

E2SHB 2668 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/07/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that Washingtonians
4 sixty-five years of age and older will nearly double in the next twenty
5 years, from eleven percent of our population today to almost twenty
6 percent of our population in 2025. Younger people with disabilities
7 will also require supportive long-term care services. Nationally,
8 young people with a disability account for thirty seven percent of the
9 total number of people who need long-term care.

10 The legislature further finds that to address this increasing need,
11 the long-term care system should support autonomy and self-
12 determination, and support the role of informal caregivers and
13 families. It should promote personal planning and savings combined
14 with public support, when needed. It should also include culturally
15 appropriate, high quality information, services, and supports delivered
16 in a cost-effective and efficient manner.

17 The legislature further finds that more than fifteen percent of
18 adults over age sixty-five in Washington state have diabetes. Current
19 nurse delegation statutes limit the ability of elderly and disabled
20 persons with diabetes to remain in their own homes or in other
21 home-like long-term care settings. It is the intent of the legislature
22 to modify nurse delegation statutes to enable elderly persons and
23 persons with disabilities who have diabetes to continue to reside in
24 their own home or other home-like settings.

25 The legislature further finds that the long-term care system should
26 utilize evidence-based practices for the prevention and management of
27 chronic disease to improve the general health of Washingtonians over
28 their lifetime and reduce health care and long-term care costs related
29 to ineffective chronic care management.

1 **Sec. 2.** RCW 74.41.040 and 1987 c 409 s 3 are each amended to read
2 as follows:

3 The department shall administer this chapter and shall establish
4 such rules and standards as the department deems necessary in carrying
5 out this chapter. The department shall not require the development of
6 plans of care or discharge plans by nursing homes or adult family homes
7 providing respite care service under this chapter. Boarding homes
8 providing respite care services shall comply with the assessment and
9 plan of care provisions of RCW 18.20.350.

10 The department shall develop standards for the respite program in
11 conjunction with the selected area agencies on aging. The program
12 standards shall serve as the basis for soliciting bids, entering into
13 subcontracts, and developing sliding fee scales to be used in
14 determining the ability of eligible participants to participate in
15 paying for respite care.

16 **Sec. 3.** RCW 18.20.350 and 2004 c 142 s 7 are each amended to read
17 as follows:

18 (1) The boarding home licensee shall conduct a preadmission
19 assessment for each resident applicant. The preadmission assessment
20 shall include the following information, unless unavailable despite the
21 best efforts of the licensee:

- 22 (a) Medical history;
- 23 (b) Necessary and contraindicated medications;
- 24 (c) A licensed medical or health professional's diagnosis, unless
25 the individual objects for religious reasons;
- 26 (d) Significant known behaviors or symptoms that may cause concern
27 or require special care;
- 28 (e) Mental illness diagnosis, except where protected by
29 confidentiality laws;
- 30 (f) Level of personal care needs;
- 31 (g) Activities and service preferences; and
- 32 (h) Preferences regarding other issues important to the resident
33 applicant, such as food and daily routine.

34 (2) The boarding home licensee shall complete the preadmission
35 assessment before admission unless there is an emergency. If there is
36 an emergency admission, the preadmission assessment shall be completed
37 within five days of the date of admission. For purposes of this

1 section, "emergency" includes, but is not limited to: Evening,
2 weekend, or Friday afternoon admissions if the resident applicant would
3 otherwise need to remain in an unsafe setting or be without adequate
4 and safe housing.

5 (3) The boarding home licensee shall complete an initial resident
6 service plan upon move-in to identify the resident's immediate needs
7 and to provide direction to staff and caregivers relating to the
8 resident's immediate needs. The initial resident service plan shall
9 include as much information as can be obtained, under subsection (1) of
10 this section.

11 (4) When a facility provides respite care, before or at the time of
12 admission, the facility must obtain sufficient information to meet the
13 individual's anticipated needs. At a minimum, such information must
14 include:

15 (a) The name, address, and telephone number of the individual's
16 attending physician, and alternate physician if any;

17 (b) Medical and social history, which may be obtained from a
18 respite care assessment and service plan performed by a case manager
19 designated by an area agency on aging under contract with the
20 department, and mental and physical assessment data;

21 (c) Physician's orders for diet, medication, and routine care
22 consistent with the individual's status on admission;

23 (d) Ensure the individuals have assessments performed, where
24 needed, and where the assessment of the individual reveals symptoms of
25 tuberculosis, follow required tuberculosis testing requirements; and

26 (e) With the participation of the individual and, where
27 appropriate, their representative, develop a plan of care to maintain
28 or improve their health and functional status during their stay in the
29 facility.

