
ENGROSSED SUBSTITUTE HOUSE BILL 1409

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Flemming, Mielke, Leonard, Dyer, R. Johnson, Thibaudeau, Cooke, King, H. Myers, Ballasiotes, Wineberry, Jones, Roland, Romero, Campbell, Rayburn, Orr and J. Kohl)

Read first time 01/28/94.

1 AN ACT Relating to health treatment for individuals with
2 developmental disabilities; amending RCW 71A.10.020 and 18.88A.020;
3 adding a new section to chapter 71A.10 RCW; adding a new section to
4 chapter 18.88A RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71A.10 RCW
7 to read as follows:

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

19 (a) Oral medication;

- 1 (b) Topical medication;
- 2 (c) Nose, ear, and eye drops;
- 3 (d) Suppositories;
- 4 (e) Home glucose testing and monitoring procedures if the
- 5 glucometer is recalibrated daily;
- 6 (f) Enemas packaged in unit doses only;
- 7 (g) Prescribed emergency procedures, which shall be limited to
- 8 activating emergency services, specifically, calling 911 and notifying
- 9 the attending physician and/or the supervising nurse; and
- 10 (h) Gastrostomy tube feedings, under conditions provided in
- 11 subsection (4) of this section.

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

17 (3) The nursing assistant defined in RCW 18.88A.020(5) shall
18 receive the training specified in this subsection. The person
19 conducting the training must be a registered nurse licensed under
20 chapter 18.88 RCW. A registered nurse shall not be subject to any
21 reprisal or disciplinary action for refusing to provide the training
22 required under this section. Training shall include the following:

23 (a) Teaching of the nursing assistant defined in RCW 18.88A.020(5)
24 the task, including the nature of the condition requiring treatment,
25 risks of the treatment, side effects, and interaction of prescribed
26 medications;

27 (b) Observation of the nursing assistant defined in RCW
28 18.88A.020(5) performing the task to assure that the nursing assistant
29 defined in RCW 18.88A.020(5) does the task safely and accurately;

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

32 (d) Instructions to the nursing assistant defined in RCW
33 18.88A.020(5) that the task being taught is specific to this client
34 only and is not transferable to other clients or taught to other care
35 providers;

36 (e) Documentation of how the task was taught, the teaching outcome,
37 the content and type of instructions left for the nursing assistant
38 defined in RCW 18.88A.020(5), evidence that the nursing assistant
39 defined in RCW 18.88A.020(5) understands risks involved in performing

1 the task and has a plan for how to respond to the consequences, and
2 evidence that the nursing assistant defined in RCW 18.88A.020(5) was
3 instructed that the task is client-specific and not transferable to
4 other clients or providers;

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

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

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

15 (b) The registered nurse shall assess the client's condition and
16 determine that there is not a significant risk to the client if the
17 nursing assistant defined in RCW 18.88A.020(5) performs the task in the
18 absence of direct supervision;

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

23 (d) If there is some risk involved to the client, the registered
24 nurse shall determine that the nursing assistant defined in RCW
25 18.88A.020(5) is prepared to respond effectively to the consequences;

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

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

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

33 (h) The registered nurse shall document how frequently the client
34 should be reassessed by a registered nurse regarding continued
35 delegation of the task to the nursing assistant defined in RCW
36 18.88A.020(5);

37 (i) The responsibility, accountability, and authority of the
38 registered nurse shall be limited to teaching and delegation of
39 administration of gastrostomy tube feeding to the nursing assistant

1 defined in RCW 18.88A.020(5), and the determination of which nursing
2 assistants defined in RCW 18.88A.020(5) and the number of nursing
3 assistants defined in RCW 18.88A.020(5) that must be taught and
4 delegated the task of administration of gastrostomy tube feedings shall
5 remain with the registered nurse;

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

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

13 (5) The delegating registered nurse has a responsibility to
14 determine that the nursing assistant defined in RCW 18.88A.020(5) is
15 indeed competent to perform the delegated act. Nonnursing and
16 managerial persons shall not coerce the registered nurse into
17 compromising client safety by requiring the registered nurse to
18 delegate. Both the delegating registered nurse and the nursing
19 assistant defined in RCW 18.88A.020(5) are accountable for their own
20 actions in the delegation process.

21 (6) Verification of the current registration of a person holding
22 himself or herself out to be a nursing assistant defined in RCW
23 18.88A.020(5) and any restrictions relating to the registration shall
24 be the responsibility of the employer of the nursing assistant defined
25 in RCW 18.88A.020(5).

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

29 (8) A basic core training curriculum on providing care in
30 residential settings for people with developmental disabilities shall
31 be in addition to the specific nursing assistant training specified in
32 this section. Such additional training shall be developed and adopted
33 by rule by the secretary of the department of social and health
34 services.

