

SENATE BILL REPORT

SB 5294

As of February 9, 2021

Title: An act relating to the creation of statewide epidemic preparedness and response guidelines for long-term care facilities.

Brief Description: Concerning the creation of statewide epidemic preparedness and response guidelines for long-term care facilities.

Sponsors: Senators Cleveland, Muzzall, Conway, Randall, Robinson, Van De Wege and Wilson, C..

Brief History:

Committee Activity: Health & Long Term Care: 1/25/21, 1/29/21 [DPS-WM, w/oRec].
Ways & Means: 2/09/21.

Brief Summary of First Substitute Bill

- Requires the Department of Health 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: That Substitute Senate Bill No. 5294 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Muzzall, Ranking Member; Conway, Holy, Keiser, Randall, Robinson, Van De Wege and Wilson, J.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: LeighBeth Merrick (786-7445)

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.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Corban Nemeth (786-7736)

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. Additionally, facilities may be subject to federal regulations and oversight. 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 that is 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.

Certified community residential services and supports are provided in a home-like setting to individuals with developmental disabilities. It may include supported living, group homes, group training homes, and state operated living alternatives.

Continuing care retirement communities are communities that offer independent living, assisted living, and skilled nursing on one campus.

An epidemic is a widespread occurrence of an infectious disease in a community at a particular time. On February 29, 2020, one of the first detected COVID-19 outbreaks in the United States was at a skilled nursing facility in Kirkland, Washington. As of January 5, 2021, the Department of Health (DOH) reports there have been 13,870 COVID-19 cases and 1765 COVID-19 deaths—51 percent of the state's total deaths—associated with long-term care facilities. In response to COVID-19's impact on long-term care facilities, the Governor has issued a number of proclamations. The proclamations waived certain

licensing and credentialing requirements, restricted resident visitation, and mandated testing for residents and staff. DSHS and DOH have created a Safe Start Plan for long-term care facilities that consists of four phases. Each phase has different requirements for visitation, testing and screening, personal protective equipment, and group activities. The long-term care facility is allowed to move into the next phase when DOH approves their respective county eligible to move into the next phase. The local health jurisdiction or DOH have authority to return a long-term care facility to more restrictive operations when there is an infectious disease and/or COVID-19 outbreak. There are 35 local health jurisdictions representing the 39 counties in the state.

Summary of Bill (First Substitute): DOH is required to consult with interested stakeholders to develop a report and guidelines on epidemic disease preparedness and response for long-term care facilities. The stakeholders DOH must consult with include DSHS' Aging and Long-Term Support Administration, local health jurisdictions, advocates for consumers of long-term care, associations representing long-term care facility providers, and the State Long-Term Care Ombuds.

The report must identify best practices and lessons learned about containment and mitigation strategies for controlling infection in long-term care facilities. At a minimum, the report must consider visitation, admission and discharge policies; timely and priority access to personal protective equipment and other infection control supplies; and rapid and accurate testing to identify outbreaks. In developing the report, DOH must work with stakeholders to:

- ensure federal rules take precedence and do not conflict with state guidelines;
- develop a timeline for implementing the guidelines and process for communicating the guidelines to stakeholders;
- consider options for targeting available resources towards infection control when outbreaks occur;
- establish methods for ensuring the guidelines are consistently applied across all local health jurisdictions and long-term care facilities;
- develop a process for maintaining and updating the guidelines; and
- ensure appropriate considerations for each provider type.

By December 1, 2021, DOH must provide a draft report and guidelines on COVID-19 and provide them to the health care committees of the Legislature. By July 1, 2022, DOH 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 must annually review the guidelines with DSHS, 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.

Long-term care facilities include licensed skilled nursing facilities, assisted living facilities, adult family homes, and enhanced services facilities; certified community residential services and supports; and registered continuing care retirement communities.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Requires DOH to develop a report on epidemic preparedness and response for long-term care facilities, in addition to the guidelines.
- Modifies DOH reporting requirements so a draft report and guidelines specific to COVID-19 are due December 1, 2021, with a final report due to the Legislature by July 1, 2022.
- Requires the changes DOH makes during their annual review of the guidelines be specific to COVID-19 or any emerging epidemic of public health concern.

Appropriation: None.

Fiscal Note: Requested on January 20, 2021.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: The pandemic has impacted all of long-term care and it is important we capture as much of the learnings as possible. Long-term care faced immense challenges. This bill directs DOH to work with stakeholders to catalog those challenges and determine ways to pave the way for greater preparedness in the future. Long-term care facilities have faced difficulties due to the varying and inconsistent guidelines around admission and discharge policies from the 35 local health jurisdictions (LHJs). Specifically, one LHJ required a 45 day admission hold period for facilities that had one positive COVID case. These strict admission requirements resulted in significant back-up in the hospitals and confusion amongst hospitals and providers. Long-term care facilities have been working hard to keep up with the ever changing standards and requirements from the various federal and state agencies and the LHJs, but the lack of coordination between the agencies has been highly problematic. This bill presents an opportunity to take these learnings to analyze what has worked and what has not worked to intentionally develop guidelines that can be used in the future and updated regularly. It is important we learn from this difficult experience and proactively plan for the future. Prior to the pandemic, DOH and the LHJs were not familiar with adult family homes which resulted in adult family homes being excluded from necessary proclamations like visitation restrictions, testing and access to personal protection equipment. This bill provides a meaningful opportunity for us to connect with DOH to create better partnerships to successfully manage these situations in the future. One concern is that the bill expects consistent applications across all settings. We would request that the guidelines account for the differences in the various settings.

Persons Testifying (Health & Long Term Care): PRO: Senator Annette Cleveland,

Prime Sponsor; Alyssa Odegaard, LeadingAge Washington; Lauri St Ours, Washington Health Care Authority; John Ficker, citizen; Melissa Johnson, Community Residential Services Association.

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

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: Long-term care facilities have faced challenges navigating guidance provided by the 35 Local Health Jurisdictions (LHJs). In addition, it is difficult to coordinate between guidance from LHJs and various federal and state agencies. There has been a lack of consistency and coordination in standards relating to the COVID-19 response. This bill addresses this problem through convening stakeholders in coordination with DOH. LHJs have different standards across the state. Frequently, one branch of the long-term care regulatory system does not know what the other branch is doing. This bill would help address this problem.

OTHER: Infectious diseases and fatalities have been occurring in large numbers in long-term care facilities long before COVID-19. There are systematic problems in these facilities related to infection prevention. DOH has mishandled the COVID-19 situation and should not be provided funding to continue this work. This work should be handled by an independent commission and should include naturopath representatives.

Persons Testifying (Ways & Means): PRO: Alyssa Odegaard, LeadingAge Washington; Lauri St. Ours, Washington Health Care Association; McKenzie Owens, Bonaventure.

OTHER: Bernadette Pajer.

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