

CHAPTER 177

[Engrossed Substitute Senate Bill No. 3250]

NURSING HOME AUDITING AND COST REIMBURSEMENT ACT

AN ACT Relating to nursing homes; 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 61, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.610; adding a new chapter to Title 74 RCW; creating a new section; repealing section 1, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.550; repealing section 2, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.560; repealing section 3, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.570; repealing section 4, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.580; repealing section 5, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.590; making an appropriation; and providing effective dates.

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

NEW SECTION. Section 1. This chapter may be known and cited as the "Nursing Homes Auditing and Cost Reimbursement Act of 1980."

NEW SECTION. Sec. 2. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Ancillary care" means those services required by the individual, comprehensive plan of care provided by qualified therapists:

(3) "Appraisal" means the process of establishing the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(4) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(5) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(6) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(7) "Beds" means the number of set-up beds in the facility, not to exceed the number of licensed beds.

(8) "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to subparagraph (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c) with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the

contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subparagraph (b) of this subsection; and

(ii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(9) "Capitalization" means the recording of an expenditure as an asset.

(10) "Contractor" means an entity which contracts with the department to provide services to medical care recipients in a facility and which entity is responsible for operational decisions.

(11) "Department" means the department of social and health services (DSHS) and its employees.

(12) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(13) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct nursing and ancillary care of medical care recipients.

(14) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(15) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(16) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(17) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(18) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(19) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

(20) "Generally accepted auditing standards" means auditing standards approved by the American institute of certified public accountants (AICPA).

(21) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired.

(22) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(23) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(24) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

(25) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(26) "Medical care recipient" or "recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(27) "Net book value" means the historical cost of an asset less accumulated depreciation.

(28) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year.

(29) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(30) "Owner" means a sole proprietor, general or limited partners, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(31) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(32) "Patient day" or "client day" means a calendar day of care which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist.

(33) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience as specified by the department;

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional who is either a qualified therapist or a therapist approved by the department who has had specialized training

or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker who is a graduate of a school of social work;

(f) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; and

(h) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training.

(34) "Questioned costs" means those costs which have been determined in accordance with generally accepted accounting principles but which may constitute disallowed costs or departures from the provisions of this chapter or rules and regulations adopted by the department.

† (35) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

(36) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

(37) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

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

(39) "Title XIX" or "Medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended.

PART A REPORTING

NEW SECTION. Sec. 3. PRINCIPLES OF REPORTING REQUIREMENTS. The principle inherent within sections 4 through 9 of this act is that the department shall receive complete, annual reporting of costs and financial condition of the contractor prepared and presented in a standardized manner.

NEW SECTION. Sec. 4. REPORT DUE DATE. (1) Not later than March 31, 1982, and each year thereafter, each contractor shall submit to the department an annual cost report, and such financial statements as are

required by this chapter, for the period from January 1st through December 31st of the preceding year.

(2) Two extensions of not more than thirty days each after March 31st may be granted by the department upon receipt of a written request setting forth the circumstances which prohibit the contractor from compliance with such due date; except, that the secretary shall establish the grounds for extension in rule and regulation. Such request must be received by the department at least ten days prior to the due date.

(3) Not later than one hundred and twenty days following the termination of a contract, the contractor shall submit to the department a cost report, and such financial statements as are required by this chapter, for the period from January 1st through the date the contract terminated.

NEW SECTION. Sec. 5. IMPROPERLY COMPLETED OR LATE REPORTS. If either the cost report or the financial statements are not properly completed or if they are not received by the due date, all or part of any payments due under the contract may be withheld by the department until such time as the required cost report and financial statements are properly completed and received.

NEW SECTION. Sec. 6. COMPLETING REPORTS AND MAINTAINING RECORDS. (1) Cost reports shall be prepared in a standard manner and form, as determined pursuant to section 7 of this act, which shall provide for financial statements, an itemized list of allowable costs, and a preliminary settlement report. Costs reported shall be determined in accordance with generally accepted accounting principles and such additional rules and regulations as are established by the secretary.

(2) All financial statements of a contractor must be prepared in accordance with generally accepted accounting principles, such additional regulatory requirements developed pursuant to section 7 of this act, and such additional rules and regulations as are established by the secretary.

(3) The records shall be maintained on the accrual method of accounting and agree with or be reconcilable to the cost report and the financial statements.

NEW SECTION. Sec. 7. DEVELOPMENT OF ACCOUNTING AND AUDITING REQUIREMENTS. (1) The office of financial management shall, within seventy-five days after the effective date of this section, 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 sections 3 and 10 of this act.

(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 reporting year.

NEW SECTION. Sec. 8. REQUIREMENTS FOR RETENTION OF RECORDS BY THE CONTRACTOR. (1) All records supporting the required cost reports and financial statements, as well as trust funds established by section 70 of this act, shall be retained by the contractor for a period of four years following the filing of such reports at a location in the state of Washington specified by the contractor. The department may direct such records to be retained for a longer period if there remain unresolved questions on the cost reports and financial statements. All such records shall be made available upon demand to authorized representatives of the department, the office of the state auditor, and the United States department of health, education and welfare.

(2) When a contract is terminated, all payments due will be withheld until accessibility and preservation of the records within the state of Washington are assured.

NEW SECTION. Sec. 9. RETENTION OF REPORTS BY THE DEPARTMENT. The department will retain the required cost reports and financial statements for a period of one year after final settlement, or the period required under the provisions of chapter 40.14 RCW, whichever is greater.

PART B
AUDIT

NEW SECTION. Sec. 10. **PRINCIPLES OF AUDIT REQUIREMENTS.** The principles inherent within sections 11 through 14 of this act are:

(1) To ascertain, through certified audit, that the costs for each year are accurately reported, thereby providing a valid basis for future rate determination;

(2) To ascertain, through certified audits of the cost reports, that cost reports properly reflect the financial statements of the contractor, particularly as they pertain to related organizations and beneficial ownership, thereby providing a valid basis for the determination of return as specified by this chapter;

(3) To ascertain, through the certified audit and the oversight of the office of the state auditor, that compliance with the accounting and auditing provisions of this chapter and the rules and regulations of the department as they pertain to these accounting and auditing provisions is proper and consistent; and

(4) To ascertain, through certified audits, that the responsibility of the contractor has been met in the maintenance of patient trust funds.

NEW SECTION. Sec. 11. **DESK REVIEW.** (1) The department shall analyze the submitted cost report and financial statements of each contractor to determine if the information is correct and complete. If the analysis finds that either the cost report or financial statements are incorrect or incomplete, the department shall take whatever steps are deemed necessary to obtain information from the contractor.

