

The plan shall include the effect of the means of repayment on its financial condition, its customers' rates, its other contractual rights and obligations, and any other matter deemed useful by the participant.

Each such participating municipal corporation, cooperative or mutual shall include a statement of the extent of its contractual obligation to any operating agency in an annual financial report.

NEW SECTION. Sec. 5. 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.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 28, 1981.

Passed the Senate April 28, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 2

[Reengrossed Substitute Senate Bill No. 3765]

NURSING HOMES

AN ACT Relating to nursing homes; amending section 4, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.580; amending section 7, chapter 177, Laws of 1980 and RCW 74.46-.070; amending section 12, chapter 177, Laws of 1980 and RCW 74.46.120; amending section 46, chapter 177, Laws of 1980 and RCW 74.46.460; amending section 49, chapter 177, Laws of 1980 and RCW 74.46.490; amending section 53, chapter 177, Laws of 1980 and RCW 74.46.530; amending section 81, chapter 177, Laws of 1980 and RCW 74.46-.810; amending section 90, chapter 177, Laws of 1980 (uncodified); amending section 94, chapter 177, Laws of 1980 and RCW 74.46.901; amending section 74.09.120, chapter 26, Laws of 1959 as last amended by section 1, chapter 213, Laws of 1975 1st ex. sess. and RCW 74.09.120; amending section 1, chapter 244, Laws of 1977 ex. sess. as last amended by section 5, chapter 184, Laws of 1980 and RCW 18.51.310; amending section 3, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.007; amending section 2, chapter 117, Laws of 1951 as last amended by section 1, chapter 108, Laws of 1973 1st ex. sess. and RCW 18.51.010; amending section 6, chapter 117, Laws of 1951 as last amended by section 1, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.050; amending section 7, chapter 117, Laws of 1951 as last amended by section 10, chapter 228, Laws of 1979 ex. sess. and RCW 18.51.060; amending section 16, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.065; amending section 4, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.190; amending section 5, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.200; amending section 6, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51-.210; amending section 11, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.240; amending section 2, chapter 175, Laws of 1975 1st ex. sess. and RCW 18.51.300; amending section 35A.70.070, chapter 119, Laws of 1967 ex. sess. as amended by section 42, chapter 141, Laws of 1979 and RCW 35A.70.070; adding a new section to chapter 18.51 RCW; adding a new section to chapter 74.09 RCW; creating a new section; repealing section 3, chapter 117, Laws of 1951, section 2, chapter 160, Laws of 1953 and RCW

18.51.020; repealing section 15, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51-.055; repealing section 5, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.590; repealing section 83, chapter 177, Laws of 1980 and RCW 74.46.830; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 74.09 RCW a new section to read as follows:

(1) The nursing home auditing and cost reimbursement system of the department of social and health services shall be governed by this section until implementation of chapter 74.46 RCW. The department shall reimburse nursing homes on the basis of the following cost centers: Patient care, food, administration and operations, and property.

(2) The department shall reimburse the patient care cost center at the January 1, 1981, reimbursement rate, as adjusted for inflation.

(a) In addition, the reimbursement shall be enhanced by three million dollars for the first year of the biennium and by five million dollars for the second year of the biennium. These enhancements shall be apportioned among the nursing homes proportionately based on the patient care cost center for each nursing home.

(b) For the purpose of nursing assistant certification, the department shall reimburse at a rate of thirty cents for each medicaid patient day for the first year of the biennium and at a rate of thirty-three cents, as adjusted for inflation, for each medicaid patient day for the second year of the biennium. This is in addition to the January 1, 1981, reimbursement rate.

(3) Reimbursement for the food cost center shall be at the January 1, 1981, reimbursement rate, adjusted for inflation.

(4) The administration and operations cost center consists of two components:

(a) The wages for all employees, other than nursing service personnel and administrators and assistant administrators, shall be reimbursed at the January 1, 1981, rate as adjusted for inflation.

(b) Reimbursement for administration and operations, including all items not specified in subsections (2), (3), (4)(a), (5), and (6) of this section, shall not exceed the eighty-fifth percentile of the costs of all reporting facilities, not including any funds shifted pursuant to subsection (8) of this section, as adjusted for inflation, except that the nursing home facilities may be grouped by factors, other than ownership or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations.

(5) The return on net invested equity for each facility shall be determined by utilizing medicare rules and regulations.

