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**HOUSE BILL 2263**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Stonier, Harris, Alvarado, and Tharinger

AN ACT Relating to assisted living facilities delivering permanent supportive housing services; amending RCW 18.20.020, 18.20.030, 18.20.300, 18.20.310, 18.20.330, 18.20.320, 18.20.350, 18.20.360, 74.39A.009, and 74.39A.032; reenacting and amending RCW 36.70A.030; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature recognizes that older adults in need of long-term services and supports are impacted by the housing affordability and homelessness crisis. Particularly, but not exclusively, adults over the age of 65 with fixed, lower incomes and behavioral health and other underlying medical issues are at greatest risk for serious health consequences if housing situations become unstable. Recognizing the interplay between health and housing, the legislature intends to facilitate the incorporation of additional support services within certain existing long-term care settings to provide a harmonious blend of both long-term care assistance and permanent supportive housing within the same facility. This strategic approach aims to:

(1) Encourage the delivery of holistic care that considers both clinical and supportive services essential for improving health outcomes and quality of life for medicaid beneficiaries;

(2) Foster a seamless integration of services that is responsive to the evolving needs of medicaid beneficiaries residing in certain long-term care settings thereby reducing the likelihood of institutionalization and unnecessary hospitalizations; and

(3) Ensure fiscal sustainability by leveraging existing resources, preventing duplicative services, and promoting efficiencies in care coordination.

**Sec.**  RCW 18.20.020 and 2020 c 312 s 726 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Assisted living facility" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care((~~, consistent with chapter 142, Laws of 2004,~~)) and supportive housing services to seven or more residents ((~~after July 1, 2000~~)). However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations ((~~including those subsidized by the department of housing and urban development~~)).

(3) "Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

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

(5) "Domiciliary care" means: Assistance with activities of daily living provided by the assisted living facility either directly or indirectly; or health support services, if provided directly or indirectly by the assisted living facility; or intermittent nursing services, if provided directly or indirectly by the assisted living facility. Domiciliary care does not include costs associated with supportive housing services.

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

(7) "Legal representative" means a person or persons identified in RCW 7.70.065 who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident.

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

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

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

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

(12) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility, if there is no legal representative. The resident's competence shall be determined using the criteria in chapter 11.130 RCW. The resident's representative may not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

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

(14) "Supportive housing services" means permanent supportive services that are provided to clients on the premises of an assisted living facility solely to maintain stable housing of a client and do not duplicate "assisted living services" referenced in RCW 74.39A.009 (4).

**Sec.**  RCW 18.20.030 and 2012 c 10 s 3 are each amended to read as follows:

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

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

(3) Residents receiving domiciliary care or supportive housing services, directly or indirectly by the assisted living facility, are not considered nonresident individuals for the purposes of this section.

(4) An assisted living facility license is required when any person other than an outside service provider, under RCW 18.20.380, or family member:

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

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

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

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

(5) An assisted living facility license is not required for one or more of the following services that may, upon the request of the nonresident, be provided to a nonresident individual: (a) Emergency assistance provided on an intermittent or nonroutine basis; (b) systems, including technology-based monitoring devices, employed by independent senior housing, or independent living units in continuing care retirement communities, to respond to the potential need for emergency services; (c) scheduled and nonscheduled blood pressure checks; (d) nursing assessment services to determine whether referral to an outside health care provider is recommended; (e) making and reminding the nonresident of health care appointments; (f) preadmission assessment for the purposes of transitioning to a licensed care setting; (g) medication assistance which may include reminding or coaching the nonresident, opening the nonresident's medication container, using an enabler, and handing prefilled insulin syringes to the nonresident; (h) falls risk assessment; (i) nutrition management and education services; (j) dental services; (k) wellness programs; (l) prefilling insulin syringes when performed by a nurse licensed under chapter 18.79 RCW; or (m) services customarily provided under landlord-tenant agreements governed by the residential landlord-tenant act, chapter 59.18 RCW.

**Sec.**  RCW 18.20.300 and 2012 c 10 s 19 are each amended to read as follows:

(1) An assisted living facility, licensed under this chapter, may provide domiciliary care services and supportive housing services, as defined in this chapter, and shall disclose the scope of care and services that it chooses to provide.

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

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

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

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

(4) When the care needs of a resident exceed the disclosed scope of care or services that an assisted living facility licensee provides, the licensee may exceed the care or services disclosed consistent with RCW 70.129.030(3) and 70.129.110(3)(a). Providing care or services to a resident that exceed the care and services disclosed may or may not mean that the provider is capable of or required to provide the same care or services to other residents.

