
SECOND SUBSTITUTE HOUSE BILL 1901

State of Washington 62nd Legislature 2011 Regular Session

By House Health & Human Services Appropriations & Oversight
(originally sponsored by Representatives Cody and Hinkle)

READ FIRST TIME 02/23/11.

1 AN ACT Relating to reshaping the delivery of long-term care
2 services; amending RCW 18.20.020, 18.20.030, 18.52.030, and 70.126.020;
3 adding a new section to chapter 18.20 RCW; adding a new section to
4 chapter 74.42 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature has a long history of
7 supporting seniors where they live whether it is at home or in a
8 licensed care facility. It is widely recognized that the consumer of
9 senior services and long-term care of tomorrow will have different
10 demands and expectations for the type and manner of supportive and
11 health care services that they receive. Cost efficiencies must and can
12 be achieved within the health care system. Through the use of care
13 coaches, technology-supported health and wellness programs, and by
14 allowing greater flexibility for the specialization and use of nursing
15 facility beds, costly hospitalizations and rehospitalizations can be
16 reduced and the entry to licensed care settings can be delayed.

17 **Sec. 2.** RCW 18.20.020 and 2006 c 242 s 1 are each amended to read
18 as follows:

1 As used in this chapter:

2 (1) "Boarding home" means any home or other institution, however
3 named, which is advertised, announced, or maintained for the express or
4 implied purpose of providing housing, basic services, and assuming
5 general responsibility for the safety and well-being of the residents,
6 and may also provide domiciliary care, consistent with chapter 142,
7 Laws of 2004, to seven or more residents after July 1, 2000. However,
8 a boarding home that is licensed for three to six residents prior to or
9 on July 1, 2000, may maintain its boarding home license as long as it
10 is continually licensed as a boarding home. "Boarding home" shall not
11 include facilities certified as group training homes pursuant to RCW
12 71A.22.040, nor any home, institution or section thereof which is
13 otherwise licensed and regulated under the provisions of state law
14 providing specifically for the licensing and regulation of such home,
15 institution or section thereof. Nor shall it include any independent
16 senior housing, independent living units in continuing care retirement
17 communities, or other similar living situations including those
18 subsidized by the department of housing and urban development.

19 (2) "Basic services" means housekeeping services, meals, nutritious
20 snacks, laundry, and activities.

21 (3) "Person" means any individual, firm, partnership, corporation,
22 company, association, or joint stock association, and the legal
23 successor thereof.

24 (4) "Secretary" means the secretary of social and health services.

25 (5) "Department" means the state department of social and health
26 services.

27 (6) "Resident's representative" means a person designated
28 voluntarily by a competent resident, in writing, to act in the
29 resident's behalf concerning the care and services provided by the
30 boarding home and to receive information from the boarding home, if
31 there is no legal representative. The resident's competence shall be
32 determined using the criteria in RCW 11.88.010(1)(e). The resident's
33 representative may not be affiliated with the licensee, boarding home,
34 or management company, unless the affiliated person is a family member
35 of the resident. The resident's representative shall not have
36 authority to act on behalf of the resident once the resident is no
37 longer competent.

1 (7) "Domiciliary care" means: Assistance with activities of daily
2 living provided by the boarding home either directly or indirectly; or
3 health support services, if provided directly or indirectly by the
4 boarding home; or intermittent nursing services, if provided directly
5 or indirectly by the boarding home.

6 (8) "General responsibility for the safety and well-being of the
7 resident" means the provision of the following: Prescribed general low
8 sodium diets; prescribed general diabetic diets; prescribed mechanical
9 soft foods; emergency assistance; monitoring of the resident; arranging
10 health care appointments with outside health care providers and
11 reminding residents of such appointments as necessary; coordinating
12 health care services with outside health care providers consistent with
13 RCW 18.20.380; assisting the resident to obtain and maintain glasses,
14 hearing aids, dentures, canes, crutches, walkers, wheelchairs, and
15 assistive communication devices; observation of the resident for
16 changes in overall functioning; blood pressure checks as scheduled;
17 responding appropriately when there are observable or reported changes
18 in the resident's physical, mental, or emotional functioning; or
19 medication assistance as permitted under RCW 69.41.085 and as defined
20 in RCW 69.41.010.

21 (9) "Legal representative" means a person or persons identified in
22 RCW 7.70.065 who may act on behalf of the resident pursuant to the
23 scope of their legal authority. The legal representative shall not be
24 affiliated with the licensee, boarding home, or management company,
25 unless the affiliated person is a family member of the resident.