(6) Property cost center reimbursement for both leased and owner-operated facilities shall not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed

by the department of social and health services, recognizing factors which may be significant, including location, age, and type of facility. Rental costs of leased facilities other than those operating as intermediate care facilities for the mentally retarded, and depreciation and interest costs of owner-operated facilities, for leases or mortgages entered into prior to July 1, 1979, shall be reimbursed to the extent they do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state medicaid plan, and adjusted for any approved capitalized additions or replacements, except that any leased facility which has operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, shall be reimbursed to the extent that the property costs exceed the upper limit of the multiple regression formula.

(7) The patient personal needs allowance limitation shall be thirty-three dollars and fifty cents.

(8) For settlement purposes only, for calendar years 1981, 1982, and 1983, a nursing home may shift among cost centers an amount not greater than twenty percent of the reimbursement rate of the cost center into which the shift is being made. Shifts may be made among the cost centers. However, shifts may not be made into the property cost center. The department shall monitor on a random basis the extent and patterns of shifting between cost centers authorized by this section. The department shall report to the legislature on its findings required by this section prior to February 15th of each year.

(9) Audits shall be conducted by the department and settlements shall be calculated by cost center only.

(10) The department may adjust reimbursement rates to reflect required increases in staffing levels and capital improvements.

(11) Any reference in this section to a January 1, 1981, reimbursement rate includes any adjustment resulting from a rate appeal and its final resolution, but shall not include any adjustment resulting from litigation on reimbursement rates prior to June 30, 1981, or the procedures by which they were established.

(12) References in this section to adjustments for inflation mean adjustments of 5.0 percent for rates effective July 1, 1981, through December 31, 1981; 5.2 percent for rates effective January 1, 1982, through June 30, 1982; 4.35 percent for rates effective July 1, 1982, through December 31, 1982; and 4.35 percent for rates effective January 1, 1983, through June 30, 1983.

Sec. 2. Section 4, chapter 260, Laws of 1977 ex. sess. and RCW 74.09-.580 are each amended to read as follows:

The nursing home payment system under this chapter shall provide for individually-based or class-based rates which shall be the maximum reimbursement for each nursing home for the period for which the rates are assigned.

(1)(a) Beginning with the settlements for calendar year 1981, the nursing home shall submit a preliminary settlement report simultaneously with the annual cost report.

(b) Within ninety days after receipt of the reports by the secretary, the department shall submit a proposed settlement report by cost center to the nursing home which fully substantiates disallowed costs, refunds, underpayments, and/or adjustments to the preliminary settlement report.

(c) The proposed settlement shall provide the basis for a schedule to correct overpayments and underpayments.

(2) Operators of nursing homes shall refund all portions of payments received which exceed actual audited costs and all portions of payments received which are attributable to unreasonable or nonallowable costs as determined by federal or state regulations.

Sec. 3. Section 7, chapter 177, Laws of 1980 and RCW 74.46.070 are each amended to read as follows:

(1) The office of financial management shall, within seventy-five days after April 4, 1980, engage a consultant through competitive bids who will develop the following:

(a) A uniform chart of accounts;

(b) A standard cost report form, including financial statements which shall be in conformity with generally accepted accounting principles and such regulatory requirements established by this section as well as any relevant federal regulatory requirements;

(c) Regulatory reporting and accounting provisions which may be required; and

(d) Regulatory auditing provisions which may be required.

(2) Such consultant will develop the items specified in subsection (1) of this section:

(a) In cooperation with an advisory committee to be composed of representatives of the office of financial management, the legislature, the department, the office of the state auditor, the Washington society of certified public accountants, and the providers of nursing home services; and

(b) In a manner which will achieve the principles stated in RCW 74.46.030 and 74.46.100.

(3) Such consultant shall provide ongoing financial consulting assistance to the patient task force created in section 86 of this act. The patient classification system and standard hours for each classification established by the task force must tie to the uniform chart of accounts, standard cost reports,

and financial statements to allow the independent certified public accountant to express an opinion on the statement of expenditures presented in the annual cost report.

(4) Such consultant will complete the development of the items specified in subsection (1) of this section not later than October 1, 1980. The secretary will adopt rules and regulations necessary to implement the consultant's product not later than December 31, 1980, for use in the ~~((1981))~~ 1983 reporting year.

