
SUBSTITUTE HOUSE BILL 1908

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Dyer, Cooke, Ballasiotes, Stevens, Elliot, Talcott, Cairnes, Lambert, Pelesky, Hymes, Robertson, Mielke, Carrell, Backlund and L. Thomas)

Read first time 03/06/95.

1 AN ACT Relating to long-term care; amending RCW 74.39.005,
2 74.39.040, 74.39A.010, 70.128.005, 70.128.007, 70.128.010, 70.128.057,
3 70.128.060, 70.128.070, 70.128.120, 70.128.080, 70.128.090, 70.128.130,
4 70.128.140, 70.128.150, 70.128.160, 70.128.175, 43.190.020, 43.190.060,
5 74.08.545, 74.08.550, 74.08.570, 18.51.091, 18.51.140, 18.51.300,
6 11.40.010, 11.42.020, 11.62.010, 11.28.120, 18.39.250, 18.39.255,
7 68.46.050, 70.129.040, 43.20B.080, 74.46.105, 74.46.115, 74.46.640, and
8 74.46.690; reenacting and amending RCW 18.130.040; adding new sections
9 to chapter 74.39A RCW; adding new sections to chapter 70.41 RCW; adding
10 new sections to chapter 70.128 RCW; adding new sections to chapter
11 74.46 RCW; adding a new section to chapter 43.20A RCW; adding a new
12 chapter to Title 18 RCW; creating a new section; recodifying RCW
13 74.08.530, 74.08.560, 74.08.570, 74.08.545, and 74.08.550; repealing
14 RCW 70.128.180 and 74.08.541; prescribing penalties; providing an
15 effective date; and declaring an emergency.

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

17 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.39A RCW
18 to read as follows:

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

3 (1) "Adult family home" means a facility licensed under chapter
4 70.128 RCW.

5 (2) "Adult residential care" means services provided by a boarding
6 home that has a contract with the department under section 11 of this
7 act.

8 (3) "Aging and adult services administration" means the aging and
9 adult services administration of the department.

10 (4) "Assisted living services" means services provided by a
11 boarding home that has a contract with the department under RCW
12 74.39A.010 and the resident is housed in a private apartment-like unit.

13 (5) "Boarding home" means a facility licensed under chapter 18.20
14 RCW.

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

23 (7) "Department" means the department of social and health
24 services.

25 (8) "Home and community services" means assisted living services,
26 modified assisted living services, adult residential care, adult family
27 homes, in-home services, and other services administered by the aging
28 and adult services administration of the department directly or through
29 contract with area agencies on aging.

30 (9) "Long-term care services" means the services administered
31 directly or through contract by the aging and adult services
32 administration of the department, including but not limited to nursing
33 facility care and home and community services.

34 (10) "Modified assisted living services" means services provided by
35 a boarding home that has a contract with the department under RCW
36 74.39A.010.

37 (11) "Nursing facility" means a nursing facility as defined in
38 section 1919(a) of the federal social security act and regulations
39 adopted thereunder.

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

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.39A RCW
4 to read as follows:

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

8 (2) In expanding home and community services, the department shall:

9 (a) Take full advantage of federal funding available under Title XVIII
10 and Title XIX of the federal social security act, including home
11 health, adult day care, waiver options, and state plan services; and

12 (b) be authorized to use funds available under its community options
13 program entry system waiver granted under section 1915(c) of the
14 federal social security act to expand the availability of in-home,
15 adult residential care, adult family homes, modified assisted living
16 services, and assisted living services; and (c) undertake to assist, by
17 June 30, 1997, one thousand individuals who would otherwise require
18 nursing facility services to obtain services of their choice, including
19 assisted living services, modified assisted living services, and other
20 home and community services. In contracting with nursing homes and
21 boarding homes for modified assisted living service placements, the
22 department shall not require, by contract or through other means,
23 structural modifications to existing building construction.

24 (3)(a) The department shall by rule establish payment rates for
25 home and community services that support the provision of cost-
26 effective care.

27 (b) The department may authorize a modified assisted living rate
28 for nursing homes that temporarily or permanently convert their bed use
29 for the purpose of providing modified assisted living services under
30 chapter 70.38 RCW, when the department determines that payment of a
31 modified rate is cost-effective and necessary to foster expansion of
32 contracted modified assisted living services. As an incentive for
33 nursing homes to permanently delicense a portion of its nursing home
34 bed capacity for the purpose of providing modified assisted living
35 services, the department may authorize a supplemental add-on to the
36 modified assisted living services rate.

37 (c) The department may authorize a supplemental assisted living
38 rate for up to four years for facilities that convert from nursing home

1 use and do not retain rights to the converted nursing home beds under
2 chapter 70.38 RCW, if the department determines that payment of a
3 supplemental rate is cost-effective and necessary to foster expansion
4 of contracted assisted living services.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41 RCW
6 to read as follows:

7 (1)(a) The department of social and health services, in
8 consultation with hospitals and acute care facilities, shall promote
9 the most appropriate and cost-effective use of long-term care services
10 by developing and distributing to hospitals and other appropriate
11 health care settings information on the various chronic long-term care
12 programs that it administers directly or through contract. The
13 information developed by the department of social and health services
14 shall, at a minimum, include the following:

15 (i) An identification and detailed description of each long-term
16 care service available in the state;

17 (ii) Functional, cognitive, and medicaid eligibility criteria that
18 may be required for placement or admission to each long-term care
19 service; and

20 (iii) A long-term care services resource manual for each hospital,
21 that identifies the long-term care services operating within each
22 hospital's patient service area. The long-term care services resource
23 manual shall, at a minimum, identify the name, address, and telephone
24 number of each entity known to be providing long-term care services; a
25 brief description of the programs or services provided by each of the
26 identified entities; and the name or names of a person or persons who
27 may be contacted for further information or assistance in accessing the
28 programs or services at each of the identified entities.

29 (b) The information required in (a) of this subsection shall be
30 periodically updated and distributed to hospitals by the department of
31 social and health services so that the information reflects current
32 long-term care service options available within each hospital's patient
33 service area.

34 (2) To the extent that a patient will have continuing care needs,
35 once discharged from the hospital setting, hospitals shall, during the
36 course of the patient's hospital stay, promote each patient's family
37 member's and/or legal representative's understanding of available long-
38 term care service discharge options by, at a minimum:

- 1 (a) Discussing the various and relevant long-term care services
2 available, including eligibility criteria;
- 3 (b) Making available, to patients, their family members, and/or
4 legal representative, a copy of the most current long-term care
5 services resource manual; and
- 6 (c) Responding to long-term care questions posed by patients, their
7 family members, and/or legal representative; or
- 8 (d) Assisting the patient, their family members, and/or legal
9 representative in contacting appropriate persons or entities to respond
10 to the question or questions posed.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.41 RCW
12 to read as follows:

13 "Cost-effective care" and "long-term care services," where used in
14 section 3 of this act, shall have the same meaning as that given in
15 section 1 of this act.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.41 RCW
17 to read as follows:

18 Hospitals and acute care facilities shall:

19 (1) Establish and maintain a system for discharge planning and
20 designate a person responsible for system management and
21 implementation;

22 (2) Establish written policies and procedures to:

23 (a) Identify patients needing further nursing, therapy, or
24 supportive care following discharge from the hospital;

25 (b) Develop a documented discharge plan for each identified patient
26 including:

27 (i) Coordinate with patient and family or caregiver, as
28 appropriate;

29 (ii) Coordinate with appropriate members of the health care team;

30 (iii) Coordinate with the receiving agency or agencies, when
31 necessary; and

32 (iv) Work cooperatively with the department of social and health
33 services and local long-term care information and assistance
34 organizations in the planning and implementation of long-term care
35 patient discharge services;

36 (c) Notify referral agencies, minimally to include verbal contact
37 and communication regarding:

- 1 (i) Relevant patient history;
- 2 (ii) Specific care requirements including equipment, supplies, and
3 medications needed; and
- 4 (iii) Date care is to be initiated;
- 5 (d) For those patients identified under (a) of this subsection,
6 assess and document needs and implement discharge plans to the extent
7 possible by the hospital; and
- 8 (e) Provide any patient needing long-term care services both
9 written and verbal information on the array of long-term care options,
10 the most appropriate and cost-effective long-term care services
11 available, and the eligibility criteria, locations, directions, contact
12 persons, and other information that will promote an informed choice of
13 care for the patient, family members, or legal representative.

14 **Sec. 6.** RCW 74.39.005 and 1989 c 427 s 2 are each amended to read
15 as follows:

16 The purpose of this chapter is to:

- 17 (1) Establish a balanced range of (~~community-based~~) health,
18 social, and supportive services that deliver long-term care services to
19 chronically, functionally disabled persons of all ages;
- 20 (2) Ensure that functional (~~disability~~) ability shall be the
21 determining factor in defining long-term care service needs and that
22 these needs will be determined by a uniform system for comprehensively
23 assessing functional disability;
- 24 (3) Ensure that services are provided in the most independent
25 living situation consistent with individual needs;
- 26 (4) Ensure that long-term care service options shall be developed
27 and made available that enable functionally disabled persons to
28 continue to live in their homes or other community residential
29 facilities while in the care of their families or other volunteer
30 support persons;
- 31 (5) Ensure that long-term care services are coordinated in a way
32 that minimizes administrative cost, eliminates unnecessarily complex
33 organization, minimizes program and service duplication, and maximizes
34 the use of financial resources in directly meeting the needs of persons
35 with functional limitations;
- 36 (6) Develop a systematic plan for the coordination, planning,
37 budgeting, and administration of long-term care services now fragmented
38 between the division of developmental disabilities, division of mental

1 health, aging and adult services administration, division of children
2 and family services, division of vocational rehabilitation, office on
3 AIDS, division of health, and bureau of alcohol and substance abuse;

4 (7) Encourage the development of a state-wide long-term care case
5 management system that effectively coordinates the plan of care and
6 services provided to eligible clients;

7 (8) Ensure that individuals and organizations affected by or
8 interested in long-term care programs have an opportunity to
9 participate in identification of needs and priorities, policy
10 development, planning, and development, implementation, and monitoring
11 of state supported long-term care programs;

12 (9) Support educational institutions in Washington state to assist
13 in the procurement of federal support for expanded research and
14 training in long-term care; and

15 (10) Facilitate the development of a coordinated system of long-
16 term care education that is clearly articulated between all levels of
17 higher education and reflective of both in-home care needs and
18 institutional care needs of functionally disabled persons.

19 **Sec. 7.** RCW 74.39.040 and 1989 c 427 s 13 are each amended to read
20 as follows:

21 ~~((1) A long term care commission is created. It shall consist of:~~

22 ~~(a) Four legislators who shall serve on the executive committee,~~
23 ~~one from each of the two largest caucuses in the house of~~
24 ~~representatives and the senate who shall be selected by the president~~
25 ~~of the senate and the speaker of the house of representatives;~~

26 ~~(b) Six members, to be selected by the executive committee, who~~
27 ~~shall be authorities in gerontology, developmental disabilities,~~
28 ~~neurological impairments, physical disabilities, mental illness,~~
29 ~~nursing, long term care service delivery, long term care service~~
30 ~~financing, systems development, or systems analysis;~~

31 ~~(c) Three members, to be selected by the executive committee, who~~
32 ~~represent long term care consumers, services providers, or advocates;~~

33 ~~(d) Two members, to be selected by the executive committee, who~~
34 ~~represent county government;~~

35 ~~(e) One member, to be selected by the secretary of social and~~
36 ~~health services, to represent the department of social and health~~
37 ~~services long term care programs, including at least developmental~~
38 ~~disabilities, mental health, aging and adult services, AIDS, children's~~

1 services, alcohol and substance abuse, and vocational rehabilitation;
2 and

3 (f) Two members, to represent the governor, who shall serve on the
4 executive committee.

5 The legislative members shall select a chair from the membership of
6 the commission.

7 The commission shall be staffed, to the extent possible, by staff
8 from the appropriate senate and house of representatives committees.

9 The commission may form technical advisory committees to assist it
10 with any particular matters deemed necessary by the commission.

