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**SUBSTITUTE HOUSE BILL 3203**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Morrell, Campbell, Green, Lias, McIntire, VanDeWege, and Wood)

READ FIRST TIME 02/05/08.

1            AN ACT Relating to residents who are transferred or discharged by  
2 nursing facilities; and amending RCW 74.42.450.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 74.42.450 and 1997 c 392 s 216 are each amended to  
5 read as follows:

6            (1) The facility shall admit as residents only those individuals  
7 whose needs can be met by:

8            (a) The facility;

9            (b) The facility cooperating with community resources; or

10           (c) The facility cooperating with other providers of care  
11 affiliated or under contract with the facility.

12           (2) The facility shall transfer a resident to a hospital or other  
13 appropriate facility when a change occurs in the resident's physical or  
14 mental condition that requires care or service that the facility cannot  
15 provide. The resident, the resident's guardian, if any, the resident's  
16 next of kin, the attending physician, and the department shall be  
17 consulted at least fifteen days before a transfer or discharge unless  
18 the resident is transferred under emergency circumstances. The

1 department shall use casework services or other means to insure that  
2 adequate arrangements are made to meet the resident's needs.

3 (3) A resident shall be transferred or discharged only for medical  
4 reasons, the resident's welfare or request, the welfare of other  
5 residents, or nonpayment. A resident may not be discharged for  
6 nonpayment if the discharge would be prohibited by the medicaid  
7 program.

8 (4) If a resident chooses to remain in the nursing facility, the  
9 department shall respect that choice, provided that if the resident is  
10 a medicaid recipient, the resident continues to require a nursing  
11 facility level of care.

12 (5) If the department determines that a resident no longer requires  
13 a nursing facility level of care, the resident shall not be discharged  
14 from the nursing facility until at least thirty days after written  
15 notice is given to the resident, the resident's surrogate decision  
16 maker and, if appropriate, a family member or the resident's  
17 representative. A form for requesting a hearing to appeal the  
18 discharge decision shall be attached to the written notice. The  
19 written notice shall include at least the following:

- 20 (a) The reason for the discharge;
- 21 (b) A statement that the resident has the right to appeal the  
22 discharge; and
- 23 (c) The name, address, and telephone number of the state long-term  
24 care ombudsman.

25 (6) If the resident appeals a department discharge decision, the  
26 resident shall not be discharged without the resident's consent until  
27 at least thirty days after a final order is entered upholding the  
28 decision to discharge the resident.

29 (7) Before the facility transfers or discharges a resident, the  
30 facility must first attempt through reasonable accommodations to avoid  
31 the transfer or discharge unless the transfer or discharge is agreed to  
32 by the resident. The facility shall admit or retain only individuals  
33 whose needs it can safely and appropriately serve in the facility with  
34 available staff or through the provision of reasonable accommodations  
35 required by state or federal law. "Reasonable accommodations" has the  
36 meaning given to this term under the federal Americans with  
37 disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other  
38 applicable federal or state antidiscrimination laws and regulations.

1       (8) Any resident who is transferred or discharged by the nursing  
2 facility and requests a fair hearing challenging the transfer or  
3 discharge shall be allowed immediate readmittance into the first  
4 gender-appropriate available bed in the nursing facility and may  
5 remain, pending the issuance of a final order at the fair hearing.  
6 However, if the resident was transferred or discharged to a hospital,  
7 the resident will be allowed immediate readmittance into the first  
8 gender-appropriate available bed in the nursing facility after the  
9 attending physician determines that the resident no longer needs  
10 hospital care and that the resident's needs can be met in a nursing  
11 facility.

12       (9) The resident may be readmitted pending the issuance of a final  
13 order following an appeal requested by the resident if the nursing  
14 facility determines, following an assessment within a reasonable time  
15 period, that it can meet the needs of the resident and that the health  
16 and safety of the resident or other individuals in the facility would  
17 not be jeopardized.

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