obtain services of their choice,
8 including assisted living services, enhanced adult residential care,
9 and other home and community services. If a resident, or his or her
10 legal representative, objects to a discharge decision initiated by the
11 department, the resident shall not be discharged if the resident has
12 been assessed and determined to require nursing facility services. In
13 contracting with nursing homes and (~~boarding homes~~) assisted living
14 facilities for enhanced adult residential care placements, the
15 department shall not require, by contract or through other means,
16 structural modifications to existing building construction.

17 (3)(a) The department shall by rule establish payment rates for
18 home and community services that support the provision of cost-
19 effective care. In the event of any conflict between any such rule and
20 a collective bargaining agreement entered into under RCW 74.39A.270 and
21 74.39A.300, the collective bargaining agreement prevails.

22 (b) The department may authorize an enhanced adult residential care
23 rate for nursing homes that temporarily or permanently convert their
24 bed use for the purpose of providing enhanced adult residential care
25 under chapter 70.38 RCW, when the department determines that payment of
26 an enhanced rate is cost-effective and necessary to foster expansion of
27 contracted enhanced adult residential care services. As an incentive
28 for nursing homes to permanently convert a portion of its nursing home
29 bed capacity for the purpose of providing enhanced adult residential
30 care, the department may authorize a supplemental add-on to the
31 enhanced adult residential care rate.

32 (c) The department may authorize a supplemental assisted living
33 services rate for up to four years for facilities that convert from
34 nursing home use and do not retain rights to the converted nursing home
35 beds under chapter 70.38 RCW, if the department determines that payment
36 of a supplemental rate is cost-effective and necessary to foster
37 expansion of contracted assisted living services.

1 **Sec. 67.** RCW 74.39A.320 and 2006 c 260 s 1 are each amended to
2 read as follows:

3 (1) To the extent funds are appropriated for this purpose, the
4 department shall establish a capital add-on rate, not less than the
5 July 1, 2005, capital add-on rate established by the department, for
6 those assisted living facilities contracting with the department that
7 have a medicaid occupancy percentage of sixty percent or greater.

8 (2) Effective for July 1, 2006, and for each July 1st rate-setting
9 period thereafter, the department shall determine the facility's
10 medicaid occupancy percentage using the last six months' medicaid
11 resident days from the preceding calendar year divided by the product
12 of all its licensed (~~(boarding-home)~~) assisted living facility beds
13 irrespective of use, times calendar days for the six-month period. For
14 the purposes of this section, medicaid resident days include those
15 clients who are enrolled in a medicaid managed long-term care program,
16 including but not limited to the program for all inclusive care and the
17 medicaid integration project.

18 (3) The medicaid occupancy percentage established beginning on July
19 1, 2006, and for each July 1st thereafter, shall be used to determine
20 whether an assisted living facility qualifies for the capital add-on
21 rate under this section. Those facilities that qualify for the capital
22 add-on rate shall receive the capital add-on rate throughout the
23 applicable fiscal year.

24 **Sec. 68.** RCW 74.41.040 and 2008 c 146 s 2 are each amended to read
25 as follows:

26 The department shall administer this chapter and shall establish
27 such rules and standards as the department deems necessary in carrying
28 out this chapter. The department shall not require the development of
29 plans of care or discharge plans by nursing homes or adult family homes
30 providing respite care service under this chapter. (~~(Boarding-homes)~~)
31 Assisted living facilities providing respite care services shall comply
32 with the assessment and plan of care provisions of RCW 18.20.350.

33 The department shall develop standards for the respite program in
34 conjunction with the selected area agencies on aging. The program
35 standards shall serve as the basis for soliciting bids, entering into
36 subcontracts, and developing sliding fee scales to be used in

1 determining the ability of eligible participants to participate in
2 paying for respite care.

3 **Sec. 69.** RCW 74.42.055 and 2004 c 34 s 1 are each amended to read
4 as follows:

5 (1) The purpose of this section is to prohibit discrimination
6 against medicaid recipients by nursing homes which have contracted with
7 the department to provide skilled or intermediate nursing care services
8 to medicaid recipients.

9 (2) A nursing facility shall readmit a resident, who has been
10 hospitalized or on therapeutic leave, immediately to the first
11 available bed in a semiprivate room if the resident:

12 (a) Requires the services provided by the facility; and

13 (b) Is eligible for medicaid nursing facility services.

