

1 1850-S2 AMH DYER H3198.1

2 2SHB 1850 - H AMD 553 WITHDRAWN 4-14-97

3 By Representatives Dyer and Cody

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5 On page 36, line 36, after "program" insert "in cooperation with
6 the department of social and health services and disciplining
7 authorities and"

8 On page 36, line 37, after "administration." insert "The department
9 of social and health services shall retain authority to review and
10 investigate all allegations of nursing home resident neglect, abuse,
11 and misappropriation of resident property. If the department of social
12 and health services makes a preliminary determination, based upon
13 credible evidence and an investigation by the department, that a
14 licensed, certified, or registered health care provider listed in RCW
15 18.130.040 and used by the nursing home to provide services to a
16 resident, except for a certified or registered nursing assistant, has
17 neglected or abused a resident or misappropriated a resident's
18 property, the department of social and health services shall
19 immediately refer its determination regarding the individual to the
20 appropriate disciplining authority, as defined in chapter 18.130 RCW.
21 The disciplining authority shall pursue administrative adjudicatory or
22 disciplinary proceedings according to federal timelines and
23 requirements, and consistent with the administrative procedure act,
24 chapter 34.05 RCW. A finding of fact, stipulated finding of fact,
25 agreed order, or final order issued by the disciplining authority that
26 finds the individual health care provider guilty of neglect, abuse, or
27 misappropriation of resident property shall be promptly reported to the
28 department of social and health services. The disciplining authority
29 shall not make a finding that an individual has neglected a resident if
30 the individual demonstrates that such neglect was caused by factors
31 beyond the control of the individual."

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4 On page 36, after line 37, insert the following:

5 "NEW SECTION. **Sec. 506.** A new section is added to chapter 18.51
6 RCW to read as follows:

7 The department of social and health services shall implement a
8 nursing home resident protection program in cooperation with the
9 department of health and disciplining authorities and according to
10 guidelines established by the federal health care financing
11 administration. The department of social and health services shall
12 conduct a timely review and investigation of all credible allegations
13 of nursing home resident neglect, abuse, and misappropriation of
14 resident property. If the department of social and health services
15 makes a preliminary determination, based upon credible evidence and an
16 investigation by the department, that a licensed, certified, or
17 registered health care provider listed in RCW 18.130.040 and used by
18 the nursing home to provide services to a resident, except for a
19 certified or registered nursing assistant, has neglected or abused a
20 resident or misappropriated a resident's property, the department of
21 social and health services shall immediately refer its determination
22 regarding the individual to the department of health or disciplining
23 authority, as defined in RCW 18.130.020. The disciplining authority,
24 except the department of social and health services for individuals
25 referred to the disciplining authority, shall pursue administrative
26 adjudicatory or disciplinary proceedings according to federal timelines
27 and requirements, and consistent with the administrative procedure act,
28 chapter 34.05 RCW. Other individuals used by a nursing home, including
29 certified and registered nursing assistants, with a preliminary
30 determination of neglect, abuse, or misappropriation of resident
31 property shall receive notice and the right to an administrative fair
32 hearing from the department of social and health services according to
33 federal timelines and requirements, and consistent with the
34 administrative procedure act, chapter 34.05 RCW. An individual with a
35 finding of fact, stipulated finding of fact, agreed order, or final
36 order issued by the department of social and health services that finds
37 the individual guilty of neglect, abuse, or misappropriation of
38 resident property shall not be employed in the care of and have

1 unsupervised access to vulnerable adults, as defined in chapter 74.34
2 RCW. The department shall not make a finding that an individual has
3 neglected a resident if the individual demonstrates that such neglect
4 was caused by factors beyond the control of the individual. Upon
5 receipt from the disciplining authority of a finding of fact,
6 stipulated finding of fact, agreed order, or final order that finds the
7 individual health care provider guilty of neglect, abuse, or
8 misappropriation of resident property, the department of social and
9 health services shall report this information to the nursing home where
10 the incident occurred, the long-term care facility where the individual
11 works, if different, and other entities serving vulnerable adults upon
12 request by the entity."

13 Renumber the following sections consecutively and correct internal
14 references accordingly.

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18 On page 1, line 8 of the title, after "43.70 RCW;" insert "adding
19 a new section to chapter 18.51 RCW;"

20 EFFECT: Clarifies that DSHS makes the preliminary investigation
21 and determination as to whether abuse, neglect or misappropriation of
22 property occurred in a nursing home and then most individual health
23 care providers are referred to the Department of Health or a
24 disciplining authority for disciplinary proceedings. With this
25 amendment, no individual will be subject to two administrative fair
26 hearings or two disciplinary proceedings.

27 Clarifies that DSHS operates the nursing home resident protection
28 program for nursing assistants and nonlicensed nursing home personnel.
29 Clarifies when referrals of preliminarily substantiated complaints are
30 sent by DSHS to the disciplining authorities, the communication of
31 final findings and orders back to DSHS, and prescribes when such
32 information may be released by DSHS.

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