

Chapter 18.20 RCW
Boarding homes

RCW Sections

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18.20.010

Purpose.

The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of boarding homes, which, in the light of advancing knowledge, will promote safe and adequate care of the individuals therein. It is further the intent of the legislature that boarding homes be available to meet the needs of those for whom they care by recognizing the capabilities of individuals to direct their self-medication or to use supervised self-medication techniques when ordered and approved by a physician licensed under chapter

18.57 or 18.71 RCW or a podiatric physician and surgeon licensed under chapter 18.22 RCW.

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

[2000 c 171 § 3; 2000 c 121 § 1; 1985 c 297 § 1; 1957 c 253 § 1.]

Notes:

Reviser's note: This section was amended by 2000 c 121 § 1 and by 2000 c 171 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

18.20.020

Definitions.

As used in this chapter:

(1) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, a boarding home that is licensed for three to six residents prior to or on July 1, 2000, may maintain its boarding home license as long as it is continually licensed as a boarding home. "Boarding home" shall not include facilities certified as group training homes pursuant to RCW

71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

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

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

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

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

(6) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the boarding home and to receive information from the boarding home, if there is no legal representative. The resident's competence shall be determined using the criteria in RCW 11.88.010(1)(e). The resident's representative may not be affiliated with the licensee, boarding home, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

(7) "Domiciliary care" means: Assistance with activities of daily living provided by the boarding home either directly or indirectly; or health support services, if provided directly or indirectly by the boarding home; or intermittent nursing services, if provided directly or indirectly by the boarding home.

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

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

(10) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in a boarding home and may receive one or more of the services listed in RCW 18.20.030(5). A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the boarding home and may not receive the items and services listed in subsection (8) of this section, except during the time the person is receiving adult day services as defined in this section.

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

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

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

[2006 c 242 § 1; 2004 c 142 § 1; 2003 c 231 § 2; 2000 c 47 § 1; 1998 c 272 § 14; 1991 c 3 § 34; 1989 c 329 § 1; 1985 c 213 § 4; 1979 c 141 § 25; 1957 c 253 § 2.]

Notes:

Severability -- 2006 c 242: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 242 § 4.]

Effective dates -- 2004 c 142: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2004], except that sections 1 through 10 and 12 of this act take effect September 1, 2004." [2004 c 142 § 18.]

Findings -- 2003 c 231: "The legislature finds and declares that, in keeping with the traditional concept of the dignity of the individual in our democratic society, the older citizens of this state and persons with disabilities are entitled to live in comfort, honor, and dignity in a manner that maximizes freedom and independence.

The legislature further finds that licensed boarding homes are an essential component of home and community-based services, and that the noninstitutional nature of this care setting must be preserved and protected by ensuring a regulatory structure that focuses on the actual care and services provided to residents, consumer satisfaction, and continuous quality improvement.

The legislature also finds that residents and consumers of services in licensed boarding homes should be encouraged to exercise maximum independence, and the legislature declares that the state's rules for licensed boarding homes must also be designed to encourage individual dignity, autonomy, and choice.

The legislature further finds that consumers should be afforded access to affordable long-term care services in licensed boarding homes, and believes that care delivery must remain responsive to consumer preferences. Residents and consumers in licensed boarding homes should be afforded the right to self-direct care, and this right should be reflected in the rules governing licensed boarding homes." [2003 c 231 § 1.]

Effective date -- 2003 c 231: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2003]." [2003 c 231 § 12.]

Effective date -- 2000 c 47: "This act takes effect July 1, 2000." [2000 c 47 § 11.]

Findings -- Severability -- Effective date -- 1998 c 272: See notes following RCW 18.20.230.

Savings -- Effective date -- 1985 c 213: See notes following RCW 43.20.050.

18.20.030

License required.

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

(2) A boarding home license is not required for the housing, or services, that are customarily provided under landlord tenant agreements governed by the residential landlord-tenant act, chapter

59.18 RCW, or when housing nonresident individuals who, without ongoing assistance from the boarding home, initiate and arrange for services provided by persons other than the boarding home licensee or the licensee's contractor. This subsection does not prohibit the licensee from furnishing written information concerning available community resources to the nonresident individual or the individual's family members or legal representatives. The licensee may not require the use of any particular service provider.

(3) Residents receiving domiciliary care, directly or indirectly by the boarding home, are not considered nonresident individuals for the purposes of this section.

(4) A boarding home license is required when any person other than an outside service provider, under RCW 18.20.380, or family member:

- (a) Assumes general responsibility for the safety and well-being of a resident;
- (b) Provides assistance with activities of daily living, either directly or indirectly;
- (c) Provides health support services, either directly or indirectly; or
- (d) Provides intermittent nursing services, either directly or indirectly.