(2) The department shall accumulate data from the properly completed cost reports and financial statements for use in:

- (a) Exception profiling; and
- (b) Establishing rates.

(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as it may deem necessary.

NEW SECTION. Sec. 12. **TYPES OF EXAMINATIONS.** 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, for one hundred percent of the contractors, cost reports and patient trust accounts shall be audited: PROVIDED FURTHER, That during fiscal year 1983, 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;

- (2) Upon request of the secretary; and
- (3) Upon termination of a contract.

NEW SECTION. Sec. 13. PREPARATION FOR AUDIT BY THE CONTRACTOR. (1) For the requirements of section 12(1) of this act, the contractor shall be notified by the accountant at least ten working days in advance of the engagement. Upon such notification, the contractor shall:

- (a) Provide access to the facility, all records, and all working papers which are in support of the cost report, financial statements, and patient trust funds; and
- (b) Prepare reconciliation of the cost report and financial statements with (i) applicable federal income and federal and state payroll tax returns and (ii) the records for the period covered by the cost report and financial statements.

(2) For the requirements of section 12(2) of this act, the contractor shall provide access to the facility and supply all records as required in subsection (1) of this section.

NEW SECTION. Sec. 14. SCOPE OF AUDIT. (1) The annual cost reports of contractors are required to be audited by an independent certified public accountant in accordance with generally accepted auditing standards established for audit of financial statements by the American institute of certified public accountants.

(2) Accompanying the annual cost report and accountant's report thereon shall be:

(a) A schedule of questioned costs, including dollar amounts being questioned and an explanation of the accountant's reason for questioning the allowability of such costs; except that, an amount, not less than five hundred dollars, shall be established by the secretary below which questioned costs need not be listed;

(b) A schedule summarizing the adjustments to the contractor's financial records as a result of the audit, including dollar amounts, the general ledger account or account group, and an explanation of the reason for adjustment; and

(c) A schedule summarizing the adjustments to the contractor's preliminary settlement report as a result of the audit.

(3)(a) The independent auditor shall perform separate audits on the trust funds established by section 70 of this act. Such audit shall be prepared in conformity with generally accepted auditing standards and additional rules and regulations established by the department.

(b) Accompanying the audit report on such trust funds shall be any letters of comments or recommendations relating to discrepancies or improvements in accounting procedures.

(4) The independent certified public accountant shall retain all working papers resulting from audits conducted pursuant to this section for a period of five years from the date the report was submitted to the department. The secretary shall have access to such retained working papers upon ten days' written notice to the independent certified public accountant.

PART C SETTLEMENT

NEW SECTION. Sec. 15. SETTLEMENT PROCESS. (1) The settlement process shall consist of:

(a) The evaluation of the preliminary settlement report by cost center contained within the cost report;

(b) The evaluation of the audit results, including disallowed costs; and

(c) The process of scheduling payment as to such underpayments or overpayments.

(2) In:

(a) Rulings on questioned costs; or

(b) Interpretations resulting in payment of the whole or a portion of a disallowed cost,

the department shall prepare and maintain such rulings and interpretations with full justification and explanation for the respective contractor and the appropriate standing committees of the legislature.

NEW SECTION. Sec. 16. SETTLEMENT. (1) Upon receipt of the preliminary settlement report, the department shall verify the accuracy of such report.

(2) Within thirty days after receipt of the audited reports by the secretary, the department will submit a proposed final settlement report by cost center to the contractor which rules on questioned costs, and fully substantiates disallowed costs, refunds, underpayments, and/or adjustments to the preliminary settlement report.

NEW SECTION. Sec. 17. DATE SETTLEMENT BECOMES FINAL. (1) The settlement will become final thirty days after the date the proposed final settlement report is submitted to the contractor, unless the contractor contests the determination. In the event of such action, the contractor has thirty days after the date the proposed final settlement report has been submitted to notify the department of such contesting pursuant to the provisions of section 78 of this act.

(2) A settlement will be reopened if necessary to make adjustments for findings resulting from an audit performed pursuant to this chapter.

NEW SECTION. Sec. 18. PAYMENT OF UNDERPAYMENTS—REFUND OF OVERPAYMENTS/ERRONEOUS PAYMENTS. (1) The state shall make payment of any underpayments within fifteen days of the date the settlement becomes final.

(2) The contractor found to have received either overpayments and/or erroneous payments shall refund such payments to the state within thirty days of the date the settlement becomes final, subject to the provisions of subsections (3), (4), and (5) of this section.

(3) Within the cost centers of nursing services and food, all savings resulting from the respective audited allowable costs being lower than the respective reimbursement rate paid to the contractor during the report period shall be refunded.

(4) Within the cost centers of administration and operations and property, the contractor shall retain at least fifty percent, but not more than seventy-five percent, of any savings resulting from the respective, audited, allowable costs being lower than the respective reimbursement rates paid to the contractor during the report period multiplied by the number of authorized medical care client days in which said rates were in effect. The secretary, by rule and regulation, shall establish the basis for the specific percentages of savings to the contractors. Such rules and regulations may provide for differences in the percentages allowed for each cost center to individual facilities based on performance measures related to administrative efficiency.

(5) All allowances provided by section 53 of this act shall be retained by the contractor.

(6) In the event the contractor fails to make repayment in the time provided in subsection (2) of this section, the department shall either:

(a) Deduct the amount of refund due plus assessment of interest, as determined by the secretary, from payment amounts due the contractor; or

(b) In the instance the contract has been terminated, (i) deduct the amount of refund due plus an assessment of interest, determined by the secretary, from any payments due; or (ii) assess the amount due plus interest, as determined by the secretary, on the amount due.

(7) Where the facility is pursuing judicial or administrative remedies in good faith regarding settlement issues, the department shall not withhold from the facility current payment amounts the department claims to be due from the facility. If the judicial or administrative remedy sought by the facility is not granted after all appeals are exhausted or mutually terminated, the facility shall make payment of such amounts due plus interest, as payable on judgments, within sixty days of the date such decision is made.

PART D
ALLOWABLE COSTS

NEW SECTION. Sec. 19. PRINCIPLES OF ALLOWABLE COSTS.

(1) The substance of a transaction will prevail over its form.

(2) All documented costs which are ordinary, necessary, related to care of medical care recipients, and not expressly nonallowable, are to be allowable.

