

# HOUSE BILL REPORT

## HB 2098

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As Reported By House Committee On:  
Health Care

**Title:** An act relating to options in long-term care; nursing homes-resident care, operating standards; health planning and development.

**Brief Description:** Enhancing community options long-term care program.

**Sponsors:** Representative Valle; by request of Department of Social and Health Services.

**Brief History:**

Reported by House Committee on:  
Health Care, April 8, 1993, DPS.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Dellwo, Chair; L. Johnson, Vice Chair; Dyer, Ranking Minority Member; Campbell; Conway; Cooke; Flemming; R. Johnson; Lisk; Mastin; Mielke; Morris; Thibaudeau; and Veloria.

**Staff:** Antonio Sanchez (786-7383).

**Background:**

**THE NEED:** The number of Washingtonians who need long-term care is growing dramatically. Currently more than 200,000 people in this state have chronic physical or mental disabilities that prevent them from managing the basic tasks of daily life. By the year 2010, the number will grow by more than 50 percent - almost twice as fast as that of the states total population. During the same 20-year period, the segment of the population estimated to need the most long-term care services, the population over the age of 85, is expected to more than double. All these people will need some form of long-term care and, as was clearly noted in the Long-Term Care Commission's report, "consumers want a long-term care system that provides an array of services which are flexible and specialized enough to respond to the individual consumer needs."

**CURRENT LONG-TERM CARE SYSTEM:** While the number of persons served by in-home and community-based programs grew dramatically over the past 10 years, the majority of state expenditures was for formal institutional care in nursing homes. Consequently, although in-home and community residential services have absorbed the bulk of the growth in caseloads over the past decade, they have received a relatively small share of the total growth in expenditures.

In Washington, the primary alternative for a disabled person who is no longer able to remain in his/her own home is placement into a nursing home, particularly if the person must depend upon public financial assistance for their cost of care. The shortage of community residential alternatives has a number of consequences. The most common is that people continue to live with their families long after they are unable to meet the person's health and personal care needs. Often in this situation, the disabled person becomes more disabled, resulting in unwanted and inappropriate placement into a nursing home.

- A) Nursing Homes - The state's Nursing Home Program provides residential health care to eligible persons who are no longer capable of independent living and require nursing services. Nursing home care is provided by 307 private facilities, containing approximately 31,000 beds. The average age of residents is 86. The average age at admission is 82 and the average length of stay is 723 days. Nursing homes receive reimbursement for services from three major sources: private payment, Medicaid, and Medicare. The majority - two-thirds of patient days - of nursing home reimbursement was provided by Medicaid. All nursing homes licensed in the state of Washington that receive Medicaid or Medicare reimbursement are required to comply with both federal and state regulations.
  
- B) Case Management Services - The term "case management" refers to a range of different activities associated with helping people find out about becoming eligible for and effectively using long-term care services. Case management is considered to be critical to the effective operation of the long-term care system and key to the appropriate use of services by those who need them. Currently, both the Aging and Adult Services Administration social workers and Aging Network case managers provide case management to clients who meet the following criteria: 1) require multiple services and/or activities performed on their behalf; 2) are unable to obtain the required services and/or perform the required activities themselves; and

3) do not have family and friends able to provide assistance. Aging Network managers are currently responsible for those persons aged 60 and over living in the community. The department is responsible for the case management for nursing home residents.

- C) Comprehensive Assessment - Comprehensive assessments are currently conducted by the Aging and Adult Services Administration social workers and Area Agency on Aging case managers for clients who receive long-term care services. The comprehensive assessment includes information on the client or resident's: demographic background, medical condition, health status, psychosocial status, cognitive status, functional abilities, availability of informal supports, and service plan development.
- D) Functional Disability - Eligibility for aging and adult long-term care services is currently based on a measure of the clients functional disability. Case managers determine disability by measuring a clients medical condition that requires assistance with direct personal care services such as walking, bathing, body care, dressing, eating, or toileting.
- E) Discharge Allowance - The Department of Social and Health Services (DSHS) currently conducts a program for nursing home residents who can be relocated to the community but do not have homes or apartments to return to. The program can provide the client with as much as \$400 towards rent and household goods.