(5) A boarding home license is not required for one or more of the following services that may be provided to a nonresident individual: (a) Emergency assistance provided on an intermittent or nonroutine basis to any nonresident individual; (b) systems employed by independent senior housing, or independent living units in continuing care retirement communities, to respond to the potential need for emergency services for nonresident individuals; (c) infrequent, voluntary, and nonscheduled blood pressure checks for nonresident individuals; (d) nurse referral services provided at the request of a nonresident individual to determine whether referral to an outside health care provider is recommended; (e) making health care appointments at the request of nonresident individuals; (f) preadmission assessment, at the request of the nonresident individual, for the purposes of transitioning to a licensed care setting; or (g) services customarily provided under landlord tenant agreements governed by

the residential landlord-tenant act, chapter 59.18 RCW. The preceding services may not include continual care or supervision of a nonresident individual without a boarding home license.

[2004 c 142 § 17; 2003 c 231 § 3; 1957 c 253 § 3.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

Findings -- Effective date -- 2003 c 231: See notes following RCW 18.20.020.

18.20.040

Application for license.

An application for a license shall be made to the department upon forms provided by the department and shall contain such information as the department reasonably requires, which shall include affirmative evidence of ability to comply with such rules as are lawfully adopted by the department.

[2000 c 47 § 2; 1957 c 253 § 4.]

Notes:

Effective date -- 2000 c 47: See note following RCW 18.20.020.

18.20.050

Licenses — Issuance — Renewal — Provisional licenses — Fees — Display — Surrender, relinquishment — Change in licensee — Refusal of renewal, when — Copy of decision.

(1) Upon receipt of an application for license, if the applicant and the boarding home facilities meet the requirements established under this chapter, the department shall issue a license. If there is a failure to comply with the provisions of this chapter or the standards and rules adopted pursuant thereto, the department may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the boarding home for a period to be determined by the department, but not to exceed twelve months, which provisional license shall not be subject to renewal. The department may also place conditions on the license under RCW

18.20.190. At the time of the application for or renewal of a license or provisional license the licensee shall pay a license fee as established by the department under RCW 43.20B.110. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed twelve months in duration. However, when the annual license renewal date of a previously licensed boarding home is set by the department on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. All applications for renewal of a license shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

(2) A licensee who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of a boarding home license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the licensee, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the licensee relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

(3) The department shall establish, by rule, the circumstances requiring a change in licensee, which include, but are not limited to, a change in ownership or control of the boarding home or licensee, a change in the licensee's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new licensee is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In order to ensure that the safety of residents is not compromised by a change in licensee, the new licensee is responsible for correction of all violations that may exist at the time of the new license.

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

(a) Operated a boarding home without a license or under a revoked or suspended license; or

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

(c) Refused to allow representatives or agents of the department to inspect (i) the books, records, and files required to be maintained, or (ii) any portion of the premises of the boarding home; or

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

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

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

[2004 c 140 § 1; 2003 c 231 § 4; 2001 c 193 § 10; 2000 c 47 § 3; 1987 c 75 § 3; 1982 c 201 § 4; 1971 ex.s. c 247 § 1; 1957 c 253 § 5.]

Notes:

Findings -- Effective date -- 2003 c 231: See notes following RCW 18.20.020.

Effective date -- 2000 c 47: See note following RCW 18.20.020.

Savings -- Severability -- 1987 c 75: See RCW 43.20B.900 and 43.20B.901.

18.20.090

Rules, regulations, and standards.

The department shall adopt, amend, and promulgate such rules, regulations, and standards with respect to all boarding homes and operators thereof to be licensed hereunder as may be designed to further the accomplishment of the purposes of this chapter in promoting safe and adequate care of individuals in boarding homes and the sanitary, hygienic and safe conditions of the boarding home in the interest of public health, safety, and welfare.

[1985 c 213 § 6; 1971 ex.s. c 189 § 3; 1957 c 253 § 9.]

Notes:

Savings -- Effective date -- 1985 c 213: See notes following RCW 43.20.050.

18.20.110

Inspection of boarding homes — Approval of changes or new facilities.

The department shall make or cause to be made, at least every eighteen months with an annual average of fifteen months, an inspection and investigation of all boarding homes. However, the department may delay an inspection to twenty-four months if the boarding home has had three consecutive inspections with no written notice of violations and has received no written notice of violations resulting from complaint investigation during that same time period. The department may at anytime make an unannounced inspection of a licensed home to assure that the licensee is in compliance with this chapter and the rules adopted under this chapter. Every inspection shall focus primarily on actual or potential resident outcomes, and may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary, and the stores and methods of supply; however, the department shall not have access to financial records or to other records or reports described in RCW

18.20.390. Financial records of the boarding home may be examined when the department has reasonable cause to believe that a financial obligation related to resident care or services will not be met, such as a complaint that staff wages or utility costs have not been paid, or when necessary for the department to investigate alleged financial exploitation of a resident. Following such an inspection or inspections, written notice of any violation of this law or the rules adopted hereunder shall be given to the applicant or licensee and the department. The department may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before

commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agencies responsible for plan reviews for preliminary inspection and approval or recommendations with respect to compliance with the rules and standards herein authorized.

[2004 c 144 § 3; 2003 c 280 § 1; 2000 c 47 § 4; 1985 c 213 § 7; 1957 c 253 § 11.]

Notes:

Finding -- Effective date--2004 c 144: See notes following RCW 18.20.390.