(3) Costs applicable to services, facilities, and supplies furnished to the provider by related organizations are allowable but at the cost to the related organization, provided they do not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

(4) The payment for property usage is to be independent of ownership structure and financing arrangements.

NEW SECTION. Sec. 20. OFFSET OF MISCELLANEOUS REVENUES. (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits other than through the contractor's normal billing for care services; except that, unrestricted grants, gifts, and endowments, and interest therefrom, will not be deducted from the allowable costs of a nonprofit facility.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

NEW SECTION. Sec. 21. COSTS OF MEETING STANDARDS. All necessary and ordinary expenses a contractor incurs in providing care services will be allowable costs. These expenses include:

(1) Meeting licensing and certification standards;

(2) Meeting standards of providing regular room, nursing, ancillary, and dietary services, as established by department rule and regulation pursuant to chapter 211, Laws of 1979 ex. sess.; and

(3) Fulfilling accounting and reporting requirements imposed by this chapter.

NEW SECTION. Sec. 22. LIMIT ON COSTS TO RELATED ORGANIZATIONS. (1) Costs applicable to services, facilities, and supplies furnished by a related organization to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(2) Documentation of costs to the related organization shall be made available to the auditor at the time and place the records relating to the entity are audited. Payments to or for the benefit of the related organization

will be disallowed where the cost to the related organization cannot be documented.

NEW SECTION. Sec. 23. INITIAL COST OF OPERATION. (1) The necessary and ordinary one-time expenses directly incident to the preparation of a newly constructed or purchased building by a contractor for operation as a licensed facility shall be allowable costs. These expenses shall be limited to start-up and organizational costs incurred prior to the admission of the first patient.

(2) Start-up costs shall include, but not be limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training; except, that they shall exclude expenditures for capital assets. These costs will be allowable in the administration and operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(3) Organizational costs are those necessary, ordinary, and directly incident to the creation of a corporation or other form of business of the contractor including, but not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation; except, that they do not include costs relating to the issuance and sale of shares of capital stock or other securities. Such organizational costs will be allowable in the administration and operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

NEW SECTION. Sec. 24. EDUCATION AND TRAINING. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs.

NEW SECTION. Sec. 25. OWNER OR RELATIVE—COMPENSATION. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation.

NEW SECTION. Sec. 26. **COMPENSATION FOR ADMINISTRATIVE PERSONNEL.** (1) Compensation for full-time administrative personnel, as defined in the contract between the contractor and such personnel, shall be an allowable cost, limited as follows:

(a) For calendar year 1981, the compensation of a licensed administrator of a facility having one hundred sixty or more beds shall not exceed thirty-two thousand dollars. The compensation of licensed administrators having beds not exceeding:

- (i) Seventy-nine; and
- (ii) One hundred fifty-nine;

shall be established by the department on a calendar year basis. The maximum compensation of these three categories of facilities may be adjusted in subsequent calendar years by the department through rule and regulation.

(b) The compensation of a licensed assistant administrator for a facility having eighty or more beds shall not exceed seventy-five percent of the compensation received by the licensed administrator of the facility.

(c) The compensation of a registered administrator-in-training shall not exceed sixty percent of the compensation received by the licensed administrator of the facility.

(2) If the licensed administrator, licensed assistant administrator, or registered administrator-in-training regularly work fewer than forty hours per week, the allowable compensation will be the product of the full-time compensation multiplied by the percentage derived from the division of the actual hours worked by forty hours.

(3) The contractor shall maintain customary time records for the licensed administrator, assistant administrator, and/or administrator-in-training.

NEW SECTION. Sec. 27. **DISCLOSURE AND APPROVAL OF COST ALLOCATION.** (1) The contractor shall disclose to the department:

- (a) The nature and purpose of all costs which represent allocations of joint facility costs; and
- (b) The methodology of the allocation utilized.

(2) Such disclosure shall be made not later than September 30, 1980, for the following year and not later than September 30th for each year thereafter; except that a new contractor shall submit the first year's disclosure together with the submissions required by section 67 of this act.

(3) The department shall approve such methodology not later than December 31, 1980, and not later than December 31st for each year thereafter. Such approval shall include, but not be limited to, the assurance that:

- (a) The services involved are necessary and nonduplicative; and
- (b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(4) An approved methodology may be revised or amended subject to approval as provided in subsection (3) of this section and rules and regulations adopted by the department.

NEW SECTION. Sec. 28. MANAGEMENT AGREEMENTS. (1) Management fees will be allowed only if:

(a) A written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates that the services contracted for were actually delivered.

(2) To be allowable, fees must be for necessary, nonduplicative services. Allowable fees for general management services, including the portion of a management fee which is not allocated to specific services such as accounting, are limited to

(a) the maximum allowable compensation under section 26 of this act of the licensed administrator and, if the facility has at least eighty beds, of an assistant administrator, less

(b) actual compensation received by the licensed administrator and by the assistant administrator and administrator-in-training, if any.

In computing maximum allowable compensation under section 26 of this act for a facility with at least eighty beds, include the maximum compensation of an assistant administrator even if an assistant administrator is not employed.

(3) A management fee paid to or for the benefit of a related organization will be allowable to the extent it does not exceed the lower of:

(a) The limits set out in subsection (2) of this section; or

(b) The lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with section 27 of this act.

(4) A copy of the agreement must be received by the department at least sixty days before it is to become effective. A copy of any amendment to a management agreement must also be received by the department at least thirty days in advance of the date it is to become effective.

(5) Central office costs for general management services, including the portion of a management expense which is not allocated to specific services, such as accounting, shall be subject to the management fee limits determined in subsections (2) and (3) of this section.

NEW SECTION. Sec. 29. EXPENSE FOR CONSTRUCTION INTEREST. (1) Interest expense and loan origination fees relating to construction of a facility incurred during the period of construction shall be capitalized and amortized over the life of the facility pursuant to section 36

of this act. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care.

(2) For the purposes of this chapter, the period provided for in subsection (1) of this section shall not exceed the project certificate of need time period pursuant to RCW 70.38.125.

NEW SECTION. Sec. 30. OPERATING LEASES OF EQUIPMENT. Rental or lease costs under arm's-length operating leases of office equipment shall be allowable to the extent the cost is necessary and ordinary.

NEW SECTION. Sec. 31. CAPITALIZATION. The following costs shall be capitalized:

(1) Expenses for facilities or equipment with historical cost in excess of five hundred dollars per unit and a useful life of more than one year from the date of purchase; and

(2) Expenses for equipment with historical cost of five hundred dollars or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded five hundred dollars; or

(b) The item was part of the initial stock of the facility.