Sec. 4. Section 12, chapter 177, Laws of 1980 and RCW 74.46.120 are each amended to read as follows:

Certified audits of the cost reports and patient trust accounts shall be conducted in accordance with the provisions of this chapter, as follows:

(1) The annual cost report of each contractor and the patient trust accounts under his control will be audited prior to submission to the department by an independent certified public accountant, licensed according to the provisions of chapter 18.04 RCW, who shall be engaged by the office of financial management through competitive bids. The office of financial management shall cause to be published a request for qualifications from independent certified public accountants. The office of financial management shall then select those independent certified public accountant firms which have qualified to participate in the competitive bid process through a request for proposals: PROVIDED, That during fiscal year ~~((1982))~~ 1984, for one hundred percent of the contractors, cost reports and patient trust accounts shall be audited: PROVIDED FURTHER, That during fiscal year ~~((1983))~~ 1985, for up to one hundred percent of the contractors, cost reports and patient trust accounts shall be audited. The requirements contained in this subsection shall not be required after June 30, ~~((1983))~~ 1985;

(2) Upon request of the secretary; and

(3) Upon termination of a contract.

Sec. 5. Section 46, chapter 177, Laws of 1980 and RCW 74.46.460 are each amended to read as follows:

(1) Each contractor's reimbursement rates will be determined prospectively at least once each calendar year, to be effective July 1st.

(2) Rates may be adjusted as determined by the department to take into account variations of more than ten percent in the distribution of patient classifications from the prior reporting year, program changes, economic trends and conditions, and/or administrative review provided by RCW 74.46.780 and shall be adjusted for any capitalized additions or replacements made as a condition for licensure or certification.

(3) Where the contractor participated in the provisions of prospective cost-related reimbursement in effect prior to July 1, ~~((1982))~~ 1984, such contractor's prospective rate effective July 1, ~~((1982))~~ 1984, will be determined utilizing his reported allowable costs for calendar year ~~((1981))~~ 1983.

(4) All prospective reimbursement rates for ((1983)) 1985 and thereafter shall be determined utilizing the prior year's audited cost reports.

Sec. 6. Section 49, chapter 177, Laws of 1980 and RCW 74.46.490 are each amended to read as follows:

(1) The food cost center shall include all costs for bulk and raw food and beverages purchased for the dietary needs of medical care recipients.

(2) The food cost reimbursement rate for each facility shall be computed as follows:

$FR = (TFC/TPD) 1.15$, where

FR = the facility food cost center reimbursement rate;

TFC = the total of all reporting facilities' food cost center costs; and

TPD = the total patient days for the prior year of all reporting facilities.

(3) Unless extended by law for an additional period of time, on and after July 1, ((1984)) 1986, the food cost reimbursement rate for each facility shall be computed as follows:

$FR = (TFC/TPD)$, where

FR = the facility food cost center reimbursement rate;

TFC = the total of all reporting facilities' food cost center costs; and

TPD = the total patient days for the prior year of all reporting facilities.

Sec. 7. Section 53, chapter 177, Laws of 1980 and RCW 74.46.530 are each amended to read as follows:

(1) The department shall first establish a total state-wide return on investment pool for use in determining individual facility return on investment allowances.

(a) In establishing the total state-wide return on investment pool the department shall determine the sum of net invested funds as of the end of the most recent reporting period of all facilities participating in the medical care program.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in RCW 74.46.330, 74.46.350, 74.46.360, and 74.46.370, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to RCW 74.46.360(1).

(c) The sum of net invested funds shall then be multiplied by 1.4 times the average of the rates of interest on special issues of public debt obligations issued to the federal hospital insurance trust fund for the last completed calendar quarter prior to rate-setting to establish the total state-wide return on investment pool.

(2) The department shall establish for individual facilities return on investment allowances composed of two parts: A financing allowance and a variable return allowance.

(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by 1.07 times the average of the rates of interest on special issues of public debt obligations issued to the federal hospital insurance trust fund for the last completed quarter prior to rate-setting, and dividing by the contractor's total patient days. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the financing and variable return allowances shall be adjusted to the anticipated patient day level.