Effective date -- 2000 c 47: See note following RCW 18.20.020.

Savings -- Effective date -- 1985 c 213: See notes following RCW 43.20.050.

18.20.115

Quality improvement consultation program — Principles.

The department shall, within available funding for this purpose, develop and make available to boarding homes a quality improvement consultation program using the following principles:

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

70.129 RCW.

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

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

(4) To facilitate collaboration and trust between the boarding homes and the department's quality improvement consultation program staff, the consultation program staff shall not simultaneously serve as department licensors, complaint investigators, or participate in any enforcement-related decisions, within the region in which they perform consultation activities; except such staff may investigate on an emergency basis, complaints anywhere in the state when the complaint indicates high risk to resident health or safety. Any records or information gained as a result of their work under the quality improvement consultation program shall not be disclosed to or shared with nonmanagerial department licensing or complaint investigation staff, unless necessary to carry out duties described under chapter 74.34 RCW. The emphasis should be on problem prevention. Nothing in this section shall limit or interfere with the consultant's mandated reporting duties under chapter 74.34 RCW.

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

[2001 c 85 § 1; 1997 c 392 § 213.]

Notes:

Effective date -- 2001 c 85: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 19, 2001]." [2001 c 85 § 3.]

Short title -- Findings -- Construction -- Conflict with federal requirements -- Part headings and captions not law -- 1997 c 392: See notes following RCW 74.39A.009.

18.20.125**Inspections — Enforcement remedies — Screening — Limitations on unsupervised access to vulnerable adults.**

(1) Inspections must be outcome based and responsive to resident complaints and based on a clear set of health, quality of care, and safety standards that are easily understandable and have been made available to facilities, residents, and other interested parties. This includes that when conducting licensing inspections, the department shall interview an appropriate percentage of residents, family members, and advocates in addition to interviewing appropriate staff.

(2) Prompt and specific enforcement remedies shall also be implemented without delay, consistent with RCW

18.20.190, for facilities found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

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

(b) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

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

[2009 c 580 § 3; 2004 c 140 § 4; 2003 c 231 § 5; 2001 c 85 § 2.]

Notes:

Findings -- Effective date -- 2003 c 231: See notes following RCW 18.20.020.

Effective date -- 2001 c 85: See note following RCW 18.20.115.

18.20.130**Fire protection — Duties of chief of the Washington state patrol.**

Standards for fire protection and the enforcement thereof, with respect to all boarding homes to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt such recognized standards as may be applicable to boarding homes for the protection of life against the cause and spread of fire and fire hazards. The department, upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the boarding home to be licensed, and if it is found that the premises do not comply with the required safety standards and fire rules as adopted by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the boarding home and the department as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire rules. The department, applicant, or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the boarding home to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department a written report approving same with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such homes at least annually.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the code for boarding homes adopted by the chief of the Washington state patrol, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, and they shall jointly approve the premises before a full license can be issued.

[2000 c 47 § 6; 1995 c 369 § 4; 1986 c 266 § 81; 1957 c 253 § 13.]

Notes:

Effective date -- 2000 c 47: See note following RCW 18.20.020.

Effective date -- 1995 c 369: See note following RCW 43.43.930.

Severability -- 1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 43.44 RCW.

18.20.140
Operating without license — Penalty.

Any person operating or maintaining any boarding home without a license under this chapter shall be guilty of a misdemeanor and each day of a continuing violation shall be considered a separate offense.

[1957 c 253 § 14.]

18.20.150
Operating without license — Injunction.

Notwithstanding the existence or use of any other remedy, the department, may, in the manner provided by law, upon the advice of the attorney general who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the operation or maintenance of a boarding home without a license under this chapter.

[1957 c 253 § 15.]

18.20.160
Persons requiring medical or nursing care.

No person operating a boarding home licensed under this chapter shall admit to or retain in the boarding home any aged person requiring nursing or medical care of a type provided by institutions licensed under chapters

18.51, 70.41 or 71.12 RCW, except that when registered nurses are available, and upon a doctor's order that a supervised medication service is needed, it may be provided. Supervised medication services, as defined by the department and consistent with chapters 69.41 and 18.79 RCW, may include an approved program of self-medication or self-directed medication. Such medication service shall be provided only to residents who otherwise meet all requirements for residency in a boarding home. No boarding home shall admit or retain a person who requires the frequent presence and frequent evaluation of a registered nurse, excluding persons who are receiving hospice care or persons who have a short-term illness that is expected to be resolved within fourteen days.

[2004 c 142 § 12; 1985 c 297 § 2; 1975 1st ex.s. c 43 § 1; 1957 c 253 § 16.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.170
Homes operated by religious organizations.

Nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any boarding home conducted for those who rely upon

treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination.

[1957 c 253 § 17.]

18.20.180 Resident rights.

RCW

70.129.005 through 70.129.030, 70.129.040(1), and 70.129.050 through 70.129.170 apply to this chapter and persons regulated under this chapter.

[1994 c 214 § 21.]

Notes:

Severability -- Conflict with federal requirements -- Captions not law -- 1994 c 214: See RCW 70.129.900 through 70.129.902.