(3) Dollar limits in this section may be adjusted for economic trends and conditions by the department as established by rule and regulation.

NEW SECTION. Sec. 32. DEPRECIATION EXPENSE. Depreciation expense on depreciable assets which are required in the regular course of providing patient care will be an allowable cost. It shall be computed using the depreciation base, lives, and methods specified in this chapter.

NEW SECTION. Sec. 33. DEPRECIABLE ASSETS. Tangible assets of the following types in which a contractor has an interest through ownership or leasing are subject to depreciation:

(1) Building – the basic structure or shell and additions thereto;

(2) Building fixed equipment – attachments to buildings, including, but not limited to, wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(a) Affixed to the building and not subject to transfer; and

(b) A fairly long life, but shorter than the life of the building to which affixed;

(3) Major movable equipment including, but not limited to, beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:

(a) A relatively fixed location in the building;

(b) Capable of being moved as distinguished from building equipment;

(c) A unit cost sufficient to justify ledger control;

(d) Sufficient size and identity to make control feasible by means of identification tags; and

(e) A minimum life greater than one year;

(4) Minor equipment including, but not limited to, waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets which are properly capitalized. No depreciation shall be taken on items which are not properly capitalized as directed in section 31 of this act. The general characteristics of minor equipment are:

(a) In general, no fixed location and subject to use by various departments;

(b) Small in size and unit cost;

(c) Subject to inventory control;

(d) Large number in use; and

(e) Generally, a useful life of one to three years;

(5) Land improvements including, but not limited to, paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, and walls where replacement is the responsibility of the contractor; and

(6) Leasehold improvements – betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease.

NEW SECTION. Sec. 34. LAND—DEPRECIATION—COST—IMPROVEMENTS. Land is not depreciable. The cost of land includes but is not limited to, off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a non-depreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

NEW SECTION. Sec. 35. METHODS OF DEPRECIATION. (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method of depreciation. Major-minor equipment shall be depreciated using either the straight-line method, the sum-of-the-years' digits method, or declining balance method not to exceed one hundred fifty percent of the straight line rate. Contractors who have elected to take either the sum-of-the-years' digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes which are neither necessary nor related to patient care.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to section 36 of this act.

NEW SECTION. Sec. 36. DEPRECIATION BASE. (1) The depreciation base shall be the historical cost of the contractor or lessor, when the assets are leased by the contractor, in acquiring the asset in an arm's length transaction and preparing it for use, less goodwill, and less accumulated depreciation which has been incurred during periods that the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsections (2), (3), and (4) of this section and sections 35 and 37 of this act. If the department challenges the historical cost of an asset, or if the contractor cannot or will not provide the historical costs, the department will have the department of general administration, through an appraisal procedure, determine the fair market value of the assets at the time of purchase. The depreciation base of the assets will not exceed such fair market value.

(2) The historical cost of donated assets, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death; or

(b) The historical cost base of the owner last contracting with the department, if any.

(3) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

(4) (a) Where depreciable assets are acquired that were used in the medical care program subsequent to January 1, 1980, the depreciation base of the assets will not exceed the net book value which did exist or would have existed had the assets continued in use under the previous contract with the department; except that depreciation shall not be assumed to accumulate during periods when the assets were not in use in or as a facility.

(b) Subparagraph (4)(a) of this section shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the ownership of the assets has been previously transferred in an arm's-length transaction nor to the first arm's-length acquisition that occurs after January 1, 1980, for facilities participating in the medical care program prior to January 1, 1980. The new depreciation base for such acquisitions shall not exceed the fair market value of the assets as determined by the department of general administration through an appraisal procedure. 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.

(c) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(d) Where the depreciable asset is a donation or distribution between related organizations, the base shall be the lesser of (i) fair market value,

less salvage value, or (ii) the depreciation base the related organization had or would have had for the asset under a contract with the department.

NEW SECTION. Sec. 37. LIVES. (1) Except for new buildings, the contractor shall use lives which reflect the estimated actual useful life of the asset and which shall be no shorter than guideline lives as established by the department. The shortest life which may be used for new buildings is thirty years. Lives shall be measured from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition of the asset, whichever is more recent. In cases where section 36(4)(a) of this act does apply, the shortest life that may be used for buildings is the remaining useful life under the prior contract. In all cases, lives shall be extended to reflect periods, if any, when assets were not used in or as a facility.

(2) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement.

(3) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(4) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

NEW SECTION. Sec. 38. RETIREMENT OF DEPRECIABLE ASSETS. (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

NEW SECTION. Sec. 39. HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS. If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

NEW SECTION. Sec. 40. TEMPORARY CONTRACT LABOR. Costs for the purchased services of temporary contract labor shall be allowable only to the extent they do not exceed the average of the usual and customary rate for the wages and benefits of the facility's comparable permanent staff, as reimbursed pursuant to sections 48 and 50 of this act.

NEW SECTION. Sec. 41. UNALLOWABLE COSTS. (1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in care services established by the department under this act;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Interest costs other than those provided by section 29 of this act;

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the cost-related reimbursement system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

- (s) Penalties and fines;
- (t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;
- (u) Federal, state, and other income taxes;
- (v) Costs of special care services except where authorized by the department;
- (w) Expenses of key-man insurance and other insurance or retirement plans not made available to all employees;
- (x) Expenses of profit-sharing plans;
- (y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;
- (z) Personal expenses and allowances of owners or relatives;
- (aa) All expenses of maintaining professional licenses or membership in professional organizations;
- (bb) Costs related to agreements not to compete;
- (cc) Amortization of goodwill;
- (dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;
- (ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;
- (ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;
- (gg) Lease acquisition costs and other intangibles not related to patient care;
- (hh) All rental or lease costs other than those provided in section 30 of this act; and
- (ii) All audit costs incurred pursuant to section 12(1) of this act.

PART E RATE SETTING

NEW SECTION. Sec. 42. PRINCIPLES OF RATE-SETTING. The following principles are inherent in sections 43 through 59 of this act:

- (1) Reimbursement rates will be set prospectively on a per patient day basis;
- (2) Rates will be established not lower than the level which is reasonably expected to be adequate to reimburse in full the actual, allowable costs of a facility which is economically and efficiently operated and to provide care which meets the needs of a medical care recipient in compliance with applicable standards; and
- (3) The rates so established will take into account economic conditions and trends during the period to be covered by such rates.

