

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2668**

60th Legislature  
2008 Regular Session

Passed by the House March 10, 2008  
Yeas 94 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate March 7, 2008  
Yeas 49 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2668** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2668

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AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Morrell, Green, Cody, Hunt, McCoy, Wallace, Pedersen, Campbell, McIntire, Conway, Simpson, Kenney, and Darneille)

READ FIRST TIME 02/11/08.

1            AN ACT Relating to long-term care; amending RCW 74.41.040,  
2 18.20.350, 74.41.050, 74.38.030, 74.38.040, 18.79.260, and 18.88A.210;  
3 adding a new section to chapter 43.70 RCW; adding new sections to  
4 chapter 74.39A RCW; adding a new section to chapter 74.34 RCW; adding  
5 a new section to chapter 74.09 RCW; and creating new sections.

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

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

14            The legislature further finds that to address this increasing need,  
15 the long-term care system should support autonomy and self-  
16 determination, and support the role of informal caregivers and  
17 families. It should promote personal planning and savings combined  
18 with public support, when needed. It should also include culturally

1 appropriate, high quality information, services, and supports delivered  
2 in a cost-effective and efficient manner.

3 The legislature further finds that more than fifteen percent of  
4 adults over age sixty-five in Washington state have diabetes. Current  
5 nurse delegation statutes limit the ability of elderly and disabled  
6 persons with diabetes to remain in their own homes or in other  
7 home-like long-term care settings. It is the intent of the legislature  
8 to modify nurse delegation statutes to enable elderly persons and  
9 persons with disabilities who have diabetes to continue to reside in  
10 their own home or other home-like settings.

11 The legislature further finds that the long-term care system should  
12 utilize evidence-based practices for the prevention and management of  
13 chronic disease to improve the general health of Washingtonians over  
14 their lifetime and reduce health care and long-term care costs related  
15 to ineffective chronic care management.

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

18 The department shall administer this chapter and shall establish  
19 such rules and standards as the department deems necessary in carrying  
20 out this chapter. The department shall not require the development of  
21 plans of care or discharge plans by nursing homes or adult family homes  
22 providing respite care service under this chapter. Boarding homes  
23 providing respite care services shall comply with the assessment and  
24 plan of care provisions of RCW 18.20.350.

25 The department shall develop standards for the respite program in  
26 conjunction with the selected area agencies on aging. The program  
27 standards shall serve as the basis for soliciting bids, entering into  
28 subcontracts, and developing sliding fee scales to be used in  
29 determining the ability of eligible participants to participate in  
30 paying for respite care.

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

33 (1) The boarding home licensee shall conduct a preadmission  
34 assessment for each resident applicant. The preadmission assessment  
35 shall include the following information, unless unavailable despite the  
36 best efforts of the licensee:

- 1 (a) Medical history;
- 2 (b) Necessary and contraindicated medications;
- 3 (c) A licensed medical or health professional's diagnosis, unless
- 4 the individual objects for religious reasons;
- 5 (d) Significant known behaviors or symptoms that may cause concern
- 6 or require special care;
- 7 (e) Mental illness diagnosis, except where protected by
- 8 confidentiality laws;
- 9 (f) Level of personal care needs;
- 10 (g) Activities and service preferences; and
- 11 (h) Preferences regarding other issues important to the resident
- 12 applicant, such as food and daily routine.

13 (2) The boarding home licensee shall complete the preadmission

14 assessment before admission unless there is an emergency. If there is

15 an emergency admission, the preadmission assessment shall be completed

16 within five days of the date of admission. For purposes of this

17 section, "emergency" includes, but is not limited to: Evening,

18 weekend, or Friday afternoon admissions if the resident applicant would

19 otherwise need to remain in an unsafe setting or be without adequate

20 and safe housing.

21 (3) The boarding home licensee shall complete an initial resident

22 service plan upon move-in to identify the resident's immediate needs

23 and to provide direction to staff and caregivers relating to the

24 resident's immediate needs. The initial resident service plan shall

25 include as much information as can be obtained, under subsection (1) of

26 this section.

27 (4) When a facility provides respite care, before or at the time of

28 admission, the facility must obtain sufficient information to meet the

29 individual's anticipated needs. At a minimum, such information must

30 include:

31 (a) The name, address, and telephone number of the individual's

32 attending physician, and alternate physician if any;

33 (b) Medical and social history, which may be obtained from a

34 respite care assessment and service plan performed by a case manager

35 designated by an area agency on aging under contract with the

36 department, and mental and physical assessment data;

37 (c) Physician's orders for diet, medication, and routine care

38 consistent with the individual's status on admission;

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

4       (e) With the participation of the individual and, where  
5 appropriate, their representative, develop a plan of care to maintain  
6 or improve their health and functional status during their stay in the  
7 facility.

