
HOUSE BILL 2260

State of Washington

55th Legislature

1997 Regular Session

By Representatives Huff, H. Sommers and Wensman; by request of Office of Financial Management

Read first time 03/15/97. Referred to Committee on Health Care.

1 AN ACT Relating to the right of individuals to self-direct their
2 own care in their own homes; amending RCW 18.88A.140, 18.64.255,
3 18.79.240, 18.79.260, 70.127.250, and 70.127.270; adding new sections
4 to chapter 18.88A RCW; adding a new section to chapter 18.79 RCW;
5 adding a new section to chapter 74.39 RCW; adding a new section to
6 chapter 70.127 RCW; creating a new section; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
9 reconfirm the right of competent individuals to self-direct their own
10 care in their own homes.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.88A RCW
12 to read as follows:

13 The nursing quality assurance commission in conjunction with the
14 department of social and health services, the department of health, and
15 other appropriate agencies shall, by December 1997, prepare a report to
16 the legislature on possible remedies to the statutory inconsistencies
17 contained in the October 1996 report to the legislature including
18 issues relating to "assignment" of nursing care tasks.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.79 RCW
2 to read as follows:

3 The department of health, in consultation with the nursing care
4 quality assurance commission and appropriate advocates from the
5 disability and aging communities, including the department of social
6 and health services, shall adopt rules necessary to implement RCW
7 18.88A.140(4), 18.79.240(1)(s), and 18.64.255(4) to specifically
8 address accountability and liability issues of health professionals
9 involved in the delivery of health care to individuals described in
10 those sections. The department of health shall also make
11 recommendations to remove barriers from existing rules that would
12 prohibit implementation of RCW 18.88A.140(4), 18.79.240(1)(s), and
13 18.64.255(4). The department of health has the authority to adopt such
14 rules and shall do so by December 31, 1997.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.39 RCW
16 to read as follows:

17 The department of social and health services, in consultation with
18 interested parties and appropriate advocates from the disability and
19 aging communities, including the department of health, has the
20 authority to adopt necessary rules that address consent and
21 determination of ability to self-direct and that remove restrictions in
22 programs authorized under this chapter and chapter 74.39A RCW to allow
23 self-directed care, and shall do so by December 31, 1997.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.88A RCW
25 to read as follows:

26 The nursing care quality assurance commission shall convene a work
27 group in conjunction with the department of health, the department of
28 social and health services, and appropriate advocates from the aging
29 and disability communities to propose rules necessary to implement RCW
30 18.88A.140(4). The department of health has the authority to adopt
31 such rules and shall do so by December 31, 1997.

32 **Sec. 6.** RCW 18.88A.140 and 1991 c 16 s 5 are each amended to read
33 as follows:

34 Nothing in this chapter may be construed to prohibit or restrict:

1 (1) The practice by an individual licensed, certified, or
2 registered under the laws of this state and performing services within
3 their authorized scope of practice;

4 (2) The practice by an individual employed by the government of the
5 United States while engaged in the performance of duties prescribed by
6 the laws of the United States;

7 (3) The practice by a person who is a regular student in an
8 educational program approved by the secretary, and whose performance of
9 services (~~([is])~~) is pursuant to a regular course of instruction or
10 assignments from an instructor and under the general supervision of the
11 instructor;

12 (4) The ability of an individual living in his or her own home who
13 cannot physically self-administer care, but who can direct others to
14 administer such care by informed consent or otherwise, including the
15 administration of drugs or medications and other care, whether or not
16 the care is administered for compensation.

