

SENATE BILL REPORT

2E2SHB 1727

As Reported by Senate Committee On:
Health Care, February 27, 2014

Title: An act relating to raising licensure limits to allow assisted living facilities to serve a higher acuity resident population.

Brief Description: Raising licensure limits to allow assisted living facilities to serve a higher acuity resident population.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Morrell, Green, Walsh, Ryu, Appleton, Tharinger and Pollet).

Brief History: Passed House: 3/11/13, 61-37; 2/03/14, 54-41.

Committee Activity: Health Care: 2/20/14, 2/27/14 [DPA-WM].

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Pedersen, Ranking Member; Angel, Bailey, Cleveland, Keiser and Parlette.

Staff: Kathleen Buchli (786-7488)

Background: Assisted living facilities are community-based residences that provide housing and basic services to seven or more residents and are licensed by the Department of Social and Health Services (Department). Residents of assisted living facilities are people who live in the facility for reasons of age or disability and receive services provided by the facility. Assisted living facilities may not admit people who require nursing home or hospital level care or the frequent presence or evaluation of a registered nurse. Services provided to residents by assisted living facilities 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 the following: medication administration, administration of health care treatments, diabetic management, non-routine ostomy care, tube feeding, and delegated nursing tasks.

Nonresident individuals may also live in an assisted living facility and receive specified services, but they may not receive domiciliary care from the facility. Some of the services

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that nonresident individuals may receive upon request include emergency assistance; blood pressure checks; nursing assessment services to determine the need for a referral to an outside health care provider; medication assistance such as reminding, opening containers, prefilling insulin syringes, falls risk assessments, nutrition management, and education services; dental services; and wellness programs.

Summary of Bill (Recommended Amendments): Assisted living facilities may obtain a designation from the Department to provide continuing nursing services to meet the needs of complex residents. The term continuous nursing services applies to residents that are assessed with a condition or diagnosis that is expected to require the frequent presence and supervision of a registered nurse. Designated assisted living facilities that elect to provide such services must observe the overall functioning of residents receiving these services and respond to any physical, mental, or emotional changes that exceed the facility's capabilities. To become designated, an assisted living facility must demonstrate that it can meet the nursing-related needs of residents. When considering applications, the Department must assess the experience of the applicant and the applicant's history of compliance in operating long-term care facilities. The Department must also inspect the designated assisted living facility every 18 months. Prior to receiving a designation, applicants must pay a fee to the Department to defray the costs of the designation program.

The Department must adopt rules related to the provision of continuing nursing services, including the process for designation, the extent to which continuing nursing services may be provided in assisted living facilities, staffing requirements, and physical plant requirements. The prohibition against assisted living facilities admitting people who require nursing home or hospital level care or the frequent presence or evaluation of a registered nurse is removed. Assisted living facilities must assure that sufficient and appropriately qualified staff are available to provide care and services to residents.

Disclosure forms related to the scope of domiciliary care assistance provided to residents must include any limitations, additional services, or conditions related to the provision of continuing nursing services. If an assisted living facility with a designation to provide continuous nursing services has reason to believe that a resident needs continuous nursing services or rehabilitative therapy services, the facility must provide a Department-approved notice to the resident and appropriate representatives of the resident. The notice must inform the client that the client may be eligible to have the services covered by Medicare, Medicaid, veterans' benefits, long-term care insurance, or other benefit programs. The resident or appropriate representative must sign the notice. Residents who choose to use other benefits may contract for nursing or rehabilitative services through an outside health care provider or from the assisted living facility. An assisted living facility that fails to give the required notice and charges a resident privately for the provision of continuing nursing services is considered to have committed financial exploitation of a vulnerable adult.

Assisted living facilities that receive a continuing nursing services designation may not use the designation or facility modifications related to the designation to permanently discharge the facility's current Medicaid residents. In addition, for one year following the receipt of the initial designation, an assisted living facility may not reduce the number of Medicaid residents that it retains below the highest number of Medicaid residents living there during the year prior to becoming designated.

EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments): The amendment moves the definition of continuing nursing services into the definitions section, applying that definition to all uses of the term in the chapter, and moves that section to the front of the bill.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Engrossed Second Substitute House Bill:

PRO: This bill is written to protect vulnerable adults. It provides that violations of the notice requirement are considered financial exploitation of a vulnerable adult rather than a violation of the Consumer Protection Act and ensures that facilities with Medicaid clients cannot reduce the number of Medicaid clients for one year after being designated to providing continuing nursing services. It provides assisted living facilities with the ability to provide a higher level of care so that residents are able to age in place and delay placement in more expensive skilled nursing facilities. This will result in savings to the state by allowing people to stay in the community.

OTHER: We need clarity in the law as well as in practice. Consumers need more information. Not having an appropriate level of staffing puts people at risk.

Persons Testifying: **PRO:** Representative Morrell, prime sponsor; Scott Sigmon, Leading Age WA.

OTHER: Liz Tidyman, Kathleen Barth, citizens.