

(3) The department shall establish standards of assistance and resource and income exemptions. All nonexempt income and resources of limited casualty program recipients shall be applied against the cost of their medical care services. In addition, the department (~~(may)~~) shall include a prohibition against the (~~(voluntary)~~) knowing and wilful assignment of property or cash for the purpose of qualifying for assistance under sections 1 through 3 of chapter — (2SHB 557), Laws of 1981 2nd ex. sess.

~~((4) The department shall, to the maximum extent possible, recover the cost of medical care provided under this section from future income and resources. Future income and resources shall be limited to those available up to twenty-four months following the provision of care.))~~

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 9, chapter 172, Laws of 1969 ex. sess. and RCW 74.04.525; and

(2) Section 10, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.08.041.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House December 2, 1981.

Passed the Senate November 24, 1981.

Approved by the Governor December 21, 1981.

Filed in Office of Secretary of State December 21, 1981.

CHAPTER 11

[Substitute House Bill No. 760]

NURSING HOMES

AN ACT Relating to nursing homes; amending section 6, chapter 117, Laws of 1951 as last amended by section 17, chapter 2, Laws of 1981 1st ex. sess. and RCW 18.51.050; amending section 63, chapter 211, Laws of 1979 ex. sess. and RCW 18.51.091; amending section 10, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.230; amending section 1, chapter 244, Laws of 1977 ex. sess. as last amended by section 12, chapter 2, Laws of 1981 1st ex. sess. and RCW 18.51.310; amending section 1, chapter 2, Laws of 1981 1st ex. sess. and RCW 74.09.610; amending section 74.09.120, chapter 26, Laws of 1959 as last amended by section 11, chapter 2, Laws of 1981 1st ex. sess. and RCW 74.09.120; amending section 4, chapter 260, Laws of 1977 ex. sess. as amended by section 2, chapter 2, Laws of 1981 1st ex. sess. and RCW 74.09.580; adding a new section to chapter 18.51 RCW; repealing section 7, chapter 114, Laws of 1979 and RCW 18.52A.070; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 18.51 RCW a new section to read as follows:

If any part of this chapter is found to conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this chapter.

Sec. 2. Section 6, chapter 117, Laws of 1951 as last amended by section 17, chapter 2, Laws of 1981 1st ex. sess. and RCW 18.51.050 are each amended to read as follows:

Upon receipt of an application for license, the department shall issue a license if the applicant and the nursing home facilities meet the requirements established under this chapter. Prior to the issuance or renewal of the license, the licensee shall pay a license fee ~~((of one hundred dollars plus two dollars per bed per year))~~ as established by the department. No fee shall be required of government operated institutions. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed ~~((twelve))~~ thirty-six months in duration ~~((: PROVIDED, That when the annual license renewal date of a previously licensed nursing home is set by the department on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license))~~. When a change of ownership occurs, the entity becoming the licensed operating entity of the facility shall pay ~~((the full licensing))~~ a fee ~~((for the facility))~~ established by the department at the time of application for the license. The previously determined date of license expiration shall not change.

All applications and fees for renewal of the license and for change of ownership licenses shall be submitted to the department not later than thirty days prior to the date of expiration of the license or the date of the proposed change of ownership. Each license shall be issued only to the operating entity and those persons named in the license application. The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 3. Section 63, chapter 211, Laws of 1979 ex. sess. and RCW 18.51.091 are each amended to read as follows:

The department shall make or cause to be made at least ~~((a yearly))~~ one inspection of ~~((all))~~ each nursing home ~~((s))~~ prior to license renewal. Every inspection may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. Following such inspection or inspections, written notice of any violation of this law or the rules and regulations promulgated hereunder, shall be given the applicant or licensee and the department. The notice shall describe the reasons for the facility's

non-compliance. The notice shall inform the facility that it must comply with a plan of correction within a specified time, not to exceed sixty days from the date the plan of correction is approved by the department. The penalties in RCW 18.51.060 may be imposed if, after the specified period, the department determines that the facility has not complied. In life-threatening situations or situations which substantially limit the provider's capacity to render adequate care, the department may require immediate correction or proceed immediately under RCW 18.51.060. The department may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

Sec. 4. Section 10, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.230 are each amended to read as follows:

The department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to RCW 18.51.190, conduct at least one general inspection (~~(each year)~~) prior to license renewal of all nursing homes in the state without providing advance notice of such inspection. (~~(At least one)~~) Periodically, such inspection (~~(in any three year period)~~) shall take place in part between the hours of 7 p.m. and 5 a.m. or on weekends.

Sec. 5. Section 1, chapter 244, Laws of 1977 ex. sess. as last amended by section 12, chapter 2, Laws of 1981 1st ex. sess. and RCW 18.51.310 are each amended to read as follows:

(1) (~~(No later than December 31, 1980;)~~) Within thirty days of admission, the department shall evaluate, through review and assessment, the comprehensive plan of care for each resident supported by the department under RCW 74.09.120 as now or hereafter amended.

