

2 **ESHB 2163** - S AMD TO HHS COMM AMD (S5568.2) - 000371  
3 By Senators McAuliffe, West, Moyer, Bauer, Rasmussen, Haugen and  
4 Hargrove

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6 On page 3, after line 21 of the amendment, insert the following:

7 "NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.10  
8 RCW to read as follows:

9 (1) In order to enhance the independence and to protect the health  
10 and safety of people with developmental disabilities, community  
11 residential programs certified by the department of social and health  
12 services under chapter 71A.12 RCW and adult family homes licensed under  
13 chapter 70.128 RCW and also certified by the department of social and  
14 health services under chapter 71A.12 RCW may permit certain staff who  
15 are employed as direct care staff who have been trained and have  
16 registered as a nursing assistant-registered, providing services to  
17 persons with developmental disabilities as defined in RCW 18.88A.020(5)  
18 to administer the following medications or treatments to persons with  
19 developmental disabilities:

- 20 (a) Oral medication;
- 21 (b) Topical medication;
- 22 (c) Nose, ear, and eye drops;
- 23 (d) Suppositories;
- 24 (e) Home glucose testing and monitoring procedures if the  
25 glucometer is recalibrated daily;
- 26 (f) Enemas packaged in unit doses only;
- 27 (g) Prescribed emergency procedures, which shall be limited to  
28 activating emergency services, specifically, calling 911 and notifying  
29 the attending physician and/or the supervising nurse; and
- 30 (h) Gastrostomy tube feedings, under conditions provided in  
31 subsection (4) of this section.

32 (2) Treatment authorized by this section must be prescribed by a  
33 health care practitioner licensed under Title 18 RCW and who has  
34 prescriptive authority, acting within the scope of his or her license,  
35 and may be administered only after proper training as specified in  
36 subsection (3) of this section.

37 (3) The nursing assistant defined in RCW 18.88A.020(5) shall

1 receive the training specified in this subsection. The person  
2 conducting the training must be a registered nurse licensed under  
3 chapter 18.88 RCW. A registered nurse shall not be subject to any  
4 reprisal or disciplinary action for refusing to provide the training  
5 required under this section. Training shall include the following:

6 (a) Teaching of the nursing assistant defined in RCW 18.88A.020(5)  
7 the task, including the nature of the condition requiring treatment,  
8 risks of the treatment, side effects, and interaction of prescribed  
9 medications;

10 (b) Observation of the nursing assistant defined in RCW  
11 18.88A.020(5) performing the task to assure that the nursing assistant  
12 defined in RCW 18.88A.020(5) does the task safely and accurately;

13 (c) Written instructions for performance of the task for the  
14 nursing assistant defined in RCW 18.88A.020(5) to use as a reference;

15 (d) Instructions to the nursing assistant defined in RCW  
16 18.88A.020(5) that the task being taught is specific to this client  
17 only and is not transferable to other clients or taught to other care  
18 providers;

19 (e) Documentation of how the task was taught, the teaching outcome,  
20 the content and type of instructions left for the nursing assistant  
21 defined in RCW 18.88A.020(5), evidence that the nursing assistant  
22 defined in RCW 18.88A.020(5) understands risks involved in performing  
23 the task and has a plan for how to respond to the consequences, and  
24 evidence that the nursing assistant defined in RCW 18.88A.020(5) was  
25 instructed that the task is client-specific and not transferable to  
26 other clients or providers;

27 (f) Performance of the administration of medications or treatments  
28 by nursing assistants defined in RCW 18.88A.020(5) authorized in this  
29 section shall be reviewed at least annually by a registered nurse.

30 (4) A registered nurse may delegate administration of gastrostomy,  
31 but not nasogastric, tube feedings to a nursing assistant defined in  
32 RCW 18.88A.020(5) specific to one client under the following  
33 conditions:

34 (a) The registered nurse shall consider the nature of the task to  
35 be provided, its complexity, risk involved, and the necessary skill  
36 needed;

37 (b) The registered nurse shall assess the client's condition and  
38 determine that there is not a significant risk to the client if the  
39 nursing assistant defined in RCW 18.88A.020(5) performs the task in the

1 absence of direct supervision;

2 (c) The registered nurse shall determine how frequently the  
3 client's condition shall be reassessed to determine the appropriateness  
4 of the continued delegation of the task to a nursing assistant defined  
5 in RCW 18.88A.020(5);

6 (d) If there is some risk involved to the client, the registered  
7 nurse shall determine that the nursing assistant defined in RCW  
8 18.88A.020(5) is prepared to respond effectively to the consequences;

9 (e) The registered nurse shall assess the ability of the nursing  
10 assistant defined in RCW 18.88A.020(5) to perform the task;