11 The commission and technical advisory committee members shall
12 receive no compensation, but except for publicly funded agency staff,
13 shall, to the extent funds are available, be reimbursed for their
14 expenses while attending any meetings in the same manner as legislators
15 engaged in interim committee business as specified in RCW 44.04.120.

16 The commission may receive appropriations, grants, gifts, and other
17 payments from any governmental or other public or private entity or
18 person which it may use to defray the cost of its operations or to
19 contract for technical assistance, with the approval of the senate
20 committee on facilities and operations and the house of representatives
21 executive rules committee.

22 (2) The long term care commission shall develop legislation and
23 recommend administrative actions necessary to achieve the following
24 long term care reforms:

25 (a) The systematic coordination, planning, budgeting, and
26 administration of long term care services currently administered by the
27 department of social and health services, division of developmental
28 disabilities, aging and adult services administration, division of
29 vocational rehabilitation, office on AIDS, division of health, and the
30 bureau of alcohol and substance abuse;

31 (b)) The legislature finds the intent of the 1989 legislature to
32 reform statutory provisions of long-term care for persons of all ages
33 with chronic functional disability, although not enacted, continues to
34 be applicable. The need to streamline the current bureaucratic
35 fragmentation of chronic health services for the person with functional
36 disabilities and facilitate the development of client centered,
37 accessible, high quality, cost-effective, and appropriate long-term
38 care services options for persons with functional disabilities is even
39 more pressing today. The legislature further finds that if we are

1 going to meet the significant and growing chronic care needs in the
2 next two decades, rapid fundamental changes will need to take place in
3 the way we finance, organize, and provide long-term care services to
4 the functionally disabled. The public demands, and it is the intent of
5 the legislature to reduce the cost and size of government and provide
6 efficient and effective public service to the persons most impaired by
7 chronic functional disability.

8 To realize the need for a cost-effective, uniform, and fully
9 integrated long-term care system while simultaneously reducing the size
10 and cost of government, the joint committee on health systems oversight
11 if enacted pursuant to House Bill No. 1262 or the legislative budget
12 committee if House Bill No. 1262 is not enacted, shall develop a
13 working plan for long-term care reform, including recommendations and
14 statutory changes, by December 12, 1995, to accomplish the following:

15 (1) Reorganize and consolidate, on a noncategorical basis, all
16 disease or age-specific (categorical) organizational entities of state
17 administration and their regional elements pertaining to chronic care
18 services to persons with functional mental and physical disabilities,
19 including but not limited to: In the department of social and health
20 services: Health and rehabilitative services and aging and adult
21 services; in the department of health: Aids chronic care and boarding
22 homes; the department of services to the blind; in the department of
23 veterans affairs: Nursing facilities; and in all other state agencies
24 that provide chronic long-term health care services;

25 (2) Implement a streamlined client centered administrative and
26 delivery system for long-term care services state-wide that
27 incorporates all long-term care services for the person with functional
28 disabilities to include the functionally disabled, developmentally
29 disabled, mentally ill, traumatically brain injured, and others with
30 chronic functional disabilities. The system shall be a single point
31 entry system administered at the local level that allows the person
32 with functional disabilities to obtain needs determination, eligibility
33 screening, priority setting, and services information and assistance.
34 The system shall be designed so that acute health care services are
35 effectively coordinated with long-term care services. The system shall
36 recognize and respect the individuality and dignity of all functionally
37 disabled individuals and promote self-reliance and the preference for
38 the assistance and comfort provided by families, friends, and community
39 volunteers. It shall also recognize the importance of community

1 organizations and the public and private infrastructure in the delivery
2 of care and support. All major points of access into the long-term
3 care system shall be identified and integrated into the system to
4 insure that clients are fully informed of the most appropriate least
5 expensive care options;

6 (3) Provision of long-term care services to persons based on their
7 functional disabilities noncategorically and in the most independent
8 living situation consistent with the person's needs and preferences;

9 ((+e)) (4) A consistent definition of appropriate roles and
10 responsibilities for state and local government, regional
11 organizations, and private organizations in the planning,
12 administration, financing, and delivery of long-term care services;

13 ((+d)) (5) Technical assistance to enable local communities to
14 have greater participation and control in the planning, administration,
15 and provision of long-term care services;

16 ((+e)) (6) A case management system that coordinates an
17 appropriate and cost-effective plan of care and services for eligible
18 functionally disabled persons based on their individual needs and
19 preferences;

20 ((+f)) (7) A sufficient supply of quality institutional and
21 noninstitutional residential alternatives for functionally disabled
22 persons, and supports for the providers of such services;

23 ((+g)) (8) Public and private alternative funding for long-term
24 care services, ~~((such as federal Title XIX funding of personal care~~
25 ~~services through the limited casualty program for the medically needy~~
26 ~~and other optional services)) that includes the promotion of affordable
27 stand alone long-term care insurance options or as part of overall
28 health care insurance benefits, a uniform fee copayment scale for
29 client participation in state-funded, long-term care programs, and
30 private, long-term care insurance;~~

31 ((+h)) (9) A systematic and balanced long-term care services
32 payment and reimbursement system, including a case mix nursing home
33 reimbursement, that will provide access to needed services while
34 controlling the rate of cost increases for such services;

35 ((+i)) (10) Active involvement of volunteers and advocacy groups;

36 ((+j)) (11) An integrated data base that provides long-term care
37 client tracking;

38 ((+k)) (12) A coordinated education system for long-term care to
39 insure client safety and quality of services; ((and

1 ~~(1))~~ (13) Administratively separate the nonmeans tested economic
2 and social welfare and advocacy programs of the older Americans act, 42
3 U.S.C. Chap 35 and 45 C.F.R. 1321 et seq. from the need and means
4 tested programs for persons with functional disabilities;

5 (14) Review all activities mandated and expenditures authorized by
6 the senior citizens services act, chapter 74.38 RCW; and identify which
7 funds are being used for functionally disabled seniors and identify how
8 these senior citizens services act funds can be directed to programs
9 serving the most disabled elderly; and

10 (15) Other issues deemed appropriate by the ((implementation team))
11 joint committee on health systems oversight.

12 The ~~((commission))~~ joint committee on health systems oversight, if
13 created in House Bill No. 1262, or the legislative budget committee if
14 House Bill No. 1262 is not enacted, shall report to the legislature
15 with its findings, recommendations, and proposed legislation by
16 December ~~((1, 1990))~~ 12, 1995.

17 NEW SECTION. Sec. 8. A new section is added to chapter 74.39A RCW
18 to read as follows:

19 The department's system of quality improvement for long-term care
20 services shall be guided by the following principles, consistent with
21 applicable federal laws and regulations:

22 (1) The system shall be consumer centered and promote privacy,
23 independence, dignity, choice, and a home or home-like environment for
24 consumers.

25 (2) The goal of the system is continuous quality improvement with
26 the focus on consumer satisfaction and outcomes for consumers.

27 (3) Providers should be supported in their efforts to improve
28 quality through training, technical assistance, and case management.

29 (4) The emphasis should be on problem prevention both in monitoring
30 and in screening potential providers of service.

31 (5) Monitoring should be outcome based and responsive to consumer
32 complaints.

33 (6) Providers generally should be assisted in addressing identified
34 problems initially through consultation and technical assistance.
35 Enforcement remedies shall be available for problems that are serious,
36 recurring, or that have been uncorrected.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.39A RCW
2 to read as follows:

3 (1) The aging and adult services administration of the department
4 shall establish and maintain a toll-free telephone number for receiving
5 complaints regarding a facility that the administration licenses or
6 with which it contracts for long-term care services.

7 (2) All facilities that are licensed by, or that contract with the
8 aging and adult services administration to provide long-term care
9 services shall post in a place and manner clearly visible to residents
10 and visitors the department's toll-free complaint telephone number.

11 (3) The aging and adult services administration shall investigate
12 complaints if the subject of the complaint is within its authority
13 unless the department determines that: (a) The complaint is intended
14 to willfully harass a licensee or employee of the licensee; (b) there
15 is no reasonable basis for investigation; or (c) corrective action has
16 been taken.

17 (4) The aging and adult services administration shall refer
18 complaints to appropriate state agencies, law enforcement agencies, the
19 attorney general, the long-term care ombudsman, or other entities if
20 the department lacks authority to investigate.

21 (5) The department may not provide the substance of the complaint
22 to the licensee or contractor before the completion of the
23 investigation by the department. Neither the substance of the
24 complaint provided to the licensee or contractor nor any copy of the
25 complaint or related report published, released, or made otherwise
26 available shall disclose the name, title, or identity of any
27 complainant, or other person mentioned in the complaint, except that
28 the department may disclose the identity of the complainant if such
29 disclosure is requested in writing by the complainant.

30 (6) The office of the long-term care ombudsman shall receive funds
31 to increase its staff by one full-time equivalent to accomplish the
32 increased activities consistent with the implementation of this act.

33 **Sec. 10.** RCW 74.39A.010 and 1993 c 508 s 3 are each amended to
34 read as follows:

35 (1) To the extent of available funding, the department of social
36 and health services may contract with licensed boarding homes under
37 chapter 18.20 RCW and tribally licensed boarding homes for assisted
38 living services and modified assisted living services. The department

1 shall develop ~~((rules))~~ terms and conditions for facilities that
2 contract with the department for assisted living services or modified
3 assisted living services to establish:

4 (a) Facility service standards consistent with the principles in
5 section 8 of this act and consistent with chapter 70.129 RCW;

6 (b) Standards for resident living areas consistent with section 2
7 of this act;

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

9 (2) The department's terms and conditions shall provide that
10 ~~((ensure that the contracted))~~ services in assisted living and modified
11 assisted living facilities:

12 ~~((+1))~~ (a) Recognize individual needs, privacy, and autonomy;

13 ~~((+2))~~ (b) Include, but not be limited to, personal care, nursing
14 services, medication administration, and supportive services that
15 promote independence and self-sufficiency;

16 ~~((+3))~~ (c) Are of sufficient scope to assure that each resident
17 who chooses to remain in the assisted living or modified assisted
18 living settings may do so, ~~((unless nursing care needs exceed the level~~
19 ~~of care defined by the department))~~ to the extent that the care
20 provided continues to be cost-effective and safe. However, the
21 resident may waive the provision of any service that would otherwise
22 promote their ability to function at their highest practicable level,
23 but only if the resident has been fully informed as to his or her need
24 for and potential to benefit from the services that are to be waived;

25 ~~((+4))~~ (d) Are directed first to those persons most likely, in the
26 absence of modified assisted living services or assisted living
27 services, to need hospital, nursing facility, or other out-of-home
28 placement; and

29 ~~((+5))~~ (e) Are provided in compliance with applicable ~~((department~~
30 ~~of health))~~ facility and professional licensing laws and rules.

31 (3) When a facility contracts with the department for assisted
32 living services or modified assisted living services, only services and
33 facility standards that are provided to or in behalf of the assisted
34 living services or modified assisted living services client shall be
35 subject to the department's contract standards.

36 NEW SECTION. Sec. 11. A new section is added to chapter 74.39A
37 RCW to read as follows:

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

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

6 (a) Facility service standards consistent with the principles in
7 section 8 of this act and consistent with chapter 70.129 RCW; and

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

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

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

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

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

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

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

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 74.39A
24 RCW to read as follows:

25 (1) The department shall, by contract, establish reasonable minimum
26 qualifications and training requirements to assure that assisted living
27 service, modified assisted living service, and adult residential care
28 providers with whom the department contracts are capable of providing
29 services consistent with this chapter.

30 (2) The department shall not contract for assisted living, modified
31 assisted living, or adult residential care services with a provider if
32 the department finds that the provider or any partner, officer,
33 director, managerial employee, or owner of five percent or more of the
34 provider has a history of significant noncompliance with federal or
35 state regulations, rules, or laws in providing care or services to
36 vulnerable adults or to children.

1 **Sec. 13.** RCW 70.128.005 and 1989 c 427 s 14 are each amended to
2 read as follows:

3 The legislature finds that:

4 (1) Adult family homes are an important part of the state's long-
5 term care system. Adult family homes provide an alternative to
6 institutional care and promote a high degree of independent living for
7 residents;

8 (2) Persons with functional limitations have broadly varying
9 service needs. Adult family homes that can meet those needs are an
10 essential component of a long-term system;

11 (3) The development and operation of adult family homes that can
12 provide quality personal care and special care services should be
13 encouraged.