18.20.185 Complaints — Toll-free telephone number — Investigation and referral — Rules — Retaliation prohibited.

(1) The department shall establish and maintain a toll-free telephone number for receiving complaints regarding a facility that the department licenses.

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

43.190.050.

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

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

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

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

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

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

(d) Substantiated complaints involving harm to a resident, if an applicable law or regulation has been violated, shall be subject to one or more of the actions provided in RCW 18.20.190. Whenever appropriate, the department shall also give consultation and technical assistance to the facility.

(e) After a department finding of a violation for which a stop placement has been imposed, the department shall make an

on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

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

(6) The department may provide the substance of the complaint to the licensee before the completion of the investigation by the department unless such disclosure would reveal the identity of a complainant, witness, or resident who chooses to remain anonymous. Neither the substance of the complaint provided to the licensee or contractor nor any copy of the complaint or related report published, released, or made otherwise available shall disclose, or reasonably lead to the disclosure of, the name, title, or identity of any complainant, or other person mentioned in the complaint, except that the name of the provider and the name or names of any officer, employee, or agent of the department conducting the investigation shall be disclosed after the investigation has been closed and the complaint has been substantiated. The department may disclose the identity of the complainant if such disclosure is requested in writing by the complainant. Nothing in this subsection shall be construed to interfere with the obligation of the long-term care ombudsman program to monitor the department's licensing, contract, and complaint investigation files for long-term care facilities.

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

[2001 c 193 § 2; 1997 c 392 § 214.]

Notes:

Short title -- Findings -- Construction -- Conflict with federal requirements -- Part headings and captions not law -- 1997 c 392: See notes following RCW 74.39A.009.

18.20.190

Department response to noncompliance or violations.

(1) The department of social and health services is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that a boarding home provider has:

- (a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;
- (b) Operated a boarding home without a license or under a revoked license;
- (c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; or
- (d) Willfully prevented or interfered with any inspection or investigation by the department.

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

(a) Refuse to issue a license;

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

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

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

(e) Suspend admissions to the boarding home by imposing stop placement; or

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

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

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

(5) RCW

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

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

[2003 c 231 § 6; 2001 c 193 § 4; 2000 c 47 § 7; 1998 c 272 § 15; 1995 1st sp.s. c 18 § 18.]

Notes:

Findings -- Effective date -- 2003 c 231: See notes following RCW 18.20.020.

Effective date -- 2000 c 47: See note following RCW 18.20.020.

Findings -- Severability -- Effective date -- 1998 c 272: See notes following RCW 18.20.230.

Conflict with federal requirements -- Severability -- Effective date -- 1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

18.20.195

Disputed violations, enforcement remedies — Informal dispute resolution process.

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

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

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

(4) If the department determines that a violation or enforcement remedy should not be cited or imposed, the department shall delete the violation or immediately rescind or modify the enforcement remedy. If the department determines that a violation should have been cited under a different more appropriate regulation, the department shall revise the report, statement of deficiencies, or enforcement remedy accordingly. Upon request, the department shall issue a clean copy of the revised report, statement of deficiencies, or notice of enforcement action.

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

[2005 c 506 § 1; 2004 c 140 § 5; 2001 c 193 § 7.]

18.20.200

License suspension — Nonpayment or default on educational loan or scholarship.

The secretary shall suspend the license of any person who has been certified by a lending agency and reported to the secretary for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW

34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the secretary a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the secretary may impose.

[1996 c 293 § 6.]

Notes:

Severability -- 1996 c 293: See note following RCW 18.04.420.

18.20.210

License suspension — Noncompliance with support order — Reissuance.

The department shall immediately suspend the license of a person who has been certified pursuant to RCW

74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 58 § 816.]

Notes:

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and

health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title -- Part headings, captions, table of contents not law -- Exemptions and waivers from federal law -- Conflict with federal requirements -- Severability -- 1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates -- Intent -- 1997 c 58: See notes following RCW 74.20A.320.

18.20.220

Residential care contracted services, conversion to — Requirements.

For the purpose of encouraging a nursing home licensed under chapter

18.51 RCW to convert a portion or all of its licensed bed capacity to provide enhanced adult residential care contracted services under chapter 74.39A RCW, the department shall:

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

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

[1997 c 164 § 1.]

18.20.230

Training standards review — Proposed enhancements.

(1) The department of social and health services shall review, in coordination with the department of health, the nursing care quality assurance commission, adult family home providers, boarding home providers, in-home personal care providers, and long-term care consumers and advocates, training standards for administrators and resident caregiving staff. Any proposed enhancements shall be consistent with this section, shall take into account and not duplicate other training requirements applicable to boarding homes and staff, and shall be developed with the input of boarding home and resident representatives, health care professionals, and other vested interest groups. Training standards and the delivery system shall be relevant to the needs of residents served by the boarding home and recipients of long-term in-home personal care services and shall be sufficient to ensure that administrators and caregiving staff have the skills and knowledge necessary to provide high quality, appropriate care.

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

[1999 c 372 § 3; 1998 c 272 § 2.]