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

(6) The disclosure form is intended to assist consumers in selecting assisted living facility services and, therefore, shall not be construed as an implied or express contract between the assisted living facility licensee and the resident.

**Sec.**  RCW 18.20.310 and 2017 c 201 s 1 are each amended to read as follows:

(1) Assisted living facilities are not required to provide assistance with one or more activities of daily living.

(2) If an assisted living facility licensee chooses to provide assistance with activities of daily living, the licensee shall provide at least the minimal level of assistance for all activities of daily living consistent with subsection (3) of this section and consistent with the reasonable accommodation requirements in state or federal laws. "Activities of daily living" means the following self-care activities related to personal care:

(a) Bathing;

(b) Dressing;

(c) Eating;

(d) Personal hygiene;

(e) Transferring;

(f) Toileting;

(g) Ambulation and mobility; and

(h) Medication assistance, as defined in RCW 69.41.010.

(3) The department shall, in rule, define the minimum level of assistance that will be provided for all activities of daily living, however, such rules shall not require more than occasional stand-by assistance or more than occasional physical assistance.

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

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

(6) For the purposes of this section, assistance with activities of daily living does not include costs associated with supportive housing services.

**Sec.**  RCW 18.20.330 and 2012 c 10 s 22 are each amended to read as follows:

(1) Assisted living facilities are not required to provide intermittent nursing services. The assisted living facility licensee may choose to provide any of the following intermittent nursing services through appropriately licensed and credentialed staff, however, the facility may or may not need to provide additional intermittent nursing services to comply with the reasonable accommodation requirements in federal or state law:

(a) Medication administration;

(b) Administration of health care treatments;

(c) Diabetic management;

(d) Nonroutine ostomy care;

(e) Tube feeding; and

(f) Nurse delegation consistent with chapter 18.79 RCW.

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

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

(4) The assisted living facility may provide intermittent nursing services to the extent permitted by RCW 18.20.160.

(5) For the purposes of this section, intermittent nursing services does not include costs associated with supportive housing services.

**Sec.**  RCW 18.20.320 and 2012 c 10 s 21 are each amended to read as follows:

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

(a) Blood glucose testing;

(b) Puree diets;

(c) Calorie controlled diabetic diets;

(d) Dementia care;

(e) Mental health care; and

(f) Developmental disabilities care.

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

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

(4) For the purposes of this section, health support services do not include costs associated with supportive housing services.

**Sec.**  RCW 18.20.350 and 2012 c 10 s 24 are each amended to read as follows:

(1) The assisted living facility licensee shall conduct a preadmission assessment for each resident applicant. The preadmission assessment shall include the following information, unless unavailable despite the best efforts of the licensee:

(a) Medical history;

(b) Necessary and contraindicated medications;

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

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

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

(f) Level of personal care needs;

(g) Level of need for supportive housing services;

(h) Activities and service preferences; and

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

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

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

(4) When a facility provides respite care, before or at the time of admission, the facility must obtain sufficient information to meet the individual's anticipated needs. At a minimum, such information must include:

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

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

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

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

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

**Sec.**  RCW 18.20.360 and 2012 c 10 s 25 are each amended to read as follows:

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

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

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

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

(ii) Any prescribed medications and over-the-counter medications that are commonly taken by the individual and that the individual is able to self-administer when he or she has the assistance of a resident-care staff person; and

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

(c) The individual's nursing needs when the individual requires the services of a nurse on the assisted living facility premises;

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 36.70A.030 and 2023 c 332 s 2 and 2023 c 228 s 14 are each reenacted and amended to read as follows:

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

(1) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.

(2) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(3) "Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.

(4) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(5) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(6) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(7) "City" means any city or town, including a code city.

(8) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(9) "Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(10) "Courtyard apartments" means up to four attached dwelling units arranged on two or three sides of a yard or court.

(11) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(12) "Department" means the department of commerce.

(13) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(14) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(15) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(16) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

(17) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(18) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(19) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(20) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(21) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(22) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

(a) Is accessible to the public;

(b) Promotes physical and mental health of residents;

(c) Provides relief from the urban heat island effects;

(d) Promotes recreational and aesthetic values;

(e) Protects streams or water supply; or

(f) Preserves visual quality along highway, road, or street corridors.

(23) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(24) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(25) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems; or

(d) Stops on bus rapid transit routes.

(26) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

(27) "Minerals" include gravel, sand, and valuable metallic substances.

