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HOUSE BILL 1620

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Appleton, Johnson, Rolfes, and Roberts

Read first time 01/27/11. Referred to Committee on Early Learning & Human Services.

1            AN ACT Relating to protecting residents of state facilities during  
2 discharges and reductions in service, ensuring admissions pursuant to  
3 federal law; amending RCW 71A.20.020; and adding a new chapter to Title  
4 71A RCW.

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

6            **Sec. 1.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read  
7 as follows:

8            (1) This section implements Article XIII of the state Constitution.  
9 The following residential habilitation centers are permanently  
10 established to provide services to persons with developmental  
11 disabilities: Lakeland Village, located at Medical Lake, Spokane  
12 county; Rainier School, located at Buckley, Pierce county; Yakima  
13 Valley School, located at Selah, Yakima county; Fircrest School,  
14 located at Seattle, King county; and Frances Haddon Morgan Children's  
15 Center, located at Bremerton, Kitsap county.

16            (2) Residential habilitation centers must be fostered and supported  
17 by the state.

18            (3) Eligibility for admission to residential habilitation centers

1 must exclusively be determined under the requirements of federal law  
2 and regulations.

3 (4) Any individual entitled to admission to a residential  
4 habilitation center is entitled to a fully informed choice between  
5 admission to a residential habilitation center or appropriate  
6 alternatives.

7 NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this  
8 section apply throughout this chapter unless the context clearly  
9 requires otherwise.

10 (1) "Closure" means the decision to permanently cease operations of  
11 a facility and terminate participation of the facility in the Title XIX  
12 medicaid program;

13 (2) "Discharge" or "relocation" means the permanent movement of an  
14 individual to another facility or place which operates independently  
15 from the facility.

16 (3) "Facility" means a state-operated nursing facility or an  
17 intermediate care facility for individuals with intellectual  
18 disabilities participating in the Title XIX medicaid program.

19 (4) "Resident" means a person admitted to a facility and includes  
20 the resident's guardian or other legal representative;

21 (5) "Secretary" means the secretary of social and health services;

22 (6) "Transfer" means the permanent movement of an entire facility,  
23 including residents served, staff, and records, to a new location.

24 NEW SECTION. Sec. 3. NOTIFICATION OF FACILITY CLOSURE AND GENERAL  
25 PLAN OF CLOSURE. (1) The secretary shall submit written notification  
26 of an impending voluntary closure of the facility to all of the  
27 following:

- 28 (a) Federal agencies as required by law;
- 29 (b) The state long-term care ombudsman; and
- 30 (c) Residents of the facility.

31 (2) The written notification must be provided not later than the  
32 date that is one hundred twenty days prior to the date of the closure.

33 (3) The written notification must include:

- 34 (a) A general plan for the discharge and adequate relocation of the  
35 residents by a specified date prior to closure, including:

1 (i) A description of the organization and staffing implementing the  
2 requirements in this chapter; and

3 (ii) Assurances that the residents will be relocated to the most  
4 appropriate facility or other residential setting in terms of quality,  
5 services, and location, and taking into consideration the needs,  
6 choice, and best interests of each resident; and

7 (b) A description of all the steps the administrator of the  
8 facility is required to take under section 4 of this act and the right  
9 to a hearing under section 5 of this act.

10 NEW SECTION. **Sec. 4.** IMPLEMENTATION OF DISCHARGE AND RELOCATION  
11 OF RESIDENTS. The secretary shall, with respect to each resident, take  
12 all of the following steps:

13 (1) Prepare and ensure the safe and orderly discharge and  
14 relocation of a resident from the facility on a case-by-case basis;

15 (2) Prepare a final summary of the resident's developmental,  
16 behavioral, social, health, and nutritional status, and, with the  
17 consent of the resident, parents (if the client is a minor), or legal  
18 guardian, provide a copy to staff implementing this section and  
19 alternative facilities;

20 (3) Involve the resident and his or her family in all care,  
21 benefit, and service decisions prompted by the transition; fully  
22 identify, inform, and disclose the resident of all alternative  
23 facilities and service options; and ensure that the resident exercises  
24 a fully informed choice whether he or she wishes to move and to what  
25 facility or place;

26 (4) Consistent with the requirements of an individual plan of care  
27 under 42 C.F.R. Sec. 456.380, develop a postdischarge plan of care  
28 based on an independent current assessment of the resident's needs for  
29 facility care and the type of care needed, and documenting each  
30 resident's needs and preferences and outlining plans to assist the  
31 resident's adjustment to the new living environment;

32 (5) In the postdischarge plan, include the following:

33 (a) An assessment of the resident's medical and psychological  
34 condition and needs, including the necessity and to prepare the  
35 resident for discharge and relocation;

36 (b) The assessment in (a) of this subsection must include analysis  
37 and mediation of any risk of death or injury resulting due to changes

1 in the location and extent of medical or behavioral needs and support  
2 and any risk of shock or posttraumatic stress or the like resulting  
3 from change of location, including unfamiliarity with staff,  
4 surroundings, and peers;

5 (c) The resident's new facility or residential setting is advised  
6 in writing in advance of the resident's conditions and needs;

7 (d) Adequate and appropriate transportation on the day of transfer  
8 or discharge; and

9 (e) Documentation that the discharge and relocation is in the best  
10 interests of the resident; and

11 (6) Execute the closure, discharge, and relocation of all residents  
12 in compliance with federal and state law, including this chapter.

13 NEW SECTION. **Sec. 5.** RIGHT TO HEARING. (1) A resident has a  
14 right to a hearing in the event:

15 (a) A proposal is made to relocate to a facility where equal or  
16 greater services will not be provided to the resident;

17 (b) The secretary fails to comply with any of the requirements of  
18 this chapter; or

19 (c) A resident disagrees with the postdischarge plan.

20 (2) The right to hearing is not exclusive of other remedies  
21 available to the resident under state or federal law.

22 NEW SECTION. **Sec. 6.** RELOCATION PRIOR TO CLOSURE. (1) The  
23 secretary shall ensure that, before a facility closes, all residents of  
24 the facility have been successfully relocated to another facility or an  
25 alternative home and community-based setting.

26 (2) The secretary shall apply for all available continued payments  
27 under Title XIX of the federal social security act with respect to  
28 residents of a facility that has submitted a notification under  
29 subsection (1) of this section during the period beginning on the date  
30 such notification is submitted and ending on the date on which the  
31 resident is successfully relocated.

32 NEW SECTION. **Sec. 7.** In the event of an overlap between this  
33 chapter and other applicable federal and state law, the law that is  
34 more beneficial to the resident prevails.

1        NEW SECTION.    **Sec. 8.**    This chapter applies retroactively to  
2 residents notified of closure prior to the effective date of this  
3 section.    Such prior notices must be perfected by following the  
4 requirements of this chapter.

5        NEW SECTION.    **Sec. 9.**    Sections 2 through 8 of this act constitute  
6 a new chapter in Title 71A RCW.

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