
SENATE BILL 5197

State of Washington

62nd Legislature

2011 Regular Session

By Senators Keiser and Pflug; by request of Department of Social and Health Services

Read first time 01/18/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to delegation to home care aides; amending RCW
2 18.79.260 and 74.39A.073; and adding new sections to chapter 18.88B
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.88B RCW
6 to read as follows:

7 The legislature recognizes that nurses have been successfully
8 delegating nursing care tasks to family members and others for many
9 years. The opportunity for a nurse to delegate to home care aides
10 qualifying under this chapter may enhance the viability and quality of
11 health care services in community-based care settings and in-home care
12 settings to allow individuals to live as independently as possible with
13 maximum safeguards.

14 **Sec. 2.** RCW 18.79.260 and 2009 c 203 s 1 are each amended to read
15 as follows:

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

1 (2) A registered nurse may, at or under the general direction of a
2 licensed physician and surgeon, dentist, osteopathic physician and
3 surgeon, naturopathic physician, optometrist, podiatric physician and
4 surgeon, physician assistant, osteopathic physician assistant, or
5 advanced registered nurse practitioner acting within the scope of his
6 or her license, administer medications, treatments, tests, and
7 inoculations, whether or not the severing or penetrating of tissues is
8 involved and whether or not a degree of independent judgment and skill
9 is required. Such direction must be for acts which are within the
10 scope of registered nursing practice.

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

14 (a) The delegating nurse shall:

15 (i) Determine the competency of the individual to perform the
16 tasks;

17 (ii) Evaluate the appropriateness of the delegation;

18 (iii) Supervise the actions of the person performing the delegated
19 task; and

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

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

26 (c) Except as authorized in (b) or (e) of this subsection, a
27 registered nurse may not delegate the administration of medications.
28 Except as authorized in (e) of this subsection, a registered nurse may
29 not delegate acts requiring substantial skill, and may not delegate
30 piercing or severing of tissues. Acts that require nursing judgment
31 shall not be delegated.

32 (d) No person may coerce a nurse into compromising patient safety
33 by requiring the nurse to delegate if the nurse determines that it is
34 inappropriate to do so. Nurses shall not be subject to any employer
35 reprisal or disciplinary action by the nursing care quality assurance
36 commission for refusing to delegate tasks or refusing to provide the
37 required training for delegation if the nurse determines delegation may
38 compromise patient safety.

1 (e) For delegation in community-based care settings or in-home care
2 settings, a registered nurse may delegate nursing care tasks only to
3 registered or certified nursing assistants, home care aides, as defined
4 by RCW 74.39A.009. Simple care tasks such as blood pressure
5 monitoring, personal care service, diabetic insulin device set up,
6 verbal verification of insulin dosage for sight-impaired individuals,
7 or other tasks as defined by the nursing care quality assurance
8 commission are exempted from this requirement.

9 (i) "Community-based care settings" includes: Community
10 residential programs for people with developmental disabilities,
11 certified by the department of social and health services under chapter
12 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and
13 boarding homes licensed under chapter 18.20 RCW. Community-based care
14 settings do not include acute care or skilled nursing facilities.

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

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

25 (iv) The determination of the appropriateness of delegation of a
26 nursing task is at the discretion of the registered nurse. Other than
27 delegation of the administration of insulin by injection for the
28 purpose of caring for individuals with diabetes, the administration of
29 medications by injection, sterile procedures, and central line
30 maintenance may never be delegated.

31 (v) When delegating insulin injections under this section, the
32 registered nurse delegator must instruct the individual regarding
33 proper injection procedures and the use of insulin, demonstrate proper
34 injection procedures, and must supervise and evaluate the individual
35 performing the delegated task weekly during the first four weeks of
36 delegation of insulin injections. If the registered nurse delegator
37 determines that the individual is competent to perform the injection

1 properly and safely, supervision and evaluation shall occur at least
2 every ninety days thereafter.

3 (vi) The registered nurse shall verify that the ((~~nursing~~
4 ~~assistant~~)) delegated individual has completed the required core nurse
5 delegation training required in chapter 18.88A RCW prior to authorizing
6 delegation.

7 (vii) The nurse is accountable for his or her own individual
8 actions in the delegation process. Nurses acting within the protocols
9 of their delegation authority are immune from liability for any action
10 performed in the course of their delegation duties.