14 **Sec. 14.** RCW 70.128.007 and 1989 c 427 s 15 are each amended to
15 read as follows:

16 The purposes of this chapter are to:

17 (1) Encourage the establishment and maintenance of adult family
18 homes that provide a humane, safe, and homelike environment for persons
19 with functional limitations who need personal and special care;

20 (2) Establish standards for regulating adult family homes that
21 adequately protect residents(~~(, but are consistent with the abilities~~
22 ~~and resources of an adult family home so as not to discourage~~
23 ~~individuals from serving as adult family home providers; and));~~

24 (3) Encourage consumers, families, providers, and the public to
25 become active in assuring their full participation in development of
26 adult family homes that provide high quality and cost-effective care;

27 (4) Provide for appropriate care of residents in adult family homes
28 by requiring that each resident have a care plan that promotes his or
29 her ability to achieve their highest practicable level of physical,
30 mental, and psychosocial functioning, unless the resident chooses not
31 to receive any such services after being fully informed as to the need
32 for and potential to benefit from services that are to be waived; and

33 (5) Accord each resident the right to participate in the
34 development of the care plan and in other major decisions involving the
35 resident and their care.

36 **Sec. 15.** RCW 70.128.010 and 1989 c 427 s 16 are each amended to
37 read as follows:

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

3 (1) "Adult family home" means a regular family abode (~~(of)~~) in
4 which a person or persons (~~(who are providing)~~) provides personal care,
5 special care, room, and board to more than one but not more than
6 (~~four~~) six adults who are not related by blood or marriage to the
7 person or persons providing the services(~~(; except that a maximum of~~
8 ~~six adults may be permitted if the department determines that the home~~
9 ~~is of adequate size and that the home and the provider are capable of~~
10 ~~meeting standards and qualifications as provided for in this act)~~).

11 (2) "Provider" means any person who is licensed under this chapter
12 to operate an adult family home. The provider shall reside at the
13 adult family home(~~(, except that)~~). Exceptions may be authorized by
14 the department (~~(for good cause,)~~) through standards as defined in
15 rule.

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

18 (4) "Resident" means an adult in need of personal or special care
19 in an adult family home who is not related to the provider.

20 (5) "Adults" means persons who have attained the age of eighteen
21 years.

22 (6) "Home" means an adult family home.

23 (7) "Imminent danger" means serious physical harm to or death of a
24 resident has occurred, or there is a serious threat to resident life,
25 health, or safety.

26 (8) "Special care" means care beyond personal care as defined by
27 the department, in rule.

28 (9) "Capacity" means the maximum number of persons in need of
29 personal or special care permitted in an adult family home at a given
30 time. This number shall include related children or adults living in
31 the home and who receive full-time care.

32 **Sec. 16.** RCW 70.128.057 and 1991 c 40 s 2 are each amended to read
33 as follows:

34 Notwithstanding the existence or use of any other remedy, the
35 department may, in the manner provided by law, upon the advice of the
36 attorney general who shall represent the department in the proceedings,
37 maintain an action in the name of the state for an injunction, civil
38 penalty, or other process against a person to restrain or prevent the

1 operation or maintenance of an adult family home without a license
2 under this chapter.

3 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.128
4 RCW to read as follows:

5 The legislature finds that the operation of an adult family home
6 without a license in violation of this chapter is a matter vitally
7 affecting the public interest for the purpose of applying the consumer
8 protection act, chapter 19.86 RCW. Operation of an adult family home
9 without a license in violation of this chapter is not reasonable in
10 relation to the development and preservation of business. Such a
11 violation is an unfair or deceptive act in trade or commerce and an
12 unfair method of competition for the purpose of applying the consumer
13 protection act, chapter 19.86 RCW.

14 **Sec. 18.** RCW 70.128.060 and 1989 c 427 s 20 are each amended to
15 read as follows:

16 (1) An application for license shall be made to the department upon
17 forms provided by it and shall contain such information as the
18 department reasonably requires.

19 (2) The department shall issue a license to an adult family home if
20 the department finds that the applicant and the home are in compliance
21 with this chapter and the rules adopted under this chapter; and that
22 the applicant has no prior violations of this chapter relating to the
23 adult family home subject to the application or any other adult family
24 home, or of any other law regulating residential care facilities within
25 the past five years that resulted in revocation or nonrenewal of a
26 license.

27 (3) The department shall not issue a license to a provider if the
28 department finds that the provider or any partner, officer, director,
29 managerial employee, or owner of five percent or more of the provider
30 has a history of significant noncompliance with federal or state
31 regulations, rules, or laws in providing care or services to vulnerable
32 adults or to children.

33 (4) The license fee shall be submitted with the application.

34 ~~((4))~~ (5) The department shall license an adult family home for
35 the maximum level of care that the adult family home may provide. The
36 department shall define, in rule, license levels based upon the

1 education, training, and caregiving experience of the licensed provider
2 or staff.

3 (6) The department shall serve upon the applicant a copy of the
4 decision granting or denying an application for a license. An
5 applicant shall have the right to contest denial of his or her
6 application for a license as provided in chapter 34.05 RCW by
7 requesting a hearing in writing within ~~((ten))~~ twenty-eight days after
8 receipt of the notice of denial.

9 ~~((5))~~ A provider shall not be licensed for more than one adult
10 family home. Exceptions may be authorized by the department for good
11 cause, as defined in rule. The department shall submit to appropriate
12 committees of the legislature, by December 1, 1991, a report on the
13 number and type of good cause exceptions granted.

14 ~~(6))~~ (7) The department shall establish, by rule, standards used
15 to license nonresident providers and multiple facility operators.

16 (8) The department by rule shall establish for multiple facility
17 operators educational standards substantially equivalent to recognized
18 national certification standards for residential care administrators.

19 (9) The license fee shall be set at fifty dollars per year for each
20 home. A fifty dollar processing fee shall also be charged each home
21 when the home is initially licensed.

22 **Sec. 19.** RCW 70.128.070 and 1989 c 427 s 22 are each amended to
23 read as follows:

24 (1) A license shall be valid for one year.

25 (2) At least ~~((ninety))~~ sixty days prior to expiration of the
26 license, the provider shall submit an application for renewal of a
27 license. The department shall send the provider an application for
28 renewal prior to this time. The department shall have the authority to
29 investigate any information included in the application for renewal of
30 a license.

31 (3)(a) Homes applying for a license shall be inspected at the time
32 of licensure.

33 (b) Homes licensed by the department shall be inspected at least
34 every eighteen months, subject to available funds.

35 (c) ~~((Licensed homes where a complaint has been received by the~~
36 ~~department may be inspected at any time.))~~ The department may make an
37 unannounced inspection of a licensed home at any time to assure that

1 the home and provider are in compliance with this chapter and the rules
2 adopted under this chapter.

3 (4) If the department finds that the home is not in compliance with
4 this chapter, it shall require the home to correct any violations as
5 provided in this chapter. If the department finds that the home is in
6 compliance with this chapter and the rules adopted under this chapter,
7 the department shall renew the license of the home.

8 **Sec. 20.** RCW 70.128.120 and 1989 c 427 s 24 are each amended to
9 read as follows:

10 An adult family home provider shall have the following minimum
11 qualifications:

- 12 (1) Twenty-one years of age or older;
- 13 (2) Good moral and responsible character and reputation;
- 14 (3) Literacy; ~~((and))~~
- 15 (4) Management and administrative ability to carry out the
16 requirements of this chapter;
- 17 (5) Satisfactory completion of department-approved initial training
18 and continuing education training as specified by the department in
19 rule;
- 20 (6) Satisfactory completion of department-approved, or equivalent,
21 special care training before a provider may provide special care
22 services to a resident;
- 23 (7) Not been convicted of any crime listed in RCW 43.43.830 and
24 43.43.842; and
- 25 (8) Registered with the department of health.

26 **Sec. 21.** RCW 70.128.080 and 1989 c 427 s 21 are each amended to
27 read as follows:

28 An adult family home shall have readily available for review by the
29 department, residents, and the public:

- 30 (1) Its license to operate; and
- 31 (2) A copy of each inspection report received by the home from the
32 department for the past three years.

33 **Sec. 22.** RCW 70.128.090 and 1989 c 427 s 30 are each amended to
34 read as follows:

35 (1) During inspections of an adult family home, the department
36 shall have access and authority to examine areas and articles in the

1 home used to provide care or support to residents, including residents'
2 records, accounts, and the physical premises, including the buildings,
3 grounds, and equipment. The department also shall have the authority
4 to interview the provider and residents of an adult family home.

5 (2) Whenever an inspection is conducted, the department shall
6 prepare a written report that summarizes all information obtained
7 during the inspection, and if the home is in violation of this chapter,
8 serve a copy of the inspection report upon the provider at the same
9 time as a notice of violation. If the home is not in violation of this
10 chapter, a copy of the inspection report shall be mailed to the
11 provider within ten days of the inspection of the home. All inspection
12 reports shall be made available to the public at the department during
13 business hours.

14 (3) (~~The inspection report shall describe any corrective measures~~
15 ~~on the part of the provider necessary to pass a reinspection. If the~~
16 ~~department finds upon reinspection of the home that the corrective~~
17 ~~measures have been satisfactorily implemented, the department shall~~
18 ~~cease any actions taken against the home. Nothing in this section~~
19 ~~shall require the department to license or renew the license of a home~~
20 ~~where serious physical harm or death has occurred to a resident)) The
21 provider shall develop corrective measures for any violations found by
22 the department's inspection. The department may provide consultation
23 and technical assistance to assist the provider in developing effective
24 corrective measures. The department shall include a statement of the
25 provider's corrective measures in the department's inspection report.~~

26 NEW SECTION. Sec. 23. A new section is added to chapter 70.128
27 RCW to read as follows:

28 The legislature recognizes that adult care homes located within the
29 boundaries of a federally recognized Indian reservation may be licensed
30 by the Indian tribe. The department may pay for care for persons
31 residing in such homes, if there has been a tribal or state criminal
32 background check of the provider and any staff, and the client is
33 otherwise eligible for services administered by the department.

34 **Sec. 24.** RCW 70.128.130 and 1989 c 427 s 26 are each amended to
35 read as follows:

1 (1) Providers must own, rent, or lease the home to be licensed.
2 Exceptions may be granted by the department to churches, hospitals,
3 nonprofit associations, or similar organizations.

4 (2) Adult (~~family~~) care homes shall be maintained internally and
5 externally in good repair and condition. Such homes shall have safe
6 and functioning systems for heating, cooling, hot and cold water,
7 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
8 artificial and natural light, ventilation, and any other feature of the
9 home.

10 (~~(2)~~) (3) Adult (~~family~~) care homes shall be maintained in a
11 clean and sanitary manner, including proper sewage disposal, food
12 handling, and hygiene practices.

13 (~~(3)~~) (4) Adult (~~family~~) care homes shall develop a fire drill
14 plan for emergency evacuation of residents, shall have smoke detectors
15 in each bedroom where a resident is located, shall have fire
16 extinguishers on each floor of the home, and shall not keep
17 nonambulatory patients above the first floor of the home.

18 (~~(4)~~) (5) Adult (~~family~~) care homes shall have clean,
19 functioning, and safe household items and furnishings.

20 (~~(5)~~) (6) Adult (~~family~~) care homes shall provide a nutritious
21 and balanced diet and shall recognize residents' needs for special
22 diets.

23 (~~(6)~~) (7) Adult care home providers shall ensure that all
24 residents receive care consistent with the resident's plan of care.

25 (8) Adult (~~family~~) care homes shall establish health care
26 procedures for the care of residents including medication
27 administration and emergency medical care.

28 (a) Adult family home residents shall be permitted to self-
29 administer medications.

30 (b) Adult family home providers may administer medications and
31 deliver special care only to the extent (~~that the provider is a~~
32 ~~licensed health care professional for whom the administration of~~
33 ~~medications is within the scope of practice under Washington))~~
34 authorized by law.

35 (9) A provider will ensure that any volunteer, student, employee,
36 or person residing within the adult family home who will have
37 unsupervised access to any resident shall not have been convicted of a
38 crime listed under RCW 43.43.830 or 43.43.842. Except that a person

1 may be conditionally employed pending the completion of a criminal
2 conviction background inquiry.