(28) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(29) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(30) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

(31) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. ((~~Permanent~~)) For the purposes of this subsection, permanent supportive housing includes rooms in assisted living facilities licensed under chapter 18.20 RCW that are occupied by clients receiving supportive housing services defined in RCW 18.20.020 and 74.39A.009. Except for the rooms in assisted living facilities licensed under chapter 18.20 RCW that are occupied by clients receiving supportive housing services defined in RCW 18.20.020 and 74.39A.009, permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(32) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(33) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(34) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(35) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(36) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(37) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems and fire and police protection services associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(38) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(39) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

(40) "Stacked flat" means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

(41) "Townhouses" means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

(42) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

(43) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(44) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(45) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(46) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(47)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations; and

(iii) Populations disproportionately impacted by environmental harms.

(48) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(49) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

**Sec.**  RCW 74.39A.009 and 2022 c 255 s 5 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Assisted living facility" means a facility licensed under chapter 18.20 RCW.

(4) "Assisted living services" means services provided by an assisted living facility that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services; and the facility provides these services to residents who are living in private apartment-like units.

(5) "Community residential service business" means a business that:

(a) Is certified by the department of social and health services to provide to individuals who have a developmental disability as defined in RCW 71A.10.020((~~(5)~~)):

(i) Group home services;

(ii) Group training home services;

(iii) Supported living services; or

(iv) Voluntary placement services provided in a licensed staff residential facility for children;

(b) Has a contract with the developmental disabilities administration to provide the services identified in (a) of this subsection; and

(c) All of the business's long-term care workers are subject to statutory or regulatory training requirements that are required to provide the services identified in (a) of this subsection.

(6) "Consumer" or "client" means a person who is receiving or has applied for services under this chapter, including a person who is receiving services from an individual provider.

(7) "Consumer directed employer" is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout this chapter and include: (a) Coordination with the consumer, who is the individual provider's managing employer; (b) withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers; (c) verifying an individual provider's qualifications; and (d) providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

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

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

(10) "Department" means the department of social and health services.

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

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

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

(14) "Facility" means an adult family home, an assisted living facility, a nursing home, an enhanced services facility licensed under chapter 70.97 RCW, or a facility certified to provide medicare or medicaid services in nursing facilities or intermediate care facilities for individuals with intellectual disabilities under 42 C.F.R. Part 483.

(15) "Home and community-based services" means services provided in adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or federally recognized Indian tribes, or similar services provided by facilities and agencies licensed or certified by the department.

(16) "Home care aide" means a long-term care worker who is certified as a home care aide by the department of health under chapter 18.88B RCW.

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

(18) "Legal employer" means the consumer directed employer, which along with the consumer, coemploys individual providers. The legal employer is responsible for setting wages and benefits for individual providers and must comply with applicable laws including, but not limited to, workers compensation and unemployment insurance laws.

(19) "Long-term care" means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age who are functionally disabled due to chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not curable, or is long-lasting and severely limits their mental or physical capacity for self-care. The use of this definition is not intended to expand the scope of services, care, or assistance provided by any individuals, groups, residential care settings, or professions unless otherwise required by law.

(20)(a) "Long-term care workers" include all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies or a consumer directed employer, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state‑licensed assisted living facilities, enhanced services facilities, and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) "Long-term care workers" do not include: (i) Persons employed by the following facilities or agencies: Nursing homes licensed under chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or (ii) persons who are not paid by the state or by a private agency or facility licensed or certified by the state to provide personal care services.

(21) "Managing employer" means a consumer who coemploys one or more individual providers and whose responsibilities include (a) choosing potential individual providers and referring them to the consumer directed employer; (b) overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care; and (c) dismissing the individual provider when desired.

(22) "Nursing home" or "nursing facility" means a facility licensed under chapter 18.51 RCW or certified as a medicaid nursing facility under 42 C.F.R. Part 483, or both.

(23) "Person who is functionally disabled" means a person who because of a recognized chronic physical or mental condition or disease, including chemical dependency or developmental disability, is dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living," in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances may also be considered when assessing a person's functional ability to perform activities in the home and the community.

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

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

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

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

(28) "Supportive housing services" means permanent supportive services that are provided to clients on the premises of an assisted living facility solely to maintain stable housing of a client and do not duplicate "assisted living services" as defined in subsection (4) of this section.

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

((~~(29)~~)) (30) "Tribally licensed assisted living facility" means an assisted living facility licensed by a federally recognized Indian tribe in which a facility provides services similar to services provided by assisted living facilities licensed under chapter 18.20 RCW.