Notes:

Findings -- 1998 c 272: "The legislature finds that many residents of long-term care facilities and recipients of in-home personal care services are exceptionally vulnerable and their health and well-being are heavily dependent on their caregivers. The legislature further finds that the quality of staff in long-term care facilities is

often the key to good care. The need for well-trained staff and well-managed facilities is growing as the state's population ages and the acuity of the health care problems of residents increases. In order to better protect and care for residents, the legislature directs that the minimum training standards be reviewed for management and caregiving staff, including those serving residents with special needs, such as mental illness, dementia, or a developmental disability, that management and caregiving staff receive appropriate training, and that the training delivery system be improved." [1998 c 272 § 1.]

Severability -- 1998 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1998 c 272 § 25.]

Effective date -- 1998 c 272: "Except for section 5 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 1998]." [1998 c 272 § 26.]

18.20.250

Federal funding programs, opportunities — Secretary's duty to comply.

The secretary may adopt rules and policies as necessary to entitle the state to participate in federal funding programs and opportunities and to facilitate state and federal cooperation in programs under the department's jurisdiction. The secretary shall ensure that any internal reorganization carried out under the terms of this chapter complies with prerequisites for the receipt of federal funding for the various programs under the department's control. When interpreting any department-related section or provision of law susceptible to more than one interpretation, the secretary shall construe that section or provision in the manner most likely to comply with federal laws and rules entitling the state to receive federal funds for the various programs of the department. If any law or rule dealing with the department is ruled to be in conflict with federal prerequisites to the allocation of federal funding to the state, the department, or its agencies, the secretary shall declare that law or rule inoperative solely to the extent of the conflict.

[1998 c 272 § 16.]

Notes:

Findings -- Severability -- Effective date -- 1998 c 272: See notes following RCW 18.20.230.

18.20.270

Long-term caregiver training.

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

(a) "Caregiver" includes any person who provides residents with hands-on personal care on behalf of a boarding home, except volunteers who are directly supervised.

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

(2) Training must have the following components: Orientation, basic training, specialty training as appropriate, and continuing education. All boarding home employees or volunteers who routinely interact with residents shall complete orientation. Boarding home administrators, or their designees, and caregivers shall complete orientation, basic training, specialty training as appropriate, and continuing education.

(3) Orientation consists of introductory information on residents' rights, communication skills, fire and life safety, and universal precautions. Orientation must be provided at the facility by appropriate boarding home staff to all boarding home employees before the employees have routine interaction with residents.

(4) Basic training consists of modules on the core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents. Basic training must be outcome-based, and the effectiveness of the basic training must be measured by demonstrated competency in the core areas through the use of a competency test. Basic training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care or within one hundred twenty days of September 1, 2002, whichever is later. Until competency in the core areas has been

demonstrated, caregivers shall not provide hands-on personal care to residents without direct supervision. Boarding home administrators, or their designees, must complete basic training and demonstrate competency within one hundred twenty days of employment or within one hundred twenty days of September 1, 2002, whichever is later.

(5) For boarding homes that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of administrators, or designees, and caregivers. Specialty training consists of modules on the core knowledge and skills that caregivers need to effectively and safely provide care to residents with special needs. Specialty training should be integrated into basic training wherever appropriate. Specialty training must be outcome-based, and the effectiveness of the specialty training measured by demonstrated competency in the core specialty areas through the use of a competency test. Specialty training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care to a resident having special needs or within one hundred twenty days of September 1, 2002, whichever is later. However, if specialty training is not integrated with basic training, the specialty training must be completed within ninety days of completion of basic training. Until competency in the core specialty areas has been demonstrated, caregivers shall not provide hands-on personal care to residents with special needs without direct supervision. Boarding home administrators, or their designees, must complete specialty training and demonstrate competency within one hundred twenty days of September 1, 2002, or one hundred twenty days from the date on which the administrator or his or her designee is hired, whichever is later, if the boarding home serves one or more residents with special needs.

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

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

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

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

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

(11) Boarding homes that desire to deliver facility-based training with facility designated trainers, or boarding homes that desire to pool their resources to create shared training systems, must be encouraged by the department in their efforts. The department shall develop criteria for reviewing and approving trainers and training materials that are substantially similar to or better than the materials developed by the department. The department may approve a curriculum based upon attestation by a boarding home administrator that the boarding home's training curriculum addresses basic and specialty training competencies identified by the department, and shall review a curriculum to verify that it meets these requirements. The department may conduct the review as part of the next regularly scheduled yearly inspection and investigation required under RCW

18.20.110. The department shall rescind approval of any curriculum if it determines that the curriculum does not meet these requirements.

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

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

[2002 c 233 § 1; 2000 c 121 § 2.]

Notes:

Effective date -- 2002 c 233: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]." [2002 c 233 § 5.]

18.20.280**General responsibility for each resident.**

(1) The boarding home must assume general responsibility for each resident and must promote each resident's health, safety, and well-being consistent with the resident negotiated care plan.