NEW SECTION. Sec. 43. PROSPECTIVE REIMBURSEMENT RATES. (1) The department, as provided by this chapter, will determine prospective cost-related reimbursement rates for services provided to medical care recipients. Each rate so determined shall represent the contractor's maximum compensation within each cost center for each patient day for such medical care recipient.

(2) As required, the department may modify such maximum per patient day rates pursuant to the administrative review provisions of section 78 of this act.

(3) The maximum prospective reimbursement rates for the administration and operations and the property cost centers and the return on investment allowance shall be established based upon a minimum facility occupancy level of eighty-five percent.

NEW SECTION. Sec. 44. LIMITATION OF SERVICES SUBJECT TO COST REIMBURSEMENT. Only those services which are authorized for a facility pursuant to the medical care program shall be reimbursed under this chapter.

NEW SECTION. Sec. 45. REIMBURSEMENT RATE FOR NEW CONTRACTOR. (1) Prospective reimbursement rates for a new contractor will be established within sixty days following receipt by the department of the properly completed projected budget required by section 67 of this act. Such reimbursement rates will become effective as of the effective date of the contract.

(2) Such reimbursement rates will be based on the contractor's projected cost of operations through December 31st of the year the contract becomes effective, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances.

(3) If a properly completed budget is not received at least sixty days prior to the effective date of the contract, the department will establish preliminary rates based on the other factors specified in subsection (2) of this section. These preliminary rates will remain in effect until a determination is made pursuant to section 46 of this act.

NEW SECTION. Sec. 46. RATE DETERMINATION—WHEN DETERMINED OR ADJUSTED. (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 section 78 of this act 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 the effective date of this act, such contractor's prospective rate effective July 1, 1982, will be determined utilizing his reported allowable costs for calendar year 1981.

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

NEW SECTION. Sec. 47. COST CENTERS. A contractor's reimbursement rates for medical care recipients will be determined utilizing audited cost report data within the following cost centers:

- (1) Nursing services;
- (2) Food;
- (3) Administration and operations; and
- (4) Property.

NEW SECTION. Sec. 48. NURSING SERVICES COST CENTER REIMBURSEMENT RATE. (1) The nursing services cost center shall include all costs related to the direct provision of nursing care and ancillary care including fringe benefits and payroll taxes for the nursing care and ancillary service personnel, and direct care supplies.

(2) For rate-setting purposes, the department shall determine standard hours for each classification established by the department pursuant to section 86 of this act. Such standard hours shall be the sum of the hours for nursing assistants, licensed practical nurses, and registered nurses.

(3) The standard base rate per classification shall be the sum of the products of at least ninety percent of the prevailing wages for the categories of nursing assistant, licensed practical nurse, and registered nurse, expressed as an hourly rate, based upon the state-wide salary survey conducted pursuant to RCW 41.06.160, multiplied by the respective components of the standard hours as determined in subsection (2) of this section.

(4) The nursing services cost center rate, excluding the special care rate provided by subsection (5) of this section, for each facility, shall be:

(a) The sum of the standard base rate per classification determined in subsection (3) of this section multiplied by the total patient days for the facility within each classification for the prior year, divided by the total patient days for the prior year for the facility, less special care patient days,

(b) Plus a factor to be determined annually by the department for the facility for fringe benefits, payroll taxes, ancillary care and direct care supplies; except that, the factor shall reflect the level of employee benefits, provided or agreed to, payroll taxes assessed, and/or ancillary services provided within each facility.

(5) Where the standard hours for rate setting purposes in subsection (2) of this section do not reflect the exceptional custodial or nursing care required for a patient, the department, upon verification of such exceptional custodial or nursing care, will negotiate a special rate for exceptional care for such patient. Such special rate will:

(a) Include the factors described in subparagraph (2)(b) of this section; and

(b) Be reimbursed to the facility independently of the nursing services cost center rate provided by subsection (4) of this section.

NEW SECTION. Sec. 49. FOOD COST REIMBURSEMENT RATE. (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:

$$FR = (TFC/TPD) 1.15, \text{ where}$$

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, the food cost reimbursement rate for each facility shall be computed as follows:

$$FR = (TFC/TPD), \text{ where}$$

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.

NEW SECTION. Sec. 50. ADMINISTRATION AND OPERATIONS COST CENTER REIMBURSEMENT RATE. (1) The administration and operations cost center shall include all items not included in the cost centers of nursing services, food, and property.

(2) The administration and operations cost center reimbursement rate for each facility shall be based on the computation in this subsection and shall not exceed the eighty-fifth percentile of (a) the rates of all reporting facilities derived from the computation below, or (b) reporting facilities grouped in accordance with subsection (3) of this section:

$$AR = TAC/TPD, \text{ where}$$

AR = the administration and operations cost center reimbursement rate for a facility;

TAC = the total costs of the administration and operations cost center plus the retained savings from such cost center as provided in section 18 of this act of a facility; and

TPD = the total patient days for a facility for the prior year.

(3) The secretary may group facilities based on factors which could reasonably influence cost requirements of this cost center, other than ownership or legal organization characteristics.

NEW SECTION. Sec. 51. PROPERTY COST CENTER. The property cost center rate for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation costs, subject to

sections 31 through 38 of this act, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, as provided in section 18 of this act, by the total patient days for the facility in the prior period. 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 property cost center rate shall be adjusted to anticipated patient day level.

When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary.

NEW SECTION. Sec. 52. ADJUSTMENT OF COST CENTER RATES. The rates determined in sections 48 through 51 of this act shall be adjusted by the department utilizing appropriate indices or other measures of economic trends and conditions projected for the ensuing year.

NEW SECTION. Sec. 53. RETURN ON INVESTMENT ALLOWANCE. (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 sections 33, 35, 36, and 37 of this act, 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 section 36(1) of this act.

(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 sections 45 through 51 of this act. 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.

(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 sections 45 through 51 of this act.

(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 section 51 of this act, is more than the return on investment allowance determined according to section 53(2)(c) of this act, the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1980, 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 section 51 of this act. The lesser of the two amounts shall be called the alternate return on investment allowance.

(iii) The return on investment allowance determined according to section 53(2)(c) of this act 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 sections 45 through 51 of this act.

(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, 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.

NEW SECTION. Sec. 54. If the legislature changes the methodology of property reimbursement established in this 1980 act, no affected contractor shall be entitled thereafter to receive such benefits as a matter of contractual right.

NEW SECTION. Sec. 55. UPPER LIMITS TO REIMBURSEMENT RATES. (1) The reimbursement rates shall not exceed the contractor's customary charges to the general public for comparable services.

