

SENATE BILL REPORT

SHB 1218

As Reported by Senate Committee On:
Health & Long Term Care, March 24, 2021
Ways & Means, April 2, 2021

Title: An act relating to improving the health, safety, and quality of life for residents in long-term care facilities through emergency preparedness, improvements in communications, resident information, and notice of sanctions.

Brief Description: Improving health, safety, and quality of life for residents in long-term care facilities.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Bateman, Simmons, Sells, Lekanoff, Peterson, Stonier, Davis, Taylor, Dolan, Orwall, Cody, Santos, Ortiz-Self, Fitzgibbon, Slatter, Bronoske, Callan, Valdez, Ramel, Riccelli, Macri, Goodman and Harris-Talley).

Brief History: Passed House: 2/23/21, 95-2.

Committee Activity: Health & Long Term Care: 3/22/21, 3/24/21 [DPA-WM, DNP].
Ways & Means: 3/31/21, 4/02/21 [DPA (HLTC), DNP, w/oRec].

Brief Summary of Amended Bill

- Requires long-term care facilities to develop comprehensive disaster preparedness plans.
- Requires long-term care facilities to be responsive to incoming communications with the public and accommodate resident access to communication equipment.
- Requires long-term care facilities to maintain a current resident roster and contact information about each resident and any resident representative.
- Requires long-term care facilities to post notice of any stop placements or limited stop placements that have been imposed on the facility.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Directs the Department of Social and Health Services (DSHS) and Department of Health (DOH) to develop training materials to educate local health jurisdictions about the state's long-term care system and the rights of residents.
- Provides residents of long-term care facilities the right to visitation by an essential support person during times when resident visitation is limited.
- Requires DSHS and DOH to consult with interested stakeholders to develop a report and guidelines on epidemic preparedness and response for long-term care facilities.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

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

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Conway, Holy, Keiser, Padden, Randall, Robinson and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Muzzall, Ranking Member; Rivers.

Staff: LeighBeth Merrick (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Health & Long Term Care.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Mullet, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Muzzall.

Minority Report: That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Braun, Gildon, Rivers, Wagoner and Warnick.

Staff: Maria Hovde (786-7474)

Background: Long-term care facilities provide a range of services to support individuals who need assistance with daily living tasks as a result of aging, chronic illness, cognitive functioning, or disability. Individuals may reside in the facility for several weeks, months, or years. The Department of Social and Health Services (DSHS) oversees licensing and

regulatory compliance for long-term care facilities in Washington State. DSHS is authorized to take enforcement actions against a facility for noncompliance. These actions may include conditions on a license, civil penalties, stop placement orders, and the suspension or revocation of a license. The facility size, services offered, and regulations vary by provider type.

Adult family homes are residential homes licensed to care for up to eight residents. They provide room, board, laundry, necessary supervision, and necessary help with activities of daily living, personal care, and social services.

Assisted living facilities are community-based residences that provide housing and basic services to seven or more residents. Each assisted living facility provides a range of services which may include housekeeping, meals, laundry, activities, assistance with activities of daily living, health support services, and intermittent nursing services.

Enhanced services facilities are targeted towards individuals with behavioral needs and are licensed to care for up to 16 individuals. They offer behavioral health, personal care services and nursing, at a level of intensity not generally provided in other licensed long-term care setting.

Skilled nursing facilities, also referred to as nursing homes, provide 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board, and laundry.

The Long-Term Care Ombuds is authorized to monitor long-term care facilities to determine the extent to which their residents are able to exercise their rights. Residents of assisted living facilities, adult family homes, veterans' homes, and nursing homes have specific rights common across settings. The rights cover a broad range of topics, including self-determination, communication, access to clinical records, availability of services, management of financial affairs, privacy and confidentiality of personal and clinical records, expression of grievances, visitation, and personal possessions.

Summary of Amended Bill: Comprehensive Disaster Preparedness Plans. Long-term care facilities, except for adult family homes, must develop and maintain comprehensive disaster preparedness plans. The preparedness plans must address procedures to be followed during a disaster or emergency. DSHS must adopt rules governing preparedness plans to address:

- timely communications with the residents' emergency contacts, local agencies, long-term care ombuds, and developmental disability ombuds;
- on-duty employees' responsibilities;
- requests for emergency assistance;
- residents' essential needs;
- procedures to identify each resident that has been evacuated or transferred and the resident's immediate location, and to provide emergency information for residents' health or safety;

- standards for maintaining personal protective equipment and infection control capabilities; and
- DSHS inspection procedures related to the preparedness plans.

Resident Contact Information. Long-term care facilities must maintain a current resident roster that includes the name and room number of each resident. The roster must be provided immediately upon an in-person request from any long-term care ombuds. Aggregated contact information must be maintained for all residents, including name, room number, and any telephone number and email. The contact information must also include information about any resident representative, including name, relation to the resident, phone number, and any email and mailing address. Upon written request, the contact information must be provided to any long-term care ombuds within 48 hours of the request or within a reasonable time, as agreed to by the requesting long-term care ombuds.

DSHS must provide long-term care facilities the following information:

- long-term care ombuds have the right to obtain contact information;
- the state Long- Term Care Ombuds program and all long-term care ombuds are considered a health oversight agency for purposes of state and federal health information privacy laws which permit the sharing of information;
- the information requested by a long-term care ombuds becomes property of the state and is subject to confidentiality and disclosure laws; and
- the long-term care facility may not refuse to provide or unreasonably delay providing the resident roster or the contact information on the basis that the facility must first seek or obtain consent from a resident or resident representative.

