

2 **ESHB 2363** - S COMM AMD

3 By Committee on Health & Long-Term Care

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5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each
8 amended to read as follows:

9 (1) A nursing assistant may assist in the care of individuals as
10 delegated by and under the direction and supervision of a licensed
11 (registered) nurse or licensed practical nurse.

12 (2) A health care facility shall not assign a nursing assistant-
13 registered to provide care until the nursing assistant-registered has
14 demonstrated skills necessary to perform competently all assigned
15 duties and responsibilities.

16 (3) Nothing in this chapter shall be construed to confer on a
17 nursing assistant the authority to administer medication except as
18 authorized in public and private schools under RCW 28A.210.260 unless
19 delegated as a specific nursing task pursuant to this chapter or to
20 practice as a licensed (registered) nurse or licensed practical nurse
21 as defined in chapter 18.79 RCW.

22 (4) Certification is voluntary for nursing assistants working in
23 health care facilities other than nursing homes unless otherwise
24 required by state or federal law or regulation.

25 (5) The commission may adopt rules to implement the provisions of
26 this chapter.

27 **Sec. 2.** RCW 18.88A.210 and 1995 1st sp.s. c 18 s 46 are each
28 amended to read as follows:

29 (1) A nurse may delegate specific care tasks to nursing assistants
30 meeting the requirements of this section and who provide care to
31 individuals in community residential programs for the developmentally
32 disabled certified by the department of social and health services
33 under chapter 71A.12 RCW, to individuals residing in adult family homes
34 licensed under chapter 70.128 RCW, and to individuals residing in
35 boarding homes licensed under chapter 18.20 RCW contracting with the

1 department of social and health services to provide assisted living
2 services pursuant to RCW 74.39A.010.

3 (2) For the purposes of this section, "nursing assistant" means a
4 nursing assistant-registered or a nursing assistant-certified. Nothing
5 in this section may be construed to affect the authority of nurses to
6 delegate nursing tasks to other persons, including licensed practical
7 nurses, as authorized by law.

8 (3) Before commencing any specific nursing care tasks authorized
9 under this chapter, the nursing assistant must (a) provide to the
10 delegating nurse a certificate of completion issued by the department
11 of social and health services indicating the completion of basic core
12 training as provided in this section, (b) be regulated by the
13 department of health pursuant to this chapter, subject to the uniform
14 disciplinary act under chapter 18.130 RCW, and (c) meet any additional
15 training requirements identified by the nursing care quality assurance
16 commission and authorized by this section.

17 (4) A nurse may delegate the following care tasks:

18 (a) Oral and topical medications and ointments;

19 (b) Nose, ear, eye drops, and ointments;

20 (c) Dressing changes and catheterization using clean techniques as
21 defined by the nursing care quality assurance commission;

22 (d) Suppositories, enemas, ostomy care;

23 (e) Blood glucose monitoring;

24 (f) Gastrostomy feedings in established and healed condition.

25 (5) On or before September 1, 1995, the nursing care quality
26 assurance commission, in conjunction with the professional nursing
27 organizations, shall develop rules for nurse delegation protocols and
28 by December 5, 1995, identify training beyond the core training that is
29 deemed necessary for the delegation of complex tasks and patient care.

30 (6) Nursing task delegation protocols are not intended to regulate
31 the settings in which delegation may occur but are intended to ensure
32 that nursing care services have a consistent standard of practice upon
33 which the public and profession may rely and to safeguard the authority
34 of the nurse to make independent professional decisions regarding the
35 delegation of a task. Protocols shall include at least the following:

36 (a) Ensure that determination of the appropriateness of delegation
37 of a nursing task is at the discretion of the nurse;

38 (b) Allow delegation of a nursing care task only for patients who
39 have a stable and predictable condition. "Stable and predictable

1 condition" means a situation, as defined by rule by the nursing care
2 quality assurance commission, in which the patient's clinical and
3 behavioral status is known and does not require frequent presence and
4 evaluation of a registered nurse;

5 (c) ~~Assure that the ((delegations of nursing tasks pursuant to this~~
6 ~~chapter have the written informed consent of the patient consistent~~
7 ~~with the provisions for informed consent under chapter 7.70 RCW, as~~
8 ~~well as with the consent of the delegating nurse and nursing assistant.~~
9 ~~The delegating nurse shall inform patients of the level of training of~~
10 ~~all care providers in the setting)) initial delegating nurse obtains~~
11 ~~written consent to the nurse delegation process from the patient or a~~
12 ~~person authorized under RCW 7.70.065. Written consent is only~~
13 ~~necessary at the initial use of the nurse delegation process for each~~
14 ~~patient and is not necessary for task additions or changes or if a~~
15 ~~different nurse or nursing assistant will be participating in the~~
16 ~~process. The written consent must include at a minimum the following:~~

17 (i) A list of the tasks that could potentially be delegated per RCW
18 18.88A.210; and

19 (ii) A statement that a nursing assistant through the nurse
20 delegation process will be performing a task that would previously have
21 been performed by a registered or licensed practical nurse;

