

# SENATE BILL REPORT

## SB 5028

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As Passed Senate, March 9, 2015

**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:** Senators Bailey, Dammeier, Cleveland, Keiser and Warnick.

**Brief History:**

**Committee Activity:** Health Care: 2/03/15, 2/10/15 [DPS].

Passed Senate: 3/09/15, 49-0.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** That Substitute Senate Bill No. 5028 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dammeier, Vice Chair; Frockt, Ranking Minority Member; Angel, Bailey, Baumgartner, Brown, Cleveland, Conway, Jayapal, Keiser, Parlette and Rivers.

**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 (DSHS). 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, nonroutine 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 that nonresident individuals may receive upon request include emergency assistance; blood

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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, refilling insulin syringes, falls risk assessments, nutrition management, and education services; dental services; and wellness programs.

**Summary of Bill:** Assisted living facilities may obtain a designation from DSHS 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. In order to provide continuous nursing services, the facility must have a registered nurse available to ensure the resident is provided with the appropriate care and services as well as sufficient numbers of trained and qualified staff to provide care and services. A continuous nursing services designation is not required when providing services for persons who are receiving hospice care or who have a short-term illness that is expected to be resolved within 14 days.

Assisted living facilities that provide continuous nursing services must observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning that exceed assisted living facilities' license. Assisted living facilities must assume general responsibility for each resident and promote each resident's health, safety, and wellbeing consistent with the resident's negotiated care plan.

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 DSHS-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.

DSHS 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.

**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 Original Bill:** PRO: We recommend a small change relating to consumer protections. We need to allow residents to age in place because change is difficult for these residents and we want to keep them in their homes as long as possible. DSHS will be able to administer this change.

OTHER: We are concerned that the assisted living facility can accept new residents who have higher acuity levels, rather than just using this to allow residents to age in place.

**Persons Testifying:** PRO: Bill Moss, DSHS; Jerry Reilly, Long Term Care Ombuds Program; Scott Sigmon, Leading Age WA.

OTHER: Hilke Faber, Founder, Advocacy Coordinator, Resident Councils of WA.