

# HOUSE BILL REPORT

## HB 1901

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### As Reported by House Committee On:

Health Care & Wellness  
Health & Human Services Appropriations & Oversight

**Title:** An act relating to reshaping the delivery of long-term care services.

**Brief Description:** Creating flexibility in the delivery of long-term care services.

**Sponsors:** Representatives Cody and Hinkle.

### Brief History:

#### Committee Activity:

Health Care & Wellness: 2/16/11, 2/17/11 [DPS];

Health & Human Services Appropriations & Oversight: 2/18/11, 2/21/11 [DP2S(w/o sub HCW)].

#### Brief Summary of Second Substitute Bill

- Expands services that may be provided to nonresident individuals in boarding homes, including falls risk assessment services, nutrition management, dental services, and wellness programs.
- Requires boarding homes to provide disclosures to nonresidents that certain residential rights do not apply to nonresidents.
- Allows nursing homes to provide nonmedical care management services to former residents.
- Establishes a work group of stakeholders to develop incentives to reduce the number of nursing facility beds from active service.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Bailey, Clibborn, Green, Harris, Kelley, Moeller and Van De Wege.

**Staff:** Chris Blake (786-7392).

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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.*

## **Background:**

### Boarding Homes.

Boarding homes are facilities that provide housing and basic services to seven or more residents. Residents of boarding homes are people who live in a boarding home for reasons of age or disability and receive services provided by the boarding home. Services provided to residents by boarding homes include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care including assistance with activities of daily living, health support services, and intermittent nursing services. Intermittent nursing services include: medication administration, administration of health care treatments, diabetic management, nonroutine ostomy care, tube feeding, and delegated nursing tasks.

Nonresident individuals may also live in a boarding home and receive specified services, but they may not receive domiciliary care from the boarding home. The services that nonresident individuals may receive upon request include:

- emergency assistance;
- facility systems to respond to the potential need for emergency assistance;
- infrequent nonscheduled blood pressure checks;
- nurse referral services;
- making health care appointments;
- preadmission assessment for transitioning to a licensed care setting; and
- customary landlord services.

### Nursing Home Supervision.

Nursing homes provide continuous 24-hour convalescent and chronic care. Such care may include the administration of medications, preparation of special diets, bedside nursing care, application of dressings and bandages, and carrying out treatment prescribed by licensed health care providers. Nursing homes must develop a comprehensive plan of care for each resident to meet his or her medical, nursing, and mental and psychosocial needs.

Nursing homes must have an administrator who is on-site and in charge of the administration of the premises at least four days per week for an average of 40 hours per week. There are reduced standards for the administrators of nursing homes with small resident populations or in rural areas depending on the number of beds at the facility.

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## **Summary of Substitute Bill:**

Boarding homes may provide nursing services on a regular, rather than intermittent, basis. In addition, the services may include other personal and special care services as defined by the Department of Social and Health Services (Department). Boarding homes are no longer prohibited from admitting people who require nursing or medical care that is provided by nursing homes, hospitals, or mental health or chemical dependency facilities. Boarding homes are required to assure that adequate and appropriate staff is available to provide the necessary care.

Services that may be provided to nonresident individuals in a boarding home are expanded to also permit medication assistance when performed by a registered or licensed nurse, falls risk assessments and prevention services, nutrition management, dental services, and wellness programs. In addition, technology-based monitoring devices may be incorporated into the facility system for responding to potential emergency situations. Blood pressure monitoring services may be scheduled and are no longer limited in frequency.

The reduced supervision standards for small nursing homes and rural nursing homes regarding the presence of an on-site, full-time administrator is extended to nursing homes with small resident populations as a result of having converted some nursing home beds for use as assisted living or enhanced assisted living services.