22 (d) Verify that the nursing assistant has completed the core
23 training;

24 (e) Require assessment by the nurse of the ability and willingness
25 of the nursing assistant to perform the delegated nursing task in the
26 absence of direct nurse supervision and to refrain from delegation if
27 the nursing assistant is not able or willing to perform the task;

28 (f) Require the nurse to analyze the complexity of the nursing task
29 that is considered for delegation and determine the appropriate level
30 of training and any need of additional training for the nursing
31 assistant;

32 (g) Require the teaching of the nursing care task to the nursing
33 assistant ~~((including))~~ utilizing one or more of the following: (i)
34 Verification of competency via return demonstration ((under observation
35 while performing the task)); (ii) other methods for verification of
36 competency to perform the nursing task; or (iii) assurance that the
37 nursing assistant is competent to perform the nursing task as a result
38 of systems in place in the community residential program for the

1 developmentally disabled, adult family home, or boarding home providing
2 assisted living services;

3 (h) Require a plan of nursing supervision and reevaluation of the
4 delegated nursing task. "Nursing supervision" means that the
5 registered nurse monitors by direct observation or by whatever means is
6 deemed appropriate by the registered nurse the skill and ability of the
7 nursing assistant to perform delegated nursing tasks. Frequency of
8 supervision is at the discretion of the registered nurse but shall
9 occur at least every sixty days;

10 (i) Require instruction to the nursing assistant that the delegated
11 nursing task is specific to a patient and is not transferable;

12 (j) Require documentation and written instruction related to the
13 delegated nursing task be provided to the nursing assistant and a copy
14 maintained in the patient record;

15 (k) Ensure that the nursing assistant is prepared to effectively
16 deal with the predictable outcomes of performing the nursing task;

17 (l) Include in the delegation of tasks an awareness of the nature
18 of the condition requiring treatment, risks of the treatment, side
19 effects, and interaction of prescribed medications;

20 (m) Require documentation in the patient's record of the rationale
21 for delegating or not delegating nursing tasks.

22 (7) A basic core training curriculum on providing care for
23 individuals in community residential programs for the developmentally
24 disabled certified by the department of social and health services
25 under chapter 71A.12 RCW shall be in addition to the training
26 requirements specified in subsection (5) of this section. Basic core
27 training shall be developed and adopted by rule by the secretary of the
28 department of social and health services. The department of social and
29 health services shall appoint an advisory panel to assist in the
30 development of core training comprised of representatives of the
31 following:

32 (a) The division of developmental disabilities;

33 (b) The nursing care quality assurance commission;

34 (c) Professional nursing organizations;

35 (d) A state-wide organization of community residential service
36 providers whose members are programs certified by the department under
37 chapter 71A.12 RCW.

38 (8) A basic core training curriculum on providing care to residents
39 in residential settings licensed under chapter 70.128 RCW, or in

1 assisted living pursuant to RCW 74.39A.010 shall be mandatory for
2 nursing assistants prior to assessment by a nurse regarding the ability
3 and willingness to perform a delegated nursing task. Core training
4 shall be developed and adopted by rule by the secretary of the
5 department of social and health services, in conjunction with an
6 advisory panel. The advisory panel shall be comprised of
7 representatives from, at a minimum, the following:

8 (a) The nursing care quality assurance commission;

9 (b) Professional nurse organizations;

10 (c) A state-wide association of community residential service
11 providers whose members are programs certified by the department under
12 chapter 71A.12 RCW;

13 (d) Aging consumer groups;

14 (e) Associations representing homes licensed under chapters 70.128
15 and 18.20 RCW; and

16 (f) Associations representing home health, hospice, and home care
17 agencies licensed under chapter 70.127 RCW.

18 **Sec. 3.** RCW 18.88A.230 and 1997 c 275 s 6 are each amended to read
19 as follows:

20 (1) The nurse and nursing assistant shall be accountable for their
21 own individual actions in the delegation process. Nurses acting within
22 the protocols of their delegation authority shall be immune from
23 liability for any action performed in the course of their delegation
24 duties. Nursing assistants following written delegation instructions
25 from registered nurses performed in the course of their accurately
26 written, delegated duties shall be immune from liability.

27 (2) No person may coerce a nurse into compromising patient safety
28 by requiring the nurse to delegate if the nurse determines it is
29 inappropriate to do so. Nurses shall not be subject to any employer
30 reprisal or disciplinary action by the Washington nursing care quality
31 assurance commission for refusing to delegate tasks or refusing to
32 provide the required training for delegation if the nurse determines
33 delegation may compromise patient safety. Nursing assistants shall not
34 be subject to any employer reprisal or disciplinary action by the
35 nursing care quality assurance commission for refusing to accept
36 delegation of a nursing task based on patient safety issues. No
37 community residential program, adult family home, or boarding home
38 contracting to provide assisted-living services may discriminate or

1 retaliate in any manner against a person because the person made a
2 complaint or cooperated in the investigation of a complaint.