**Sec.**  RCW 74.39A.032 and 2018 c 225 s 3 are each amended to read as follows:

(1) The department shall establish in rule a new medicaid payment system for contracted assisted living, adult residential care, and enhanced adult residential care. Beginning July 1, 2019, payments for these contracts must be based on the new methodology which must be phased-in to full implementation according to funding made available by the legislature for this purpose. The new payment system must have these components: Client care, operations, ((~~and~~)) room and board, and supportive housing services.

(2) Client care is the labor component of the system and must include variables to recognize the time and intensity of client care and services, staff wages, and associated fringe benefits. The wage variable in the client care component must be adjusted according to service areas based on labor costs. For the purposes of this subsection, client care does not include costs associated with supportive housing services.

(a) The time variable is used to weight the client care payment to client acuity and must be scaled according to the classification levels utilized in the department's assessment tool. The initial system shall establish a variable for time using the residential care time study conducted in 2001 and the department's corresponding estimate of the average staff hours per client by job position.

(b) The wage variable shall include recognition of staff positions needed to perform the functions required by contract, including nursing services. Data used to establish the wage variable must be adjusted so that no baseline wage is below the state minimum in effect at the time of implementation. The wage variable is a blended wage based on the federal bureau of labor statistics wage data and the distribution of time according to staff position. Blended wages are established for each county and then counties are arrayed from highest to lowest. Service areas are established and the median blended wage in each service area becomes the wage variable for all the assigned counties in that service area. The system must have no less than two service areas, one of which shall be a high labor cost service area and shall include counties at or above the ninety-fifth percentile in the array of blended wages.

(c) The fringe benefit variable recognizes employee benefits and payroll taxes. The factor to calculate the percentage of fringe benefits shall be established using the statewide nursing facility cost ratio of benefits and payroll taxes to in-house wages.

(3)(a) The operations component must recognize costs that are allowable under federal medicaid rules for the federal matching percentage. The operations component is calculated at ninety percent or greater of the statewide median nursing facility costs associated with the following:

((~~(a)~~)) (i) Supplies;

((~~(b)~~)) (ii) Nonlabor administrative expenses;

((~~(c)~~)) (iii) Staff education and in-service training; and

((~~(d)~~)) (iv) Operational overhead including licenses, insurance, and business and ((~~occupational [occupation]~~)) occupation taxes.

(b) For the purposes of this subsection, the operations component does not include costs associated with supportive housing services.

(4) The room and board component recognizes costs that do not qualify for federal financial participation under medicaid rules by compensating providers for the medicaid client's share of raw food and shelter costs including expenses related to the physical plant such as property taxes, property and liability insurance, debt service, and major capital repairs. The room and board component is subject to the department's and the Washington state health care authority's rules related to client financial responsibility. If client financial responsibility does not cover the full cost of the room and board component, an assisted living facility may receive supplemental payment for the remainder from other sources including, but not limited to, nonmedicaid state, federal, and local sources.

(5)(a) The supportive housing services component recognizes costs for services that are provided solely to maintain housing stability of a client and supplement but do not duplicate "assisted living services" as defined in RCW 74.39A.009. An assisted living facility may receive payment for the supportive housing services component from a specialty rate enhancement as described in (b) of this subsection. If the specialty rate enhancement is not available or does not cover the full cost of the supported housing services, an assisted living facility may receive supplemental payment for the remainder from other sources including, but not limited to, nonmedicaid state, federal, and local sources.

(b) No later than June 30, 2025, the department shall work with appropriate stakeholders to establish a specialty rate enhancement for contracted assisted living, adult residential care, and enhanced adult residential care providers to compensate providers for costs associated with delivering supportive housing services. The specialty rate enhancement calculation will consider the number of residents in a facility requiring supportive housing services and the costs associated with the delivery of supportive housing services. The department shall adopt rules that determine the data source and transmittal method for the underlying supportive housing service utilization and cost data needed to calculate this rate.

(c) The total amount provided to contracted assisted living providers for the specialty rate enhancement shall not exceed the amount established in the omnibus appropriations act for this specific purpose.

(6) Subsections (2) and (3) of this section establish the rate for medicaid covered services. Subsection (4) of this section establishes the rate for nonmedicaid covered services.

((~~(6)~~)) (7) The rates paid on July 1, 2019, shall be based on data from the 2016 calendar year, except for the time variable under subsection (2)(a) of this section. The client care and operations components must be rebased in even-numbered years. Beginning with rates paid on July 1, 2020, wages, benefits and taxes, and operations costs shall be rebased using 2018 data.

((~~(7)~~)) (8) Beginning July 1, 2020, the room and board component shall be updated annually subject to the department's and the Washington state health care authority's rules related to client financial responsibility.

**--- END ---**