(2) The boarding home is not required to supervise the activities of a person providing care or services to a resident when the resident, or legal representative, has independently arranged for or contracted with the person and the person is not directly or indirectly controlled or paid by the boarding home. However, the boarding home is required to coordinate services with such person to the extent allowed by the resident, or legal representative, and consistent with the resident's negotiated care plan. Further, the boarding home is required to observe the resident and respond appropriately to any changes in the resident's overall functioning consistent with chapter

70.129 RCW, this chapter, and rules adopted under this chapter.

[2003 c 231 § 7.]

Notes:

Findings -- Effective date -- 2003 c 231: See notes following RCW 18.20.020.

18.20.290**Holding a medicaid eligible resident's room or unit — Payment rates.**

(1) When a boarding home contracts with the department to provide adult residential care services, enhanced adult residential care services, or assisted living services under chapter

74.39A RCW, the boarding home must hold a medicaid eligible resident's room or unit when short-term care is needed in a nursing home or hospital, the resident is likely to return to the boarding home, and payment is made under subsection (2) of this section.

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

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

[2006 c 64 § 1; 2004 c 142 § 13; 2003 c 231 § 11.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

Findings -- Effective date -- 2003 c 231: See notes following RCW 18.20.020.

18.20.300**Domiciliary care services — Scope of services — Disclosure form.**

(1) A boarding home, licensed under this chapter, may provide domiciliary care services, as defined in this chapter, and shall disclose the scope of care and services that it chooses to provide.

(2) The boarding home licensee shall disclose to the residents, the residents' legal representative if any, and if not, the residents' representative if any, and to interested consumers upon request, the scope of care and services offered, using the form developed and provided by the department, in addition to any supplemental information that may be provided by the licensee. The form that the department develops shall be standardized, reasonable in length, and easy to read. The boarding

home's disclosure statement shall indicate the scope of domiciliary care assistance provided and shall indicate that it permits the resident or the resident's legal representative to independently arrange for outside services under RCW

18.20.380.

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

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

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

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

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

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

[2004 c 142 § 2.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.310

Assistance with activities of daily living.

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

(2) If a boarding home licensee chooses to provide assistance with activities of daily living, the licensee shall provide at least the minimal level of assistance for all activities of daily living consistent with subsection (3) of this section and consistent with the reasonable accommodation requirements in state or federal laws. Activities of daily living are limited to and include the following:

- (a) Bathing;
- (b) Dressing;
- (c) Eating;
- (d) Personal hygiene;
- (e) Transferring;
- (f) Toileting; and
- (g) Ambulation and mobility.

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

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

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

[2004 c 142 § 3.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.320
Health support services.

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

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

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

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

[2004 c 142 § 4.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.330
Intermittent nursing services.

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

- (a) Medication administration;
- (b) Administration of health care treatments;
- (c) Diabetic management;
- (d) Nonroutine ostomy care;
- (e) Tube feeding; and

(f) Nurse delegation consistent with chapter

18.79 RCW.

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

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

(4) The boarding home may provide intermittent nursing services to the extent permitted by RCW 18.20.160.

[2004 c 142 § 5.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.340

Resident's family member administers medications or treatment — Written primary or alternate plan — Licensee's duty of care/negligence.

(1) A boarding home licensee may permit a resident's family member to administer medications or treatments or to provide medication or treatment assistance to the resident. The licensee shall disclose to the department, residents, the residents' legal representative if any, and if not, the residents' representative if any, and to interested consumers upon request, information describing whether the licensee permits such family administration or assistance and, if so, the extent of limitations or conditions thereof.

(2) If a boarding home licensee permits a resident's family member to administer medications or treatments or to provide medication or treatment assistance, the licensee shall request that the family member submit to the licensee a written medication or treatment plan. At a minimum, the written medication or treatment plan shall identify:

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

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

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

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

(3) The boarding home licensee may require that the primary or alternate medication or treatment plan include other information in addition to that specified in subsection (2) of this section.

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

(a) The resident, if able;

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

(c) The resident's family member; and

(d) The boarding home licensee.

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

(6) When a boarding home licensee permits residents' family members to assist with or administer medications or treatments, the licensee's duty of care, and any negligence that may be attributed thereto, shall be limited to: Observation of the resident for changes in overall functioning consistent with RCW

18.20.280; notification to the person or persons identified in RCW 70.129.030 when there are observed changes in the resident's overall functioning or condition, or when the boarding home is aware that both the primary and alternate plan are not implemented; and appropriately responding to obtain needed assistance when there are observable or reported changes in the resident's physical or mental functioning.

[2004 c 142 § 6.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.350

Preadmission assessment — Initial resident service plan — Respite care.

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

- (a) Medical history;
- (b) Necessary and contraindicated medications;
- (c) A licensed medical or health professional's diagnosis, unless the individual objects for religious reasons;
- (d) Significant known behaviors or symptoms that may cause concern or require special care;
- (e) Mental illness diagnosis, except where protected by confidentiality laws;
- (f) Level of personal care needs;
- (g) Activities and service preferences; and
- (h) Preferences regarding other issues important to the resident applicant, such as food and daily routine.