(b) In determining the variable return allowance:

(i) The department will first rank all facilities in numerical order from highest to lowest according to their average per diem allowable costs for the sum of the administration and operations and property cost centers for the previous reimbursement period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than five percent, by the total prospective rate for each facility, as determined in RCW 74.46.450 through 74.46.510. The percentage amounts will be based on groupings of facilities according to the rankings as established in subparagraph (2)(b)(i) of this section. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(iii) Such percentage amounts shall be calculated so that the variable return allowance plus the financing allowance times the total patient days for each facility, when summed for all facilities, shall be as close in amount to the total state-wide return on investment pool as is practical; except that, such percentage amounts for equivalent groups of facilities as determined in subparagraph (2)(b)(ii) of this section shall be no less than the percentage amounts as calculated pursuant to this subsection on July 1, ((1982)) 1984.

(c) The sum of the financing allowance and the variable return allowance shall be the return on investment for each facility, and shall be added to the prospective rates of each contractor as determined in RCW 74.46.450 through 74.46.510.

(d) In the case of a facility which was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center

determined according to RCW 74.46.510, is more than the return on investment allowance determined according to RCW 74.46.530(2)(c), the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, (~~(1980)~~) 1982, as determined by the department of general administration through an appraisal procedure, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under subparagraph (2)(d)(i) of this section and the variable allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to RCW 74.46.510. The lesser of the two amounts shall be called the alternate return on investment allowance.

(iii) The return on investment allowance determined according to RCW 74.46.530(2)(c) or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rates of the contractor as determined in RCW 74.46.450 through 74.46.510.

(3) In the event that the department of health, education and welfare disallows the application of the return on investment allowances to nonprofit facilities, the department shall modify the measurements of net invested funds used for computing both total state-wide return on investment pool and individual facility return on investment allowances as follows: Net invested funds for each nonprofit facility shall be multiplied by one minus the ratio of equity funds to the net invested funds of all nonprofit facilities.

(4) Each biennium, beginning in (~~(1983)~~) 1984, the secretary shall review the adequacy of return on investment allowances in relation to anticipated requirements for maintaining, reducing, or expanding nursing care capacity. The secretary shall report the results of such review to the legislature and make recommendations for adjustments in the return on investment rates utilized in this section, if appropriate.

Sec. 8. Section 81, chapter 177, Laws of 1980 and RCW 74.46.810 are each amended to read as follows:

The department, pursuant to RCW 74.09.560, shall be responsible for the completion of all audits for cost reports covering all periods through December 31, (~~(1980)~~) 1982.

Sec. 9. Section 90, chapter 177, Laws of 1980 (uncodified) is amended to read as follows:

The following acts or parts of acts are each repealed:

(1) Section 1, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.550;

(2) Section 2, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.560;

(3) Section 3, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.570;
and

(4) Section 4, chapter 260, Laws of 1977 ex. sess., section 2 of this 1981 act and RCW 74.09.580(; and

~~(5) Section 5, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.590~~)).

Sec. 10. Section 94, chapter 177, Laws of 1980 and RCW 74.46.901 are each amended to read as follows:

(1) Sections 2, 7, 83, 85, 86, and 91 of ~~((this act))~~ chapter 177, Laws of 1980 are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect ~~((immediately))~~ on April 4, 1980.

(2) Section 27 of ~~((this act))~~ chapter 177, Laws of 1980 shall take effect on July 1, 1980.

(3) Sections 3, 4, 5, 6, 8, 9, 11, and 12 of ~~((this act))~~ chapter 177, Laws of 1980 shall take effect on July 1, ~~((1981))~~ 1983.

(4) All other sections of ~~((this act))~~ chapter 177, Laws of 1980 shall take effect on July 1, ~~((1982))~~ 1984, which shall be "the effective date of this act" where that term is used in ~~((this act))~~ chapter 177, Laws of 1980.

Sec. 11. Section 74.09.120, chapter 26, Laws of 1959 as last amended by section 1, chapter 213, Laws of 1975 1st ex. sess. and RCW 74.09.120 are each amended to read as follows:

The department shall purchase necessary physician and dentist services by contract or "fee for service." The department shall purchase hospital care by contract or by all inclusive day rate, or at a reasonable cost based on a ratio of charges to cost. Any hospital when requested by the department shall supply such information as necessary to justify its rate, charges or costs. All additional services provided by the hospital shall be purchased at rates established by the department after consultation with the hospital. The department shall purchase nursing home care by contract. The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which ~~((recognize relevant cost related factors for department of social and health services patients, including but not limited to the scope or level of services or care, requirements of staff, and physical plant, and a reasonable rate of return on investment; said formula))~~ comply with section 1 of this act. The regulations shall provide that no payment shall be made to a nursing home which does not permit inspection by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the department deems relevant to the establishment of such a system.