17 **Sec. 7.** RCW 18.64.255 and 1995 c 319 s 7 are each amended to read
18 as follows:

19 Nothing in this chapter shall operate in any manner:

20 (1) To restrict the scope of authorized practice of any
21 practitioner other than a pharmacist, duly licensed as such under the
22 laws of this state. However, a health care entity shall comply with
23 all state and federal laws and rules relating to the dispensing of
24 drugs and the practice of pharmacy; or

25 (2) In the absence of the pharmacist from the hospital pharmacy, to
26 prohibit a registered nurse designated by the hospital and the
27 responsible pharmacist from obtaining from the hospital pharmacy such
28 drugs as are needed in an emergency: PROVIDED, That proper record is
29 kept of such emergency, including the date, time, name of prescriber,
30 the name of the nurse obtaining the drugs, and a list of what drugs and
31 quantities of same were obtained; or

32 (3) To prevent shopkeepers, itinerant vendors, peddlers, or
33 salesmen from dealing in and selling nonprescription drugs, if such
34 drugs are sold in the original packages of the manufacturer, or in
35 packages put up by a licensed pharmacist in the manner provided by the
36 state board of pharmacy, if such shopkeeper, itinerant vendor,
37 salesman, or peddler shall have obtained a registration; or

1 (4) To restrict the ability of an individual living in his or her
2 own home who cannot physically self-administer medication, but who can
3 direct others to administer such by informed consent or otherwise,
4 whether or not the care is administered for compensation.

5 **Sec. 8.** RCW 18.79.240 and 1994 sp.s. c 9 s 424 are each amended to
6 read as follows:

7 (1) In the context of the definition of registered nursing practice
8 and advanced registered nursing practice, this chapter shall not be
9 construed as:

10 (a) Prohibiting the incidental care of the sick by domestic
11 servants or persons primarily employed as housekeepers, so long as they
12 do not practice registered nursing within the meaning of this chapter;

13 (b) Preventing a person from the domestic administration of family
14 remedies or the furnishing of nursing assistance in case of emergency;

15 (c) Prohibiting the practice of nursing by students enrolled in
16 approved schools as may be incidental to their course of study or
17 prohibiting the students from working as nursing aides;

18 (d) Prohibiting auxiliary services provided by persons carrying out
19 duties necessary for the support of nursing services, including those
20 duties that involve minor nursing services for persons performed in
21 hospitals, nursing homes, or elsewhere under the direction of licensed
22 physicians or the supervision of licensed registered nurses;

23 (e) Prohibiting the practice of nursing in this state by a legally
24 qualified nurse of another state or territory whose engagement requires
25 him or her to accompany and care for a patient temporarily residing in
26 this state during the period of one such engagement, not to exceed six
27 months in length, if the person does not represent or hold himself or
28 herself out as a registered nurse licensed to practice in this state;

29 (f) Prohibiting nursing or care of the sick, with or without
30 compensation, when done in connection with the practice of the
31 religious tenets of a church by adherents of the church so long as they
32 do not engage in the practice of nursing as defined in this chapter;

33 (g) Prohibiting the practice of a legally qualified nurse of
34 another state who is employed by the United States government or a
35 bureau, division, or agency thereof, while in the discharge of his or
36 her official duties;

37 (h) Permitting the measurement of the powers or range of human
38 vision, or the determination of the accommodation and refractive state

1 of the human eye or the scope of its functions in general, or the
2 fitting or adaptation of lenses for the aid thereof;

3 (i) Permitting the prescribing or directing the use of, or using,
4 an optical device in connection with ocular exercises, visual training,
5 vision training, or orthoptics;

6 (j) Permitting the prescribing of contact lenses for, or the
7 fitting and adaptation of contact lenses to, the human eye;

8 (k) Prohibiting the performance of routine visual screening;

9 (l) Permitting the practice of dentistry or dental hygiene as
10 defined in chapters 18.32 and 18.29 RCW, respectively;

11 (m) Permitting the practice of chiropractic as defined in chapter
12 18.25 RCW including the adjustment or manipulation of the articulation
13 of the spine;

14 (n) Permitting the practice of podiatric medicine and surgery as
15 defined in chapter 18.22 RCW;

16 (o) Permitting the performance of major surgery, except such minor
17 surgery as the commission may have specifically authorized by rule
18 adopted in accordance with chapter 34.05 RCW;

19 (p) Permitting the prescribing of controlled substances as defined
20 in Schedules I through IV of the Uniform Controlled Substances Act,
21 chapter 69.50 RCW, except as provided in (r) of this subsection;

22 (q) Prohibiting the determination and pronouncement of death;