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

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

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

- (a) The name, address, and telephone number of the individual's attending physician, and alternate physician if any;
- (b) Medical and social history, which may be obtained from a respite care assessment and service plan performed by a case manager designated by an area agency on aging under contract with the department, and mental and physical assessment data;
- (c) Physician's orders for diet, medication, and routine care consistent with the individual's status on admission;
- (d) Ensure the individuals have assessments performed, where needed, and where the assessment of the individual reveals symptoms of tuberculosis, follow required tuberculosis testing requirements; and
- (e) With the participation of the individual and, where appropriate, their representative, develop a plan of care to maintain or improve their health and functional status during their stay in the facility.

[2008 c 146 § 3; 2004 c 142 § 7.]

Notes:

Findings -- Intent -- Severability -- 2008 c 146: See notes following RCW 74.41.040.

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.360**Full reassessment of resident.**

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

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

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

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

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

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

(c) The individual's nursing needs when the individual requires the services of a nurse on the boarding home premises;

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

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

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

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

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

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

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

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

(2) Complete a limited assessment of a resident's change of condition when the resident's negotiated service agreement no longer addresses the resident's current needs.

[2004 c 142 § 8.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.370**Negotiated service agreement.**

(1) The boarding home licensee shall complete a negotiated service agreement using the preadmission assessment, initial resident service plan, and full reassessment information obtained under RCW

18.20.350 and 18.20.360. The licensee shall include the resident and the resident's legal representative if any, or the resident's representative if any, in the development of the negotiated service agreement. If the resident is a medicaid client, the department's case manager shall also be involved.

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

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

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

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

[2004 c 142 § 9.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.380**Provision of outside services — Licensee's duty of care/negligence.**

(1) The boarding home licensee shall permit the resident, or the resident's legal representative if any, to independently arrange for or contract with a practitioner licensed under Title

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

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

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

(4) Consistent with RCW 18.20.280, the boarding home licensee shall not be responsible for supervising the activities of the outside service provider. When information sharing is authorized by the resident or the resident's legal representative, the licensee shall request such information and integrate relevant information from the outside service provider into the resident's negotiated service agreement, only to the extent that such information is actually shared with the licensee.

[2004 c 142 § 10.]

Notes:

Effective dates -- 2004 c 142: See note following RCW 18.20.020.

18.20.390**Quality assurance committee.**

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

- (a) A licensed registered nurse under chapter

18.79 RCW;

- (b) The administrator; and
- (c) Three other members from the staff of the boarding home.

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

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

- (a) The records or reports are not maintained pursuant to statutory or regulatory mandate; and
- (b) The records or reports are created for and collected and maintained by the committee.

(4) If the boarding home refuses to release records or reports that would otherwise be protected under this section, the department may then request only that information that is necessary to determine whether the boarding home has a quality assurance committee and to determine that it is operating in compliance with this section. However, if the boarding home offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with boarding home requirements, the documents are protected as quality assurance committee documents under subsections (6) and (8) of this section when in the possession of the department. The department is not liable for an inadvertent disclosure, a disclosure related to a required federal or state audit, or disclosure of documents incorrectly marked as quality assurance committee documents by the facility.

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

(6) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude:

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

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

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

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

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

[2006 c 209 § 3; 2005 c 33 § 2; 2004 c 144 § 2.]

Notes:

Effective date -- 2006 c 209: See RCW 42.56.903.

Findings -- 2005 c 33: "The legislature finds that facilitation of the quality assurance process in licensed boarding homes and nursing homes will promote safe patient care. The legislature also finds that communication and quality assurance efforts by boarding homes and nursing homes will achieve the goal of providing high quality of care to citizens residing in licensed boarding homes and nursing homes, and may reduce property and liability insurance premium costs for such facilities. The legislature further finds that sharing of quality assurance information between boarding homes, nursing homes, coordinated quality improvement plans, peer review organizations, and hospitals will promote safe patient care and ensure consistency of care across organizations and practices." [2005 c 33 § 1.]

Finding -- 2004 c 144: "The legislature finds that quality assurance efforts will promote compliance with regulations by providers and achieve the goal of providing high quality of care to citizens residing in licensed boarding homes, and may reduce property and liability insurance premium costs for such facilities." [2004 c 144 § 1.]

Effective date -- 2004 c 144: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2004]." [2004 c 144 § 5.]

18.20.400

Correction of violation/deficiency — Not included in facility report.

If during an inspection, reinspection, or complaint investigation by the department, a boarding home corrects a violation or deficiency that the department discovers, the department shall record and consider such violation or deficiency for purposes of the facility's compliance history, however the licensor or complaint investigator shall not include in the facility report the violation or deficiency if the violation or deficiency:

- (1) Is corrected to the satisfaction of the department prior to the exit conference;
- (2) Is not recurring; and
- (3) Did not pose a significant risk of harm or actual harm to a resident.

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

[2004 c 144 § 4.]

Notes:

Finding -- Effective date--2004 c 144: See notes following RCW 18.20.390.

18.20.410

Standards for small boarding homes — Study.