All other services and supplies provided under the program shall be secured by contract.

Sec. 12. Section 1, chapter 244, Laws of 1977 ex. sess. as last amended by section 5, chapter 184, Laws of 1980 and RCW 18.51.310 are each amended to read as follows:

~~(1) ((No later than September 30, 1977, the secretary shall implement and operate a patient assessment system whereby the characteristics of patients supported by the department under RCW 74.09.120, as now or hereafter amended, shall be computerized for the purpose of assisting in the setting of reimbursement for nursing homes in accordance with the documented needs of the client population in each home and for the provision of statistical and summary information for use by the department and the legislature.~~

~~(2))~~ (2)) No later than December 31, 1980, the department shall adopt revised licensing standards for nursing homes. The licensing standards shall be suitable for implementing the civil penalty system authorized under this chapter, chapter 74.42 RCW, and chapter ~~((177 (Senate Bill No. 3250), Laws of 1980, if enacted))~~ 74.46 RCW.

~~((3))~~ (2) The department, the board of health, the school of medicine, the University of Washington, and the schools of nursing within the state shall jointly submit to the legislature, not later than December 20, 1980, alternative methods of identifying and measuring the results of services delivered by the nursing home.

~~((4))~~ (3) No later than July 1, 1981, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter, chapter 74.42 RCW, and chapter ~~((177 (Senate Bill No. 3250), Laws of 1980, if enacted))~~ 74.46 RCW.

NEW SECTION. Sec. 13. If any part of sections 1 through 12 of this act is found by an agency of the federal government to be in conflict with federal requirements which are a prescribed condition to the receipt of federal funds by the state, the conflicting part of sections 1 through 12 of this act is hereby declared inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of sections 1 through 12 of this act in their application to the agencies concerned. If any portion of sections 1 through 12 of this act is found to be in conflict with federal requirements which are a prescribed condition to the receipt of federal funds, the secretary of social and health services, to the extent that the secretary finds it to be consistent with the general policies and intent of chapters 18.51, 74.09, and 74.46 RCW, may adopt such rules as are necessary to resolve a specific conflict and which meet minimum federal requirements. In

addition, the secretary shall submit to the next regular session of the legislature a summary of the specific rule changes made and recommendations for statutory resolution of the conflict.

Sec. 14. Section 3, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.007 are each amended to read as follows:

It is the intent of the legislature in enacting this 1975 amendatory act to establish (1) a system for the imposition of prompt and effective sanctions against nursing homes in violation of the laws and regulations of this state relating to patient care; (2) an inspection and reporting system to insure that nursing homes are in compliance with state statutes and regulations pertaining to patient care; and (3) a ~~((provisional licensing))~~ mechanism to insure that ~~((full term))~~ licenses are issued ~~((only))~~ to or retained by only those nursing homes that meet state standards ~~((relating to patient care: PROVIDED, That no sanction shall be imposed by the department until the department has informed the owner and administrator of the nursing home about the rules and regulations required to be followed to avoid penalties and until the department has granted a reasonable amount of time to the owner and administrator of the nursing home to correct the condition which would result in the penalty))~~ for resident health and safety.

Sec. 15. Section 2, chapter 117, Laws of 1951 as last amended by section 1, chapter 108, Laws of 1973 1st ex. sess. and RCW 18.51.010 are each amended to read as follows:

(1) "Nursing home" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent persons. Nothing in this definition shall be construed to include general hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both. Nothing in this definition shall be construed to include any boarding home, guest home, hotel or related institution which is held forth to the public as providing, and which is operated to give only board, room and laundry to persons not in need of medical or nursing treatment or supervision except in the case of temporary acute illness. The mere designation by the operator of any place or institution as a hospital, sanitarium, or any other similar name, which does not provide care for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both, shall not exclude such place or institution from the provisions

of this chapter: PROVIDED, That any nursing home providing psychiatric treatment shall, with respect to patients receiving such treatment, comply with the provisions of RCW 71.12.560(~~(-)~~) and 71.12.570(~~(- and 71.12.580)~~)).

