

HOUSE BILL REPORT

E2SSB 6515

As Passed House - Amended:
March 12, 2020

Title: An act relating to nursing facilities.

Brief Description: Concerning nursing facilities.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Van De Wege, Randall, Mullet, Takko, Lovelett, Liias, Conway, Hasegawa and Wilson, C.).

Brief History:

Committee Activity:

None.

Floor Activity:

Passed House - Amended: 3/12/20, 97-0.

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by House)**

- Modifies the exception process for nursing facilities subject to the 24/7 registered nurse coverage requirement.
- Updates nursing facility inspection standards for consistency with federal regulations.

Staff: Mary Mulholland (786-7391).

Background:

Washington's Medicaid program includes long-term care assistance and services provided to low-income individuals. It is administered by the state in compliance with federal laws and regulations and is jointly financed by the federal and state government. Clients may be served in their own homes, in community residential settings, or in skilled nursing facilities (nursing facilities).

There are approximately 200 nursing facilities licensed in Washington to serve about 9,400 Medicaid residents on average per month. Nursing facilities are licensed by the Department of Social and Health Services (DSHS) and provide 24-hour supervised nursing care, personal

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care, therapies, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents. The Medicaid nursing home payment system is administered by the DSHS. The Medicaid rates in Washington are unique to each facility and reflect the client acuity of each facility's residents.

Registered Nurse Coverage.

In 2015, the Legislature established a minimum registered nurse (RN) staffing requirement for nursing facilities designated as large, nonessential community providers. In this context, large, nonessential community providers are defined as nursing facilities that are not the only facilities within a commuting distance radius of at least 40 minutes by car, and that have more than 60 licensed beds, regardless of how many beds are set up or in use. Such facilities must have a RN on duty directly supervising resident care 24-hours a day, seven days per week.

The Legislature tasked the DSHS with convening a stakeholder work group to propose modifications to the new nursing facility rate methodology and minimum staffing standards. In its report submitted in January 2016, the work group expressed concerns that some providers subject to the RN coverage requirement would have difficulty locating and hiring enough RNs to meet the requirement. As a result, the work group recommended a limited exceptions process, which was adopted by the Legislature in 2016.

Under the limited exception process, providers subject to the RN requirement may apply for an exception if they can demonstrate a good-faith effort to hire a RN for the last eight hours of required coverage per day. In granting an exception, DSHS considers the wages and benefits offered by the provider, and the availability of RNs in the provider's geographic area. Exceptions last for one year and may be renewed for up to three years. Another stakeholder work group, along with the DSHS, was required to review the exception process after June 30, 2019, to determine if the exceptions are still necessary. This group met in the summer and fall of 2019.

Inspection Standards.

The DSHS is responsible for conducting unannounced inspections of nursing facilities periodically prior to license renewal.

Regulations issued by the CMS outline standards for surveying nursing facilities for compliance with state and federal regulations. The CMS regulations include requirements that the surveying state agency conduct an unannounced standard survey of each nursing facility no less than 15 months after the previous standard survey, when necessary after reviewing complaint allegations, and when a facility is identified as having provided substandard quality of care.

Summary of Bill:

Registered Nurse Coverage.

The exceptions process for providers subject to the 24/7 RN coverage requirement is modified in response to the deliberations of the work group that met in 2019. In granting an exception, DSHS must consider the competitiveness of the provider's wages and benefits compared to other nursing facilities in comparable areas of the state, as well as the provider's recruitment and retention efforts.

No later than August 1, 2023, and every three years thereafter, DSHS and a stakeholder work group must review the enforcement and citation actions taken against providers that received an exception compared to those without an exception. In its review, the group must also compare referrals by DSHS to the state Long-Term Care Ombudsman, who responds to complaints raised by nursing facility residents. A report including the findings of these comparisons, along with a recommendation as to whether the exception process should continue, is due to the Legislature by December 1st of each year in which the review is completed.

Inspection Standards.

Rather than conducting unannounced inspections prior to license renewal, DSHS must conduct such inspections periodically and in compliance with federal regulations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.