3 (10) A provider shall offer activities to residents under care as
4 defined by the department in rule.

5 (11) An adult family home provider shall ensure that staff are
6 competent and receive necessary training to perform assigned tasks.

7 **Sec. 25.** RCW 70.128.140 and 1989 c 427 s 27 are each amended to
8 read as follows:

9 Each adult family home shall meet applicable local licensing,
10 zoning, building, and housing codes, and state and local fire safety
11 regulations as they pertain to a single-family residence. It is the
12 responsibility of the home to check with local authorities to ensure
13 all local codes are met.

14 **Sec. 26.** RCW 70.128.150 and 1989 c 427 s 28 are each amended to
15 read as follows:

16 Whenever possible adult family homes are encouraged to contact and
17 work with local quality assurance projects such as the volunteer
18 ombudsman with the goal of assuring high quality care is provided in
19 the home.

20 An adult family home may not willfully interfere with a
21 representative of the long-term care ombudsman program in the
22 performance of official duties. The department shall impose a penalty
23 of not more than one thousand dollars for any such willful
24 interference.

25 **Sec. 27.** RCW 70.128.160 and 1989 c 427 s 31 are each amended to
26 read as follows:

27 (1) The department is authorized to take one or more of the actions
28 listed in subsection (2) of this section in any case in which the
29 department finds that an adult family home provider has:

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

32 (b) Operated an adult family home without a license or under a
33 revoked license;

34 (c) Knowingly or with reason to know made a false statement of
35 material fact on his or her application for license or any data

1 attached thereto, or in any matter under investigation by the
2 department; or

3 (d) Willfully prevented or interfered with any inspection or
4 investigation by the department.

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

7 (a) Refuse to issue a license;

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

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

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

14 ~~((e))~~ (e) Suspend admissions to the adult family home by imposing
15 stop placement.

16 (3) When the department orders stop placement, the facility shall
17 not admit any person until the stop placement order is terminated. The
18 department may approve readmission of a resident to the facility from
19 a hospital or nursing home during the stop placement. The department
20 shall terminate the stop placement when: (a) The violations
21 necessitating the stop placement have been corrected; and (b) the
22 provider exhibits the capacity to maintain adequate care and service.

23 (4) Chapter 34.05 RCW applies to department actions under this
24 section, except that orders of the department imposing license
25 suspension, stop placement, or conditions for continuation of a license
26 are effective immediately upon notice and pending any hearing.

27 **Sec. 28.** RCW 70.128.175 and 1989 1st ex.s. c 9 s 815 are each
28 amended to read as follows:

29 (1) Unless the context clearly requires otherwise, these
30 definitions shall apply throughout this section and RCW 35.63.140,
31 35A.63.149, 36.70.755, 35.22.680, 36.32.560, and 70.128.180:

32 (a) "Adult family home" means a ~~((facility licensed pursuant to~~
33 ~~chapter 70.128 RCW or the))~~ regular family abode of a person or persons
34 ~~((who are))~~ providing personal care, special care, room, and board to
35 more than one but not more than six adults who are not related by blood
36 or marriage to the person or persons providing the services.

1 (b) "Residential care facility" means a facility that cares for at
2 least five, but not more than fifteen functionally disabled persons,
3 that is not licensed pursuant to chapter 70.128 RCW.

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

6 (2) An adult family home shall be considered a residential use of
7 property for zoning purposes. Adult family homes shall be a permitted
8 use in all areas zoned for residential or commercial purposes,
9 including areas zoned for single family dwellings.

10 NEW SECTION. **Sec. 29.** A new section is added to chapter 70.128
11 RCW to read as follows:

12 (1) The department shall maintain a toll-free telephone number for
13 receiving complaints regarding adult family homes.

14 (2) An adult family home shall post in a place and manner clearly
15 visible to residents and visitors the department's toll-free complaint
16 telephone number.

17 (3) No adult family home shall discriminate or retaliate in any
18 manner against a resident on the basis or for the reason that such
19 resident or any other person made a complaint to the department or the
20 long-term care ombudsman or cooperated with the investigation of such
21 a complaint.

22 NEW SECTION. **Sec. 30.** RCW 70.128.180 and 1989 c 427 s 41 are each
23 repealed.

24 NEW SECTION. **Sec. 31.** The legislature intends to protect the
25 public's right to high quality long-term care by assuring that adult
26 family homes are operated by competent and qualified persons.

27 NEW SECTION. **Sec. 32.** Unless the context clearly requires
28 otherwise, the definitions in this section apply throughout this
29 chapter.

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

31 (2) "Adult family home" means a regular family abode of a person or
32 persons who are providing personal care, room, and board to more than
33 one but not more than four adults who are not related by blood or
34 marriage to the person or persons providing the services. A maximum of

1 six adults may be permitted by the department of social and health
2 services under chapter 70.128 RCW.

3 (3) "Operator" means a provider who is licensed under chapter
4 70.128 RCW to operate an adult family home.

5 (4) "Person" includes an individual, firm, corporation,
6 partnership, or association.

7 NEW SECTION. **Sec. 33.** A person who operates an adult family home
8 shall register the home with the secretary. Each separate location of
9 the business of an adult family home shall have a separate
10 registration.

11 The secretary, by rule, shall establish forms and procedures for
12 the processing of operator registration applications, including the
13 payment of registration fees pursuant to RCW 43.70.250. An application
14 for an adult family home operator registration shall include at least
15 the following information:

16 (1) The names and addresses of the operator of the adult family
17 home; and

18 (2) If the operator is a corporation, copies of its articles of
19 incorporation and current bylaws, together with the names and addresses
20 of its officers and directors.

21 A registration issued by the secretary in accordance with this
22 section shall remain effective for a period of one year from the date
23 of its issuance unless the registration is revoked or suspended
24 pursuant to section 34 of this act, or unless the adult family home is
25 sold or ownership or management is transferred, in which case the
26 registration of the home shall be voided and the operator shall apply
27 for a new registration.

28 NEW SECTION. **Sec. 34.** The uniform disciplinary act, chapter
29 18.130 RCW, shall govern the issuance and denial of registration and
30 the discipline of persons registered under this chapter. The secretary
31 shall be the disciplinary authority under this chapter.

32 NEW SECTION. **Sec. 35.** Sections 31 through 34 of this act shall
33 constitute a new chapter in Title 18 RCW.

34 **Sec. 36.** RCW 18.130.040 and 1994 sp.s. c 9 s 603 and 1994 c 17 s
35 19 are each reenacted and amended to read as follows:

1 (1) This chapter applies only to the secretary and the boards and
2 commissions having jurisdiction in relation to the professions licensed
3 under the chapters specified in this section. This chapter does not
4 apply to any business or profession not licensed under the chapters
5 specified in this section.

6 (2)(a) The secretary has authority under this chapter in relation
7 to the following professions:

8 (i) Dispensing opticians licensed under chapter 18.34 RCW;

9 (ii) Naturopaths licensed under chapter 18.36A RCW;

10 (iii) Midwives licensed under chapter 18.50 RCW;

11 (iv) Ocularists licensed under chapter 18.55 RCW;

12 (v) Massage operators and businesses licensed under chapter 18.108
13 RCW;

14 (vi) Dental hygienists licensed under chapter 18.29 RCW;

15 (vii) Acupuncturists certified under chapter 18.06 RCW;

16 (viii) Radiologic technologists certified and x-ray technicians
17 registered under chapter 18.84 RCW;

18 (ix) Respiratory care practitioners certified under chapter 18.89
19 RCW;

20 (x) Persons registered or certified under chapter 18.19 RCW;

21 (xi) Persons registered as nursing pool operators under chapter
22 18.52C RCW;

23 (xii) Nursing assistants registered or certified under chapter
24 18.79 RCW;

25 (xiii) Health care assistants certified under chapter 18.135 RCW;

26 (xiv) Dietitians and nutritionists certified under chapter 18.138
27 RCW;

28 (xv) Sex offender treatment providers certified under chapter
29 18.155 RCW; ((and))

30 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
31 18.71.205; and

32 (xvii) Persons registered as adult family home operators under
33 section 33 of this act.

34 (b) The boards and commissions having authority under this chapter
35 are as follows:

36 (i) The podiatric medical board as established in chapter 18.22
37 RCW;

38 (ii) The chiropractic quality assurance commission as established
39 in chapter 18.25 RCW;

1 (iii) The dental quality assurance commission as established in
2 chapter 18.32 RCW;

3 (iv) The board on fitting and dispensing of hearing aids as
4 established in chapter 18.35 RCW;

5 (v) The board of examiners for nursing home administrators as
6 established in chapter 18.52 RCW;

7 (vi) The optometry board as established in chapter 18.54 RCW
8 governing licenses issued under chapter 18.53 RCW;

9 (vii) The board of osteopathic medicine and surgery as established
10 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
11 18.57A RCW;

12 (viii) The board of pharmacy as established in chapter 18.64 RCW
13 governing licenses issued under chapters 18.64 and 18.64A RCW;

14 (ix) The medical quality assurance commission as established in
15 chapter 18.71 RCW governing licenses and registrations issued under
16 chapters 18.71 and 18.71A RCW;

17 (x) The board of physical therapy as established in chapter 18.74
18 RCW;

19 (xi) The board of occupational therapy practice as established in
20 chapter 18.59 RCW;

21 (xii) The nursing care quality assurance commission as established
22 in chapter 18.79 RCW governing licenses issued under that chapter;

23 (xiii) The examining board of psychology and its disciplinary
24 committee as established in chapter 18.83 RCW;

25 (xiv) The veterinary board of governors as established in chapter
26 18.92 RCW.

27 (3) In addition to the authority to discipline license holders, the
28 disciplining authority has the authority to grant or deny licenses
29 based on the conditions and criteria established in this chapter and
30 the chapters specified in subsection (2) of this section. This chapter
31 also governs any investigation, hearing, or proceeding relating to
32 denial of licensure or issuance of a license conditioned on the
33 applicant's compliance with an order entered pursuant to RCW 18.130.160
34 by the disciplining authority.

35 **Sec. 37.** RCW 43.190.020 and 1991 sp.s. c 8 s 3 are each amended to
36 read as follows:

1 As used in this chapter, "long-term care facility" means any of the
2 following (~~which provide services to persons sixty years of age and~~
3 ~~older and is~~):

4 (1) A facility which:

5 (a) Maintains and operates twenty-four hour skilled nursing
6 services for the care and treatment of chronically ill or convalescent
7 patients, including mental, emotional, or behavioral problems, mental
8 retardation, or alcoholism;

9 (b) Provides supportive, restorative, and preventive health
10 services in conjunction with a socially oriented program to its
11 residents, and which maintains and operates twenty-four hour services
12 including board, room, personal care, and intermittent nursing care.
13 "Long-term health care facility" includes nursing homes and nursing
14 facilities, but does not include acute care hospital or other licensed
15 facilities except for that distinct part of the hospital or facility
16 which provides nursing facility services.

17 (2) Any family home, group care facility, or similar facility
18 determined by the secretary, for twenty-four hour nonmedical care of
19 persons in need of personal services, supervision, or assistance
20 essential for sustaining the activities of daily living or for the
21 protection of the individual.

22 (3) Any swing bed in an acute care facility.

23 **Sec. 38.** RCW 43.190.060 and 1987 c 158 s 3 are each amended to
24 read as follows:

25 A long-term care ombudsman shall:

26 (1) Investigate and resolve complaints made by or on behalf of
27 (~~elder individuals who are~~) residents of long-term care facilities
28 relating to administrative action which may adversely affect the
29 health, safety, welfare, and rights of these individuals;

30 (2) Monitor the development and implementation of federal, state,
31 and local laws, rules, regulations, and policies with respect to long-
32 term care facilities in this state;

33 (3) Provide information as appropriate to public agencies regarding
34 the problems of individuals residing in long-term care facilities; and

35 (4) Provide for training volunteers and promoting the development
36 of citizen organizations to participate in the ombudsman program. A
37 volunteer long-term care ombudsman shall be able to identify and
38 resolve problems regarding the care of residents in long-term care

1 facilities and to assist such residents in the assertion of their civil
2 and human rights. However, volunteers shall not be used for complaint
3 investigations but may engage in fact-finding activities to determine
4 whether a formal complaint should be submitted to the department.