Nursing homes are authorized, but not required, to offer postacute care for its residents. The Department must establish certification standards for the postacute care program. The program is designed for residents following a hospital stay who need medical care, skilled nursing care, or rehabilitation services because of complex medical conditions or multiple acute or chronic illnesses. Residents in the postacute care program must have stays of 90 days or less, unless a longer stay is authorized by the Department.

Nursing homes are encouraged to collaborate with home health agencies to conduct assessments of residents for home health needs when determining eligibility for discharge from a nursing home. Nursing homes are allowed to provide nonmedical care management services if the patient either: (1) refuses home health care services; (2) has been determined ineligible for home health care services; or (3) would experience a gap in service due to delays in receiving home health care services. Either home health agencies or nursing homes may provide care management services in cases in which the resident is not eligible for home health care services.

The Department is directed to convene a work group of acute care facilities, long-term care facilities, housing for seniors, services for seniors, state agencies, the Long-Term Care Ombudsman's Office, and consumers. The work group shall identify the chronic and acute care needs of the region's residents over the next 10 years and the capacity to meet those needs. The work group shall develop a plan for coordinating care to improve quality and reduce cost. The work group shall report its findings to the Governor and the Legislature by December 31, 2011.

The Department shall convene a work group to develop mechanisms to incentivize nursing facilities to remove licensed beds from active service. The Department shall adopt rules to implement the recommendations. The Department shall report the work group's recommendations and progress toward implementing them to the Governor and the Legislature by September 1, 2011.

Legislative findings are made to acknowledge the increased demands and expectations of the long-term care system and the need to realize cost efficiencies within the health care system.

If any part of the bill is determined to conflict with federal requirements for receiving federal funds, those portions of the bill are inoperative, but the rest of the bill will continue intact.

### **Substitute Bill Compared to Original Bill:**

The substitute bill removes specific standards regarding nursing homes providing nonmedical care management services to discharged residents according to a specific schedule. Nursing homes are encouraged to collaborate with home health agencies to conduct assessments of residents for home health needs when determining eligibility for discharge from a nursing home. Nursing homes are allowed to provide nonmedical care management services if the patient either: (1) refuses home health care services; (2) has been determined ineligible for home health care services; or (3) would experience a gap in service due to delays in receiving home health care services. Either home health agencies or nursing homes may provide care management services in cases in which the resident is not eligible for home health care services.

The substitute bill specifies that facilities are not required to establish a postacute care unit and that services, other than postacute care services, may be provided at the unit.

The substitute bill provides that if any part of the bill conflicts with federal requirements for receiving federal funds, those portions of the bill are inoperative, but the rest of the bill will continue intact.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) The market and residents demand independence and aging in place. Using care coaches and technology programs for people being discharged home will help lower hospital readmission rates and provide quality and stable care. The goal is to maintain quality while reducing cost to the system. This bill will link the patient at home with needed services. This bill is a first step to allow senior housing organizations to bring in supportive services without triggering licensure. By providing a network of health and wellness services for independent seniors trying to age in place, the state will reduce dollars spent on higher cost emergency room visits, hospital admissions, and rehabilitative stays. The current regulations for continuous care retirement communities are too restrictive because they do not allow nurses or aides to offer basic health services, except in an emergency. This bill will allow simple help with several basic health services. This bill does not cost the state any money, but will bring a measure of relief to the elderly. Patient acuity levels in nursing home admissions from hospitals has been rising and facilities are responding by adjusting staffing levels for efficiency, however, current regulations do not allow admitting only high acuity patients in such a designated unit. The role of nursing homes has changed and the state should take a regional planning approach to eliminate some beds and make sure that the infrastructure is in place for those with special needs. There needs to be common sense so

that people can preserve their assets and stay in their care setting for as long as possible. This is the most important next step for repurposing Washington's long-term care system and looking at it as a continuum of care. The current system is unsustainable. This bill is trying to create flexibility and give people options.