3 (3) The department of social and health services (~~shall~~) may
4 impose a civil fine of not less than two hundred fifty dollars nor more
5 than one thousand dollars on a community residential program, adult
6 family home, or boarding home under chapter 18, Laws of 1995 1st sp.
7 sess. that knowingly permits an employee to perform a nursing task
8 except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st
9 sp. sess.

10 **Sec. 4.** 1995 1st sp.s. c 18 s 54 (uncodified) is amended to read
11 as follows:

12 A special legislative task force is established to monitor
13 implementation of sections 45 through 53 of this act. The task force
14 shall consist of four members from the house of representatives, no
15 more than two of whom shall be members of the same caucus, who shall be
16 appointed by the speaker of the house of representatives, and four
17 members from the senate, no more than two of whom shall be members of
18 the same caucus, who shall be appointed by the president of the senate.
19 The task force shall:

20 (1) Review the proposed nurse delegation protocols developed by the
21 nursing care quality assurance commission;

22 (2) Review the proposed core and specialized training curricula
23 developed by the department of social and health services and by the
24 nursing care quality assurance commission;

25 (3) Review the program and reimbursement policies, and the
26 identified barriers to nurse delegation, developed by the department of
27 health and department of social and health services;

28 (4) Submit an interim report of its findings and recommendations on
29 the above actions to the legislature by January 1, 1996;

30 (5) During 1996, conduct hearings to assess the effectiveness with
31 which the delegation protocols, the core training, and nurse oversight
32 are being implemented, and their impact on patient care and quality of
33 life;

34 (6) Review and approve the proposed study designs;

35 (7) By February 1, 1997, recommend to the legislature a mechanism
36 and time frame for extending nurse delegation provisions similar to
37 those described in this act to persons residing in their own homes;

1 (8) During (~~(1997)~~) 1998, receive interim reports on the findings
2 of the studies conducted in accordance with this act, and conduct
3 additional fact-finding hearings on the implementation and impact of
4 the nurse delegation provisions of sections 45 through 53 of this act.

5 The office of program research and senate committee services shall
6 provide staff support to the task force. The department of health, the
7 department of social and health services, and the nursing care quality
8 assurance commission shall provide technical support as needed. The
9 task force shall cease to exist on January 1, (~~(1998)~~) 1999, unless
10 extended by act of the legislature.

11 **Sec. 5.** RCW 28A.210.260 and 1994 sp.s. c 9 s 720 are each amended
12 to read as follows:

13 Public school districts and private schools which conduct any of
14 grades kindergarten through the twelfth grade may provide for the
15 administration of oral medication of any nature to students who are in
16 the custody of the school district or school at the time of
17 administration, but are not required to do so by this section, subject
18 to the following conditions:

19 (1) The board of directors of the public school district or the
20 governing board of the private school or, if none, the chief
21 administrator of the private school shall adopt policies which address
22 the designation of employees who may administer oral medications to
23 students, the acquisition of parent requests and instructions, and the
24 acquisition of dentist and physician requests and instructions
25 regarding students who require medication for more than fifteen
26 consecutive school days, the identification of the medication to be
27 administered, the means of safekeeping medications with special
28 attention given to the safeguarding of legend drugs as defined in
29 chapter 69.41 RCW, and the means of maintaining a record of the
30 administration of such medication;

31 (2) The board of directors shall seek advice from one or more
32 licensed physicians or nurses in the course of developing the foregoing
33 policies;

34 (3) The public school district or private school is in receipt of
35 a written, current, and unexpired request from a parent, or a legal
36 guardian, or other person having legal control over the student to
37 administer the medication to the student;

1 (4) The public school district or the private school is in receipt
2 of (a) a written, current and unexpired request from a licensed
3 physician or dentist for administration of the medication, as there
4 exists a valid health reason which makes administration of such
5 medication advisable during the hours when school is in session or the
6 hours in which the student is under the supervision of school
7 officials, and (b) written, current, and unexpired instructions from
8 such physician or dentist regarding the administration of prescribed
9 medication to students who require medication for more than fifteen
10 consecutive work days;

11 (5) The medication is administered by ~~((an))~~ a consenting employee
12 designated by or pursuant to the policies adopted pursuant to
13 subsection (1) of this section and in substantial compliance with the
14 prescription of a physician or dentist or the written instructions
15 provided pursuant to subsection (4) of this section;

16 (6) The medication is first examined by the employee administering
17 the same to determine in his or her judgment that it appears to be in
18 the original container and to be properly labeled; and

19 (7) The board of directors shall designate a consenting
20 professional person licensed pursuant to chapter 18.71 RCW or chapter
21 18.79 RCW as it applies to registered nurses and advanced registered
22 nurse practitioners, to train and supervise the designated school
23 district personnel in proper medication procedures.

24 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 immediately."

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31 On page 1, beginning on line 2 of the title, after "18.88A.210,"
32 strike "and 18.88A.230" and insert "18.88A.230, and 28A.210.260"

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