

# FINAL BILL REPORT

## SHB 1315

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C 228 L 11  
Synopsis as Enacted

**Brief Description:** Concerning the employment of physicians by nursing homes.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Kelley, Schmick, Cody, Hinkle, Van De Wege, Miloscia, Jinkins, Seaquist, Angel and Harris).

**House Committee on Health Care & Wellness**  
**Senate Committee on Health & Long-Term Care**

### **Background:**

#### Medical Services in Nursing Homes.

Nursing homes are licensed facilities that provide convalescent care and/or chronic care for more than 24 consecutive hours for three or more unrelated patients who are unable to care for themselves.

Each resident of a nursing home must have a comprehensive plan of care prepared by an interdisciplinary team that includes the attending physician. The nursing home must inform a resident of the name and specialty of the physician responsible for the resident's care and provide a way for the resident to contact his or her physician. According to federal interpretive guidelines for the Medicare and Medicaid programs, residents should be allowed to designate a personal physician, and the nursing home is responsible for assisting the resident to obtain these services.

A nursing home that has contracted to provide care under the Medicare or Medicaid program must ensure that a resident is seen by a physician whenever necessary and that the medical care provided by the nursing home is supervised by a physician. This includes supervising the medical care when the attending physician is not available and providing physician services 24 hours a day in case of emergency. Under some circumstances, physician tasks may be delegated to a physician assistant or advanced registered nurse practitioner who is not an employee of the nursing home.

A nursing home must designate a medical director who is responsible for implementing resident care policies and coordinating medical care in the facility.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A nursing home may maintain a quality assurance committee that includes a physician designated by the nursing home, along with the director of nursing services and three other staff members.

### The Corporate Practice of Medicine.

Generally, under the common law in Washington, a business entity is prohibited from employing a medical professional to practice his or her licensed profession unless legislatively authorized. Courts conclude that this prohibition exists to protect the relationship between the professional and the patient.

There are statutes that address the corporate practice of medicine. For example, a statute authorizes persons licensed or authorized to render the same professional services to form a professional corporation (including a limited liability company). The Washington Supreme Court (Court) interpreted this statute in 1988, holding that it did not authorize a business partnership between a nurse and a physician. In a 2010 case, the Court considered whether this statute or the corporate practice of medicine doctrine was violated by a limited liability company owned by physicians that employed physical therapists. The Court found no violation of either, reasoning that both physicians and physical therapists were providing aspects of the "practice of medicine."

### **Summary:**

A nursing home may employ physicians to provide professional services to residents of the nursing home or a related living facility (such as a boarding home on the same campus). The authority applies both to the entity licensed to operate a nursing home and a subsidiary of the licensee, as long as the licensee adheres to its responsibility for the daily operations of the nursing home.

The nursing home may not supplant, diminish, or regulate any employed physician's judgment directly or indirectly, concerning the practice of medicine or diagnosis and treatment of any patient. The authority for a nursing home to employ a physician may not interfere with federal rules, state statutes, or Department of Social and Health Services (DSHS) rules addressing a resident's rights.

The DSHS must monitor nursing homes who employ physicians and report its findings to the Legislature by January 1, 2013, including information on consumer satisfaction and cost implications.

### **Votes on Final Passage:**

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** July 22, 2011