14 (3) It shall be unlawful for any nursing home which has a medicaid
15 contract with the department:

16 (a) To require, as a condition of admission, assurance from the
17 patient or any other person that the patient is not eligible for or
18 will not apply for medicaid;

19 (b) To deny or delay admission or readmission of a person to a
20 nursing home because of his or her status as a medicaid recipient;

21 (c) To transfer a patient, except from a private room to another
22 room within the nursing home, because of his or her status as a
23 medicaid recipient;

24 (d) To transfer a patient to another nursing home because of his or
25 her status as a medicaid recipient;

26 (e) To discharge a patient from a nursing home because of his or
27 her status as a medicaid recipient; or

28 (f) To charge any amounts in excess of the medicaid rate from the
29 date of eligibility, except for any supplementation permitted by the
30 department pursuant to RCW 18.51.070.

31 (4) Any nursing home which has a medicaid contract with the
32 department shall maintain one list of names of persons seeking
33 admission to the facility, which is ordered by the date of request for
34 admission. This information shall be retained for one year from the
35 month admission was requested. However, except as provided in
36 subsection (2) of this section, a nursing facility is permitted to give
37 preferential admission to individuals who seek admission from ((a

1 ~~boarding-home~~) an assisted living facility, licensed under chapter
2 18.20 RCW, or from independent retirement housing, provided the nursing
3 facility is owned by the same entity that owns the (~~boarding-home~~)
4 assisted living facility or independent housing which are located
5 within the same proximate geographic area; and provided further, the
6 purpose of such preferential admission is to allow continued provision
7 of: (a) Culturally or faith-based services, or (b) services provided
8 by a continuing care retirement community as defined in RCW 70.38.025.

9 (5) The department may assess monetary penalties of a civil nature,
10 not to exceed three thousand dollars for each violation of this
11 section.

12 (6) Because it is a matter of great public importance to protect
13 senior citizens who need medicaid services from discriminatory
14 treatment in obtaining long-term health care, any violation of this
15 section shall be construed for purposes of the application of the
16 consumer protection act, chapter 19.86 RCW, to constitute an unfair or
17 deceptive act or practice or unfair method of competition in the
18 conduct of trade or commerce.

19 (7) It is not an act of discrimination under this chapter to refuse
20 to admit a patient if admitting that patient would prevent the needs of
21 the other patients residing in that facility from being met at that
22 facility, or if the facility's refusal is consistent with subsection
23 (4) of this section.

24 **Sec. 70.** RCW 82.04.2908 and 2005 c 514 s 302 are each amended to
25 read as follows:

26 (1) Upon every person engaging within this state in the business of
27 providing room and domiciliary care to residents of (~~a boarding-home~~)
28 an assisted living facility licensed under chapter 18.20 RCW, the
29 amount of tax with respect to such business shall be equal to the gross
30 income of the business, multiplied by the rate of 0.275 percent.

31 (2) For the purposes of this section, "domiciliary care" has the
32 meaning provided in RCW 18.20.020.

33 **Sec. 71.** RCW 82.04.4264 and 2005 c 514 s 301 are each amended to
34 read as follows:

35 (1) This chapter does not apply to amounts received by a nonprofit

1 ((~~boarding home~~)) assisted living facility licensed under chapter 18.20
2 RCW for providing room and domiciliary care to residents of the
3 ((~~boarding home~~)) assisted living facility.

4 (2) As used in this section:

5 (a) "Domiciliary care" has the meaning provided in RCW 18.20.020.

6 (b) "Nonprofit ((~~boarding home~~)) assisted living facility" means
7 ((~~a boarding home~~)) an assisted living facility that is operated as a
8 religious or charitable organization, is exempt from federal income tax
9 under 26 U.S.C. Sec. 501(c)(3), is incorporated under chapter 24.03
10 RCW, is operated as part of a nonprofit hospital, or is operated as
11 part of a public hospital district.

12 **Sec. 72.** RCW 82.04.4337 and 2004 c 174 s 7 are each amended to
13 read as follows:

14 (1) ((~~A boarding home~~)) An assisted living facility licensed under
15 chapter 18.20 RCW may deduct from the measure of tax amounts received
16 as compensation for providing adult residential care, enhanced adult
17 residential care, or assisted living services under contract with the
18 department of social and health services authorized by chapter 74.39A
19 RCW to residents who are medicaid recipients.

20 (2) For purposes of this section, "adult residential care,"
21 "enhanced adult residential care," and "assisted living services" have
22 the same meaning as in RCW 74.39A.009.