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

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

(4) (~~"Board" means the state board of health.~~

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

~~((6) "Approved health department" means any city, county, city-county or district health department which holds a certificate of approval under this chapter.))~~

NEW SECTION. Sec. 16. There is added to chapter 18.51 RCW a new section to read as follows:

Inspections of nursing homes by local authorities shall be consistent with the requirements of chapter 19.27 RCW, the state building code. Findings of a serious nature shall be coordinated with the department and the state fire marshal for determination of appropriate actions to ensure a safe environment for nursing home residents.

Sec. 17. Section 6, chapter 117, Laws of 1951 as last amended by section 1, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.050 are each amended to read as follows:

Upon receipt of an application for license, the department(~~(-or the department and the approved health department jointly,))~~ shall issue a license (~~(or a provisional license)~~) if the applicant and the nursing home facilities meet the requirements established under this chapter. (~~(At the time of)~~) Prior to the issuance or renewal of the license (~~(or provisional license)~~), the licensee shall pay a license fee of (~~(fifteen)~~) one hundred dollars plus (~~(one)~~) two dollars per bed (~~(capacity)~~) per year(~~(-but in no event shall the total exceed one hundred dollars)~~). No fee shall be required of government operated institutions. (~~(When the license or provisional license is issued jointly by the department and an approved health department, the license fee shall be paid to the approved health department.))~~) All licenses issued under the provisions of this chapter shall expire on a date to be set by the (~~(board)~~) department, but no license issued pursuant to this chapter shall exceed twelve months in duration: PROVIDED, That when the annual license renewal date of a previously licensed nursing home is set by the (~~(board)~~) 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. When a change of ownership occurs, the entity becoming the

licensed operating entity of the facility shall pay the full licensing fee for the facility at the time of application for the license. The previously determined date of license expiration shall not change.

All applications and fees for renewal of the license and for change of ownership licenses shall be ((made)) submitted to the department not later than thirty days prior to the date of expiration of the license or the date of the proposed change of ownership. Each license shall be issued only ((for the premises)) to the operating entity and those persons named in the license application((, and no license shall be)). The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable ((except with the written approval of the department)). Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 18. Section 7, chapter 117, Laws of 1951 as last amended by section 10, chapter 228, Laws of 1979 ex. sess. and RCW 18.51.060 are each amended to read as follows:

The department is authorized to deny, suspend, or revoke a license ((or provisional license)) or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation in any case in which it finds that the applicant, or licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee:

(1) Failed or refused to comply with the requirements of this chapter or the standards, rules and regulations established hereunder; or

(2) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled; or

(3) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department; or

(4) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the nursing home; or

(5) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter; or

(6) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or the standards, rules, and regulations promulgated hereunder; or

(7) Failed to report patient abuse or neglect in violation of chapter 70-.124 RCW; or

(8) Fails to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after such assessment becomes final: PROVIDED, That in no event shall the department assess a civil monetary penalty authorized pursuant to this section or post the said premises as provided in RCW 18.51.260 or include in the report required pursuant to RCW 18.51.270 during any period in which it has not reasonably implemented and funded its cost-related reimbursement system for public patients.

Sec. 19. Section 16, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.065 are each amended to read as follows:

All orders of the department denying, suspending, or revoking the license or ~~((provisional license, and/or))~~ assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested. All hearings hereunder and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.04 RCW.

Sec. 20. Section 4, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.190 are each amended to read as follows:

Any person may request an inspection of any nursing home subject to licensing under this chapter in accordance with the provisions of this chapter by giving notice to the department of an alleged violation of applicable requirements of state law. ~~((Any such notice shall be in writing signed by))~~ The complainant ((and shall set forth with reasonable particularity the matters complained of)) shall be encouraged to submit a written, signed complaint following a verbal report. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter, unless such complainant specifically requests the release of such name or names.

Sec. 21. Section 5, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.200 are each amended to read as follows:

Upon receipt of a complaint, the department shall ~~((assign an inspector to))~~ make a preliminary review of the complaint ~~((and shall notify the complainant of the name of such inspector))~~. Unless the department determines that the complaint is wilfully intended to harass a licensee or is without any reasonable basis, or unless the department has sufficient information that corrective action has been taken, it shall make an on-site ~~((inspection))~~ investigation within a reasonable time after the receipt of the complaint or

otherwise ensure complaints are responded to. In either event, the complainant shall be promptly informed of the department's proposed course of action. If the complainant requests the opportunity to do so, the complainant or his representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby.