(2) Rates shall not exceed the limits set forth in 42 CFR 450.30(b)(6).

NEW SECTION. Sec. 56. NOTIFICATION OF RATES. The department will notify each contractor in writing of its prospective reimbursement

rates at least thirty days in advance of the effective date. Unless otherwise specified at the time it is issued, the rate will be effective from the first day of the month in which it is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with section 78 of this act, it will be effective as of the date the appealed rate became effective.

NEW SECTION. Sec. 57. ADJUSTMENTS REQUIRED DUE TO ERRORS OR OMISSIONS. (1) Prospective rates are subject to adjustment by the department as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of its effective date, and of any amount due to the department or to the contractor as a result of the rate adjustment.

(2) The contractor shall pay an amount it owes the department resulting from an error or omission, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set forth in section 78 of this act. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(3) The department shall pay any amount it owes the contractor as a result of a rate adjustment within thirty days after it notifies the contractor of the rate adjustment.

(4) No adjustments will be made to a rate after final settlement, except as provided in section 17(2) of this act.

NEW SECTION. Sec. 58. PUBLIC REVIEW OF RATE-SETTING. The department shall provide all interested members of the public with an opportunity to review and comment on the proposed rate-setting factors, indices, measures, and guidelines not later than May 15th of each year prior to their being used to set rates.

NEW SECTION. Sec. 59. PUBLIC DISCLOSURE OF RATE-SETTING METHODOLOGY. In accordance with the provisions of section 82 of this act, the department will make available to the public full information regarding its factors, indices, measures, and guidelines.

PART F BILLING/PAYMENT

NEW SECTION. Sec. 60. BILLING PERIOD. A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month.

NEW SECTION. Sec. 61. BILLING PROCEDURE. (1) A contractor shall bill the department each month by completing and returning a facility billing statement as provided by the department which shall include, but not be limited to:

- (a) Billing by cost center;
- (b) Total patient days; and
- (c) Patient days for medical care recipients.

The statement shall be completed and filed in accordance with rules and regulations established by the secretary.

(2) A contractor shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient pursuant to rules and regulations established according to the provisions of chapter 74-.09 RCW has been received by the contractor except that, a contractor may bill and shall be reimbursed for all medical care recipients referred to the contractor's facility by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility. At that time it may bill for service provided back through the date the recipient was admitted or became eligible.

- (3) Billing shall cover the patient days of care.

NEW SECTION. Sec. 62. PAYMENT. (1) The department will reimburse a contractor for service rendered under the facility contract and billed in accordance with section 61 of this act.

(2) The amount paid will be computed using the appropriate rates assigned to the contractor.

(3) For each recipient, the department will pay an amount equal to the appropriate rates, multiplied by the number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth by section 63 of this act.

NEW SECTION. Sec. 63. CHARGES TO PATIENTS. (1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with rules and regulations established by the secretary.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the department within seventy-two hours and in a manner specified by rules and regulations established by the secretary. If necessary, appropriate corrections will be made in the next facility statement, and a copy of documentation supporting the change will be attached. If increased funds for a recipient are received by a contractor, an amount determined by the department shall be allowed for clothing and personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rates established by the department as full compensation for all services provided under the contract, certification as specified by Title XIX, and licensure under chapter

18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services.

NEW SECTION. Sec. 64. SUSPENSION OF PAYMENT. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

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

(b) State auditors or authorized personnel in the course of their duties are refused access to a nursing home or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided;

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

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is provided to the contractor, stating the reason therefor.

NEW SECTION. Sec. 65. TERMINATION OF PAYMENTS. All payments to a contractor will end no later than sixty days after any of the following occurs:

(1) A contract expires, is terminated or is not renewed;

(2) A facility license is revoked; or

(3) A facility is decertified as a Title XIX facility; except that, in situations where the secretary determines that residents must remain in such facility for a longer period because of the resident's health or safety, payments for such residents shall continue.

PART G ADMINISTRATION

NEW SECTION. Sec. 66. CONDITIONS OF PARTICIPATION. In order to participate in the prospective cost-related reimbursement system established by this chapter, the person or legal organization responsible for operation of a facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR where required;

(2) Hold the appropriate current license;

(3) Hold current Title XIX certification;

(4) Hold a current contract to provide services under this chapter; and

(5) Comply with all provisions of the contract and all application regulations, including but not limited to the provisions of this chapter.

NEW SECTION. Sec. 67. PROJECTED BUDGET FOR NEW CONTRACTORS. (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract will become effective.

(2) The projected budget shall cover the period to December 31st from the date the contractor will enter the program. It shall be prepared on forms and in accordance with rules and regulations established by the secretary.

NEW SECTION. Sec. 68. CHANGE OF OWNERSHIP. (1) On the effective date of a change of ownership the department's contract with the old owner shall be terminated. The old owner shall give the department thirty days' written notice of such termination. When certificate of need and/or section 1122 approval is required pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR, for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of termination.

(2) If the new owner desires to participate in the cost-related reimbursement system, it shall meet the conditions specified in section 66 of this act and shall submit a projected budget in accordance with section 67 of this act no later than sixty days before the date of the change of ownership. The facility contract with the new owner shall be effective as of the date of the change of ownership.

NEW SECTION. Sec. 69. TERMINATION OF CONTRACT. (1) When a facility contract is terminated for any reason, the old contractor shall submit final reports as required by section 4 of this act. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final audited cost report, and final settlement has been determined, such settlement not to exceed sixty days following submittal of the final audited cost report.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with section 17 of this act, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a bonding company acceptable to the department is filed by the contractor. The bond shall:

- (a) Be in an amount equal to the released payment;
- (b) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;

(c) Provide that the full amount of the bond shall be paid to the department if a properly completed final audited cost report is not filed in accordance with this chapter, or if financial records supporting this record are not preserved and made available to the auditor; and

(d) Provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver services to another classification of medical care recipients at the same facility, the contractor is not required to submit final cost reports, and payment for the final thirty days will not be withheld.

PART H PATIENT TRUST FUNDS

NEW SECTION. Sec. 70. TRUST FUND ESTABLISHMENT. (1) Each contractor shall establish and maintain, as a service to the medical care recipient, a bookkeeping system incorporated into the business records for all recipient moneys entrusted to the contractor and received by the facility for the recipient.

(2) Such system will apply to a recipient who is:

(a) Incapable of handling his or her own money and the department or the recipient's guardian, relative, or physician makes written request of the facility to accept this responsibility; or

(b) Capable of handling his or her own money, but requests the facility in writing to accept this responsibility.

