
HOUSE BILL 1880

State of Washington 56th Legislature 1999 Regular Session

By Representatives Cody, Schual-Berke, Kenney and Edmonds

Read first time 02/09/1999. Referred to Committee on Health Care.

1 AN ACT Relating to providing for self-directed care of persons with
2 disabilities; amending RCW 43.190.060; adding new sections to chapter
3 70.126 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that certain
6 aspects of health licensure laws have the unintended consequence of
7 limiting the right of persons with functional disabilities to care for
8 themselves in their own home, and of securing assistance from other
9 persons in performing routine health-related tasks that persons without
10 these disabilities customarily perform.

11 (2) It is the intent of the legislature to clarify the right of
12 adults with functional disabilities to choose to self-direct their own
13 health-related tasks through personal aides, and to describe the
14 circumstances under which self-directed care may take place in the home
15 setting. The legislature declares that it is in the public interest to
16 preserve the autonomy and dignity of persons with functional
17 disabilities to care for themselves in their own homes, among the
18 continuum of options for health care services where the judgment and
19 control over the care rests with the individual.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout sections 1 through 4 and 6 of this act and RCW 43.190.060
3 unless the context clearly requires otherwise.

4 (1) "Self-directed care" means the process in which an adult
5 person, who is prevented by a functional disability from performing a
6 manual function related to health care that an individual would
7 otherwise perform for himself or herself, chooses to direct and
8 supervise a paid personal aide to perform those tasks.

9 (2) "Personal aide" means an individual who acts at the direction
10 of an adult person with a functional disability living in his or her
11 own home and provides that person with health care services that a
12 person without a functional disability can perform, and who is
13 identified as a personal aide on the registry maintained by the
14 department of social and health services under section 4 of this act.

15 NEW SECTION. **Sec. 3.** (1) An adult person with a functional
16 disability living in his or her own home may direct and supervise a
17 paid personal aide in the performance of a health care task.

18 (2) The following requirements shall guide the provision of self-
19 directed care under this act:

20 (a) Health care tasks are those medical, nursing, or home health
21 services that enable the person to maintain independence, personal
22 hygiene, and safety in his or her own home, and that are services that
23 a person without a functional disability would customarily and
24 personally perform without the assistance of a licensed health care
25 provider.

26 (b) When a licensed health care provider orders treatment involving
27 a health care task to be performed through self-directed care, the
28 responsibility to ascertain that the patient understands the treatment
29 and will be able to follow through on the self-directed care task is
30 the same as it would be for a patient who performs the health care task
31 for himself or herself, and the licensed health care provider incurs no
32 additional liability when ordering a health care task which is to be
33 performed through self-directed care.

34 (c) The role of the personal aide in self-directed care is limited
35 to performing physical health care tasks under the direction of the
36 person for whom the tasks are being done.

37 (d) The responsibility to initiate health care tasks and to
38 exercise judgment regarding the manner of their performance rests and

1 remains with the person who has chosen to self-direct those tasks,
2 including the decision to employ and dismiss a personal aide.

3 NEW SECTION. **Sec. 4.** (1) Any individual who, for compensation,
4 serves as a personal aide to a person who self-directs his or her own
5 care in his or her own home shall register with the department of
6 social and health services, and no person may perform a directed health
7 care task under the provisions of this act unless and until he or she
8 is duly registered with the department as a personal aide.

9 (2) The department of social and health services shall maintain a
10 registry of personal aides providing services under this act. The
11 purpose of the registry is to record any complaints or findings of
12 abuse, neglect, or misappropriation of property belonging to, or
13 otherwise in the custody of, the person who directs and supervises a
14 personal aide providing health care tasks at the person's own home.

15 (3) The registry shall contain the following information:

16 (a) The personal aide's name and information necessary to identify
17 him or her;

18 (b) The date the personal aide became eligible for placement on
19 this registry, and the name and identity of the person who directs and
20 supervises the personal aide providing health care tasks; and

21 (c) Information on any allegation and finding of abuse, neglect, or
22 misappropriation of property by the personal aide, including
23 documentation of the department's investigation, the nature of the
24 allegation and the evidence which the department relies upon to
25 validate the allegation, the date of the hearing, if any, and its
26 outcome, and any statement by the personal aide disputing the
27 allegation.

28 (4) Information pertaining to an allegation of abuse, neglect, or
29 misappropriation of property and its disposition shall be included in
30 the registry as soon as possible, but in any event, within ten days
31 from the finding, and must remain in the registry indefinitely, unless
32 the finding was made in error, the personal aide was found not guilty
33 in a court of law, or the department is notified of the death of the
34 personal aide. A personal aide on the registry must be accorded a fair
35 and sufficient opportunity to rebut any allegation and correct any
36 misstatements or inaccuracies contained in the record.

37 (5) The registry shall remove the entry for a personal aide who has
38 not performed any services for a period of thirty-six consecutive

1 months, unless the record includes documented findings of abuse,
2 neglect, or misappropriation of property.

3 (6) The department shall disclose upon request all information on
4 the registry to any person so requesting, and may disclose such
5 additional information it deems necessary. The department shall
6 promptly provide personal aides listed on the registry with all
7 information contained in the record when adverse findings are placed on
8 the record.

9 (7) The administrative procedure act, chapter 34.05 RCW, governs
10 the procedures under this section.

11 **Sec. 5.** RCW 43.190.060 and 1995 1st sp.s. c 18 s 33 are each
12 amended to read as follows:

13 A long-term care ombudsman shall:

14 (1) Investigate and resolve complaints made by or on behalf of
15 residents of long-term care facilities, including persons directing and
16 supervising health care tasks in their residence through personal aides
17 under to this act, relating to administrative action which may
18 adversely affect the health, safety, welfare, and rights of these
19 individuals;

20 (2) Monitor the development and implementation of federal, state,
21 and local laws, rules, regulations, and policies with respect to long-
22 term care facilities in this state;

23 (3) Provide information as appropriate to public agencies regarding
24 the problems of individuals residing in long-term care facilities; and

25 (4) Provide for training volunteers and promoting the development
26 of citizen organizations to participate in the ombudsman program. A
27 volunteer long-term care ombudsman shall be able to identify and
28 resolve problems regarding the care of residents in long-term care
29 facilities and to assist such residents in the assertion of their civil
30 and human rights. However, volunteers shall not be used for complaint
31 investigations but may engage in fact-finding activities to determine
32 whether a formal complaint should be submitted to the department.

33 NEW SECTION. **Sec. 6.** A personal aide, in the performance of a
34 health care task, who is directed and supervised by a person with a
35 functional disability in his or her own home, and who is registered
36 with the department of social and health services as a personal aide,
37 is exempt from any legal requirement to qualify and be credentialed by

1 the department of health as a health care provider under Title 18 RCW
2 to the extent of the responsibilities provided and health care tasks
3 performed under this act.

4 NEW SECTION. **Sec. 7.** Sections 2 through 4 and 6 of this act are
5 each added to chapter 70.126 RCW.

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