30 **Sec. 4.** RCW 74.41.050 and 2000 c 207 s 4 are each amended to read
31 as follows:

32 The department shall contract with area agencies on aging or other
33 appropriate agencies to conduct family caregiver long-term care
34 information and support services to the extent of available funding.
35 The responsibilities of the agencies shall include but not be limited
36 to: (1) Administering a program of family caregiver long-term care
37 information and support services; (~~and~~) (2) negotiating rates of

1 payment, administering sliding-fee scales to enable eligible
2 participants to participate in paying for respite care, and arranging
3 for respite care information, training, and other support services; and
4 (3) developing an evidence-based tailored caregiver assessment and
5 referral tool. In evaluating the need for respite services,
6 consideration shall be given to the mental and physical ability of the
7 caregiver to perform necessary caregiver functions.

8 **Sec. 5.** RCW 74.38.030 and 1975-'76 2nd ex.s. c 131 s 3 are each
9 amended to read as follows:

10 (1) The program of community based services authorized under this
11 chapter shall be administered by the department. Such services may be
12 provided by the department or through purchase of service contracts,
13 vendor payments or direct client grants.

14 The department shall, under stipend or grant programs provided
15 under RCW 74.38.060, utilize, to the maximum staffing level possible,
16 eligible persons in its administration, supervision, and operation.

17 (2) The department shall be responsible for planning, coordination,
18 monitoring and evaluation of services provided under this chapter but
19 shall avoid duplication of services.

20 (3) The department may designate area agencies in cities of not
21 less than twenty thousand population or in regional areas within the
22 state. These agencies shall submit area plans, as required by the
23 department. For area plans prepared for submission in 2009, and
24 thereafter, the area agencies may include the findings and
25 recommendations of area-wide planning initiatives that they may
26 undertake with appropriate local and regional partners regarding the
27 changing age demographics of their area and the implications of this
28 demographic change for public policies and public services. They shall
29 also submit, in the manner prescribed by the department, such other
30 program or fiscal data as may be required.

31 (4) The department shall develop an annual state plan pursuant to
32 the Older Americans Act of 1965, as now or hereafter amended. This
33 plan shall include, but not be limited to:

34 (a) Area agencies' programs and services approved by the
35 department;

36 (b) Other programs and services authorized by the department; and

37 (c) Coordination of all programs and services.

1 (5) The department shall establish rules and regulations for the
2 determination of low income eligible persons. Such determination shall
3 be related to need based on the initial resources and subsequent income
4 of the person entering into a program or service. This determination
5 shall not prevent the eligible person from utilizing a program or
6 service provided by the department or area agency. However, if the
7 determination is that such eligible person is nonlow income, the
8 provision of RCW 74.38.050 shall be applied as of the date of such
9 determination.

10 **Sec. 6.** RCW 74.38.040 and 1983 c 290 s 14 are each amended to read
11 as follows:

12 The community based services for low-income eligible persons
13 provided by the department or the respective area agencies may include:

14 (1) Access services designed to provide identification of eligible
15 persons, assessment of individual needs, reference to the appropriate
16 service, and follow-up service where required. These services shall
17 include information and referral, outreach, transportation and
18 counseling. They shall also include long-term care planning and
19 options counseling, information and crisis intervention, and
20 streamlined assistance to access a wide array of public and private
21 community-based services. Services would be available to individuals,
22 concerned families or friends, or professionals working with issues
23 related to aging, disabilities, and caregivers;

24 (2) Day care offered on a regular, recurrent basis. General
25 nursing, rehabilitation, personal care, nutritional services, social
26 casework, mental health as provided pursuant to chapter 71.24 RCW
27 and/or limited transportation services may be made available within
28 this program;

29 (3) In-home care for persons, including basic health care;
30 performance of various household tasks and other necessary chores, or,
31 a combination of these services;

