

# HOUSE BILL REPORT

## HB 1784

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**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to promoting quality in nursing homes.

**Brief Description:** Concerning nursing home quality.

**Sponsors:** Representatives Tharinger, Cody, Van De Wege, Riccelli, Jinkins and Moeller.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/6/15, 2/20/15 [DPS].

**Brief Summary of Substitute Bill**

- Establishes staffing standards for nursing homes and penalties for noncompliance with those standards.
- Directs the Department of Social and Health Services to develop a payment methodology that uses outcome-based measures as a component of nursing home rates.

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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 9 members: Representatives Cody, Chair; Riccelli, Vice Chair; Clibborn, DeBolt, Jinkins, Moeller, Robinson, Tharinger and Van De Wege.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Johnson and Short.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Rodne.

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

**Background:**

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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.*

Nursing homes provide 24-hour nursing care, personal care, therapies, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents. Such care may include the administration of medications, preparations of special diets, bedside nursing care, application of dressings and bandages, and carrying out treatment prescribed by licensed health care providers.

Nursing homes are licensed by the Department of Social and Health Services (Department). The Department, by regulation, has established staffing standards that each nursing home must meet. Each nursing home must have a sufficient number of qualified nursing personnel available on a 24-hour basis to provide nursing and related services to attain or maintain residents' highest practicable physical, mental, and psychosocial well-being. In general, nursing homes must have enough appropriately qualified staff available to provide care and services under both routine and emergency conditions.

With respect to nurse staffing, nursing homes must have a registered nurse on duty to directly supervise resident care for at least 16 hours per day. The remaining eight hours may be covered by either a registered nurse or a licensed practical nurse.

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### **Summary of Substitute Bill:**

Nursing homes that are large, nonessential community providers must have at least one registered nurse at the facility on duty on a 24-hour basis. Nursing homes that are either small, nonessential community providers or essential community providers must have at least one registered nurse at the facility on duty at least 16 hours per day and either a registered nurse or licensed practical nurse for the other eight hours.

Nursing homes are required to meet identified staffing standards on an incremental basis over the course of a three-year period. The Department of Social and Health Services (Department) must adjust the staffing standards according to resident acuity and adopt rules to structure the staffing requirements on a per shift basis.

- By January 1, 2017, each nursing home must have sufficient staff on duty to meet a ratio of 2.4 hours of staffing for each resident, with at least 0.7 hours provided by either a registered nurse or licensed practical nurse.
- By January 1, 2018, each nursing home must have sufficient staff on duty to meet a ratio of 3.3 hours of staffing for each resident, with at least 1.0 hours provided by either a registered nurse or licensed practical nurse.
- By January 1, 2019, each nursing home must have sufficient staff on duty to meet a ratio of 3.6 hours of staffing for each resident, with at least 1.1 hours provided by either a registered nurse or licensed practical nurse.

If a nursing home does not meet the staffing standards, the Department may cite the nursing home for deficiencies and assess a penalty of up to \$10,000 for each month of noncompliance. If the nursing home was noncompliant with the staffing standards for over 20 percent of its shifts in a month, the Department may cite the nursing home for deficiencies, assess a penalty of up to \$15,000 for each month of noncompliance, and restrict the nursing home from admitting new residents. If the Department finds that any residents or

employees had a negative outcome as the result of the failure to comply with staffing standards, the Department may assess a fine of an additional \$20,000 on the nursing home.

Nursing homes must submit quarterly staffing reports to the Department. The Department must establish an automated system for collecting information, including payroll records. The Department must review cost report data for quality indicators in nursing homes with low staffing levels. The quality indicators must include the prevalence of falls, prevalence and severity of pressure ulcers, rates of antipsychotic use, rates of medication errors, incidence of decline in late loss of activities of daily living, the frequency of unnecessary calls to 911, direct care staff injuries, and staff turnover rates.

The Department must develop a payment methodology to incorporate outcome-based measures into nursing home rates. Up to 10 percent of the nursing home's rate must be based upon meeting quality indicators.

**Substitute Bill Compared to Original Bill:**

The substitute bill limits the requirement that every nursing home have a registered nurse on duty 24 hours per day to apply to only large, nonessential community providers. Essential community providers and small nonessential community providers may only have a registered nurse 16 hours per day with the remaining eight hours provided by either a registered nurse or a licensed practical nurse.