5 NEW SECTION. **Sec. 39.** RCW 74.08.530, 74.08.560, 74.08.570,
6 74.08.545, and 74.08.550 are each recodified in chapter 74.39A RCW.

7 NEW SECTION. **Sec. 40.** RCW 74.08.541 and 1989 c 427 s 4, 1986 c
8 222 s 1, 1983 1st ex.s. c 41 s 39, & 1981 1st ex.s. c 6 s 17 are each
9 repealed.

10 **Sec. 41.** RCW 74.08.545 and 1989 c 427 s 5 are each amended to read
11 as follows:

12 It is the intent of the legislature that chore services be provided
13 to eligible persons within the limits of funds appropriated for that
14 purpose. Therefore, the department shall provide services only to
15 those persons identified as at risk of being placed in a long-term care
16 facility in the absence of such services. The department shall not
17 provide chore services to any individual who is eligible for, and whose
18 needs can be met by another community service administered by the
19 department. Chore services shall be provided to the extent necessary
20 to maintain a safe and healthful living environment. It is the policy
21 of the state to encourage the development of volunteer chore services
22 in local communities as a means of meeting chore care service needs and
23 directing financial resources. In determining eligibility for chore
24 services, the department shall consider the following:

- 25 (1) The kind of services needed;
- 26 (2) The degree of service need, and the extent to which an
27 individual is dependent upon such services to remain in his or her home
28 or return to his or her home;
- 29 (3) The availability of personal or community resources which may
30 be utilized to meet the individual's need; and
- 31 (4) Such other factors as the department considers necessary to
32 insure service is provided only to those persons whose chore service
33 needs cannot be met by relatives, friends, nonprofit organizations,
34 ~~((or))~~ other persons, or by other programs or resources.

35 In determining the level of services to be provided under this
36 chapter, ~~((the))~~ the client shall be assessed using an instrument

1 designed by the department to determine the level of functional
2 disability, the need for service and the person's risk of long-term
3 care facility placement.

4 NEW SECTION. **Sec. 42.** A new section is added to chapter 74.39A
5 RCW to read as follows:

6 (1) The department shall establish a monthly dollar lid for each
7 region on chore services expenditures within the legislative
8 appropriation. Priority for services shall be given to the following
9 situations:

10 (a) People who were receiving chore personal care services as of
11 June 30, 1995;

12 (b) People for whom chore personal care services are necessary to
13 return to the community from a nursing home;

14 (c) People for whom chore personal care services are necessary to
15 prevent unnecessary nursing home placement; and

16 (d) People for whom chore personal care services are necessary as
17 a protective measure based on referrals resulting from an adult
18 protective services investigation.

19 (2) The department shall require a client to participate in the
20 cost of chore services as a necessary precondition to receiving chore
21 services paid for by the state. The client shall retain an amount
22 equal to one hundred percent of the federal poverty level, adjusted for
23 household size, for maintenance needs. The department shall consider
24 the remaining income as the client participation amount for chore
25 services except for those persons whose participation is established
26 under RCW 74.08.570.

27 (3) The department shall establish, by rule, the maximum amount of
28 resources a person may retain and be eligible for chore services.

29 **Sec. 43.** RCW 74.08.550 and 1989 c 427 s 6 are each amended to read
30 as follows:

31 (1) The department is authorized to develop a program to provide
32 for ~~((those))~~ chore services ~~((enumerated in RCW 74.08.541))~~ under this
33 chapter.

34 (2) The department may provide assistance in the recruiting of
35 providers of the services enumerated in ~~((RCW 74.08.541))~~ section 42 of
36 this act and seek to assure the timely provision of services in
37 emergency situations.

1 (3) The department shall assure that all providers of the chore
2 services (~~enumerated in RCW 74.08.541~~) under this chapter are
3 compensated for the delivery of the services on a prompt and regular
4 basis.

5 **Sec. 44.** RCW 74.08.570 and 1989 c 427 s 7 are each amended to read
6 as follows:

7 (1) An otherwise eligible disabled person shall not be deemed
8 ineligible for chore services under this chapter if the person's gross
9 income from employment, adjusted downward by the cost of the chore
10 services to be provided and the disabled person's work expenses, does
11 not exceed the maximum eligibility standard established by the
12 department for such chore services. The department shall establish a
13 (~~sliding scale fee schedule for~~) methodology for client participation
14 that allows such disabled persons(~~(, taking into consideration the~~
15 ~~person's ability to pay and work expenses)~~) to be employed.

16 (2) If a disabled person arranges for chore services through an
17 individual provider arrangement, the client's contribution shall be
18 counted as first dollar toward the total amount owed to the provider
19 for chore services rendered.

20 (3) As used in this section:

21 (a) "Gross income" means total earned wages, commissions, salary,
22 and any bonus;

23 (b) "Work expenses" includes:

24 (i) Payroll deductions required by law or as a condition of
25 employment, in amounts actually withheld;

26 (ii) The necessary cost of transportation to and from the place of
27 employment by the most economical means, except rental cars; and

28 (iii) Expenses of employment necessary for continued employment,
29 such as tools, materials, union dues, transportation to service
30 customers if not furnished by the employer, and uniforms and clothing
31 needed on the job and not suitable for wear away from the job;

32 (c) "Employment" means any work activity for which a recipient
33 receives monetary compensation;

34 (d) "Disabled" means:

35 (i) Permanently and totally disabled as defined by the department
36 and as such definition is approved by the federal social security
37 administration for federal matching funds;

38 (ii) Eighteen years of age or older;

- 1 (iii) A resident of the state of Washington; and
2 (iv) Willing to submit to such examinations as are deemed necessary
3 by the department to establish the extent and nature of the disability.

4 **Sec. 45.** RCW 18.51.091 and 1987 c 476 s 24 are each amended to
5 read as follows:

6 The department shall make or cause to be made at least one
7 inspection of each nursing home (~~((prior to license renewal and shall
8 inspect community-based services as part of the licensing renewal
9 survey))~~ at least every eighteen months and any citation-free facility
10 every sixteen to eighteen months. The inspection shall be made without
11 providing advance notice of it. Every inspection may include an
12 inspection of every part of the premises and an examination of all
13 records, methods of administration, the general and special dietary and
14 the stores and methods of supply. Those nursing homes that provide
15 community-based care shall establish and maintain separate and distinct
16 accounting and other essential records for the purpose of appropriately
17 allocating costs of the providing of such care: PROVIDED, That such
18 costs shall not be considered allowable costs for reimbursement
19 purposes under chapter 74.46 RCW. Following such inspection or
20 inspections, written notice of any violation of this law or the rules
21 and regulations promulgated hereunder, shall be given the applicant or
22 licensee and the department. The notice shall describe the reasons for
23 the facility's noncompliance. The department may prescribe by
24 regulations that any licensee or applicant desiring to make specified
25 types of alterations or additions to its facilities or to construct new
26 facilities shall, before commencing such alteration, addition or new
27 construction, submit its plans and specifications therefor to the
28 department for preliminary inspection and approval or recommendations
29 with respect to compliance with the regulations and standards herein
30 authorized.

31 **Sec. 46.** RCW 18.51.140 and 1986 c 266 s 83 are each amended to
32 read as follows:

33 Standards for fire protection and the enforcement thereof, with
34 respect to all nursing homes to be licensed hereunder, shall be the
35 responsibility of the director of community, trade, and economic
36 development, through the director of fire protection, who shall adopt
37 such recognized standards as may be applicable to nursing homes for the

1 protection of life against the cause and spread of fire and fire
2 hazards. The department upon receipt of an application for a license,
3 shall submit to the director of community, trade, and economic
4 development, through the director of fire protection, in writing, a
5 request for an inspection, giving the applicant's name and the location
6 of the premises to be licensed. Upon receipt of such a request, the
7 director of community, trade, and economic development, through the
8 director of fire protection, or his or her deputy, shall make an
9 inspection of the nursing home to be licensed, and if it is found that
10 the premises do not comply with the required safety standards and fire
11 regulations as promulgated by the director of community, trade, and
12 economic development, through the director of fire protection, he or
13 she shall promptly make a written report to the nursing home and the
14 department as to the manner and time allowed in which the premises must
15 qualify for a license and set forth the conditions to be remedied with
16 respect to fire regulations. The department, applicant or licensee
17 shall notify the director of community, trade, and economic
18 development, through the director of fire protection, upon completion
19 of any requirements made by him or her, and the director of community,
20 trade, and economic development, through the director of fire
21 protection, or his or her deputy, shall make a reinspection of such
22 premises. Whenever the nursing home to be licensed meets with the
23 approval of the director of community, trade, and economic development,
24 through the director of fire protection, he or she shall submit to the
25 department, a written report approving same with respect to fire
26 protection before a full license can be issued. The director of
27 community, trade, and economic development, through the director of
28 fire protection, shall make or cause to be made inspections of such
29 nursing homes at least ((annually)) every eighteen months.

30 In cities which have in force a comprehensive building code, the
31 provisions of which are determined by the director of community, trade,
32 and economic development, through the director of fire protection, to
33 be equal to the minimum standards of the code for nursing homes adopted
34 by the director of community, trade, and economic development, through
35 the director of fire protection, the chief of the fire department,
36 provided the latter is a paid chief of a paid fire department, shall
37 make the inspection with the director of community, trade, and economic
38 development, through the director of fire protection, or his or her

1 deputy and they shall jointly approve the premises before a full
2 license can be issued.

3 **Sec. 47.** RCW 18.51.300 and 1981 1st ex.s. c 2 s 24 are each
4 amended to read as follows:

5 Unless specified otherwise by the department, a nursing home shall
6 retain and preserve all records which relate directly to the care and
7 treatment of a patient for a period of no less than (~~ten~~) eight years
8 following the most recent discharge of the patient; except the records
9 of minors, which shall be retained and preserved for a period of no
10 less than three years following attainment of the age of eighteen
11 years, or ten years following such discharge, whichever is longer.

12 If a nursing home ceases operations, it shall make immediate
13 arrangements, as approved by the department, for preservation of its
14 records.

15 The department shall by regulation define the type of records and
16 the information required to be included in the records to be retained
17 and preserved under this section; which records may be retained in
18 photographic form pursuant to chapter 5.46 RCW.

19 NEW SECTION. **Sec. 48.** A new section is added to chapter 74.39A
20 RCW to read as follows:

21 (1) A person who receives an asset from an applicant for or
22 recipient of long-term care services for less than fair market value
23 shall be subject to a civil fine payable to the department if:

24 (a) The applicant for or recipient of long-term care services
25 transferred the asset for the purpose of qualifying for state or
26 federal coverage for long-term care services and the person who
27 received the asset was aware, or should have been aware, of this
28 purpose;

29 (b) Such transfer establishes a period of ineligibility for such
30 service under state or federal laws or regulations; and

31 (c) The department provides coverage for such services during the
32 period of ineligibility because the failure to provide such coverage
33 would result in an undue hardship for the applicant or recipient.

34 (2) The civil fine imposed under this section shall be imposed in
35 a judicial proceeding initiated by the department and shall equal the
36 amount the department expends for the care of the applicant or

1 recipient during the period of ineligibility attributable to the amount
2 transferred to the person subject to the civil fine.

3 (3) Transfers subject to a civil fine under this section shall be
4 considered null and void and a fraudulent conveyance as to the
5 department. The department shall have the right to petition a court to
6 set aside such transfers and require all assets transferred returned to
7 the applicant or recipient.

8 NEW SECTION. **Sec. 49.** A new section is added to chapter 74.39A
9 RCW to read as follows:

10 (1) All payments made in state-funded long-term care shall be
11 recoverable as if they were medical assistance payments subject to
12 recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW, but without
13 regard to the recipient's age.

14 (2) In determining eligibility for state-funded long-term care
15 services programs, the department shall impose the same rules with
16 respect to the transfer of assets for less than fair market value as
17 are imposed under 42 U.S.C. 1396p with respect to nursing home and home
18 and community services.