(2) The department shall review the comprehensive plan of care for such resident at least annually or upon any change in the resident's classification.

(3) Based upon the assessment of the resident's needs, the department shall assign such resident to a classification. Developmentally disabled residents shall be classified under a separate system.

(4) The nursing home shall submit any request to modify a resident's classification to the department for the department's approval. The approval shall not be given until the department has reviewed the resident.

(5) The department shall adopt (~~(revised licensing standards for nursing homes. The)~~) licensing standards (~~(shall be)~~) suitable for implementing the civil penalty system authorized under this chapter(~~(, chapter 74.42 RCW,)~~) and chapter 74.46 RCW.

(~~(2)~~) The department, the board of health, the school of medicine, the University of Washington, and the schools of nursing within the state shall

~~jointly submit to the legislature, not later than December 20, 1980, alternative methods of identifying and measuring the results of services delivered by the nursing home.~~

~~(3))~~ (6) No later than July 1, 1981, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter, chapter 74.42 RCW, and chapter 74.46 RCW.

Sec. 6. Section 74.09.120, chapter 26, Laws of 1959 as last amended by section 11, chapter 2, Laws of 1981 1st ex. sess. and RCW 74.09.120 are each amended to read as follows:

The department shall purchase necessary physician and dentist services by contract or "fee for service." The department shall purchase hospital care by contract or by all inclusive day rate, or at a reasonable cost based on a ratio of charges to cost. Any hospital when requested by the department shall supply such information as necessary to justify its rate, charges or costs. All additional services provided by the hospital shall be purchased at rates established by the department after consultation with the hospital. The department shall purchase nursing home care by contract. The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which comply with RCW 74.09.610. The regulations shall provide that no payment shall be made to a nursing home which does not permit inspection by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the department deems relevant to the establishment of such a system.

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

The department may purchase care in institutions for the mentally retarded, also known as intermediate care facilities for the mentally retarded. The department shall develop rules for reasonable accounting and reimbursement systems for such care and report such rules to the next regular session of the legislature for review prior to implementation. Institutions for the mentally retarded include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for the mentally retarded under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for mentally retarded individuals or persons with related conditions and includes in the program "active treatment" as federally defined.

Sec. 7. Section 4, chapter 260, Laws of 1977 ex. sess. as amended by section 2, chapter 2, Laws of 1981 1st ex. sess. and RCW 74.09.580 are each amended to read as follows:

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

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

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

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

(2) (a) The department shall calculate a settlement for the 1980 cost reporting period by comparing the rate paid to a contractor with that contractor's reported allowable costs. Refunds due the department based upon overpayments made to nursing home contractors from January 1, 1980, through December 31, 1980, indicated by this settlement shall be due and payable in full within thirty days after written notice is received from the department.

(b) Where deemed appropriate by the department, repayment may be made according to a schedule determined by the department.

(c) Failure on the part of a nursing home contractor to tender payment due in full within thirty days after notice is received from the department shall render the contractor liable for the payment of interest to the department at the rate of one percent per month for any unpaid balance from thirty days after the date of notification until payment in full is received by the department. Liability for interest payments under this subsection (2)(c) shall remain in effect whether a contractor is in default of repayment or is making repayment according to a schedule determined by the department in lieu of payment in full upon notification of payment due.

(d) Unless payment due from a nursing home contractor is received in full within thirty days after notification from the department or unless principal and interest payments are received according to a schedule determined by the department, recoupment from current reimbursement payments due a contractor in default will commence according to a schedule determined by the department.

(e) Nothing in this subsection shall prejudice the rights of contractors or the department regarding audit adjustments and/or revised settlements which may be promulgated by the department from time to time in individual contractor cases.

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

Sec. 8. Section 1, chapter 2, Laws of 1981 1st ex. sess. and RCW 74-.09.610 are each amended to read as follows:

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

(2) (a) For rate setting purposes for fiscal year 1982, the department shall reimburse the patient care cost center at the January 1, 1981, reimbursement rate, as adjusted for inflation.

~~((a))~~ (b) For rate setting purposes in fiscal year 1983, this subsection (2)(b) applies.

(i) There shall be established by the department a redistribution pool consisting of overpayments to contractors for 1981 indicated by proposed settlements for 1981, less one million dollars.

(ii) If a contractor's patient care cost center rate for 1981 is greater than or equal to the contractor's desk reviewed 1981 patient care costs, the department shall reimburse the patient care cost center at the desk reviewed 1981 patient care costs plus any patient care funds shifted to other cost centers pursuant to subsection (8) of this section, as adjusted for inflation.