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

10       The department shall contract with area agencies on aging or other  
11 appropriate agencies to conduct family caregiver long-term care  
12 information and support services to the extent of available funding.  
13 The responsibilities of the agencies shall include but not be limited  
14 to: (1) Administering a program of family caregiver long-term care  
15 information and support services; ~~((and))~~ (2) negotiating rates of  
16 payment, administering sliding-fee scales to enable eligible  
17 participants to participate in paying for respite care, and arranging  
18 for respite care information, training, and other support services; and  
19 (3) developing an evidence-based tailored caregiver assessment and  
20 referral tool. In evaluating the need for respite services,  
21 consideration shall be given to the mental and physical ability of the  
22 caregiver to perform necessary caregiver functions.

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

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

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

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

35       (3) The department may designate area agencies in cities of not  
36 less than twenty thousand population or in regional areas within the

1 state. These agencies shall submit area plans, as required by the  
2 department. For area plans prepared for submission in 2009, and  
3 thereafter, the area agencies may include the findings and  
4 recommendations of area-wide planning initiatives that they may  
5 undertake with appropriate local and regional partners regarding the  
6 changing age demographics of their area and the implications of this  
7 demographic change for public policies and public services. They shall  
8 also submit, in the manner prescribed by the department, such other  
9 program or fiscal data as may be required.

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

13 (a) Area agencies' programs and services approved by the  
14 department;

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

16 (c) Coordination of all programs and services.

17 (5) The department shall establish rules and regulations for the  
18 determination of low income eligible persons. Such determination shall  
19 be related to need based on the initial resources and subsequent income  
20 of the person entering into a program or service. This determination  
21 shall not prevent the eligible person from utilizing a program or  
22 service provided by the department or area agency. However, if the  
23 determination is that such eligible person is nonlow income, the  
24 provision of RCW 74.38.050 shall be applied as of the date of such  
25 determination.

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

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

30 (1) Access services designed to provide identification of eligible  
31 persons, assessment of individual needs, reference to the appropriate  
32 service, and follow-up service where required. These services shall  
33 include information and referral, outreach, transportation and  
34 counseling. They shall also include long-term care planning and  
35 options counseling, information and crisis intervention, and  
36 streamlined assistance to access a wide array of public and private

1 community-based services. Services would be available to individuals,  
2 concerned families or friends, or professionals working with issues  
3 related to aging, disabilities, and caregivers;

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

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

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

15 (5) Health services which will identify health needs and which are  
16 designed to avoid institutionalization; assist in securing admission to  
17 medical institutions or other health related facilities when required;  
18 and, assist in obtaining health services from public or private  
19 agencies or providers of health services. These services shall include  
20 health screening and evaluation, in-home services, health education,  
21 and such health appliances which will further the independence and  
22 well-being of the person;

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

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

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

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

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

3        Within funds appropriated for this purpose, the department shall  
4 develop a statewide fall prevention program. The program shall include  
5 networking community services, identifying service gaps, making  
6 affordable senior-based, evaluated exercise programs more available,  
7 providing consumer education to older adults, their adult children, and  
8 the community at large, and conducting professional education on fall  
9 risk identification and reduction.

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

12       Within funds appropriated for this purpose, the department shall  
13 provide additional support for residents in community settings who  
14 exhibit challenging behaviors that put them at risk for institutional  
15 placement. The residents must be receiving services under the  
16 community options program entry system waiver or the medically needy  
17 residential facility waiver under section 1905(c) of the federal social  
18 security act and must have been evaluated under the individual  
19 comprehensive assessment reporting and evaluation process.

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

22       Within funds appropriated for this specific purpose, the department  
23 shall develop a challenge grant program to assist communities and  
24 organizations in efforts to plan and establish additional adult day  
25 service programs throughout the state. The challenge grant program  
26 shall provide financial grants, not to exceed fifty thousand dollars  
27 for each grant, for the purpose of helping to meet the costs of  
28 planning, development, and start-up of new adult day service programs  
29 in underserved communities. Recipients of these grants must provide  
30 matching resources, in funds or in-kind, of equal value to any grant  
31 received. Any adult day services program developed after receiving a  
32 challenge grant must agree to serve people whose care is paid for by  
33 the state on a first-come, first-served basis, regardless of the source  
34 of payment.



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

3        (1) The department may conduct a vulnerable adult fatality review  
4 in the event of a death of a vulnerable adult when the department has  
5 reason to believe that the death of the vulnerable adult may be related  
6 to the abuse, abandonment, exploitation, or neglect of the vulnerable  
7 adult, or may be related to the vulnerable adult's self-neglect, and  
8 the vulnerable adult was:

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

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

15        (2) When conducting a vulnerable adult fatality review of a person  
16 who had been receiving hospice care services before the person's death,  
17 the review shall provide particular consideration to the similarities  
18 between the signs and symptoms of abuse and those of many patients  
19 receiving hospice care services.

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

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

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

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

29        (2) A registered nurse may, at or under the general direction of a  
30 licensed physician and surgeon, dentist, osteopathic physician and  
31 surgeon, naturopathic physician, podiatric physician and surgeon,  
32 physician assistant, osteopathic physician assistant, or advanced  
33 registered nurse practitioner acting within the scope of his or her  
34 license, administer medications, treatments, tests, and inoculations,  
35 whether or not the severing or penetrating of tissues is involved and  
36 whether or not a degree of independent judgment and skill is required.