Resident Communications. Residents of long-term care facilities have the right to access a telephone and other communication equipment where calls can be made without being overheard. Long-term care facilities, except for adult family homes, must be responsive to incoming communications and respond within a reasonable time to telephone and electronic messages. Each long-term care facility, except for adult family homes, must have a communications system with enough working telephones and other communications equipment to ensure residents have 24-hour access to communications with family members, medical providers, and others. The communications equipment must allow for auditory privacy and not be located in a staff office or station and be usable by persons with hearing loss and other disabilities. Long-term care facilities are not required to provide telephones at no cost in each resident room.

Posting of Stop Placement Orders. A long-term care facility subject to a stop placement or limited stop placement must publicly post a standardized notice developed by DSHS that an order has been issued. The notice must be posted in a conspicuous place at the long-term care facility or adult family home and must include the date of the order, the conditions placed on the license, DSHS contact information, contact information for the administrator of the long-term care facility, and a statement that anyone may contact DSHS or the administrator for additional information.

Essential Support Persons. When resident visitation is limited due to a public health emergency or other threat to the health and safety of the residents and staff of a long-term care facility, residents must be allowed access to an essential support person. An "essential support person" is defined as a person who is at least 18 years old, is designated by the resident or resident representative, and is necessary for the resident's emotional, mental, or physical well-being in situations involving emotional distress for the resident. These situations may include when residents are receiving end of life care or compassionate care, or experiencing anxiety or confusion due to cognitive impairments. Long-term care facilities must allow an essential support person to visit the resident, but may establish reasonable visitation conditions to protect the health and safety of the essential support person, residents, and staff. A person's designation as an essential support person may be temporarily suspended if the person does not comply with health and safety conditions established by the long-term care facility.

Public Health Training. DSHS and the Department of Health (DOH), in collaboration with the State Office of the Long-Term Care Ombuds and representatives of long-term care facilities, must develop training materials to educate leadership and staff of local health jurisdictions about the state's long-term care system and the rights of residents. The training must cover state and federal resident rights and the process for local health jurisdiction personnel to report abuse and neglect in long-term care facilities.

Epidemic Preparedness and Response Guidelines. DOH and DSHS are required to consult with interested stakeholders to develop a report and guidelines on epidemic disease preparedness and response for long-term care facilities. The report must identify best practices and lessons learned about containment and mitigation strategies for controlling infection in long-term care facilities.

By December 1, 2021, DOH and DSHS must provide a draft report and guidelines on COVID-19 to the health care committees of the Legislature. By July 1, 2022, DOH and DSHS must finalize the report and guidelines on COVID-19 and provide them to the health care committees of the Legislature. Beginning December 1, 2022, DOH and DSHS must review the guidelines, make any necessary changes regarding COVID-19 and add information about any emerging public health concern, and provide the updated report and guidelines to the health care committees of the Legislature.

Resident Representatives. The definition for resident representative is expanded to include:

- a court-appointed guardian or conservator of the resident; or
- any individual who is legally authorized or chosen by the resident to act on the resident's behalf to support the resident with decision-making, accessing medical, social, or other personal information, managing financial matters, or receiving notifications.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 21, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Bill as Amended by Committee (Health & Long Term Care): PRO: This bill is about enduring families and their loved ones in long-term care are safe and healthy. This pandemic has been challenging for everyone involved in long-term care and highlighted some needed improvements. The bill is based on feedback from families to the long-term care Ombuds where family members tried to contact their loved ones in long-term care and did not hear back for days and where residents confined to their rooms for days without access to a phone or computer to talk to their loved ones. The bill establishes minimum standards for responding to messages from families and provides residents with access to communication to the outside world. The bill also allows residents to have an essential support person which is especially important to the resident's well-being. The bill is based on federal guidance and other states' policies. Residents deserve respect, should have access to these basic rights, and should never have to face these types of conditions again. The bill takes a comprehensive approach to systemic issues and addresses residents' and providers' experiences with the pandemic. There were shortfalls that strained the system. The DOH work group will help address this so we can gather lessons learned to prepare for future emergencies. Residents often face challenges with attending medical appointments in-person. This bill will ensure residents have access to their medical providers via telephone or other communication's equipment allowing them to receive care at the facilities.

Persons Testifying (Health & Long Term Care): PRO: Representative Jessica Bateman, Prime Sponsor; Patricia Hunter, Washington State Long Term Care Ombuds; Katrina Rostedt; Sue Fox; Cathy McCaul, AARP; Alyssa Odegaard, LeadingAge Washington; Jeb Shepard, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony on Bill as Amended by Health & Long Term Care (Ways & Means): PRO: This bill addresses some of the most serious concerns coming out of long-term care settings during the pandemic, including a process to reduce social isolation and implement safeguards against neglect. Residents and staff in the long-term care system have been disproportionately impacted by the pandemic. Five percent of total cases and 49 percent of total deaths are identified as associated with long-term care facilities. A key element of this bill is the emergency preparedness and planning for future crises, including the management of personal protective equipment, and it is this planning that produces the majority of costs associated with the bill. With this bill, long-term care facilities will be better prepared to meet concerns of residents and will be better placed to address these issues.

Persons Testifying (Ways & Means): PRO: Melanie Smith, Washington State Long Term Care Ombuds Program; Cathy MacCaul, AARP Washington State.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.