**ASSISTED LIVING PILOT PROGRAM:** In the 1991-93 Biennium, the Legislature established an assisted living pilot program consisting of 180 assisted living units statewide -- 45 of these units are already in place at Heritage House at the Pike Place Market in Seattle. Assisted living is a housing alternative based on the concept of providing professionally delivered nursing services and personal care in an apartment-like environment. Services are provided in a way that is noninstitutional-like and strives to keep the individual independent for as long as possible.

The living units consist of personally furnished private apartments, capable of accommodating a couple, and contain a bathroom, refrigerator and cooking capacity. The minimum of 220 feet is required for the unit and it must be able to accommodate a wheelchair. The residents must also have access to common activity, eating, and laundry areas.

All clients in the program have access to personnel who will assist them with personal care, health and medical-related

services by a licensed staff person eight hours a day and 24 hours a day on call, and ancillary services such as cosmetology, banking, and transportation.

Clients in the Assisted Living Program must be eligible for COPES or title XIX Medicaid.

Assisted living contractors are currently reimbursed at the rate of \$47.37 per day per client for providing this living arrangement and are regulated under existing boarding home regulations. There are no specific regulations governing assisted living facilities.

**CERTIFICATE OF NEED FOR NURSING HOMES:** The Department of Health is responsible for administering the Certificate of Need Program for a range of health and residential care facilities, including nursing homes and boarding homes. The purpose of the Certificate of Need Program is to assure the construction and development of only those new health facilities and services which promote appropriate access to needed care at a reasonable cost with high quality. The certification process covers the sale, purchase, or lease of all or part of a hospital, or nursing home.

Currently, the statewide need for nursing home beds is set at 45 beds per 1,000 persons over the age of 65. The number of nursing home beds currently licensed is 51 per 1,000. Under the current process for bed allocation, the license for nursing home beds can be moved from one location that has too many beds to an area that needs more nursing home beds. Nursing homes can now sell or buy nursing home beds on the "open market" without losing the rights to those beds. In addition, nursing home beds can be sold if the revocation of a facility's license is pending.

**BOARDING HOME REGULATION:** Boarding homes provide residential care to a range of clients who are private pay or participants in programs funded through DSHS. Boarding homes currently provide a lower level of medical care than nursing homes. The Department of Health is currently responsible for measuring the quality of care through compliance with statutory and WAC standards. The Department of Health provides annual on-site inspections, construction reviews on new facilities and complaint investigations.

**Summary of Substitute Bill:**

**LONG-TERM CARE SERVICE SYSTEM ENHANCEMENT**

The Department of Social and Health Services, through the Aging and Adult Services Administration, is required to develop and administer a comprehensive statewide long-term

care program designed to meet the needs and preferences of functionally disabled clients in need of long-term care. The long-term care services referred to under this comprehensive array are specified and one new services category is added. The array of long-term care options developed by the department are required to emphasize services that enable functionally disabled clients to live at home or in nonmedical residential settings for as long as practicable.

All clients who receive publicly funded long-term care as defined in this act are required to have their eligibility determined by a comprehensive assessment that includes assessment of the individual's functional disability, medical condition, health history, psychosocial background, and amount of assistance provided by family and friends. The comprehensive assessment services can be made available to private pay individuals who request such services.

The department is required to also provide nursing home clients with information regarding appropriate non-nursing home care alternatives. Nursing home residents who choose to leave the nursing home for an alternative service can be provided relocation assistance by the department.

#### **NEW LONG-TERM CARE SERVICE - ASSISTED LIVING**

A previously piloted long-term residential care option is now established under boarding home regulations called "assisted living." The department is given the authority to contract with licensed boarding homes to provide this new type of residential care and to develop and administer rules for the program. Assisted living care is required to include, at a minimum: personal care, nursing services, medication administration, and supportive services. Preference for assisted living residential care is given to clients most at risk of hospitalization, admission into a nursing home, or other out-of-home placement as a result of their functional disability.

#### **VOLUNTARY REDUCTIONS OF NURSING HOME BEDS THROUGH CONVERSION**

Nursing homes are allowed to reduce the number of licensed beds by converting part or all of the beds to boarding home licensed assisted living units, adult day care, adult day health, respite care, hospice, or senior wellness clinic. Nursing homes that elect to convert some or all of their licensed nursing home beds to boarding home assisted living beds can retain the nursing home licensed beds in a "reserve" for the purpose of converting the beds back to nursing home beds. Those nursing homes that choose to convert their beds have four years before the boarding home

assisted living beds must either be reconverted back to licensed nursing home beds or remain as boarding home assisted living beds. Only those nursing homes that have been in continuous operation and have not been purchased or leased can qualify to hold their licensed nursing home beds in "reserve." Provisions are established for converting beds held in reserve back to nursing home beds.