19 NEW SECTION. **Sec. 50.** A new section is added to chapter 74.39A
20 RCW to read as follows:

21 Notwithstanding any other provision of law:

22 (1) In order to facilitate and ensure compliance with the federal
23 social security act, Title XIX, as now existing or hereafter amended,
24 later enactment to be adopted by reference by the director by rule, and
25 other state laws mandating recovery of assets from estates of persons
26 receiving long-term care services, the secretary of the department,
27 with the approval of the office of the attorney general, may pay the
28 reasonable and proper fees of attorneys admitted to practice before
29 courts of this state, and associated professionals such as guardians,
30 who are engaged in probate practice for the purpose of maintaining
31 actions under Title 11 RCW, to the end that assets are not wasted, but
32 are rather collected and preserved, and used for the care of the client
33 or the reimbursement of the department pursuant to this chapter or
34 chapter 43.20B RCW.

35 (2) The department may hire such other agencies and professionals
36 on a contingency basis or otherwise as are necessary and cost-effective

1 to collect bad debts owed to the department for long-term care
2 services.

3 **Sec. 51.** RCW 11.40.010 and 1994 c 221 s 25 are each amended to
4 read as follows:

5 Every personal representative shall, after appointment and
6 qualification, give a notice to the creditors of the deceased, stating
7 such appointment and qualification as personal representative and
8 requiring all persons having claims against the deceased to serve the
9 same on the personal representative or the estate's attorney of record,
10 and file an executed copy thereof with the clerk of the court, within
11 four months after the date of the first publication of such notice
12 described in this section or within four months after the date of the
13 filing of the copy of such notice with the clerk of the court,
14 whichever is the later, or within the time otherwise provided in RCW
15 11.40.013. The four-month time period after the later of the date of
16 the first publication of the notice to creditors or the date of the
17 filing of such notice with the clerk of the court is referred to in
18 this chapter as the "four-month time limitation." Such notice shall be
19 given as follows:

20 (1) The personal representative shall give actual notice, as
21 provided in RCW 11.40.013, to such creditors who become known to the
22 personal representative within such four-month time limitation;

23 (2) The personal representative shall cause such notice to be
24 published once in each week for three successive weeks in the county in
25 which the estate is being administered; ~~((and))~~

26 (3) The personal representative shall file a copy of such notice
27 with the clerk of the court; and

28 (4) The personal representative shall mail a copy of the notice,
29 including the decedent's social security number, to the state of
30 Washington, department of social and health services, office of
31 financial recovery.

32 Except as otherwise provided in RCW 11.40.011 or 11.40.013, any
33 claim not filed within the four-month time limitation shall be forever
34 barred, if not already barred by any otherwise applicable statute of
35 limitations. This bar is effective as to claims against both the
36 decedent's probate assets and nonprobate assets as described in RCW
37 11.18.200. Proof by affidavit of the giving and publication of such
38 notice shall be filed with the court by the personal representative.

1 Acts of a notice agent in complying with chapter 221, Laws of 1994
2 may be adopted and ratified by the personal representative as if done
3 by the personal representative in complying with this chapter, except
4 that if at the time of the appointment and qualification of the
5 personal representative a notice agent had commenced nonprobate notice
6 to creditors under chapter 11.42 RCW, the personal representative shall
7 give published notice as provided in RCW 11.42.180.

8 **Sec. 52.** RCW 11.42.020 and 1994 c 221 s 32 are each amended to
9 read as follows:

10 (1) The notice agent may give nonprobate notice to the creditors of
11 the decedent if:

12 (a) As of the date of the filing of a copy of the notice with the
13 clerk of the superior court for the notice county, the notice agent has
14 no knowledge of the appointment and qualification of a personal
15 representative in the decedent's estate in the state of Washington or
16 of another person becoming a notice agent; and

17 (b) According to the records of the clerk of the superior court for
18 the notice county as of 8:00 a.m. on the date of the filing, no
19 personal representative of the decedent's estate had been appointed and
20 qualified and no cause number regarding the decedent had been issued to
21 any other notice agent by the clerk under RCW 11.42.010.

22 (2) The notice must state that all persons having claims against
23 the decedent shall: (a) Serve the same on the notice agent if the
24 notice agent is a resident of the state of Washington upon whom service
25 of all papers may be made, or on the nonprobate resident agent for the
26 notice agent, if any, or on the attorneys of record of the notice agent
27 at their respective address in the state of Washington; and (b) file an
28 executed copy of the notice with the clerk of the superior court for
29 the notice county, within: (i)(A) Four months after the date of the
30 first publication of the notice described in this section; or (B) four
31 months after the date of the filing of the copy of the notice with the
32 clerk of the superior court for the notice county, whichever is later;
33 or (ii) the time otherwise provided in RCW 11.42.050. The four-month
34 time period after the later of the date of the first publication of the
35 notice to creditors or the date of the filing of the notice with the
36 clerk of the court is referred to in this chapter as the "four-month
37 time limitation."

1 (3) The notice agent shall declare in the notice in affidavit form
2 or under the penalty of perjury under the laws of the state of
3 Washington as provided in RCW 9A.72.085 that: (a) The notice agent is
4 entitled to give the nonprobate notice under subsection (1) of this
5 section; and (b) the notice is being given by the notice agent as
6 permitted by this section.

7 (4) The notice agent shall sign the notice and file it with the
8 clerk of the superior court for the notice county. The notice must be
9 given as follows:

10 (a) The notice agent shall give actual notice as to creditors of
11 the decedent who become known to the notice agent within the four-month
12 time limitation as required in RCW 11.42.050;

13 (b) The notice agent shall cause the notice to be published once in
14 each week for three successive weeks in the notice county; ~~((and))~~

15 (c) The notice agent shall file a copy of the notice with the clerk
16 of the superior court for the notice county; and

17 (d) The notice agent shall mail a copy of the notice, including the
18 decedent's social security number, to the state of Washington,
19 department of social and health services, office of financial recovery.

20 (5) A claim not filed within the four-month time limitation is
21 forever barred, if not already barred by an otherwise applicable
22 statute of limitations, except as provided in RCW 11.42.030 or
23 11.42.050. The bar is effective to bar claims against both the probate
24 estate of the decedent and nonprobate assets that were subject to
25 satisfaction of the decedent's general liabilities immediately before
26 the decedent's death. If a notice to the creditors of a decedent is
27 published by more than one notice agent and the notice agents are not
28 acting jointly, the four-month time limitation means the four-month
29 time limitation that applies to the notice agent who first publishes
30 the notice. Proof by affidavit or perjury declaration made under RCW
31 9A.72.085 of the giving and publication of the notice must be filed
32 with the clerk of the superior court for the notice county by the
33 notice agent.

34 **Sec. 53.** RCW 11.62.010 and 1993 c 291 s 1 are each amended to read
35 as follows:

36 (1) At any time after forty days from the date of a decedent's
37 death, any person who is indebted to or who has possession of any
38 personal property belonging to the decedent or to the decedent and his

1 or her surviving spouse as a community, which debt or personal property
2 is an asset which is subject to probate, shall pay such indebtedness or
3 deliver such personal property, or so much of either as is claimed, to
4 a person claiming to be a successor of the decedent upon receipt of
5 proof of death and of an affidavit made by said person which meets the
6 requirements of subsection (2) of this section.

7 (2) An affidavit which is to be made pursuant to this section shall
8 state:

9 (a) The claiming successor's name and address, and that the
10 claiming successor is a "successor" as defined in RCW 11.62.005;

11 (b) That the decedent was a resident of the state of Washington on
12 the date of his or her death;

13 (c) That the value of the decedent's entire estate subject to
14 probate, not including the surviving spouse's community property
15 interest in any assets which are subject to probate in the decedent's
16 estate, wherever located, less liens and encumbrances, does not exceed
17 sixty thousand dollars;

18 (d) That forty days have elapsed since the death of the decedent;

19 (e) That no application or petition for the appointment of a
20 personal representative is pending or has been granted in any
21 jurisdiction;

22 (f) That all debts of the decedent including funeral and burial
23 expenses have been paid or provided for;

24 (g) A description of the personal property and the portion thereof
25 claimed, together with a statement that such personal property is
26 subject to probate;

27 (h) That the claiming successor has given written notice, either by
28 personal service or by mail, identifying his or her claim, and
29 describing the property claimed, to all other successors of the
30 decedent, and that at least ten days have elapsed since the service or
31 mailing of such notice; and

32 (i) That the claiming successor is either personally entitled to
33 full payment or delivery of the property claimed or is entitled to full
34 payment or delivery thereof on the behalf and with the written
35 authority of all other successors who have an interest therein.

36 (3) A transfer agent of any security shall change the registered
37 ownership of the security claimed from the decedent to the person
38 claiming to be the successor with respect to such security upon the
39 presentation of proof of death and of an affidavit made by such person

1 which meets the requirements of subsection (2) of this section. Any
2 governmental agency required to issue certificates of ownership or of
3 license registration to personal property shall issue a new certificate
4 of ownership or of license registration to a person claiming to be a
5 successor of the decedent upon receipt of proof of death and of an
6 affidavit made by such person which meets the requirements of
7 subsection (2) of this section.

8 (4) No release from any Washington state or local taxing authority
9 may be required before any assets or debts are paid or delivered to a
10 successor of a decedent as required under this section.

11 (5) A copy of the affidavit, including the decedent's social
12 security number, shall be mailed to the state of Washington, department
13 of social and health services, office of financial recovery.

14 **Sec. 54.** RCW 11.28.120 and 1994 c 221 s 23 are each amended to
15 read as follows:

16 Administration of an estate if the decedent died intestate or if
17 the personal representative or representatives named in the will
18 declined or were unable to serve shall be granted to some one or more
19 of the persons hereinafter mentioned, and they shall be respectively
20 entitled in the following order:

21 (1) The surviving spouse, or such person as he or she may request
22 to have appointed.

23 (2) The next of kin in the following order: (a) Child or children;
24 (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e)
25 nephews or nieces.

26 (3) The trustee named by the decedent in an inter vivos trust
27 instrument, testamentary trustee named in the will, guardian of the
28 person or estate of the decedent, or attorney in fact appointed by the
29 decedent, if any such a fiduciary controlled or potentially controlled
30 substantially all of the decedent's probate and nonprobate assets.

31 (4) One or more of the beneficiaries or transferees of the
32 decedent's probate or nonprobate assets.

33 (5)(a) The director of revenue, or the director's designee, for
34 those estates having property subject to the provisions of chapter
35 11.08 RCW; however, the director may waive this right.

36 (b) The secretary of the department of social and health services
37 for those estates owing debts for long-term care services as defined in
38 section 1 of this act; however the secretary may waive this right.

1 (6) One or more of the principal creditors.

2 (7) If the persons so entitled shall fail for more than forty days
3 after the death of the decedent to present a petition for letters of
4 administration, or if it appears to the satisfaction of the court that
5 there is no next of kin, as above specified eligible to appointment, or
6 they waive their right, and there are no principal creditor or
7 creditors, or such creditor or creditors waive their right, then the
8 court may appoint any suitable person to administer such estate.

9 **Sec. 55.** RCW 18.39.250 and 1989 c 390 s 3 are each amended to read
10 as follows:

11 (1) Any funeral establishment selling funeral merchandise or
12 services by prearrangement funeral service contract and accepting
13 moneys therefore shall establish and maintain one or more
14 prearrangement funeral service trusts under Washington state law with
15 two or more designated trustees, for the benefit of the beneficiary of
16 the prearrangement funeral service contract or may join with one or
17 more other Washington state licensed funeral establishments in a
18 "master trust" provided that each member of the "master trust" shall
19 comply individually with the requirements of this chapter.

20 (2) Up to ten percent of the cash purchase price of each
21 prearrangement funeral service contract, excluding sales tax, may be
22 retained by the funeral establishment unless otherwise provided in this
23 chapter. If the prearrangement funeral service contract is canceled
24 within thirty calendar days of its signing, then the purchaser shall
25 receive a full refund of all moneys paid under the contract.

26 (3) At least ninety percent of the cash purchase price of each
27 prearrangement funeral service contract, paid in advance, excluding
28 sales tax, shall be placed in the trust established or utilized by the
29 funeral establishment. Deposits to the prearrangement funeral service
30 trust shall be made not later than the twentieth day of the month
31 following receipt of each payment made on the last ninety percent of
32 each prearrangement funeral service contract, excluding sales tax.