26 (10) "Nonresident individual" means a person who resides in
27 independent senior housing, independent living units in continuing care
28 retirement communities, or in other similar living environments or in
29 an unlicensed room located within a boarding home ((and may receive)).
30 Nothing in this chapter prohibits nonresidents from receiving one or
31 more of the services listed in RCW 18.20.030(5) or requires licensure
32 as a boarding home when one or more of the services listed in RCW
33 18.20.030(5) are provided to nonresidents. A nonresident individual
34 may not receive domiciliary care, as defined in this chapter, directly
35 or indirectly by the boarding home and may not receive the items and
36 services listed in subsection (8) of this section, except during the
37 time the person is receiving adult day services as defined in this
38 section.

1 (11) "Resident" means an individual who is not related by blood or
2 marriage to the operator of the boarding home, and by reason of age or
3 disability, chooses to reside in the boarding home and receives basic
4 services and one or more of the services listed under general
5 responsibility for the safety and well-being of the resident and may
6 receive domiciliary care or respite care provided directly or
7 indirectly by the boarding home and shall be permitted to receive
8 hospice care through an outside service provider when arranged by the
9 resident or the resident's legal representative under RCW 18.20.380.

10 (12) "Resident applicant" means an individual who is seeking
11 admission to a licensed boarding home and who has completed and signed
12 an application for admission, or such application for admission has
13 been completed and signed in their behalf by their legal representative
14 if any, and if not, then the designated representative if any.

15 (13) "Adult day services" means care and services provided to a
16 nonresident individual by the boarding home on the boarding home
17 premises, for a period of time not to exceed ten continuous hours, and
18 does not involve an overnight stay.

19 **Sec. 3.** RCW 18.20.030 and 2004 c 142 s 17 are each amended to read
20 as follows:

21 (1) After January 1, 1958, no person shall operate or maintain a
22 boarding home as defined in this chapter within this state without a
23 license under this chapter.

24 (2) A boarding home license is not required for the housing, or
25 services, that are customarily provided under landlord tenant
26 agreements governed by the residential landlord-tenant act, chapter
27 59.18 RCW, or when housing nonresident individuals who(~~(, without~~
28 ~~ongoing assistance from the boarding home, initiate and arrange for~~
29 ~~services provided by persons other than)) chose to participate in
30 programs or services under subsection (5) of this section, when offered
31 by the boarding home licensee or the licensee's contractor. This
32 subsection does not prohibit the licensee from furnishing written
33 information concerning available community resources to the nonresident
34 individual or the individual's family members or legal representatives.
35 The licensee may not require the use of any particular service
36 provider.~~

1 (3) Residents receiving domiciliary care, directly or indirectly by
2 the boarding home, are not considered nonresident individuals for the
3 purposes of this section.

4 (4) A boarding home license is required when any person other than
5 an outside service provider, under RCW 18.20.380, or family member:

6 (a) Assumes general responsibility for the safety and well-being of
7 a resident;

8 (b) Provides assistance with activities of daily living, either
9 directly or indirectly;

10 (c) Provides health support services, either directly or
11 indirectly; or

12 (d) Provides intermittent nursing services, either directly or
13 indirectly.

14 (5) A boarding home license is not required for one or more of the
15 following services that may, upon the request of the nonresident, be

16 provided to a nonresident individual: (a) Emergency assistance
17 provided on an intermittent or nonroutine basis (~~to any nonresident~~

18 ~~individual~~); (b) systems, including technology-based monitoring
19 devices, employed by independent senior housing, or independent living

20 units in continuing care retirement communities, to respond to the
21 potential need for emergency services (~~for nonresident individuals~~);

22 (c) (~~infrequent, voluntary, and~~) scheduled and nonscheduled blood
23 pressure checks (~~for nonresident individuals~~); (d) (~~nurse referral~~)

24 nursing assessment services (~~provided at the request of a nonresident~~
25 ~~individual~~) to determine whether referral to an outside health care

26 provider is recommended; (e) making and reminding the nonresident of
27 health care appointments (~~at the request of nonresident individuals~~);

28 (f) preadmission assessment (~~, at the request of the nonresident~~
29 ~~individual,~~) for the purposes of transitioning to a licensed care

30 setting; (~~or~~) (g) medication assistance which may include reminding
31 or coaching the nonresident, opening the nonresident's medication

32 container, using an enabler, and prefilling insulin syringes; (h) falls
33 risk assessment; (i) nutrition management and education services; (j)

34 dental services; (k) wellness programs; or (l) services customarily
35 provided under landlord tenant agreements governed by the residential

36 landlord-tenant act, chapter 59.18 RCW. (~~The preceding services may~~
37 ~~not include continual care or supervision of a nonresident individual~~

38 ~~without a boarding home license.~~)

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.20 RCW
2 to read as follows:

3 (1) A boarding home must provide each nonresident a disclosure
4 statement upon admission and at the time that additional services are
5 requested by a nonresident.

6 (2) The disclosure statement shall notify the nonresident that:

7 (a) The resident rights of chapter 70.129 RCW do not apply to
8 nonresidents;

9 (b) Licensing requirements for boarding homes under this chapter do
10 not apply to nonresident units; and

11 (c) The jurisdiction of the long-term care ombudsman does not apply
12 to nonresidents and nonresident units.