32 (4) Counseling on death for the terminally ill and care and
33 attendance at the time of death; except, that this is not to include
34 reimbursement for the use of life-sustaining mechanisms;

35 (5) Health services which will identify health needs and which are
36 designed to avoid institutionalization; assist in securing admission to
37 medical institutions or other health related facilities when required;

1 and, assist in obtaining health services from public or private
2 agencies or providers of health services. These services shall include
3 health screening and evaluation, in-home services, health education,
4 and such health appliances which will further the independence and
5 well-being of the person;

6 (6) The provision of low cost, nutritionally sound meals in central
7 locations or in the person's home in the instance of incapacity. Also,
8 supportive services may be provided in nutritional education, shopping
9 assistance, diet counseling and other services to sustain the
10 nutritional well-being of these persons;

11 (7) The provisions of services to maintain a person's home in a
12 state of adequate repair, insofar as is possible, for their safety and
13 comfort. These services shall be limited, but may include housing
14 counseling, minor repair and maintenance, and moving assistance when
15 such repair will not attain standards of health and safety, as
16 determined by the department;

17 (8) Civil legal services, as limited by RCW 2.50.100, for
18 counseling and representation in the areas of housing, consumer
19 protection, public entitlements, property, and related fields of law;

20 (9) Long-term care ombudsman programs for residents of all long-
21 term care facilities.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.70 RCW
23 to read as follows:

24 Within funds appropriated for this purpose, the department shall
25 develop a statewide fall prevention program. The program shall include
26 networking community services, identifying service gaps, making
27 affordable senior-based, evaluated exercise programs more available,
28 providing consumer education to older adults, their adult children, and
29 the community at large, and conducting professional education on fall
30 risk identification and reduction.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.39A RCW
32 to read as follows:

33 Within funds appropriated for this purpose, the department shall
34 provide additional support for residents in community settings who
35 exhibit challenging behaviors that put them at risk for institutional
36 placement. The residents must be receiving services under the

1 community options program entry system waiver or the medically needy
2 residential facility waiver under section 1905(c) of the federal social
3 security act and must have been evaluated under the individual
4 comprehensive assessment reporting and evaluation process.

5 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.39A RCW
6 to read as follows:

7 Within funds appropriated for this specific purpose, the department
8 shall develop a challenge grant program to assist communities and
9 organizations in efforts to plan and establish additional adult day
10 service programs throughout the state. The challenge grant program
11 shall provide financial grants, not to exceed fifty thousand dollars
12 for each grant, for the purpose of helping to meet the costs of
13 planning, development, and start-up of new adult day service programs
14 in underserved communities. Recipients of these grants must provide
15 matching resources, in funds or in-kind, of equal value to any grant
16 received. Any adult day services program developed after receiving a
17 challenge grant must agree to serve people whose care is paid for by
18 the state on a first-come, first-served basis, regardless of the source
19 of payment.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.34 RCW
21 to read as follows:

22 (1) The department may conduct a vulnerable adult fatality review
23 in the event of a death of a vulnerable adult when the department has
24 reason to believe that the death of the vulnerable adult may be related
25 to the abuse, abandonment, exploitation, or neglect of the vulnerable
26 adult, or may be related to the vulnerable adult's self-neglect, and
27 the vulnerable adult was:

28 (a) Receiving home and community-based services in his or her own
29 home, described under chapters 74.39 and 74.39A RCW, within sixty days
30 preceding his or her death; or

31 (b) Living in his or her own home and was the subject of a report
32 under this chapter received by the department within twelve months
33 preceding his or her death.

34 (2) When conducting a vulnerable adult fatality review of a person
35 who had been receiving hospice care services before the person's death,

1 the review shall provide particular consideration to the similarities
2 between the signs and symptoms of abuse and those of many patients
3 receiving hospice care services.

4 (3) All files, reports, records, communications, and working papers
5 used or developed for purposes of a fatality review are confidential
6 and not subject to disclosure pursuant to RCW 74.34.095.

7 (4) The department may adopt rules to implement this section.

8 **Sec. 11.** RCW 18.79.260 and 2003 c 140 s 2 are each amended to read
9 as follows:

10 (1) A registered nurse under his or her license may perform for
11 compensation nursing care, as that term is usually understood, to
12 individuals with illnesses, injuries, or disabilities.