23 (r) Prohibiting advanced registered nurse practitioners, approved
24 by the commission as certified registered nurse anesthetists from
25 selecting, ordering, or administering controlled substances as defined
26 in Schedules II through IV of the Uniform Controlled Substances Act,
27 chapter 69.50 RCW, consistent with their commission-recognized scope of
28 practice; subject to facility-specific protocols, and subject to a
29 request for certified registered nurse anesthetist anesthesia services
30 issued by a physician licensed under chapter 18.71 RCW, an osteopathic
31 physician and surgeon licensed under chapter 18.57 RCW, a dentist
32 licensed under chapter 18.32 RCW, or a podiatric physician and surgeon
33 licensed under chapter 18.22 RCW; the authority to select, order, or
34 administer Schedule II through IV controlled substances being limited
35 to those drugs that are to be directly administered to patients who
36 require anesthesia for diagnostic, operative, obstetrical, or
37 therapeutic procedures in a hospital, clinic, ambulatory surgical
38 facility, or the office of a practitioner licensed under chapter 18.71,
39 18.22, 18.36, 18.36A, 18.57, 18.57A, or 18.32 RCW; "select" meaning the

1 decision-making process of choosing a drug, dosage, route, and time of
2 administration; and "order" meaning the process of directing licensed
3 individuals pursuant to their statutory authority to directly
4 administer a drug or to dispense, deliver, or distribute a drug for the
5 purpose of direct administration to a patient, under instructions of
6 the certified registered nurse anesthetist. "Protocol" means a
7 statement regarding practice and documentation concerning such items as
8 categories of patients, categories of medications, or categories of
9 procedures rather than detailed case-specific formulas for the practice
10 of nurse anesthesia;

11 (s) Prohibiting the administration of care to an individual living
12 in his or her own home who cannot physically self-administer care, but
13 who can direct others to administer such care by informed consent or
14 otherwise, including the administration of drugs or medications and
15 other care, whether or not the care is administered for compensation.

16 (2) In the context of the definition of licensed practical nursing
17 practice, this chapter shall not be construed as:

18 (a) Prohibiting the incidental care of the sick by domestic
19 servants or persons primarily employed as housekeepers, so long as they
20 do not practice practical nursing within the meaning of this chapter;

21 (b) Preventing a person from the domestic administration of family
22 remedies or the furnishing of nursing assistance in case of emergency;

23 (c) Prohibiting the practice of practical nursing by students
24 enrolled in approved schools as may be incidental to their course of
25 study or prohibiting the students from working as nursing assistants;

26 (d) Prohibiting auxiliary services provided by persons carrying out
27 duties necessary for the support of nursing services, including those
28 duties that involve minor nursing services for persons performed in
29 hospitals, nursing homes, or elsewhere under the direction of licensed
30 physicians or the supervision of licensed registered nurses;

31 (e) Prohibiting or preventing the practice of nursing in this state
32 by a legally qualified nurse of another state or territory whose
33 engagement requires him or her to accompany and care for a patient
34 temporarily residing in this state during the period of one such
35 engagement, not to exceed six months in length, if the person does not
36 represent or hold himself or herself out as a licensed practical nurse
37 licensed to practice in this state;

38 (f) Prohibiting nursing or care of the sick, with or without
39 compensation, when done in connection with the practice of the

1 religious tenets of a church by adherents of the church so long as they
2 do not engage in licensed practical nurse practice as defined in this
3 chapter;

4 (g) Prohibiting the practice of a legally qualified nurse of
5 another state who is employed by the United States government or any
6 bureau, division, or agency thereof, while in the discharge of his or
7 her official duties;

8 (h) Prohibiting the administration of care to an individual living
9 in his or her own home who cannot physically self-administer care, but
10 who can direct others to administer such care by informed consent or
11 otherwise, including the administration of drugs or medications and
12 other care, whether or not the care is administered for compensation.