The department of health, the department, and the building code council shall develop standards for small boarding homes between seven and sixteen beds that address at least the following issues:

- (1) Domestic food refrigeration and freezer storage;

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

Based on the standards developed under this section, the department of health and the building code council shall study the risks and benefits of modifying and simplifying construction and equipment standards for boarding homes with a capacity of seven to sixteen persons. The study shall include coordination with the department. The department of health shall report its findings and recommendations to appropriate committees of the legislature no later than December 1, 2005.

[2005 c 505 § 1.]

18.20.415 **Rule-making authority.**

The department of health and the department of social and health services may adopt rules to implement RCW

18.20.410.

[2005 c 505 § 2.]

18.20.420 **Temporary management.**

(1) If the department determines that the health, safety, or welfare of residents is immediately jeopardized by a boarding home's failure or refusal to comply with the requirements of this chapter or the rules adopted under this chapter, and the department summarily suspends the boarding home license, the department may appoint a temporary manager of the boarding home, or the licensee may, subject to the department's approval, voluntarily participate in the temporary management program.

The purposes of the temporary management program are as follows:

- (a) To mitigate dislocation and transfer trauma of residents while the department and licensee may pursue dispute resolution or appeal of a summary suspension of license;
- (b) To facilitate the continuity of safe and appropriate resident care and services;
- (c) To protect the health, safety, and welfare of residents, by providing time for an orderly closure of the boarding home, or for the deficiencies that necessitated temporary management to be corrected; and
- (d) To preserve a residential option that meets a specialized service need or is in a geographical area that has a lack of available providers.

(2) The department may recruit, approve, and appoint qualified individuals, partnerships, corporations, and other entities interested in serving as a temporary manager of a boarding home. These individuals and entities shall satisfy the criteria established under this chapter or by the department for approving licensees. The department shall not approve or appoint any person, including partnerships and other entities, if that person is affiliated with the boarding home subject to the temporary management, or has owned or operated a boarding home ordered into temporary management or receivership in any state. When approving or appointing a temporary manager, the department shall consider the temporary manager's past experience

in long-term care, the quality of care provided, the temporary manager's availability, and the person's familiarity with applicable state and federal laws. Subject to the provisions of this section and RCW

18.20.430, the department's authority to approve or appoint a temporary manager is discretionary and not subject to the administrative procedure act, chapter 34.05 RCW.

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

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

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

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

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

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

(d) Entering into contracts necessary for the operation of the boarding home;

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

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

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

(7) The department shall terminate temporary management:

(a) After sixty days unless good cause is shown to continue the temporary management. Good cause for continuing the temporary management exists when returning the boarding home to its former licensee would subject residents to a threat to health, safety, or welfare;

(b) When all residents are transferred and the boarding home is closed;

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

(d) When a new licensee assumes control of the boarding home.

Nothing in this section precludes the department from revoking its approval of the temporary management or exercising its licensing enforcement authority under this chapter. The department's decision whether to approve or to revoke a temporary management arrangement is not subject to the administrative procedure act, chapter 34.05 RCW.

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

(9) The department may adopt rules implementing this section. In the development of rules or policies implementing this section, the department shall consult with residents and their representatives, resident advocates, financial professionals, boarding home providers, and organizations representing boarding homes.

[2007 c 162 § 1.]

18.20.430 Boarding home temporary management account.

The boarding home temporary management account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this chapter must be deposited into the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter

43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used only for the protection of the health, safety, welfare, or property of residents of boarding homes found to be deficient. Uses of the account include, but are not limited to:

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

(2) Payment to maintain operation of a boarding home pending correction of deficiencies or closure, including payment of costs associated with temporary management authorized under this chapter; and

(3) Reimbursement of residents for personal funds or property lost or stolen when the resident's personal funds or property cannot be recovered from the boarding home or third-party insurer.

[2007 c 162 § 2.]

18.20.440 Withdrawal from medicaid program — Notice — Duties.

(1) If a boarding home voluntarily withdraws from participation in a state medicaid program for residential care and services under chapter

74.39A RCW, but continues to provide services of the type provided by boarding homes, the facility's voluntary withdrawal from participation is not an acceptable basis for the transfer or discharge of residents of the facility (a) who were receiving medicaid on the day before the effective date of the withdrawal; or (b) who have been paying the facility privately for at least two years and who become eligible for medicaid within one hundred eighty days of the date of withdrawal.

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

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

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

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

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

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

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

(4) Except as provided in subsection (1) of this section, this section shall not apply to a person who begins residence in a facility on or after the effective date of the facility's withdrawal from participation in the medicaid program for residential care and services.

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

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

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

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

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

[2008 c 251 § 1.]

Notes:

Effective date -- 2008 c 251: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2008], except for *section 2 of this act which applies retroactively to September 1, 2007." [2008 c 251 § 3.]

***Reviser's note:** Section 2 of this act was vetoed by the governor.

**18.20.900
Severability — 1957 c 253.**

If any part, or parts, of this chapter shall be held unconstitutional, the remaining provisions shall be given full force and effect, as completely as if the part held unconstitutional had not been included herein, if any such remaining part can then be administered for the purpose of establishing and maintaining standards for boarding homes.

[1957 c 253 § 20.]

**18.20.901
Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.**

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

[2009 c 521 § 45.]