33 (4) All prearrangement funeral service trust moneys shall be
34 deposited in an insured account in a qualified public depository or
35 shall be invested in instruments issued or insured by any agency of the
36 federal government if these securities are held in a public depository.
37 The account shall be designated as the prearrangement funeral service
38 trust of the funeral establishment for the benefit of the beneficiaries

1 named in the prearrangement funeral service contracts. The
2 prearrangement funeral service trust shall not be considered as, nor
3 shall it be used as, an asset of the funeral establishment.

4 (5) After deduction of reasonable fees for the administration of
5 the trust, taxes paid or withheld, or other expenses of the trust, all
6 interest, dividends, increases, or accretions of whatever nature earned
7 by a trust shall be kept unimpaired and shall become a part of the
8 trust. Adequate records shall be maintained to allocate the share of
9 principal and interest to each contract. Fees deducted for the
10 administration of the trust shall not exceed one percent of the face
11 amount of the prearrangement funeral service contract per annum. In no
12 instance shall the administrative charges deducted from the
13 prearrangement funeral service trust reduce, diminish, or in any other
14 way lessen the value of the trust so that the services or merchandise
15 provided for under the contract are reduced, diminished, or in any
16 other way lessened.

17 (6) Except as otherwise provided in this chapter, the trustees of
18 a prearrangement funeral service trust shall permit withdrawal of all
19 funds deposited under a prearrangement funeral service contract, plus
20 accruals thereon, under the following circumstances and conditions:

21 (a) If the funeral establishment files a verified statement with
22 the trustees that the prearrangement funeral merchandise and services
23 covered by the contract have been furnished and delivered in accordance
24 therewith; or

25 (b) If the funeral establishment files a verified statement with
26 the trustees that the prearrangement funeral merchandise and services
27 covered by the contract have been canceled in accordance with its
28 terms.

29 (7) Subsequent to the thirty calendar day cancellation period
30 provided for in this chapter, any purchaser or beneficiary who has a
31 revocable prearrangement funeral service contract has the right to
32 demand a refund of the amount in trust.

33 (8) Prearrangement funeral service contracts which have or should
34 have an account in a prearrangement funeral service trust may be
35 terminated by the board if the funeral establishment goes out of
36 business, becomes insolvent or bankrupt, makes an assignment for the
37 benefit of creditors, has its prearrangement funeral service
38 certificate of registration revoked, or for any other reason is unable
39 to fulfill the obligations under the contract. In such event, or upon

1 demand by the purchaser or beneficiary of the prearrangement funeral
2 service contract, the funeral establishment shall refund to the
3 purchaser or beneficiary all moneys deposited in the trust and
4 allocated to the contract unless otherwise ordered by a court of
5 competent jurisdiction. The purchaser or beneficiary may, in lieu of
6 a refund, elect to transfer the prearrangement funeral service contract
7 and all amounts in trust to another funeral establishment licensed
8 under this chapter which will agree, by endorsement to the contract, to
9 be bound by the contract and to provide the funeral merchandise or
10 services. Election of this option shall not relieve the defaulting
11 funeral establishment of its obligation to the purchaser or beneficiary
12 for any amounts required to be, but not placed, in trust.

13 (9) Prior to the sale or transfer of ownership or control of any
14 funeral establishment which has contracted for prearrangement funeral
15 service contracts, any person, corporation, or other legal entity
16 desiring to acquire such ownership or control shall apply to the
17 director in accordance with RCW 18.39.145. Persons and business
18 entities selling or relinquishing, and persons and business entities
19 purchasing or acquiring ownership or control of such funeral
20 establishments shall each verify and attest to a report showing the
21 status of the prearrangement funeral service trust or trusts on the
22 date of the sale. This report shall be on a form prescribed by the
23 board and shall be considered part of the application for a funeral
24 establishment license. In the event of failure to comply with this
25 subsection, the funeral establishment shall be deemed to have gone out
26 of business and the provisions of subsection (8) of this section shall
27 apply.

28 (10) Prearrangement funeral service trust moneys shall not be used,
29 directly or indirectly, for the benefit of the funeral establishment or
30 any director, officer, agent, or employee of the funeral establishment
31 including, but not limited to, any encumbrance, pledge, or other use of
32 prearrangement funeral service trust moneys as collateral or other
33 security.

34 (11)(a) If, at the time of the signing of the prearrangement
35 funeral service contract, the beneficiary of the trust is a recipient
36 of public assistance as defined in RCW 74.04.005, or reasonably
37 anticipates being so defined, the contract may provide that the trust
38 will be irrevocable. If after the contract is entered into, the
39 beneficiary becomes eligible or seeks to become eligible for public

1 assistance under Title 74 RCW, the contract may provide for an election
2 by the beneficiary, or by the purchaser on behalf of the beneficiary,
3 to make the trust irrevocable thereafter in order to become or remain
4 eligible for such assistance.

5 (b) The department of social and health services shall notify the
6 trustee of any prearrangement service trust that the department has a
7 claim on the estate of a beneficiary for long-term care services. Such
8 notice shall be renewed at least every three years. The trustees upon
9 becoming aware of the death of a beneficiary shall give notice to the
10 department of social and health services, office of financial recovery,
11 who shall file any claim there may be within thirty days of the notice.

12 (12) Every prearrangement funeral service contract financed through
13 a prearrangement funeral service trust shall contain language which:

14 (a) Informs the purchaser of the prearrangement funeral service
15 trust and the amount to be deposited in the trust;

16 (b) Indicates if the contract is revocable or not in accordance
17 with subsection (11) of this section;

18 (c) Specifies that a full refund of all moneys paid on the contract
19 will be made if the contract is canceled within thirty calendar days of
20 its signing;

21 (d) Specifies that, in the case of cancellation by a purchaser or
22 beneficiary eligible to cancel under the contract or under this
23 chapter, up to ten percent of the contract amount may be retained by
24 the seller to cover the necessary expenses of selling and setting up
25 the contract;

26 (e) Identifies the trust to be used and contains information as to
27 how the trustees may be contacted.

28 **Sec. 56.** RCW 18.39.255 and 1989 c 390 s 4 are each amended to read
29 as follows:

30 Prearranged funeral service contracts funded through insurance
31 shall contain language which:

32 (1) States the amount of insurance;

33 (2) Informs the purchaser of the name and address of the insurance
34 company through which the insurance will be provided, the policy
35 number, and the name of the beneficiary; ((and))

36 (3) Informs the purchaser that amounts paid for insurance may not
37 be refundable;

1 (4) Informs that any funds from the policy not used for services
2 may be subject to a claim for reimbursement for long-term care services
3 paid for by the state; and

4 (5) States that for purposes of the contract, the procedures in RCW
5 18.39.250(11)(b) shall control such recoupment.

6 **Sec. 57.** RCW 68.46.050 and 1973 1st ex.s. c 68 s 5 are each
7 amended to read as follows:

8 (1) A bank, trust company, or savings and loan association
9 designated as the depository of prearrangement funds shall permit
10 withdrawal by a cemetery authority of all funds deposited under any
11 specific prearrangement contract plus interest accrued thereon, under
12 the following circumstances and conditions:

13 ~~((+1))~~ (a) If the cemetery authority files a verified statement
14 with the depository that the prearrangement merchandise and services
15 covered by a contract have been furnished and delivered in accordance
16 therewith; or

17 ~~((+2))~~ (b) If the cemetery authority files a verified statement
18 that a specific prearrangement contract has been canceled in accordance
19 with its terms.

20 (2) The department of social and health services shall notify the
21 cemetery authority maintaining a prearrangement trust fund regulated by
22 this chapter that the department has a claim on the estate of a
23 beneficiary for long-term care services. Such notice shall be renewed
24 at least every three years. The cemetery authority upon becoming aware
25 of the death of a beneficiary shall give notice to the department of
26 social and health services, office of financial recovery, who shall
27 file any claim there may be within thirty days of the notice.

28 **Sec. 58.** RCW 70.129.040 and 1994 c 214 s 5 are each amended to
29 read as follows:

30 (1) The resident has the right to manage his or her financial
31 affairs, and the facility may not require residents to deposit their
32 personal funds with the facility.

33 (2) Upon written authorization of a resident, if the facility
34 agrees to manage the resident's personal funds, the facility must hold,
35 safeguard, manage, and account for the personal funds of the resident
36 deposited with the facility as specified in this section.

1 (~~(3)~~) (a) The facility must deposit a resident's personal funds in
2 excess of one hundred dollars in an interest-bearing account or
3 accounts that is separate from any of the facility's operating
4 accounts, and that credits all interest earned on residents' funds to
5 that account. In pooled accounts, there must be a separate accounting
6 for each resident's share.

7 (b) The facility must maintain a resident's personal funds that do
8 not exceed one hundred dollars in a noninterest-bearing account,
9 interest-bearing account, or petty cash fund.

10 (~~(4)~~) (3) The facility must establish and maintain a system that
11 assures a full and complete and separate accounting of each resident's
12 personal funds entrusted to the facility on the resident's behalf.

13 (a) The system must preclude any commingling of resident funds with
14 facility funds or with the funds of any person other than another
15 resident.

16 (b) The individual financial record must be available on request to
17 the resident or his or her legal representative.

18 (~~(5)~~) (4) Upon the death of a resident with a personal fund
19 deposited with the facility the facility must convey within forty-five
20 days the resident's funds, and a final accounting of those funds, to
21 the individual or probate jurisdiction administering the resident's
22 estate; but in the case of a resident who received long-term care
23 services paid for by the state, the funds and accounting shall be sent
24 to the state of Washington, department of social and health services,
25 office of financial recovery. The department shall establish a release
26 procedure for use for burial expenses.

27 **Sec. 59.** RCW 43.20B.080 and 1994 c 21 s 3 are each amended to read
28 as follows:

29 (1) The department shall file liens, seek adjustment, or otherwise
30 effect recovery for medical assistance correctly paid on behalf of an
31 individual as required by this chapter and 42 U.S.C. Sec. 1396p.

32 (2) Liens may be adjusted by foreclosure in accordance with chapter
33 61.12 RCW.

34 (3) In the case of an individual who was fifty-five years (~~or~~
35 ~~{or}~~) of age or older when the individual received medical assistance,
36 the department shall seek adjustment or recovery from the individual's
37 estate, and from nonprobate assets of the individual as defined by RCW
38 11.02.005 except property passing through a community property

1 agreement, but only for medical assistance consisting of nursing
2 facility services, home and community-based services, other services
3 that the department determines to be appropriate, and related hospital
4 and prescription drug services. Recovery from the individual's estate,
5 including foreclosure of liens imposed under this section, shall be
6 undertaken as soon as practicable, consistent with the requirements of
7 42 U.S.C. Sec. 1396p.

8 ((+3+)) (4)(a) The department shall establish procedures consistent
9 with standards established by the federal department of health and
10 human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery
11 when such recovery would work an undue hardship.

12 ((+4+)) (b) Recovery of medical assistance from a recipient's
13 estate shall not include property made exempt from claims by federal
14 law or treaty, including exemption for tribal artifacts that may be
15 held by individual Native Americans.

16 (5) The department is authorized to adopt rules to effect recovery
17 under this section. The department may adopt by rule later enactments
18 of the federal laws referenced in this section.

19 NEW SECTION. Sec. 60. A new section is added to chapter 74.46 RCW
20 to read as follows:

21 Upon the death of a resident with a personal fund deposited with
22 the facility, the facility must convey within forty-five days the
23 resident's funds, and a final accounting of those funds, to the
24 individual or probate jurisdiction administering the resident's estate;
25 but in the case of a resident who received long-term care services, the
26 funds and accounting shall be sent to the state of Washington,
27 department of social and health services, office of financial recovery.
28 The department shall establish a release procedure for use for burial
29 expenses.