11 (viii) Nursing task delegation protocols are not intended to
12 regulate the settings in which delegation may occur, but are intended
13 to ensure that nursing care services have a consistent standard of
14 practice upon which the public and the profession may rely, and to
15 safeguard the authority of the nurse to make independent professional
16 decisions regarding the delegation of a task.

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

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

21 (5) Only a person licensed as a registered nurse may hold herself
22 or himself out to the public or designate herself or himself as a
23 registered nurse.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.88B RCW
25 to read as follows:

26 (1)(a) Before commencing any specific nursing care tasks authorized
27 under RCW 18.79.260(3), a home care aide must:

28 (i) Provide to the delegating nurse a transcript or certificate of
29 successful completion of training issued by an approved instructor or
30 approved training entity indicating the completion of basic core nurse
31 delegation training; and

32 (ii) Meet any additional training requirements mandated by the
33 nursing care quality assurance commission. Any exception to these
34 training requirements is subject to RCW 18.79.260(3)(e)(vi).

35 (b) In addition to meeting the requirements of (a) of this
36 subsection, before providing delegated nursing tasks that involve
37 administration of insulin by injection to individuals with diabetes,

1 the home care aide must provide to the delegating nurse a transcript or
2 certificate of successful completion of training issued by an approved
3 instructor or approved training entity indicating completion of
4 specialized diabetes nurse delegation training. The training must
5 include, but is not limited to, instruction regarding diabetes,
6 insulin, sliding scale insulin orders, and proper injection procedures.

7 (2) The home care aide is accountable for his or her own individual
8 actions in the delegation process. Home care aides accurately
9 following delegation instructions from a registered nurse are immune
10 from liability regarding the performance of the delegated duties.

11 (3) Home care aides are not subject to any employer reprisal or
12 disciplinary action by the secretary for refusing to accept delegation
13 of a nursing task based on his or her concerns about patient safety
14 issues. No provider of a community-based care setting as defined in
15 RCW 18.79.260, or in-home services agency as defined in RCW 70.127.010,
16 may discriminate or retaliate in any manner against a person because
17 the person made a complaint about the nurse delegation process or
18 cooperated in the investigation of the complaint.

19 **Sec. 4.** RCW 74.39A.073 and 2009 c 580 s 10 are each amended to
20 read as follows:

21 (1) Effective January 1, 2011, except as provided in RCW
22 18.88B.040, all persons employed as long-term care workers for the
23 elderly or persons with disabilities must meet the minimum training
24 requirements in this section within one hundred twenty calendar days of
25 employment.

26 (2) All persons employed as long-term care workers must obtain
27 seventy-five hours of entry-level training approved by the department.
28 A long-term care worker must accomplish five of these seventy-five
29 hours before becoming eligible to provide care.

30 (3) Training required by subsection (4)(c) of this section will be
31 applied towards training required under RCW 18.20.270 or 70.128.230 as
32 well as any statutory or regulatory training requirements for long-term
33 care workers employed by supportive living providers.

34 (4) Only training curriculum approved by the department may be used
35 to fulfill the training requirements specified in this section. The
36 seventy-five hours of entry-level training required shall be as
37 follows:

1 (a) Before a long-term care worker is eligible to provide care, he
2 or she must complete two hours of orientation training regarding his or
3 her role as caregiver and the applicable terms of employment;

4 (b) Before a long-term care worker is eligible to provide care, he
5 or she must complete three hours of safety training, including basic
6 safety precautions, emergency procedures, and infection control; and

7 (c) All long-term care workers must complete seventy hours of
8 long-term care basic training, including training related to core
9 competencies and population specific competencies.

10 (5) The department shall only approve training curriculum that:

11 (a) Has been developed with input from consumer and worker
12 representatives; and

13 (b) Requires comprehensive instruction by qualified instructors on
14 the competencies and training topics in this section.

15 (6) A long-term care worker who wishes to perform a nurse delegated
16 task pursuant to RCW 18.79.260 must be certified as a home care aide
17 before being delegated by a registered nurse delegator. In addition,
18 nurse delegation core training must be completed before a home care
19 aide may be delegated a nursing task. Before administering insulin, a
20 home care aide must also complete the specialized diabetes nurse
21 delegation three hour training.

22 (7) Individual providers under RCW 74.39A.270 shall be compensated
23 for training time required by this section.

24 ~~((7) The department of health shall adopt rules by August 1, 2010,~~
25 ~~to implement subsections (1), (2), and (3) of this section.~~

26 ~~(8) The department shall adopt rules by August 1, 2010, to~~
27 ~~implement subsections (4) and (5) of this section.))~~

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