(In support with concerns) Home health care services are an essential component to preventing unnecessary hospitalizations and need to be involved as a partner with hospitals, nursing homes, and primary physicians, and should be incorporated into the bill. The inclusion of home health in the discharge planning process is needed to determine eligibility for services and prevent delay in receiving services. These proposed statutory changes move us toward a future where an expanded range of services are available for people with long-term care needs, however, this bill has potential conflicts within the law. Given the presently changing health care system, the post-discharge planning strategies need to fit within the new system. As Washington moves forward with creating this flexibility, the patient should not get lost in the shuffle.

(With concerns) There is potential tax liability affecting for-profit facilities through this bill. The expansion of medication assistance is an issue that needs to be explored more fully. Striking the term "intermittent" could drive an expectation that full nursing services would be available in boarding homes, but the reimbursement system might not accurately provide for this. The work group should report to the Legislature prior to the Department adopting any rules based on its findings. The work group should also review the current reimbursement system for boarding homes as well.

(Opposed) None.

**Persons Testifying:** (In support) Lynette Ladenburg, Tacoma Lutheran Retirement Community; Jay Woolford, Senior Housing Assistance Group; Della Lium, Exeter House; Patrick O'Neill, Riverview Retirement Community; Chad Solvie, Martha and Mary Health Services; and Vicki Christophersen, Providence Health and Services.

(In support with concerns) Doris Visaya, Home Care Association of Washington; MaryAnne Lindeblad, Aging and Disability Services Administration, Department of Social and Health Services; and Nick Federici, Service Employees International Union 775 NW.

(With concerns) Dave Knutson, Washington Health Care Association.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS & OVERSIGHT

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 10 members: Representatives Dickerson, Chair; Appleton, Vice Chair; Johnson, Ranking Minority Member; Cody, Green, Harris, Kagi, Overstreet, Pettigrew and Walsh.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Schmick, Assistant Ranking Minority Member.

**Staff:** Carma Matti-Jackson (786-7140).

**Summary of Recommendation of Committee On Health & Human Services  
Appropriations & Oversight Compared to Recommendation of Committee On Health  
Care & Wellness:**

The second substitute bill requires that boarding homes make specific disclosures to nonresidents that residential rights do not apply to nonresidents, and the jurisdiction of the Long-Term Care Ombudsman and the authority of the Department of Social and Health Services (Department) do not apply to their residences.

The second substitute bill removes the expansion of services that boarding homes may provide to include other personal and special care services. The requirement that nursing services be provided on an intermittent, rather than regular, basis is restored.

The second substitute bill removes the requirement that medication assistance be provided by a licensed nurse. References to fall prevention services for nonresidents in boarding homes are eliminated.

The second substitute bill removes the authority provided to the Department to establish a post-acute care certification program for nursing homes.

The second substitute bill removes the requirement that the Department establish a work group to identify the region's chronic and acute care needs over the next 10 years.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill allows flexibility and breaks down silos. It provides large buildings that are trying to downsize with the flexibility they need to modify the way they do their business. This is the type of reform the system needs so that it can sustain itself in the future. This is a beginning point for a longer term discussion and for a commitment to change. This bill will expand services for people.

(In support with concerns) Some of the flexibility built into this bill needs added clarity. Residents need to understand what services they will get and whether or not a facility is licensed to deliver those services. This must be fully disclosed to the residents. Consumer protections need to be built-in.

(With concerns) The post-acute care can be worked out without legislation. By putting it in legislation we may be creating unintentional barriers to service for post-acute clients. Remove the section on post-acute care and it will reduce the fiscal note. It can be done now by federal law.

(Opposed) None.

**Persons Testifying:** (In support) Dave Knutson, Washington Health Care Association; Vicki Christopherson, Providence Health Services; and Scott Signman, Aging Services of Washington.

(In support with concerns) Joyce Stockwell, Department of Social and Health Services.

(With concerns) Louise Ryan, Long-Term Care Ombudsman.

**Persons Signed In To Testify But Not Testifying:** None.