23 **Sec. 73.** RCW 84.36.381 and 2011 c 174 s 105 are each amended to
24 read as follows:

25 A person is exempt from any legal obligation to pay all or a
26 portion of the amount of excess and regular real property taxes due and
27 payable in the year following the year in which a claim is filed, and
28 thereafter, in accordance with the following:

29 (1) The property taxes must have been imposed upon a residence
30 which was occupied by the person claiming the exemption as a principal
31 place of residence as of the time of filing. However, any person who
32 sells, transfers, or is displaced from his or her residence may
33 transfer his or her exemption status to a replacement residence, but no
34 claimant may receive an exemption on more than one residence in any
35 year. Moreover, confinement of the person to a hospital, nursing home,

1 ((~~boarding home~~)) assisted living facility, or adult family home does
2 not disqualify the claim of exemption if:

3 (a) The residence is temporarily unoccupied;

4 (b) The residence is occupied by a spouse or a domestic partner
5 and/or a person financially dependent on the claimant for support; or

6 (c) The residence is rented for the purpose of paying nursing home,
7 hospital, ((~~boarding home~~)) assisted living facility, or adult family
8 home costs;

9 (2) The person claiming the exemption must have owned, at the time
10 of filing, in fee, as a life estate, or by contract purchase, the
11 residence on which the property taxes have been imposed or if the
12 person claiming the exemption lives in a cooperative housing
13 association, corporation, or partnership, such person must own a share
14 therein representing the unit or portion of the structure in which he
15 or she resides. For purposes of this subsection, a residence owned by
16 a marital community or state registered domestic partnership or owned
17 by cotenants is deemed to be owned by each spouse or each domestic
18 partner or each cotenant, and any lease for life is deemed a life
19 estate;

20 (3)(a) The person claiming the exemption must be:

21 (i) Sixty-one years of age or older on December 31st of the year in
22 which the exemption claim is filed, or must have been, at the time of
23 filing, retired from regular gainful employment by reason of
24 disability; or

25 (ii) A veteran of the armed forces of the United States entitled to
26 and receiving compensation from the United States department of
27 veterans affairs at a total disability rating for a service-connected
28 disability.

29 (b) However, any surviving spouse or surviving domestic partner of
30 a person who was receiving an exemption at the time of the person's
31 death will qualify if the surviving spouse or surviving domestic
32 partner is fifty-seven years of age or older and otherwise meets the
33 requirements of this section;

34 (4) The amount that the person is exempt from an obligation to pay
35 is calculated on the basis of combined disposable income, as defined in
36 RCW 84.36.383. If the person claiming the exemption was retired for
37 two months or more of the assessment year, the combined disposable
38 income of such person must be calculated by multiplying the average

1 monthly combined disposable income of such person during the months
2 such person was retired by twelve. If the income of the person
3 claiming exemption is reduced for two or more months of the assessment
4 year by reason of the death of the person's spouse or the person's
5 domestic partner, or when other substantial changes occur in disposable
6 income that are likely to continue for an indefinite period of time,
7 the combined disposable income of such person must be calculated by
8 multiplying the average monthly combined disposable income of such
9 person after such occurrences by twelve. If it is necessary to
10 estimate income to comply with this subsection, the assessor may
11 require confirming documentation of such income prior to May 31 of the
12 year following application;

13 (5)(a) A person who otherwise qualifies under this section and has
14 a combined disposable income of thirty-five thousand dollars or less is
15 exempt from all excess property taxes; and

16 (b)(i) A person who otherwise qualifies under this section and has
17 a combined disposable income of thirty thousand dollars or less but
18 greater than twenty-five thousand dollars is exempt from all regular
19 property taxes on the greater of fifty thousand dollars or thirty-five
20 percent of the valuation of his or her residence, but not to exceed
21 seventy thousand dollars of the valuation of his or her residence; or

22 (ii) A person who otherwise qualifies under this section and has a
23 combined disposable income of twenty-five thousand dollars or less is
24 exempt from all regular property taxes on the greater of sixty thousand
25 dollars or sixty percent of the valuation of his or her residence;

26 (6)(a) For a person who otherwise qualifies under this section and
27 has a combined disposable income of thirty-five thousand dollars or
28 less, the valuation of the residence is the assessed value of the
29 residence on the later of January 1, 1995, or January 1st of the
30 assessment year the person first qualifies under this section. If the
31 person subsequently fails to qualify under this section only for one
32 year because of high income, this same valuation must be used upon
33 requalification. If the person fails to qualify for more than one year
34 in succession because of high income or fails to qualify for any other
35 reason, the valuation upon requalification is the assessed value on
36 January 1st of the assessment year in which the person requalifies. If
37 the person transfers the exemption under this section to a different

1 residence, the valuation of the different residence is the assessed
2 value of the different residence on January 1st of the assessment year
3 in which the person transfers the exemption.