The substitute bill specifies that by January 1, 2017, at least 0.7 hours of care per resident per day must be provided by a registered nurse or licensed practical nurse with that requirement increasing to 1.0 hours by January 1, 2018, and 1.1 hours by January 1, 2019.

The substitute bill requires reports to be submitted to the Department of Social and Health Services (Department) each quarter, rather than each month. The Department may adopt rules to structure the staffing requirements on a per shift basis. The reduction of the frequency of unnecessary calls to 911 is added as a quality indicator to be considered under the outcome-based payment methodology.

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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) This bill is about quality and accountability of care in nursing homes. There need to be incentives to ensure that nursing home funds are spent to care for seniors appropriately. This bill assures that residents have a registered nurse available 24 hours a day. Without registered nurse coverage, there are lags in assessments, medication errors, and

the facilitation of doctors' orders. There are 33 other states that have staffing standards for bedside care.

When nursing homes are short-staffed, it reduces the availability to serve residents. Working as a certified nursing assistant in a nursing home is so hard that it is sending away potential employees and it perpetuates the cycle of understaffing and low standards. Nursing home employees feel like they are being set up to fail. Short-staffing can threaten the lives of residents. It can be dangerous for staff when nursing homes are short-staffed. When there are not enough staff, residents try to help themselves and this is when residents get hurt.

In some shifts there can be 12 to 22 residents to one certified nursing assistant. When aides go on break, other staff are frequently left alone with numerous residents. Quality care cannot be delivered without enough staff. Because of short-staffing, many activities do not happen, such as nail care and baths. Resident quality of life is closely tied to the time that they have with a certified nursing assistant. Washington ranks very high in many areas related to affordability and access, choice of setting and provider, support for family caregivers, and effective transitions, but rates low in quality of care and quality of life.

This is not just about throwing additional certified nursing assistant hours at the problem; there needs to be well-trained staff as well as leadership by registered nurses. The Long-Term Care Ombudsman receives many complaints about care which come down to staffing shortages and training. Additional staffing will drive costs down as there is a better match of caregiver to need.

There should be a review of the use of chemical restraints and informing consumers about the dangers of using these types of drugs.

It is not clear that anything prevents nursing home licensees from using their revenue to support other services.

The reimbursement system stinks and needs to be improved. This bill will pay nursing homes based on actual results.

(In support with concerns) This bill aligns well with the Department of Social and Health Services' mission to protect residents and improve quality of care. There needs to be work on the intent behind the acuity factor provisions. In 2018 and 2019 there will need to be a significant investment and it will be important to tie that to outcome measures.

(With concerns) Federal statute requires eight hours of registered nurse coverage per day, while Washington law requires 16 hours per day. This level of coverage can be hard to meet in rural areas. There are not enough registered nurses in Washington to be able to provide a registered nurse for 24 hours per day. Low Medicare rates make it difficult to compete with the wages of other health care facilities. The bill should take worker shortages into account and allow for exceptions and waivers when a facility is making good efforts. Only 62 percent of certified nursing assistants are graduating from their training courses. Nursing homes cannot compete with other employers for staff.

Simply hiring more nursing aides will not solve quality problems; care coordination, good supervision, and good management also play a role. This will have a significant financial impact on the state. The state cannot expect to have a high staffing ratio and quality care when Washington pays one of the worst reimbursement rates in the nation for nursing home care. The state ranks near the bottom in terms of cost and Medicaid rates. Other states have minimum staffing ratios, but they fund them. If the state is going to require minimum staffing, it needs to make sure that it is paid for in full. The bill should look to other states' penalty models.

(Opposed) None.

**Persons Testifying:** (In support) Representative Tharinger, prime sponsor; Nick Federici, Shelly Hughes, Sylvia Brown, Rosario Tafoya, and Grace Akins, SEIU 775; Hilke Faber, Residential Council of Washington; Patricia Hunter, Office of the Long-Term Care Ombudsman; Mary Clogston, AARP; and Liz Tidyman.

(In support with concerns) Bill Moss, Department of Social and Health Services.

(With concerns) Melanie Matthews, Prestige Care; and Robin Dale, Washington Health Care Association.

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