13 **Sec. 5.** RCW 18.52.030 and 2000 c 93 s 6 are each amended to read
14 as follows:

15 Nursing homes operating within this state shall be under the
16 active, overall administrative charge and supervision of an on-site
17 full-time administrator licensed as provided in this chapter. No
18 person acting in any capacity, unless the holder of a nursing home
19 administrator's license issued under this chapter, shall be charged
20 with the overall responsibility to make decisions or direct actions
21 involved in managing the internal operation of a nursing home, except
22 as specifically delegated in writing by the administrator to identify
23 a responsible person to act on the administrator's behalf when the
24 administrator is absent. The administrator shall review the decisions
25 upon the administrator's return and amend the decisions if necessary.
26 The board shall define by rule the parameters for on-site full-time
27 administrators in nursing homes with small resident populations
28 ~~((and)),~~ nursing homes in rural areas, nursing homes with small
29 resident populations when the nursing home has converted some of its
30 licensed nursing facility bed capacity for use as assisted living or
31 enhanced assisted living services under chapter 74.39A RCW, or
32 separately licensed facilities collocated on the same campus.

33 **Sec. 6.** RCW 70.126.020 and 1984 c 22 s 5 are each amended to read
34 as follows:

35 (1) Home health care shall be provided by a home health agency and
36 shall:

1 (a) Be delivered by a registered nurse, physical therapist,
2 occupational therapist, speech therapist, or home health aide on a
3 part-time or intermittent basis;

4 (b) Include, as applicable under the written plan, supplies and
5 equipment such as:

6 (i) Drugs and medicines that are legally obtainable only upon a
7 physician's written prescription, and insulin;

8 (ii) Rental of durable medical apparatus and medical equipment such
9 as wheelchairs, hospital beds, respirators, splints, trusses, braces,
10 or crutches needed for treatment;

11 (iii) Supplies normally used for hospital inpatients and dispensed
12 by the home health agency such as oxygen, catheters, needles, syringes,
13 dressings, materials used in aseptic techniques, irrigation solutions,
14 and intravenous fluids.

15 (2) The following services may be included when medically
16 necessary, ordered by the attending physician, and included in the
17 approved plan of treatment:

18 (a) Licensed practical nurses;

19 (b) Respiratory therapists;

20 (c) Social workers holding a master's degree;

21 (d) Ambulance service that is certified by the physician as
22 necessary in the approved plan of treatment because of the patient's
23 physical condition or for unexpected emergency situations.

24 (3) Services not included in home health care include:

25 (a) Nonmedical, custodial, or housekeeping services except by home
26 health aides as ordered in the approved plan of treatment;

27 (b) "Meals on Wheels" or similar food services;

28 (c) Nutritional guidance;

29 (d) Services performed by family members;

30 (e) Services not included in an approved plan of treatment;

31 (f) Supportive environmental materials such as handrails, ramps,
32 telephones, air conditioners, and similar appliances and devices; and

33 (g) Follow to home services authorized under section 7 of this act.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.42 RCW
35 to read as follows:

36 Nursing homes are encouraged to collaborate with local home health
37 agencies for an assessment of home health needs and to determine home

1 health eligibility for patients being discharged. The nursing home may
2 provide nonmedical care management services when the patient is
3 eligible for home health, but refuses home health care services, the
4 patient has been evaluated by home health and determined to be
5 ineligible for services, or services provided by the home health agency
6 will be delayed resulting in a potential gap in service for the
7 patient. In addition, nursing homes may work directly with home health
8 agencies to provide care management services for those patients who do
9 not qualify for home health care. Either the agency or the nursing
10 home may provide the care management services, but in the event that
11 medically focused services are required, regardless of qualifying
12 criteria, this does not preclude the home health or home care agency
13 from providing those same medically focused services.

14 NEW SECTION. **Sec. 8.** The department of social and health services
15 shall convene a work group of stakeholders to discuss and identify one
16 or more mechanisms to incentivize nursing facilities to close or to
17 eliminate licensed beds from active service. The department shall
18 adopt rules to implement the recommendations of the work group. By
19 September 1, 2011, the department shall report to the governor and the
20 legislature on the recommendations of the work group and the status of
21 the department's rule-making efforts and any statutory impediments to
22 the implementation of any of the recommendations.

23 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
24 conflict with federal requirements that are a prescribed condition to
25 the allocation of federal funds to the state, the conflicting part of
26 this act is inoperative solely to the extent of the conflict and with
27 respect to the agencies directly affected, and this finding does not
28 affect the operation of the remainder of this act in its application to
29 the agencies concerned. Rules adopted under this act must meet federal
30 requirements that are a necessary condition to the receipt of federal
31 funds by the state.

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