(iii) If the contractor's 1981 patient cost center rate is less than the contractor's desk reviewed 1981 patient care costs, the department shall reimburse the contractor's patient care cost at the January 1, 1982, reimbursement rate less one and one half percent, as adjusted for inflation, plus an allowance from the redistribution pool. The allowance for a contractor shall not exceed the contractor's patient care costs, as adjusted for inflation, and the total of allowances distributed shall not exceed the redistribution pool under subsection (2)(b)(i) of this section. If the funds contained in the redistribution pool exceed or are equal to the total amount by which contractors were underfunded in the patient care cost center, each contractor's allowance will be equal to the amount by which the contractor was underfunded. If the funds contained in the redistribution pool are less than the total amount by which contractors were underfunded in the patient care cost center, each contractor will receive an allowance which shall be a percentage of the amount by which the contractor was underfunded. The percentage shall be determined by dividing the amount of the pool by the total amount of underfunding.

(c) In addition, the reimbursement shall be enhanced by three million dollars for the first year of the biennium and by ~~((five))~~ one million four

hundred thousand dollars for the second year of the biennium. These enhancements shall be apportioned among the nursing homes proportionately based on the patient care cost center for each nursing home.

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

(e) Effective July 1, 1982, the patient care cost center reimbursement rate shall be adjusted as follows:

(i) As used in (ii) of this subsection, patient care consultation refers to medical director, patient activities, physical therapy, speech therapy, occupational therapy, and other therapy consultation.

(ii) The department shall determine the average expense weighted by patient days for patient care consultation taken from the most recently completed cost reports.

In determining the patient care cost to be used for rate setting pursuant to subsections (2)(b)(ii) and (iii) of this section, the department shall not include any cost in excess of the average cost determined under (ii) of this subsection.

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

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

(a) (i) For rate setting purposes for fiscal year 1982, the wages for all employees, other than nursing service personnel and administrators and assistant administrators, shall be reimbursed at the January 1, 1981, rate as adjusted for inflation.

(ii) For rate setting purposes for fiscal year 1983:

(A) If the contractor's administration and operations wage component rate for 1981 is greater than or equal to the contractor's desk reviewed 1981 administration and operations wage costs, the department shall reimburse the contractor's administration and operations wage component at the desk reviewed 1981 administration and operations wage component costs as adjusted for inflation.

(B) If the contractor's administration and operations wage component rate for 1981 is less than the contractor's desk reviewed 1981 administration and operations wage costs, the department shall reimburse the contractor's administration and operations wage component at the January 1, 1981, reimbursement rate as adjusted for inflation, except that, after distribution of the redistribution pool to contractors underfunded in the patient care cost center pursuant to subsection (2)(b)(iii) of this section, any funds remaining will be distributed to contractors with rates below cost in proportion to the

underfunding in this component. This distribution shall not exceed the total of underfunded cost in this component.

(b) Reimbursement for administration and operations, including all items not specified in subsections (2), (3), (4)(a), (5), and (6) of this section, shall not exceed the eighty-fifth percentile of the costs of all reporting facilities, not including any funds shifted pursuant to subsection (8) of this section, as adjusted for inflation, except that the nursing home facilities may be grouped by factors, other than ownership or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations. Effective July 1, 1982, the administration and operations cost center reimbursement rate shall be adjusted as follows:

(i) As used in (ii) and (iii) of this subsection, administration and operations consultation expense refers to dietary and medical record consultant fees.

(ii) The department shall determine the average expense weighted by patient days for administration and operations consultation expense taken from the most recent completed cost report.

(iii) Reimbursement for administration and operations consultation shall be the lesser of the average expense as determined under (ii) of this subsection or the individual facility's costs for administration and operations consultation expenses taken from the most recent completed cost report, as adjusted for inflation. This adjustment applies only to the July 1, 1982, through July 1, 1983, reimbursement period.

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

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

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

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

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

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

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

(12) References in this section to adjustments for inflation mean adjustments of 5.0 percent for rates effective July 1, 1981, through December 31, 1981; (~~5.2~~) 4.25 percent for rates effective January 1, 1982, through June 30, 1982; (~~4.35~~) 3.25 percent for rates effective July 1, 1982, through December 31, 1982; and (~~4.35~~) 3.25 percent for rates effective January 1, 1983, through June 30, 1983.

NEW SECTION. Sec. 9. Section 7, chapter 114, Laws of 1979 and RCW 18.52A.070 are each repealed.

NEW SECTION. Sec. 10. Sections 2, 3, 4, 6, and 7 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.

Passed the House December 1, 1981.

Passed the Senate November 28, 1981.

Approved by the Governor December 21, 1981.

Filed in Office of Secretary of State December 21, 1981.

CHAPTER 12

[Substitute House Bill No. 774]

JAIL STANDARDS

AN ACT Relating to jail standards; amending section 5, chapter 316, Laws of 1977 ex. sess. as last amended by section 1, chapter 276, Laws of 1981 and RCW 70.48.050; amending section 6, chapter 96, Laws of 1974 ex. sess. as last amended by section 1, chapter 64,