(3) The written requests provided in subsection (2) of this section shall be maintained by the contractor in the recipient's file.

(4) The recipient must be given at least a quarterly reporting of all financial transactions in his or her trust account. The representative payee, the guardian, and/or other designated agents of the recipient must be sent a copy of said reporting on the same basis as the recipient.

NEW SECTION. Sec. 71. TRUST FUND ACCOUNTS. (1) The contractor shall maintain a subsidiary ledger with an account for each recipient for whom the contractor has money in trust.

(2) Each account and related supporting records shall:

(a) Be kept current;

(b) Be balanced each month; and

(c) Show in detail, with supporting verification, all moneys received on behalf of the recipient and the disposition of all moneys so received.

(3) Records of each account shall be available for audit pursuant to section 14 of this act and shall be retained for a minimum of four years.

When an account has attained the maximum limit established by rules and regulations promulgated by the secretary, the contractor will notify the department within five days.

(4) Any charge for medical services otherwise properly made to a recipient's trust account must be supported by a written denial of such services from the department.

NEW SECTION. Sec. 72. **PETTY CASH FUND.** (1) The contractor may maintain a petty cash fund originating from trust moneys of an amount determined by the department which shall be reasonable and necessary for the size of a facility and the needs of the recipients.

(2) Such petty cash fund shall be maintained as an imprest fund. All moneys over and above the trust fund petty cash amount shall be deposited intact, within twenty-four hours, in a trust fund checking account, separate and apart from any other bank account or accounts of the facility or other facilities.

(3) Cash deposits of recipient allowances from any source must be made intact to the trust account within one week from the time that payment of such allowances are received.

(4) Any related bankbooks, bank statements, checkbook, check register, and all voided and canceled checks, shall be made available for audit pursuant to section 14 of this act and shall be retained by the facility for not less than four years.

(5) No service charges for such checking account shall be paid from recipient trust moneys.

(6) The trust account per bank shall be reconciled monthly to the trust account per patient ledgers.

NEW SECTION. Sec. 73. **TRUST MONEYS CONTROL/DISBURSEMENT.** (1) Trust moneys shall be held in trust and are not to be turned over to anyone other than the recipient or the recipient's guardian without the written consent of the recipient, his designated agent as appointed by power of attorney, or an appropriate employee of the department designated by the secretary. Such trust moneys shall not be subject to attachment, execution, or other creditor remedies.

(2) When moneys are received, a receipt shall be filled out in duplicate; one copy shall be given to the person making payment of deposit, and the second copy shall be retained by the facility.

(3) Checks received by recipients shall be endorsed by the recipient. If the recipient is incapable of signing his or her name, the contractor shall secure the recipient's mark "X" followed by the printed name of the recipient and the signature of two witnesses.

(4) The recipient's trust account ledger sheet must be credited with any allowance received; referenced with the receipt number and supported by a copy of the deposit slip.

NEW SECTION. Sec. 74. TRUST MONEYS AVAILABILITY. Moneys held in trust for any recipient shall be available for his or her personal and incidental needs when requested by the recipient or one of the persons designated in section 73(1) of this act.

NEW SECTION. Sec. 75. PROCEDURE FOR REFUNDING TRUST MONEY. When a recipient is discharged and/or transferred, the balance of the recipient's trust account shall be returned either directly to the person within five days, or by mail. In either instance a receipt shall be obtained.

NEW SECTION. Sec. 76. LIQUIDATION OF TRUST FUND. (1) When a recipient has died, the contractor shall obtain a receipt from the next of kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next of kin, guardian, or duly qualified agent, the department shall be contacted in writing within seven days for assistance in the release of the money held in trust.

(2) A check or other document showing payment to such next of kin, guardian, or duly qualified agent will serve as a receipt.

(3) Where the recipient leaves the facility without authorization and his or her whereabouts are not known:

(a) The facility will make a reasonable attempt to locate the missing recipient using the agencies of state or local government;

(b) If the recipient cannot be located after ninety days, the facility shall notify the department of revenue of the existence of abandoned property, pursuant to chapter 63.28 RCW. The facility will be required to deliver to the department of revenue the balance of the recipient's trust fund account within twenty days following such notification.

PART I MISCELLANEOUS

NEW SECTION. Sec. 77. DISPUTES. [(1)] If a contractor wishes to contest the way in which a rule or contract provision relating to the prospective cost-related reimbursement system was applied to the contractor by the department, it shall first pursue the administrative review process set forth in section 78 of this act.

(2) The administrative review process in section 78 of this act need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, or contract provision.

NEW SECTION. Sec. 78. ADMINISTRATIVE REVIEW PROCESS. (1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request in writing that the secretary review such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically

as practicable the grounds for its contention that the determination was erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

(2) After receiving a request meeting the above criteria, the secretary or his designee will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specified later date.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation on which it intends to rely to support its contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) A written decision by the secretary will be furnished to the contractor within thirty days after the conclusion of the conference. The secretary shall prepare such decision for the fiscal and other appropriate standing committees of the legislature.

(5) If the contractor desires review of an adverse decision of the secretary, it shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the provisions of chapter 34.04 RCW.

NEW SECTION. Sec. 79. DENIAL, SUSPENSION, REVOCATION OF LICENSE OR PROVISIONAL LICENSE—PENALTY. 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 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 rules and regulations established hereunder; or

(2) Has knowingly or with reason to know made a false statement of a material fact in any record required by this chapter; or

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

(4) 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

(5) 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 rules and regulations promulgated hereunder.

NEW SECTION. Sec. 80. The department shall adopt, promulgate, amend, and rescind such administrative rules as are necessary to carry out the policies and purposes of this chapter. In addition, at least annually the department shall review changes to generally accepted accounting principles and generally accepted auditing standards as approved by the financial accounting standards board, and the American institute of certified public accountants, respectively. The department shall adopt by administrative rule those approved changes which it finds to be consistent with the policies and purposes of this chapter.

NEW SECTION. Sec. 81. RESPONSIBILITY FOR AUDITS IN THE TRANSITION PERIOD. 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.

NEW SECTION. Sec. 82. DISCLOSURE. (1) Cost reports and their final audit reports with any accompanying schedule of questioned costs submitted to the secretary shall be subject to public disclosure pursuant to the requirements of chapter 42.17 RCW. Notwithstanding any other provision of law, financial statements and any accompanying schedules summarizing the adjustments to a contractor's financial records, reports on review of internal control and accounting procedures, and letters of comments or recommendations relating to suggested improvements in internal control or accounting procedures which are prepared pursuant to the requirements of this chapter shall be exempt from public disclosure.