4 (b) In no event may the valuation under this subsection be greater
5 than the true and fair value of the residence on January 1st of the
6 assessment year.

7 (c) This subsection does not apply to subsequent improvements to
8 the property in the year in which the improvements are made.
9 Subsequent improvements to the property must be added to the value
10 otherwise determined under this subsection at their true and fair value
11 in the year in which they are made.

12 **Sec. 74.** RCW 84.36.383 and 2010 c 106 s 307 are each amended to
13 read as follows:

14 As used in RCW 84.36.381 through 84.36.389, except where the
15 context clearly indicates a different meaning:

16 (1) The term "residence" means a single family dwelling unit
17 whether such unit be separate or part of a multiunit dwelling,
18 including the land on which such dwelling stands not to exceed one
19 acre, except that a residence includes any additional property up to a
20 total of five acres that comprises the residential parcel if this
21 larger parcel size is required under land use regulations. The term
22 also includes a share ownership in a cooperative housing association,
23 corporation, or partnership if the person claiming exemption can
24 establish that his or her share represents the specific unit or portion
25 of such structure in which he or she resides. The term also includes
26 a single family dwelling situated upon lands the fee of which is vested
27 in the United States or any instrumentality thereof including an Indian
28 tribe or in the state of Washington, and notwithstanding the provisions
29 of RCW 84.04.080 and 84.04.090, such a residence is deemed real
30 property.

31 (2) The term "real property" also includes a mobile home which has
32 substantially lost its identity as a mobile unit by virtue of its being
33 fixed in location upon land owned or leased by the owner of the mobile
34 home and placed on a foundation (posts or blocks) with fixed pipe,
35 connections with sewer, water, or other utilities. A mobile home
36 located on land leased by the owner of the mobile home is subject, for

1 tax billing, payment, and collection purposes, only to the personal
2 property provisions of chapter 84.56 RCW and RCW 84.60.040.

3 (3) "Department" means the state department of revenue.

4 (4) "Combined disposable income" means the disposable income of the
5 person claiming the exemption, plus the disposable income of his or her
6 spouse or domestic partner, and the disposable income of each cotenant
7 occupying the residence for the assessment year, less amounts paid by
8 the person claiming the exemption or his or her spouse or domestic
9 partner during the assessment year for:

10 (a) Drugs supplied by prescription of a medical practitioner
11 authorized by the laws of this state or another jurisdiction to issue
12 prescriptions;

13 (b) The treatment or care of either person received in the home or
14 in a nursing home, (~~(boarding home)~~) assisted living facility, or adult
15 family home; and

16 (c) Health care insurance premiums for medicare under Title XVIII
17 of the social security act.

18 (5) "Disposable income" means adjusted gross income as defined in
19 the federal internal revenue code, as amended prior to January 1, 1989,
20 or such subsequent date as the director may provide by rule consistent
21 with the purpose of this section, plus all of the following items to
22 the extent they are not included in or have been deducted from adjusted
23 gross income:

24 (a) Capital gains, other than gain excluded from income under
25 section 121 of the federal internal revenue code to the extent it is
26 reinvested in a new principal residence;

27 (b) Amounts deducted for loss;

28 (c) Amounts deducted for depreciation;

29 (d) Pension and annuity receipts;

30 (e) Military pay and benefits other than attendant-care and
31 medical-aid payments;

32 (f) Veterans benefits, other than:

33 (i) Attendant-care payments;

34 (ii) Medical-aid payments;

35 (iii) Disability compensation, as defined in Title 38, part 3,
36 section 3.4 of the code of federal regulations, as of January 1, 2008;
37 and

1 (iv) Dependency and indemnity compensation, as defined in Title 38,
2 part 3, section 3.5 of the code of federal regulations, as of January
3 1, 2008;

4 (g) Federal social security act and railroad retirement benefits;
5 (h) Dividend receipts; and
6 (i) Interest received on state and municipal bonds.

7 (6) "Cotenant" means a person who resides with the person claiming
8 the exemption and who has an ownership interest in the residence.

9 (7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.
10 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent
11 date as the department may provide by rule consistent with the purpose
12 of this section.

13 NEW_SECTION. **Sec. 75.** All department of social and health
14 services rules that apply to licensed boarding homes on the effective
15 date of this section continue in effect and apply to licensed assisted
16 living facilities, as defined in RCW 18.20.020.

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