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**SUBSTITUTE HOUSE BILL 1409**

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**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;  
5 (f) Enemas packaged in unit doses only;  
6 (g) Prescribed emergency procedures, which shall be limited to  
7 activating emergency services, specifically, calling 911 and notifying  
8 the attending physician and/or the supervising nurse; and  
9 (h) Gastrostomy tube feedings, under conditions provided in  
10 subsection (4) of this section.

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

16 (3) The nursing assistant defined in RCW 18.88A.020(5) shall  
17 receive the training specified in this subsection. The person  
18 conducting the training must be a registered nurse licensed under  
19 chapter 18.88 RCW. Training shall include the following:

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

24 (b) Observation of the nursing assistant defined in RCW  
25 18.88A.020(5) performing the task to assure that the nursing assistant  
26 defined in RCW 18.88A.020(5) does the task safely and accurately;

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

29 (d) Instructions to the nursing assistant defined in RCW  
30 18.88A.020(5) that the task being taught is specific to this client  
31 only and is not transferable to other clients or taught to other care  
32 providers;

33 (e) Documentation of how the task was taught, the teaching outcome,  
34 the content and type of instructions left for the nursing assistant  
35 defined in RCW 18.88A.020(5), evidence that the nursing assistant  
36 defined in RCW 18.88A.020(5) understands risks involved in performing  
37 the task and has a plan for how to respond to the consequences, and  
38 evidence that the nursing assistant defined in RCW 18.88A.020(5) was

1 instructed that the task is client-specific and not transferable to  
2 other clients or providers;

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

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

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

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

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

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

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

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

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

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

35 (i) The responsibility, accountability, and authority of the  
36 registered nurse shall be limited to teaching and delegation of  
37 administration of gastrostomy tube feeding to the nursing assistant  
38 defined in RCW 18.88A.020(5), and the determination of which nursing  
39 assistants defined in RCW 18.88A.020(5) and the number of nursing

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

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

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

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

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

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

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

33 (9) This section may not be construed to apply to persons who are  
34 not developmentally disabled or to persons who are living in  
35 residential habilitation centers.

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

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

3 (1) "Department" means the department of social and health  
4 services.

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

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

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

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

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

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

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

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

38 (10) "Delegation" means direct authorization granted by a  
39 registered nurse to an unlicensed nursing assistant defined in RCW

1 18.88A.020(5) to perform the functions authorized in this chapter that  
2 fall within the scope of practice of the delegator and that are not  
3 within the scope of practice of the delegatee.

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

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

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

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

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

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

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

29 (5) "Nursing assistant-registered, providing services to persons  
30 with developmental disabilities" means an individual employed as direct  
31 care staff in a community residential program certified by the  
32 department of social and health services under chapter 71A.12 RCW or an  
33 adult family home licensed under chapter 70.128 RCW and who has been  
34 trained by a registered nurse licensed under chapter 18.88 RCW to  
35 administer the specific medications or treatments authorized in section  
36 1 of this act.

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

1       (~~(6)~~) (7) "Approved training program" means a nursing assistant-  
2 certified training program approved by the board. For community  
3 college, vocational-technical institutes, skill centers, and secondary  
4 school as defined in chapter 28B.50 RCW, nursing assistant-certified  
5 training programs shall be approved by the board in cooperation with  
6 the board for community and technical colleges (~~(education)~~) or the  
7 superintendent of public instruction.

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

12       (~~(8)~~) (9) "Competency evaluation" means the measurement of an  
13 individual's knowledge and skills as related to safe, competent  
14 performance as a nursing assistant.

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

17       For the purposes of maintaining a registry of qualified persons and  
18 becoming subject to the provisions of chapter 18.130 RCW, an unlicensed  
19 person authorized to administer medications or treatments under section  
20 1 of this act shall register with the Washington state board of nursing  
21 as a nursing assistant-registered, providing services to persons with  
22 developmental disabilities.

23       NEW SECTION. **Sec. 5.** The state board of nursing shall monitor the  
24 implementation of this act and shall make a report by December 31,  
25 1996, to the state board of health, the secretary of health, and the  
26 legislature on the effectiveness of this act, including whether  
27 registration provides sufficient safeguards for protecting the health  
28 and safety of persons with developmental disabilities, and with any  
29 recommendations for improvements. The report shall specifically  
30 include a recommendation on whether a change in the level of  
31 credentialing is appropriate relating to patient care and safety.

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