11 (f) The registered nurse shall determine the frequency of  
12 supervision of the nursing assistant defined in RCW 18.88A.020(5);

13 (g) The registered nurse shall document the process for deciding  
14 that the task can be safely delegated for the specific client to the  
15 specific nursing assistant defined in RCW 18.88A.020(5);

16 (h) The registered nurse shall document how frequently the client  
17 should be reassessed by a registered nurse regarding continued  
18 delegation of the task to the nursing assistant defined in RCW  
19 18.88A.020(5);

20 (i) The responsibility, accountability, and authority of the  
21 registered nurse shall be limited to teaching and delegation of  
22 administration of gastrostomy tube feeding to the nursing assistant  
23 defined in RCW 18.88A.020(5), and the determination of which nursing  
24 assistants defined in RCW 18.88A.020(5) and the number of nursing  
25 assistants defined in RCW 18.88A.020(5) that must be taught and  
26 delegated the task of administration of gastrostomy tube feedings shall  
27 remain with the registered nurse;

28 (j) The number of persons to whom the tasks are taught and  
29 delegated shall be limited to the number that can be safely supervised  
30 by the registered nurse; and

31 (k) The registered nurse shall assure that the nursing assistant  
32 defined in RCW 18.88A.020(5) maintains proficiency in performing the  
33 tasks through periodic supervision, and reviews conducted at least  
34 annually, by the registered nurse.

35 (5) The delegating registered nurse has a responsibility to  
36 determine that the nursing assistant defined in RCW 18.88A.020(5) is  
37 indeed competent to perform the delegated act. Nonnursing and  
38 managerial persons shall not coerce the registered nurse into  
39 compromising client safety by requiring the registered nurse to

1 delegate. Both the delegating registered nurse and the nursing  
2 assistant defined in RCW 18.88A.020(5) are accountable for their own  
3 actions in the delegation process.

4 (6) Verification of the current registration of a person holding  
5 himself or herself out to be a nursing assistant defined in RCW  
6 18.88A.020(5) and any restrictions relating to the registration shall  
7 be the responsibility of the employer of the nursing assistant defined  
8 in RCW 18.88A.020(5).

9 (7) Development of rules implementing subsections (2), (3), (4),  
10 and (5) of this section shall be jointly adopted by the department of  
11 social and health services and the Washington state board of nursing.

12 (8) A basic core training curriculum on providing care in  
13 residential settings for people with developmental disabilities shall  
14 be in addition to the specific nursing assistant training specified in  
15 this section. Such additional training shall be developed and adopted  
16 by rule by the secretary of the department of social and health  
17 services.

18 (9) This section may not be construed to apply to persons who are  
19 not developmentally disabled or to persons who are living in  
20 residential habilitation centers, nor to any setting or facility other  
21 than community residential programs certified by the department of  
22 social and health services under chapter 71A.12 RCW and adult family  
23 homes licensed under chapter 70.128 RCW and also certified by the  
24 department of social and health services under chapter 71A.12 RCW.

25 **Sec. 6.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to  
26 read as follows:

27 As used in this title, the following terms have the meanings  
28 indicated unless the context clearly requires otherwise.

29 (1) "Department" means the department of social and health  
30 services.

31 (2) "Developmental disability" means a disability attributable to  
32 mental retardation, cerebral palsy, epilepsy, autism, or another  
33 neurological or other condition of an individual found by the secretary  
34 to be closely related to mental retardation or to require treatment  
35 similar to that required for individuals with mental retardation, which  
36 disability originates before the individual attains age eighteen, which  
37 has continued or can be expected to continue indefinitely, and which  
38 constitutes a substantial handicap to the individual. By January 1,

1 1989, the department shall promulgate rules which define neurological  
2 or other conditions in a way that is not limited to intelligence  
3 quotient scores as the sole (~~determinate~~ {determinant}) determinant  
4 of these conditions, and notify the legislature of this action.

5 (3) "Eligible person" means a person who has been found by the  
6 secretary under RCW 71A.16.040 to be eligible for services.

7 (4) "Habilitative services" means those services provided by  
8 program personnel to assist persons in acquiring and maintaining life  
9 skills and to raise their levels of physical, mental, social, and  
10 vocational functioning. Habilitative services include education,  
11 training for employment, and therapy.

12 (5) "Legal representative" means a parent of a person who is under  
13 eighteen years of age, a person's legal guardian, a person's limited  
14 guardian when the subject matter is within the scope of the limited  
15 guardianship, a person's attorney at law, a person's attorney in fact,  
16 or any other person who is authorized by law to act for another person.