13 **Sec. 9.** RCW 18.79.260 and 1995 1st sp.s. c 18 s 51 are each
14 amended to read as follows:

15 A registered nurse under his or her license may perform for
16 compensation nursing care, as that term is usually understood, of the
17 ill, injured, or infirm, and in the course thereof, she or he may do
18 the following things that shall not be done by a person not so
19 licensed, except as provided in RCW 18.79.240, 18.79.270, and
20 18.88A.210:

21 (1) At or under the general direction of a licensed physician and
22 surgeon, dentist, osteopathic physician and surgeon, naturopathic
23 physician, podiatric physician and surgeon, physician assistant,
24 osteopathic physician assistant, or advanced registered nurse
25 practitioner acting within the scope of his or her license, administer
26 medications, treatments, tests, and inoculations, whether or not the
27 severing or penetrating of tissues is involved and whether or not a
28 degree of independent judgment and skill is required. Such direction
29 must be for acts which are within the scope of registered nursing
30 practice;

31 (2) Delegate to other persons the functions outlined in subsection
32 (1) of this section in accordance with chapter 18.88A RCW;

33 (3) Instruct nurses in technical subjects pertaining to nursing;

34 (4) Hold herself or himself out to the public or designate herself
35 or himself as a registered nurse.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.127
37 RCW to read as follows:

1 Nothing in this chapter prohibits or restricts the administration
2 of care to an individual living in his or her own home who cannot
3 physically self-administer care, but who can direct others to
4 administer such care by informed consent or otherwise, including the
5 administration of drugs or medications and other nursing tasks, whether
6 or not the care is administered for compensation.

7 **Sec. 11.** RCW 70.127.250 and 1994 sp.s. c 9 s 745 are each amended
8 to read as follows:

9 (1) In addition to the rules consistent with RCW 70.127.005 adopted
10 under RCW 70.127.120, the department shall adopt rules for home health
11 agencies which address the following:

12 (a) Establishment of case management guidelines for acute and
13 maintenance care patients;

14 (b) Establishment of guidelines for periodic review of the home
15 health care plan of care and plan of treatment by appropriate health
16 care professionals; (~~and~~)

17 (c) Maintenance of written policies regarding the delivery and
18 supervision of patient care and clinical consultation as necessary by
19 appropriate health care professionals; and

20 (d) The administration of care to an individual living in his or
21 her own home who cannot physically self-administer care, but who can
22 direct others to administer such care by informed consent or otherwise,
23 including the administration of drugs or medications and other care,
24 whether or not the care is administered for compensation.

25 (2) As used in this section:

26 (a) "Acute care" means care provided by a home health agency for
27 patients who are not medically stable or have not attained a
28 satisfactory level of rehabilitation. These patients require frequent
29 monitoring by a health care professional in order to maintain their
30 health status.

31 (b) "Maintenance care" means care provided by home health agencies
32 that is necessary to support an existing level of health and to
33 preserve a patient from further failure or decline.

34 (c) "Home health plan of care" means a written plan of care
35 established by a home health agency by appropriate health care
36 professionals that describes maintenance care to be provided. A
37 patient or his or her representative shall be allowed to participate in
38 the development of the plan of care to the extent practicable.

1 (d) "Home health plan of treatment" means a written plan of care
2 established by a physician licensed under chapter 18.57 or 18.71 RCW,
3 a podiatric physician and surgeon licensed under chapter 18.22 RCW, or
4 an advanced registered nurse practitioner as authorized by the nursing
5 care quality assurance commission under chapter 18.79 RCW, in
6 consultation with appropriate health care professionals within the
7 agency that describes medically necessary acute care to be provided for
8 treatment of illness or injury.

9 **Sec. 12.** RCW 70.127.270 and 1988 c 245 s 28 are each amended to
10 read as follows:

11 In addition to the rules adopted under RCW 70.127.120, the
12 department shall adopt rules consistent with RCW 70.127.005 for home
13 care agencies which address delivery of services according to a home
14 care plan of care, including the administration of care to an
15 individual living in his or her own home who cannot physically self-
16 administer care, but who can direct others to administer such care by
17 informed consent or otherwise, including the administration of drugs or
18 medications and other care, whether or not the care is administered for
19 compensation.

20 As used in this section, "home care plan of care" means a written
21 plan of care that is established and periodically reviewed by a home
22 care agency that describes the home care to be provided.

23 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

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