35 (9) This section may not be construed to apply to persons who are
36 not developmentally disabled or to persons who are living in
37 residential habilitation centers, nor to any setting or facility other
38 than community residential programs certified by the department of
39 social and health services under chapter 71A.12 RCW and adult family

1 homes licensed under chapter 70.128 RCW and also certified by the
2 department of social and health services under chapter 71A.12 RCW.

3 **Sec. 2.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to
4 read as follows:

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

7 (1) "Department" means the department of social and health
8 services.

9 (2) "Developmental disability" means a disability attributable to
10 mental retardation, cerebral palsy, epilepsy, autism, or another
11 neurological or other condition of an individual found by the secretary
12 to be closely related to mental retardation or to require treatment
13 similar to that required for individuals with mental retardation, which
14 disability originates before the individual attains age eighteen, which
15 has continued or can be expected to continue indefinitely, and which
16 constitutes a substantial handicap to the individual. By January 1,
17 1989, the department shall promulgate rules which define neurological
18 or other conditions in a way that is not limited to intelligence
19 quotient scores as the sole (~~determinate~~{~~determinant~~}) determinant
20 of these conditions, and notify the legislature of this action.

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

23 (4) "Habilitative services" means those services provided by
24 program personnel to assist persons in acquiring and maintaining life
25 skills and to raise their levels of physical, mental, social, and
26 vocational functioning. Habilitative services include education,
27 training for employment, and therapy.

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

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

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

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

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

5 (10) "Delegation" means direct authorization granted by a
6 registered nurse to an unlicensed nursing assistant defined in RCW
7 18.88A.020(5) to perform the functions authorized in this chapter that
8 fall within the scope of practice of the delegator and that are not
9 within the scope of practice of the delegatee.

10 (11) "Supervision of nursing assistant defined in RCW 18.88A.020"
11 means the provision of guidance and evaluation by a qualified
12 registered nurse for the accomplishment of the specific tasks
13 enumerated in section 1 of this act with the initial direction of the
14 task or activity, periodic inspection of the actual act of
15 accomplishing the task or activity, and the authority to require
16 corrective action. The licensed registered nurse is not required to be
17 on the premises but has given oral and written instructions relating to
18 the specific task or activity and the client has been assessed by the
19 licensed registered nurse prior to authority or delegation being
20 granted to perform the task or activity.

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

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

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

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

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

28 (4) "Nursing assistant" means an individual, regardless of title,
29 who, under the direction and supervision of a registered nurse or
30 licensed practical nurse, assists in the delivery of nursing and
31 nursing-related activities to patients in a health care facility. The
32 two levels of nursing assistants are (a) "nursing assistant-certified,"
33 an individual certified under this chapter, (b) "nursing assistant-
34 registered," an individual registered under this chapter.

35 (5) "Nursing assistant-registered, providing services to persons
36 with developmental disabilities" means an individual employed as direct
37 care staff in a community residential program certified by the
38 department of social and health services under chapter 71A.12 RCW or an

1 adult family home licensed under chapter 70.128 RCW and who has been
2 trained by a registered nurse licensed under chapter 18.88 RCW to
3 administer the specific medications or treatments authorized in section
4 1 of this act.

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

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

14 (~~(7)~~) (8) "Health care facility" means a nursing home, hospital,
15 hospice care facility, home health care agency, hospice agency, or
16 other entity for delivery of health care services as defined by the
17 board.

18 (~~(8)~~) (9) "Competency evaluation" means the measurement of an
19 individual's knowledge and skills as related to safe, competent
20 performance as a nursing assistant.

21 NEW SECTION. Sec. 4. A new section is added to chapter 18.88A RCW
22 to read as follows:

23 For the purposes of maintaining a registry of qualified persons and
24 becoming subject to the provisions of chapter 18.130 RCW, an unlicensed
25 person authorized to administer medications or treatments under section
26 1 of this act shall register with the Washington state board of nursing
27 as a nursing assistant-registered, providing services to persons with
28 developmental disabilities.

29 NEW SECTION. Sec. 5. The secretary of health in consultation with
30 the state board of nursing and the department of social and health
31 services shall monitor the implementation of this act and shall make an
32 interim report by December 31, 1995, and a final report by December 31,
33 1996, to the legislature on the effectiveness of this act, including
34 whether registration provides sufficient safeguards for protecting the
35 health and safety of persons with developmental disabilities, and with
36 any recommendations for improvements. The report shall be based on
37 direct observation, documentation, and interviews, and shall

- 1 specifically include a recommendation on whether a change in the level
- 2 of credentialing is appropriate relating to patient care and safety.

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