#### **REDUCTION OF NURSING HOME BEDS THROUGH CERTIFICATION MODIFICATIONS**

The process for determining certificates of need for new or replacement nursing home beds is modified to require the Department of Health to take into consideration the availability of: 1) other nursing home beds in the area, and 2) the availability of non-nursing home alternative services in the community, with the assistance of the Department of Social and Health Services. No new nursing home beds can be built and licensed before these two conditions are assessed. Nursing homes that choose to replace an existing facility with a new one will not be required to justify the need in the community for the nursing home beds if the nursing home has operated in the same nursing home and in the same area for more than one year. Nursing homes that close are allowed to retain the beds and sell them, if they choose, for up to eight years after the nursing home closes.

#### **DEPARTMENTAL STUDY**

The Department of Social and Health Services Aging and Adult Services Administration are required to report every two years to the Legislature regarding potential savings that can be combined with improved care delivery, and payment rates and obstacles to expanded availability of needed services.

#### **COMMUNITY RESIDENTIAL FACILITY ADVISORY COUNCIL**

A Community Residential Facility Advisory Council is established. The council makes recommendations regarding rules and standards pertaining to community residential facilities.

**Substitute Bill Compared to Original Bill:** References to consumer preference for community-based services are eliminated and additional language is added that requires that the long-term care system provide a complete array of necessary services.

Technical modifications are made that add nursing homes to the range of comprehensive programs administered through the Aging and Adult Services Administration.

The requirement that the Department of Social and Health Services report yearly is modified to require the department to report once every two years. Subsections (d) and (e) are eliminated. These subsections required the department to report on savings made in publicly funded nursing home services that result from consumers choosing home and community-based services and to provide recommendations for shifting any savings in nursing home services to community-based services.

The comprehensive assessment is required to be used to determine the patients/residents plan of care and whether relocation from the nursing home to the community setting is feasible.

The reasons nursing homes can use to voluntarily reduce or "bank" nursing home beds are expanded to include not only assisted living, but also boarding home care, adult day care, adult day health, respite care, hospice, or senior wellness clinic. Additional requirements regarding converting the "banked" beds back to nursing home beds are stipulated.

Language is eliminated that requires a nursing home application for a certificate of need for a capital expenditure due to safety hazards to demonstrate that the hazards were preventable with normal care and maintenance.

Language is removed that allowed the department to not approve a certificate of need to replace existing nursing home beds when a license revocation is pending.

Modifications are made that allow a nursing home owner who closes his\her facility to retain the beds and sell them if they choose, for up to eight years after the nursing home closes.

Current statute that requires adult family home providers who administer medications to be licensed to administer medications was reinstated.

A Community Residential Facility Advisory Council is established. The council makes recommendations regarding rules and standards pertaining to community residential facilities.

**Fiscal Note:** Requested on substitute April 8, 1993.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** Expanded community residential services are preferred and the most needed. This will appropriately expand the array of long-term care. Community-based long-term care services are what we need in the future.

**Testimony Against:** The elimination of nursing home beds will cause problems for hospitals. This will negatively effect the marketability of beds. Savings resulting from the "taking" of beds is based on a false premise.

**Witnesses:** (On original bill) Janis Sigman, Department of Health (pro); Charles Reed, Department of Social and Health Services; Chuck Hawley and Marilyn Otoupal, Sisters of Providence (pro); Jerry Reilly, Washington Health Care Association (con); Rick Guthrie, Cascade Care (con); Sam VanMeter, Good Samaritan (con); Patty Munday, Hillhaven (con); Evan Iverson, Senior Lobby (pro); Bryce McNeely, Washington State Council on Aging (pro); Doris Barret (con); Jerry Erwin, Erwin and Associates (con); Julie Bongard, Southcrest (UNICARE) (con); Kelly Rhoads, Sunshine Gardens (con); Ward Tappero, Yakima Convalescent (con); Helen Sohlberg, American Association of Retired Persons (pro); and Linda Purlee and Bruce Tenney, Volunteer Chore Catholic Community Services (pro).