

- (b) If it has any title, heading, or other indication which is misleading;
- (c) If purchase of health care services thereunder is being solicited by deceptive advertising;
- (d) If the benefits provided therein are unreasonable in relation to the amount charged for the contract;
- (e) If it contains unreasonable restrictions on the treatment of patients;
- ((or))
- (f) If it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.04 RCW; or
- (g) If any contract for health care services with any state agency, division, subdivision, board or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(4) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status: PROVIDED HOWEVER, That nothing contained herein shall prevent cancellation of a contract with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge, including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(5) No contract form or amendment to an approved contract form shall be used unless it is first filed with the commissioner.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 284

[Engrossed Substitute Senate Bill No. 3262]

NURSING HOMES

AN ACT Relating to licensing of nursing homes; amending RCW 74.42.380, 18.51.050, 18.52A.020, and 18.52A.030; adding a new section to chapter 18.51 RCW; and adding a new section to chapter 74.42 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.51 RCW to read as follows:

The department may deny a license to any applicant who has a history of significant noncompliance with federal or state regulations in providing nursing home care. In deciding whether to deny a license under this section, the factors the department considers shall include the gravity and frequency of the noncompliance.

Sec. 2. Section 38, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.380 are each amended to read as follows:

(1) The facility shall have a director of nursing services. The director of nursing services shall be a registered nurse.

(2) The director of nursing services is responsible for:

(a) Coordinating the plan of care for each resident;

(b) Permitting only licensed personnel to administer medications; PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses, and student nurses under the supervision of their clinical instructor, from administering medications when permitted to do so under chapter 18.88 RCW and rules promulgated pursuant thereto: PROVIDED FURTHER, That nothing herein shall be construed as prohibiting persons certified under chapter 18.135 RCW from practicing pursuant to the delegation and supervision requirements of chapter 18.135 RCW and rules promulgated pursuant thereto; and

(c) Insuring that the licensed practical nurses comply with chapter 18.78 RCW (~~and~~), the registered nurses comply with chapter 18.88 RCW, and persons certified under chapter 18.135 RCW comply with the provisions of that chapter and rules promulgated pursuant thereto.

NEW SECTION. Sec. 3. A new section is added to chapter 74.42 RCW to read as follows:

(1) The purpose of this section is to prohibit discrimination against medicaid recipients by nursing homes which have contracted with the department to provide skilled or intermediate nursing care services to medicaid recipients.

(2) It shall be unlawful for any nursing home which has a medicaid contract with the department:

(a) To require, as a condition of admission, assurance from the patient or any other person that the patient is not eligible for or will not apply for medicaid;

(b) To deny or delay admission or readmission of a person to a nursing home because of his or her status as a medicaid recipient;

(c) To transfer a patient, except from a private room to another room within the nursing home, because of his or her status as a medicaid recipient;

(d) To transfer a patient to another nursing home because of his or her status as a medicaid recipient;

(e) To discharge a patient from a nursing home because of his or her status as a medicaid recipient; or

(f) To charge any amounts in excess of the medicaid rate from the date of eligibility, except for any supplementation permitted by the department pursuant to RCW 18.51.070.

(3) Any nursing home which has a medicaid contract with the department shall maintain one list of names of persons seeking admission to the facility, which is ordered by the date of request for admission. This information shall be retained for one year from the month admission was requested.

(4) The department may assess monetary penalties of a civil nature, not to exceed one thousand dollars for each violation of this section.

(5) Because it is a matter of great public importance to protect senior citizens who need medicaid services from discriminatory treatment in obtaining long-term health care, any violation of this section shall be construed for purposes of the application of the consumer protection act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

(6) It is not an act of discrimination under this chapter to refuse to admit a patient if admitting that patient would prevent the needs of the other patients residing in that facility from being met at that facility.

Sec. 4. Section 6, chapter 117, Laws of 1951 as last amended by section 2, chapter 11, Laws of 1981 2nd 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 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 thirty-six months in duration. When a change of ownership occurs, the entity becoming the licensed operating entity of the facility shall pay a fee 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~~). All applications and fees for change of ownership licenses shall be submitted to the department not later than sixty days before 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. 5. Section 2, chapter 114, Laws of 1979 and RCW 18.52A.020 are each amended to read as follows:

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

(1) "Nursing assistant" means a person who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the care of patients(;) in a facility licensed under chapter 18.51 RCW, ((under the direction and supervision of a registered nurse or licensed practical nurse)) a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

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

(3) "Nursing home" means a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(4) "Board" means the state board of nursing.

Sec. 6. Section 3, chapter 114, Laws of 1979 and RCW 18.52A.030 are each amended to read as follows:

(1) Any nursing assistant employed by a nursing home, who has satisfactorily completed a nursing assistant training program under this chapter, shall, upon application, be issued a certificate of completion.

(2) ~~((After June 30, 1980;))~~ All nursing assistants employed by a nursing home shall be required to show evidence of satisfactory completion of a nursing assistant training program, or that they are enrolled in and are progressing satisfactorily towards completion of a training program under standards promulgated by the board, which program must be completed within six months of employment. A nursing home may employ a person not currently enrolled if the employer within twenty days enrolls the person in an approved training program. All persons enrolled in a training program must satisfactorily complete the program within six months from the date of initial employment.

(3) All nursing assistants who, on June 7, 1979, are employed in nursing homes shall be given the opportunity to obtain a certificate of completion by passing a written and/or practical examination developed by the board and conducted by a school or nursing home, or by providing evidence of sufficient practical experience. The board shall adopt rules specifying the amount of practical experience to be required for the issuance of a certificate under this section.

(4) Compliance with this section shall be a condition of licensure of nursing homes under chapter 18.51 RCW. Beginning January 1, 1986,

compliance with this section shall be a condition of licensure of hospitals licensed under chapter 70.41 RCW with a wing certified to provide nursing home care under Title XVIII or Title XIX of the social security act. Any health provider of skilled nursing facility care or intermediate care facility care shall meet the requirements of this section.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 285

[Engrossed Senate Bill No. 3627]

MARGINAL LABOR ATTACHMENT—BENEFIT QUALIFICATIONS

AN ACT Relating to benefit qualifications for individuals with marginal labor force attachment; amending RCW 50.20.015; adding new sections to chapter 50.20 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) Prior to December 31, 1986, the commissioner may suspend the provisions of RCW 50.20.015(2) if the commissioner determines with respect to an individual claimant that a reasonable application of that subsection is precluded (a) by a condition of economic distress as defined in section 2 of this act; or (b) in an occupation in which governmental action prohibits the normal activities in such occupation. The commissioner shall adopt rules to implement the work search policy of the department for all claimants identified by this section. Factors to be considered in developing the policy shall include occupation of the claimant, employment conditions within the claimant's industry, labor market demand, length and frequency of unemployment of the claimant, and the potential for return to work at his or her previous employment. Claimant work search activities shall be conducted in accordance with the rules adopted under this section.

(2) The commissioner shall submit a report to the committees on commerce and labor of the senate and the house of representatives describing those conditions of economic distress identified under subsection (1) (a) or (b) of this section which preclude application of RCW 50.20.015(2). The report shall be filed within one week of the date that the suspension is made.

NEW SECTION. Sec. 2. For the purposes of section 1 of this act, a condition of economic distress exists when:

(1) A county has an unemployment rate that is twenty percent or more above the state-wide average for the previous three years;

(2) A labor market area has experienced a sudden and severe loss of employment as defined by the commissioner;