30 **Sec. 61.** RCW 74.46.105 and 1985 c 361 s 10 are each amended to
31 read as follows:

32 Cost reports and patient trust accounts of contractors shall be
33 field audited by the department, either by department staff or by
34 auditors under contract to the department, in accordance with the
35 provisions of this chapter. The department when it deems necessary to
36 assure the accuracy of cost reports may review any underlying financial
37 statements or other records upon which the cost reports are based. The

1 department shall have the authority to accept or reject audits which
2 fail to satisfy the requirements of this section or which are performed
3 by auditors who violate any of the rules of this section. Department
4 audits of the cost reports and patient trust accounts shall be
5 conducted as follows:

6 (1) Each year the department will provide for field audit of the
7 cost report, statistical reports, and patient trust funds, as
8 established by RCW 74.46.700, of all or a sample of reporting
9 facilities selected by profiles of costs, exceptions, contract
10 terminations, upon special requests or other factors determined by the
11 department.

12 (2) Beginning with audits for calendar year (~~((1983, up to one~~
13 ~~hundred percent of contractors cost reports and patient care trust fund~~
14 ~~accounts shall be audited: PROVIDED, That each contractor shall be~~
15 ~~audited at least once in every three year period))~~ 1993, contractors'
16 cost reports and resident care trust fund accounts shall be audited
17 periodically as determined necessary by the department.

18 (3) Facilities shall be selected for sample audits within one
19 hundred twenty days of submission of a correct and complete cost
20 report, and shall be so informed of the department's intent to audit.
21 Audits so scheduled shall be completed within one year of selection.

22 (4) Where an audit for a recent reporting or trust fund period
23 discloses material discrepancies, undocumented costs or mishandling of
24 patient trust funds, auditors may examine prior unaudited periods, for
25 indication of similar material discrepancies, undocumented costs or
26 mishandling of patient trust funds for not more than two reporting
27 periods preceding the facility reporting period selected in the sample.

28 (5) The audit will result in a schedule summarizing appropriate
29 adjustments to the contractor's cost report. These adjustments will
30 include an explanation for the adjustment, the general ledger account
31 or account group, and the dollar amount. Patient trust fund audits
32 shall be reported separately and in accordance with RCW 74.46.700.

33 (6) Audits shall meet generally accepted auditing standards as
34 promulgated by the American institute of certified public accountants
35 and the standards for audit of governmental organizations, programs,
36 activities and functions as published by the comptroller general of the
37 United States. Audits shall be supervised or reviewed by a certified
38 public accountant.

1 (7) No auditor under contract with or employed by the department to
2 perform audits in accordance with the provisions of this chapter shall:

3 (a) Have had direct or indirect financial interest in the
4 ownership, financing or operation of a nursing home in this state
5 during the period covered by the audits;

6 (b) Acquire or commit to acquire any direct or indirect financial
7 interest in the ownership, financing or operation of a nursing home in
8 this state during said auditor's employment or contract with the
9 department;

10 (c) Accept as a client any nursing home in this state during or
11 within two years of termination of said auditor's contract or
12 employment with the department.

13 (8) Audits shall be conducted by auditors who are otherwise
14 independent as determined by the standards of independence established
15 by the American institute of certified public accountants.

16 (9) All audit rules adopted after March 31, 1984, shall be
17 published before the beginning of the cost report year to which they
18 apply.

19 **Sec. 62.** RCW 74.46.115 and 1983 1st ex.s. c 67 s 6 are each
20 amended to read as follows:

21 The office of the state auditor shall ((~~annually~~)) at least once in
22 every three state fiscal years commencing July 1, 1995, review the
23 performance of the department to ensure that departmental audits are
24 conducted in accordance with generally accepted ((~~accounting principles~~
25 ~~and~~)) auditing standards.

26 **Sec. 63.** RCW 74.46.640 and 1983 1st ex.s. c 67 s 34 are each
27 amended to read as follows:

28 (1) Payments to a contractor may be withheld by the department in
29 each of the following circumstances:

30 (a) A required report is not properly completed and filed by the
31 contractor within the appropriate time period, including any approved
32 extension. Payments will be released as soon as a properly completed
33 report is received;

34 (b) State auditors, department auditors, or authorized personnel in
35 the course of their duties are refused access to a nursing ((~~home~~))
36 facility or are not provided with existing appropriate records.

1 Payments will be released as soon as such access or records are
2 provided;

3 (c) A refund in connection with a settlement or rate adjustment is
4 not paid by the contractor when due. The amount withheld will be
5 limited to the unpaid amount of the refund; (~~and~~)

6 (d) Payment for the final thirty days of service under a contract
7 will be held in the absence of adequate alternate security acceptable
8 to the department pending final settlement when the contract is
9 terminated; and

10 (e) Payment for services at any time during the contract period in
11 the absence of adequate alternate security acceptable to the
12 department, if a nursing facility's medicaid overpayment liability, as
13 determined by preliminary settlement, or final settlement, or both,
14 reaches or exceeds fifty thousand dollars, whether subject to a good
15 faith dispute or not, and for each subsequent increase in liability
16 reaching or exceeding twenty-five thousand dollars. Payments will be
17 released as soon as acceptable security is provided or refund to the
18 department is made.

19 (2) No payment will be withheld until written notification of the
20 suspension is provided to the contractor, stating the reason
21 (~~therefor~~) for the withholding, except that a request for
22 administrative review or appeal of a suspension of payment, if
23 available to the contractor and not already exhausted, shall not delay
24 suspension of payment pending the outcome of the review or appeal.

25 **Sec. 64.** RCW 74.46.690 and 1985 c 361 s 3 are each amended to read
26 as follows:

27 (1) When a facility contract is terminated for any reason, the old
28 contractor shall submit final reports as required by RCW 74.46.040.

29 (2) Upon notification of a contract termination, the department
30 shall determine by preliminary or final settlement calculations the
31 amount of any overpayments made to the contractor, including
32 overpayments disputed by the contractor. If preliminary or final
33 settlements are unavailable for any period up to the date of contract
34 termination, the department shall make a reasonable estimate of any
35 overpayment or underpayments for such periods. The reasonable estimate
36 shall be based upon prior period settlements, available audit findings,
37 the projected impact of prospective rates, and other information
38 available to the department.

1 (3) The old contractor shall provide security, in a form deemed
2 adequate by the department, in the amount of determined and estimated
3 overpayments, whether or not the overpayments are the subject of good
4 faith dispute. Security shall consist of:

5 (a) Withheld payments due the contractor; or

6 (b) A surety bond issued by a bonding company acceptable to the
7 department; or

8 (c) An assignment of funds to the department; or

9 (d) Collateral acceptable to the department; or

10 (e) A purchaser's assumption of liability for the prior
11 contractor's overpayment; (~~(e)~~)

12 (f) A promissory note secured by a deed of trust; or

13 (g) Any combination of (a), (b), (c), (d), (~~(e)~~) (e), or (f) of
14 this subsection.

15 (4) A surety bond or assignment of funds shall:

16 (a) Be at least equal in amount to determined or estimated
17 overpayments, whether or not the subject of good faith dispute, minus
18 withheld payments;

19 (b) Be issued or accepted by a bonding company or financial
20 institution licensed to transact business in Washington state;

21 (c) Be for a term sufficient to ensure effectiveness after final
22 settlement and the exhaustion of administrative and judicial remedies:
23 PROVIDED, That the bond or assignment shall initially be for a term of
24 five years, and shall be forfeited if not renewed thereafter in an
25 amount equal to any remaining overpayment in dispute;

26 (d) Provide that the full amount of the bond or assignment, or
27 both, shall be paid to the department if a properly completed final
28 cost report is not filed in accordance with this chapter, or if
29 financial records supporting this report are not preserved and made
30 available to the auditor; and

31 (e) Provide that an amount equal to any recovery the department
32 determines is due from the contractor at settlement, but not exceeding
33 the amount of the bond and assignment, shall be paid to the department
34 if the contractor does not pay the refund within sixty days following
35 receipt of written demand or the conclusion of administrative or
36 judicial proceedings to contest settlement issues.

37 (5) The department shall release any payment withheld as security
38 if alternate security is provided under subsection (3) of this section
39 in an amount equivalent to determined and estimated overpayments.

1 (6) If the total of withheld payments, bonds, and assignments is
2 less than the total of determined and estimated overpayments, the
3 unsecured amount of such overpayments shall be a debt due the state and
4 shall become a lien against the real and personal property of the
5 contractor from the time of filing by the department with the county
6 auditor of the county where the contractor resides or owns property,
7 and the lien claim has preference over the claims of all unsecured
8 creditors.

9 (7) The contractor shall file a properly completed final cost
10 report in accordance with the requirements of this chapter, which shall
11 be audited by the department. A final settlement shall be determined
12 within ninety days following completion of the audit process, including
13 any administrative review of the audit requested by the contractor.

14 (8) Following determination of settlement for all periods, security
15 held pursuant to this section shall be released to the contractor after
16 overpayments determined in connection with final settlement have been
17 paid by the contractor. If the contractor contests the settlement
18 determination in accordance with RCW 74.46.170, the department shall
19 hold the security, not to exceed the amount of estimated unrecovered
20 overpayments being contested, pending completion of the administrative
21 appeal process.

22 (9) If, after calculation of settlements for any periods, it is
23 determined that overpayments exist in excess of the value of security
24 held by the state, the department may seek recovery of these additional
25 overpayments as provided by law.

26 ~~((If a contract is terminated solely in order for the same
27 owner to contract with the department to deliver services to another
28 classification of medical care recipients at the same facility, the
29 contractor is not required to submit final cost reports, and security
30 shall not be required))~~ Regardless of whether a contractor intends to
31 terminate its medicaid contract, if a facility's medicaid overpayment
32 liability for one or more settlement periods reaches, or exceeds a
33 total of fifty thousand dollars, as determined by preliminary
34 settlement or final settlement, or both, whether subject to a good
35 faith dispute or not, the department shall demand and obtain security
36 equivalent to such overpayment, and for each subsequent increase in
37 liability reaching or exceeding twenty-five thousand dollars. Such
38 security shall meet the criteria in subsections (3) and (4) of this
39 section, except that the department shall not accept an assumption of

1 liability. The department shall withhold all or portions of a
2 facility's current contract payments or impose liens, or both, as
3 authorized in subsection (6) of this section if security acceptable to
4 the department is not forthcoming. The department shall release a
5 facility's withheld payments or lift liens, or both, if the facility
6 subsequently provides security acceptable to the department. This
7 subsection shall apply to all overpayments determined by preliminary or
8 final settlements issued on or after July 1, 1995, regardless of what
9 reimbursement periods the settlements may cover.

10 NEW SECTION. Sec. 65. A new section is added to chapter 74.46 RCW
11 under the subchapter heading "Part D Allowable Costs" to read as
12 follows:

13 The July 1, 1995, rates shall be determined using allowable costs
14 reported for the period from January 1st through December 31st of the
15 preceding year, less a reduction of one and four-tenths percent to take
16 into account lower operating costs to nursing facilities resulting from
17 implementation of the regulatory reform initiatives, described in the
18 February 14, 1995, report, prepared by the legislative budget committee
19 and as occurring through the implementation of other regulatory
20 reforms.

21 NEW SECTION. Sec. 66. A new section is added to chapter 43.20A
22 RCW to read as follows:

23 (1) The secretary shall select appropriate persons from within the
24 department's divisions to serve on a workgroup for the purpose of
25 developing a case management program that targets acute care hospital
26 patients with physical medicine and rehabilitative needs and transition
27 such patients to skilled nursing facility settings. Other patients
28 having care needs that may be transitioned to skilled nursing facility
29 settings shall also be identified and targeted for the department's
30 case management program.

31 (2) In implementing the transitional care case management program,
32 the secretary shall endeavor to reduce the medicaid physical medicine
33 and rehabilitative program budget by at least twenty-five percent
34 during the 1995-97 biennium.

35 NEW SECTION. Sec. 67. If any part of this act is found to be in
36 conflict with federal requirements that are a prescribed condition to

1 the allocation of federal funds to the state, the conflicting part of
2 this act is inoperative solely to the extent of the conflict and with
3 respect to the agencies directly affected, and this finding does not
4 affect the operation of the remainder of this act in its application to
5 the agencies concerned. The rules under this act shall meet federal
6 requirements that are a necessary condition to the receipt of federal
7 funds by the state.

8 NEW SECTION. **Sec. 68.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 69.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect July 1, 1995.

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