(2) Regardless of whether any document or report submitted to the secretary pursuant to this chapter is subject to public disclosure, copies of such documents or reports shall be provided by the secretary, upon written request, to the legislature and to state agencies or state or local law enforcement officials who have an official interest in the contents thereof.

NEW SECTION. Sec. 83. DEVELOPMENT OF EXCEPTION PROFILE PROCESS. The office of the state auditor with the cooperation and assistance of the department shall develop an exception profile process to be utilized in the analysis required under section 11 of this act. This exception profile process shall be implemented not later than December 1, 1981.

Sec. 84. 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:

(1) The department shall purchase necessary physician and dentist services by contract or "fee for service((-))".

(2) 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.

(3) 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 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:))~~

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

Sec. 85. Section 61, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.610 are each amended to read as follows:

The department shall assess the needs of each resident within thirty days after the resident's admission. The department shall use the patient assessment system developed ~~((under))~~ pursuant to RCW 18.51.310, as now or hereafter amended. Based upon the assessment of the resident's needs, the department shall assign each resident to a classification, developed by the patient care classification and standards task force pursuant to section 86 of this 1980 act, reflecting the level of care required by that resident. ~~((The classification system has at least five but not more than seven levels of care:))~~

This section shall apply to developmentally disabled residents as a separate system.

NEW SECTION. Sec. 86. (1) There is established a special task force to be known as the "patient care classification and standards task force," hereafter referred to in this section as "the task force." The task force shall terminate on December 31, 1980.

(2) The task force shall be composed of the following members:

(a) Two representatives of the nursing home industry appointed jointly by the president of the senate and the speaker of the house of representatives with such appointment made not later than twenty days following the effective date of this section. The persons appointed shall represent the following:

- (i) One representative from the nursing home facility associations; and
- (ii) One representative from nonprofit facilities;

(b) Two representatives from the department of social and health services appointed by the secretary and whose appointment shall be made not later than twenty days following the effective date of this section;

(c) Two representatives from nursing home consumer groups appointed jointly by the representatives appointed pursuant to subparagraphs (2)(a) and (b) of this section. The consumer group representatives shall be chosen within twenty days following the effective date of this section;

(d) Two representatives appointed by the governor and whose appointment shall be made not later than twenty days following the effective date of this section; and

(e) Four representatives from the legislature, two from the house and two from the senate, appointed by the speaker of the house of representatives and the president of the senate, respectively. The persons appointed shall represent the following standing committees:

(i) One from the house appropriations committee;

(ii) One from the house social and health services committee;

(iii) One from the senate ways and means committee; and

(iv) One from the senate social and health services committee.

(3) Not later than the thirtieth day following the effective date of this section, the task force members shall meet and:

(a) Elect a chairman of the task force from among the members, with such chairman presiding at all meetings and having administrative responsibility for the task force;

(b) Elect a vice-chairman of the task force from among the members, with such vice-chairman acting in the stead of the chairman upon the chairman's absence; and

(c) Adopt such procedural rules as necessary to carry out the responsibilities set forth in subsection (6) of this section.

(4) The task force shall provide progress reports to the appropriate legislative committees in each of the months of June and August 1980 and as otherwise requested.

(5) The office of financial management shall provide the support services and staff required by the task force.

(6) Not later than September 1, 1980, the task force shall present a report to the governor. The task force report shall also be presented by this same date to the legislature for its review and approval during the 1981 legislative session. Such report shall set forth the following:

(a) A patient classification system which reflects, as nearly as possible, the level of care required by each resident;

(b) Standard hours for each classification, with such standard hours to be expressed as either a range of hours or as a single standard hour per classification, except that such standard hours shall be the expressed composite of hours required for a nursing assistant, licensed practical nurse, and registered nurse;

(c) A draft of recommended legislation necessary for implementation of the task force recommendations pursuant to this section; and

(d) A fiscal note detailing the six-year fiscal impact of the task force recommendations pursuant to this section.

(7) The recommended legislation of the task force shall be subject to the approval of the legislature by March 1, 1981.

(8) The secretary shall adopt no later than March 31, 1981, the rules and regulations necessary to carry out the legislation approved in subsection (7) of this section.

NEW SECTION. Sec. 87. The department shall submit to the appropriate legislative committees not later than January 15, 1981, a report detailing the department's activities with regard to preplacement screening for medical care recipients, and the department's nursing home admissions policy. Such report shall include, but not be limited to, program descriptions, client flow analyses, programmatic impacts, and cost effectiveness analyses.

NEW SECTION. Sec. 88. Sections 1 through 83 and 92 of this act shall constitute a new chapter in Title 74 RCW.

NEW SECTION. Sec. 89. Section captions as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 90. 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;

(4) Section 4, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.580;

and

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

NEW SECTION. Sec. 91. (1) There is hereby appropriated from the general fund one hundred seventy-five thousand dollars, or as much thereof as may be necessary, to the office of financial management to carry out the purposes of sections 7 and 86 of this act.

(2) There is hereby appropriated from the general fund one hundred thirty-five thousand dollars, or as much thereof as may be necessary, to the office of the state auditor to carry out the purposes of section 83 of this act.

NEW SECTION. Sec. 92. If any part 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 receipts of federal funds to the state, the conflicting part 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 this act in its application to the agencies concerned. In the event that any portion 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, to

the extent that the secretary finds it to be consistent with the general policies and intent of this chapter, may adopt such rules as to resolve a specific conflict and which do 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.

NEW SECTION. Sec. 93. 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. 94. (1) Sections 2, 7, 83, 85, 86, and 91 of this act 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.

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

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

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

Passed the Senate March 13, 1980.

Passed the House March 12, 1980.

Approved by the Governor April 4, 1980.

Filed in Office of Secretary of State April 4, 1980.

CHAPTER 178

[Substitute Senate Bill No. 3257]

POISON CONTROL AND DRUG INFORMATION SERVICES PROGRAM— APPROPRIATION

AN ACT Relating to public health; adding new sections to chapter 18.73 RCW; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 18.73 RCW a new section to read as follows:

The legislature finds that accidental and purposeful ingestions of poisonous substances continues to be a severe health problem in the state of Washington. It further finds that a significant reduction in the consequences of such accidental ingestions have occurred as a result of the development of regional poison information centers.

The purpose of sections 1 through 3 of this act is to reduce morbidity and mortality associated with overdose and poisoning incidents by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care