13 (2) A registered nurse may, at or under the general direction of a
14 licensed physician and surgeon, dentist, osteopathic physician and
15 surgeon, naturopathic physician, podiatric physician and surgeon,
16 physician assistant, osteopathic physician assistant, or advanced
17 registered nurse practitioner acting within the scope of his or her
18 license, administer medications, treatments, tests, and inoculations,
19 whether or not the severing or penetrating of tissues is involved and
20 whether or not a degree of independent judgment and skill is required.
21 Such direction must be for acts which are within the scope of
22 registered nursing practice.

23 (3) A registered nurse may delegate tasks of nursing care to other
24 individuals where the registered nurse determines that it is in the
25 best interest of the patient.

- 26 (a) The delegating nurse shall:
- 27 (i) Determine the competency of the individual to perform the
 - 28 tasks;
 - 29 (ii) Evaluate the appropriateness of the delegation;
 - 30 (iii) Supervise the actions of the person performing the delegated
 - 31 task; and
 - 32 (iv) Delegate only those tasks that are within the registered
 - 33 nurse's scope of practice.

34 (b) A registered nurse, working for a home health or hospice agency
35 regulated under chapter 70.127 RCW, may delegate the application,
36 instillation, or insertion of medications to a registered or certified
37 nursing assistant under a plan of care.

1 (c) Except as authorized in (b) or (e) of this subsection, a
2 registered nurse may not delegate the administration of medications.
3 Except as authorized in (e) of this subsection, a registered nurse may
4 not delegate acts requiring substantial skill, and may not delegate
5 piercing or severing of tissues. Acts that require nursing judgment
6 shall not be delegated.

7 (d) No person may coerce a nurse into compromising patient safety
8 by requiring the nurse to delegate if the nurse determines that it is
9 inappropriate to do so. Nurses shall not be subject to any employer
10 reprisal or disciplinary action by the nursing care quality assurance
11 commission for refusing to delegate tasks or refusing to provide the
12 required training for delegation if the nurse determines delegation may
13 compromise patient safety.

14 (e) For delegation in community-based care settings or in-home care
15 settings, a registered nurse may delegate nursing care tasks only to
16 registered or certified nursing assistants. Simple care tasks such as
17 blood pressure monitoring, personal care service, diabetic insulin
18 device set up, verbal verification of insulin dosage for sight-impaired
19 individuals, or other tasks as defined by the nursing care quality
20 assurance commission are exempted from this requirement.

21 (i) "Community-based care settings" includes: Community
22 residential programs for (~~the developmentally disabled~~) people with
23 developmental disabilities, certified by the department of social and
24 health services under chapter 71A.12 RCW; adult family homes licensed
25 under chapter 70.128 RCW; and boarding homes licensed under chapter
26 18.20 RCW. Community-based care settings do not include acute care or
27 skilled nursing facilities.

28 (ii) "In-home care settings" include an individual's place of
29 temporary or permanent residence, but does not include acute care or
30 skilled nursing facilities, and does not include community-based care
31 settings as defined in (e)(i) of this subsection.

32 (iii) Delegation of nursing care tasks in community-based care
33 settings and in-home care settings is only allowed for individuals who
34 have a stable and predictable condition. "Stable and predictable
35 condition" means a situation in which the individual's clinical and
36 behavioral status is known and does not require the frequent presence
37 and evaluation of a registered nurse.

1 (iv) The determination of the appropriateness of delegation of a
2 nursing task is at the discretion of the registered nurse. (~~However~~)
3 Other than delegation of the administration of insulin by injection for
4 the purpose of caring for individuals with diabetes, the administration
5 of medications by injection, sterile procedures, and central line
6 maintenance may never be delegated.

7 (v) When delegating insulin injections under this section, the
8 registered nurse delegator must instruct the individual regarding
9 proper injection procedures and the use of insulin, demonstrate proper
10 injection procedures, and must supervise and evaluate the individual
11 performing the delegated task weekly during the first four weeks of
12 delegation of insulin injections. If the registered nurse delegator
13 determines that the individual is competent to perform the injection
14 properly and safely, supervision and evaluation shall occur at least
15 every ninety days thereafter.

16 (vi) The registered nurse shall verify that the nursing assistant
17 has completed the required core nurse delegation training required in
18 chapter 18.88A RCW prior to authorizing delegation.

19 (~~(vi)~~) (vii) The nurse is accountable for his or her own
20 individual actions in the delegation process. Nurses acting within the
21 protocols of their delegation authority are immune from liability for
22 any action performed in the course of their delegation duties.

23 (~~(vii)~~) (viii) Nursing task delegation protocols are not intended
24 to regulate the settings in which delegation may occur, but are
25 intended to ensure that nursing care services have a consistent
26 standard of practice upon which the public and the profession may rely,
27 and to safeguard the authority of the nurse to make independent
28 professional decisions regarding the delegation of a task.

29 (f) The nursing care quality assurance commission may adopt rules
30 to implement this section.

31 (4) Only a person licensed as a registered nurse may instruct
32 nurses in technical subjects pertaining to nursing.

33 (5) Only a person licensed as a registered nurse may hold herself
34 or himself out to the public or designate herself or himself as a
35 registered nurse.

36 **Sec. 12.** RCW 18.88A.210 and 2003 c 140 s 5 are each amended to
37 read as follows:

1 (1) A nursing assistant meeting the requirements of this section
2 who provides care to individuals in community-based care settings or
3 in-home care settings, as defined in RCW 18.79.260(3), may accept
4 delegation of nursing care tasks by a registered nurse as provided in
5 RCW 18.79.260(3).

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

11 (3)(a) Before commencing any specific nursing care tasks authorized
12 under this chapter, the nursing assistant must (~~((a))~~) (i) provide to
13 the delegating nurse a certificate of completion issued by the
14 department of social and health services indicating the completion of
15 basic core nurse delegation training, (~~((b))~~) (ii) be regulated by the
16 department of health pursuant to this chapter, subject to the uniform
17 disciplinary act under chapter 18.130 RCW, and (~~((e))~~) (iii) meet any
18 additional training requirements identified by the nursing care quality
19 assurance commission. Exceptions to these training requirements must
20 adhere to RCW 18.79.260(3)(e)(~~((v))~~) (vi).

21 (b) In addition to meeting the requirements of (a) of this
22 subsection, before commencing the care of individuals with diabetes
23 that involves administration of insulin by injection, the nursing
24 assistant must provide to the delegating nurse a certificate of
25 completion issued by the department of social and health services
26 indicating completion of specialized diabetes nurse delegation
27 training. The training must include, but is not limited to,
28 instruction regarding diabetes, insulin, sliding scale insulin orders,
29 and proper injection procedures.

30 **NEW SECTION. Sec. 13.** A new section is added to chapter 74.09 RCW
31 to read as follows:

32 Within funds appropriated for this purpose, the department shall
33 establish two dental access projects to serve seniors and other adults
34 who are categorically needy blind or disabled. The projects shall
35 provide:

36 (1) Enhanced reimbursement rates for certified dentists for
37 specific procedures, to begin no sooner than July 1, 2009;

- 1 (2) Reimbursement for trained medical providers for preventive oral
- 2 health services, to begin no sooner than July 1, 2009;
- 3 (3) Training, development, and implementation through a partnership
- 4 with the University of Washington school of dentistry;
- 5 (4) Local program coordination including outreach and case
- 6 management; and
- 7 (5) An evaluation that measures the change in utilization rates and
- 8 cost savings.

9 NEW SECTION. **Sec. 14.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
14 sections 4, 6, 7, 8, and 9 of this act, referencing the section by
15 section number and by bill or chapter number, is not provided by June
16 30, 2008, in the omnibus appropriations act, each section not
17 referenced is null and void."

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ADOPTED 03/07/2008

18 On page 1, line 1 of the title, after "care;" strike the remainder
19 of the title and insert "amending RCW 74.41.040, 18.20.350, 74.41.050,
20 74.38.030, 74.38.040, 18.79.260, and 18.88A.210; adding a new section
21 to chapter 43.70 RCW; adding new sections to chapter 74.39A RCW; adding
22 a new section to chapter 74.34 RCW; adding a new section to chapter
23 74.09 RCW; and creating new sections."

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