17 (6) "Notice" or "notification" of an action of the secretary means  
18 notice in compliance with RCW 71A.10.060.

19 (7) "Residential habilitation center" means a state-operated  
20 facility for persons with developmental disabilities governed by  
21 chapter 71A.20 RCW.

22 (8) "Secretary" means the secretary of social and health services  
23 or the secretary's designee.

24 (9) "Service" or "services" means services provided by state or  
25 local government to carry out this title.

26 (10) "Delegation" means direct authorization granted by a  
27 registered nurse to an unlicensed nursing assistant defined in RCW  
28 18.88A.020(5) to perform the functions authorized in this chapter that  
29 fall within the scope of practice of the delegator and that are not  
30 within the scope of practice of the delegatee.

31 (11) "Supervision of nursing assistant defined in RCW 18.88A.020"  
32 means the provision of guidance and evaluation by a qualified  
33 registered nurse for the accomplishment of the specific tasks  
34 enumerated in section 5 of this act with the initial direction of the  
35 task or activity, periodic inspection of the actual act of  
36 accomplishing the task or activity, and the authority to require  
37 corrective action. The licensed registered nurse is not required to be  
38 on the premises but has given oral and written instructions relating to  
39 the specific task or activity and the client has been assessed by the

1 licensed registered nurse prior to authority or delegation being  
2 granted to perform the task or activity.

3       **Sec. 7.** RCW 18.88A.020 and 1991 c 16 s 2 are each amended to read  
4 as follows:

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

7       (1) "Department" means the department of health.

8       (2) "Secretary" means the secretary of health.

9       (3) "Board" means the Washington state board of nursing.

10       (4) "Nursing assistant" means an individual, regardless of title,  
11 who, under the direction and supervision of a registered nurse or  
12 licensed practical nurse, assists in the delivery of nursing and  
13 nursing-related activities to patients in a health care facility. The  
14 two levels of nursing assistants are (a) "nursing assistant-certified,"  
15 an individual certified under this chapter, (b) "nursing assistant-  
16 registered," an individual registered under this chapter.

17       (5) "Nursing assistant-registered, providing services to persons  
18 with developmental disabilities" means an individual employed as direct  
19 care staff in a community residential program certified by the  
20 department of social and health services under chapter 71A.12 RCW or an  
21 adult family home licensed under chapter 70.128 RCW and who has been  
22 trained by a registered nurse licensed under chapter 18.88 RCW to  
23 administer the specific medications or treatments authorized in section  
24 5 of this act.

25       (6) "Committee" means the Washington state nursing assistant  
26 advisory committee.

27       (~~(6)~~) (7) "Approved training program" means a nursing assistant-  
28 certified training program approved by the board. For community  
29 college, vocational-technical institutes, skill centers, and secondary  
30 school as defined in chapter 28B.50 RCW, nursing assistant-certified  
31 training programs shall be approved by the board in cooperation with  
32 the board for community and technical colleges (~~(education)~~) or the  
33 superintendent of public instruction.

34       (~~(7)~~) (8) "Health care facility" means a nursing home, hospital,  
35 hospice care facility, home health care agency, hospice agency, or  
36 other entity for delivery of health care services as defined by the  
37 board.

38       (~~(8)~~) (9) "Competency evaluation" means the measurement of an

1 individual's knowledge and skills as related to safe, competent  
2 performance as a nursing assistant.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.88A RCW  
4 to read as follows:

5 For the purposes of maintaining a registry of qualified persons and  
6 becoming subject to the provisions of chapter 18.130 RCW, an unlicensed  
7 person authorized to administer medications or treatments under section  
8 5 of this act shall register with the Washington state board of nursing  
9 as a nursing assistant-registered, providing services to persons with  
10 developmental disabilities.

11 NEW SECTION. **Sec. 9.** The secretary of health in consultation with  
12 the state board of nursing and the department of social and health  
13 services shall monitor the implementation of this act and shall make an  
14 interim report by December 31, 1995, and a final report by December 31,  
15 1996, to the legislature on the effectiveness of this act, including  
16 whether registration provides sufficient safeguards for protecting the  
17 health and safety of persons with developmental disabilities, and with  
18 any recommendations for improvements. The report shall be based on  
19 direct observation, documentation, and interviews, and shall  
20 specifically include a recommendation on whether a change in the level  
21 of credentialing is appropriate relating to patient care and safety."

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26 On page 3, line 30 of the title amendment, after "insert" insert  
27 "amending RCW 71A.10.020 and 18.88A.020;"

28 On page 3, line 31 of the title amendment, after "71A.20 RCW;"  
29 insert "adding a new section to chapter 71A.10 RCW; adding a new  
30 section to chapter 18.88A RCW;"

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