1 Such direction must be for acts which are within the scope of  
2 registered nursing practice.

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

6 (a) The delegating nurse shall:

7 (i) Determine the competency of the individual to perform the  
8 tasks;

9 (ii) Evaluate the appropriateness of the delegation;

10 (iii) Supervise the actions of the person performing the delegated  
11 task; and

12 (iv) Delegate only those tasks that are within the registered  
13 nurse's scope of practice.

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

18 (c) Except as authorized in (b) or (e) of this subsection, a  
19 registered nurse may not delegate the administration of medications.  
20 Except as authorized in (e) of this subsection, a registered nurse may  
21 not delegate acts requiring substantial skill, and may not delegate  
22 piercing or severing of tissues. Acts that require nursing judgment  
23 shall not be delegated.

24 (d) No person may coerce a nurse into compromising patient safety  
25 by requiring the nurse to delegate if the nurse determines that it is  
26 inappropriate to do so. Nurses shall not be subject to any employer  
27 reprisal or disciplinary action by the nursing care quality assurance  
28 commission for refusing to delegate tasks or refusing to provide the  
29 required training for delegation if the nurse determines delegation may  
30 compromise patient safety.

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

1 (i) "Community-based care settings" includes: Community  
2 residential programs for ~~((the developmentally disabled))~~ people with  
3 developmental disabilities, certified by the department of social and  
4 health services under chapter 71A.12 RCW; adult family homes licensed  
5 under chapter 70.128 RCW; and boarding homes licensed under chapter  
6 18.20 RCW. Community-based care settings do not include acute care or  
7 skilled nursing facilities.

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

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

18 (iv) The determination of the appropriateness of delegation of a  
19 nursing task is at the discretion of the registered nurse. ~~((However))~~  
20 Other than delegation of the administration of insulin by injection for  
21 the purpose of caring for individuals with diabetes, the administration  
22 of medications by injection, sterile procedures, and central line  
23 maintenance may never be delegated.

24 (v) When delegating insulin injections under this section, the  
25 registered nurse delegator must instruct the individual regarding  
26 proper injection procedures and the use of insulin, demonstrate proper  
27 injection procedures, and must supervise and evaluate the individual  
28 performing the delegated task weekly during the first four weeks of  
29 delegation of insulin injections. If the registered nurse delegator  
30 determines that the individual is competent to perform the injection  
31 properly and safely, supervision and evaluation shall occur at least  
32 every ninety days thereafter.

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

36 ~~((+vi))~~ (vii) The nurse is accountable for his or her own  
37 individual actions in the delegation process. Nurses acting within the

1 protocols of their delegation authority are immune from liability for  
2 any action performed in the course of their delegation duties.

3 ~~((vii))~~ (viii) Nursing task delegation protocols are not intended  
4 to regulate the settings in which delegation may occur, but are  
5 intended to ensure that nursing care services have a consistent  
6 standard of practice upon which the public and the profession may rely,  
7 and to safeguard the authority of the nurse to make independent  
8 professional decisions regarding the delegation of a task.

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

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

13 (5) Only a person licensed as a registered nurse may hold herself  
14 or himself out to the public or designate herself or himself as a  
15 registered nurse.

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

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

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

28 (3)(a) Before commencing any specific nursing care tasks authorized  
29 under this chapter, the nursing assistant must ~~((a))~~ (i) provide to  
30 the delegating nurse a certificate of completion issued by the  
31 department of social and health services indicating the completion of  
32 basic core nurse delegation training, ~~((b))~~ (ii) be regulated by the  
33 department of health pursuant to this chapter, subject to the uniform  
34 disciplinary act under chapter 18.130 RCW, and ~~((e))~~ (iii) meet any  
35 additional training requirements identified by the nursing care quality  
36 assurance commission. Exceptions to these training requirements must  
37 adhere to RCW 18.79.260(3)(e)~~((v))~~ (vi).

1       (b) In addition to meeting the requirements of (a) of this  
2 subsection, before commencing the care of individuals with diabetes  
3 that involves administration of insulin by injection, the nursing  
4 assistant must provide to the delegating nurse a certificate of  
5 completion issued by the department of social and health services  
6 indicating completion of specialized diabetes nurse delegation  
7 training. The training must include, but is not limited to,  
8 instruction regarding diabetes, insulin, sliding scale insulin orders,  
9 and proper injection procedures.

10       NEW SECTION. Sec. 13. A new section is added to chapter 74.09 RCW  
11 to read as follows:

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

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

18       (2) Reimbursement for trained medical providers for preventive oral  
19 health services, to begin no sooner than July 1, 2009;

20       (3) Training, development, and implementation through a partnership  
21 with the University of Washington school of dentistry;

22       (4) Local program coordination including outreach and case  
23 management; and

24       (5) An evaluation that measures the change in utilization rates and  
25 cost savings.

26       NEW SECTION. Sec. 14. If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

30       NEW SECTION. Sec. 15. If specific funding for the purposes of  
31 sections 4, 6, 7, 8, and 9 of this act, referencing the section by  
32 section number and by bill or chapter number, is not provided by June  
33 30, 2008, in the omnibus appropriations act, each section not

1 referenced is null and void.

--- END ---