Sec. 22. Section 6, chapter 99, Laws of 1975 1st ex. sess. and RCW 18-.51.210 are each amended to read as follows:

(1) Any duly authorized officer, employee, or agent of the department may enter and inspect any nursing home, including, but not limited to, interviewing residents and reviewing records, at any time to enforce any provision of this chapter. Inspections conducted pursuant to complaints filed with the department shall be conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection conducted pursuant to this chapter unless previously and specifically authorized by the secretary or required by federal law.

(2) Any public employee giving such advance notice in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(3) In any hearing held pursuant to this chapter, it shall be a defense to a violation relating to the standard of care to be afforded public patients to show that the department does not provide ((sufficient)) reasonable funds to meet the cost of reimbursement standard allegedly violated.

Sec. 23. Section 11, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.240 are each amended to read as follows:

The ((board)) department may prescribe by regulations that any licensee or applicant desiring to make specific types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

Sec. 24. Section 2, chapter 175, Laws of 1975 1st ex. sess. and RCW 18.51.300 are each amended to read as follows:

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

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

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

Sec. 25. Section 35A.70.070, chapter 119, Laws of 1967 ex. sess. as amended by section 42, chapter 141, Laws of 1979 and RCW 35A.70.070 are each amended to read as follows:

Every code city may exercise the powers authorized and shall perform the duties imposed upon cities of like population relating to the public health and safety as provided by Title 70 RCW and, without limiting the generality of the foregoing, shall: (1) Organize boards of health and appoint a health officer with the authority, duties and functions as provided in chapter 70.05 RCW, or provide for combined city-county health departments as provided and in accordance with the provisions of chapter 70.08 RCW; (2) contribute and participate in public health pooling funds as authorized by chapter 70.12 RCW; (3) perform the functions and provide health precautions at seaports as required by chapter 70.16 RCW; (4) procure pesthouses and to provide quarantines and miscellaneous other health precautions as authorized by chapter 70.20 RCW; (5) control and provide for treatment of venereal diseases as authorized by chapter 70.24 RCW; (6) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, 70.32, and 70.54 RCW; (7) participate in health districts as authorized by chapter 70.46 RCW; (8) exercise control over water pollution as provided in chapter 35.88 RCW; (9) for all code cities having a population of more than twenty thousand serve as a primary district for registration of vital statistics in accordance with the provisions of chapter 70.58 RCW and RCW 43.20A.630; (10) enforce the provisions of chapter 70.70 RCW relating to the control of shoddy; (11) observe and enforce the provisions relating to fireworks as provided in chapter 70.77 RCW; (12) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; (13) enforce the provisions of chapter 18.20 RCW when applicable; (14) perform the functions relating to mentally ill prescribed in chapters 72.06 and 71.12 RCW; (15) cooperate with the state department of social and health services in mosquito control as authorized by RCW 70.22.060; and (16) inspect nursing homes as authorized by ~~((RCW 18.51.020))~~ section 16 of this 1981 act.

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 117, Laws of 1951, section 2, chapter 160, Laws of 1953 and RCW 18.51.020;

(2) Section 15, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.055;

(3) Section 5, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.590; and

(4) Section 83, chapter 177, Laws of 1980 and RCW 74.46.830.

NEW SECTION. Sec. 27. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 1, 2, 3, and 10 through 26 of this act shall take effect on July 1, 1981. Section 4 of this act shall take effect on July 1, 1983. Sections 5 through 9 of this act shall take effect on July 1, 1984.

NEW SECTION. Sec. 28. 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.

Passed the Senate April 28, 1981.

Passed the House April 28, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 3

[Second Reengrossed Substitute Senate Bill No. 3797]

JOINT OPERATING AGENCIES, NUCLEAR POWER PLANTS—EXECUTIVE BOARD

AN ACT Relating to operating agencies; amending section 43.52.370, chapter 8, Laws of 1965 as amended by section 7, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.370; amending section 43.52.375, chapter 8, Laws of 1965 and RCW 43.52.375; amending section 1, chapter 220, Laws of 1979 ex. sess. and RCW 43.52.378; and adding new sections to chapter 43.52 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 43.52.370, chapter 8, Laws of 1965 as amended by section 7, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.370 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall