



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
P.O. Box 54600, Olympia, Washington 98504-5600

July 31, 2023

TO: Washington State Legislature

FROM: Bea Rector, Assistant Secretary of the Department of Social and Health Services Aging and Long-Term Support Administration

SUBJECT: Report for E2SSB 6515 (2020), RCW 74.42.360

Honorable Members of the Legislature,

RCW 74.42.360(3)(b)(ii) requires the Department of Social and Health Services (the department) to complete a review and submit a report regarding the exception process for the nursing home requirement to have a registered nurse (RN) on duty twenty-four hours per day, seven days a week (RN staffing requirement). This review and report process must include “enforcement and citation data for large nonessential community providers that were granted an exception in the three previous fiscal years in comparison to those without an exception” as well as similar data from the long-term care ombuds. The first review period began July 1, 2020, and ended June 30, 2023. The first report to the Legislature is due December 1, 2023, and every three years thereafter.

This first review period has been greatly affected by the declared State of Emergency related to the COVID-19 pandemic. On February 29, 2020, Governor Inslee issued Proclamation 20-5 declaring a State of Emergency. On March 18, 2020, the Governor issued Proclamation 20-18, suspending RCW 74.42.360(2), (3), and (4), which included the RN staffing requirement, related exception process, and reporting requirement. For reference:

RCW 74.42.360(3)(a) requires large nonessential nursing facilities to have a registered nurse on duty directly supervising care twenty-four hours per day, seven days per week.

RCW 74.42.360(3)(b)(i) requires the department to establish a limited exception process for large nonessential community providers that can demonstrate a good faith effort to hire a registered nurse for the last eight hours of required coverage per day. This allows the department to grant one-year exceptions to the rule. These exceptions may be renewed.

Further, in 2021 the Legislature passed RCW 74.42.360(6) allowing the department to suspend the RN staffing requirement and the related exception process for up to one year following the end of the proclaimed State of Emergency. The State of Emergency ended on October 27, 2022 and the department filed [emergency rules](#) to continue to suspend the RN staffing requirement and the related exception process. This action was necessary to continue to allow nursing homes to admit and care for vulnerable adults and to address the continued negative impacts on long-term care nurse staffing brought on by the COVID-19 pandemic. Consistent with the statute, the rules will be repealed October 27, 2023.

Because the RN staffing standard and exception process were suspended during the entire review period of July 1, 2020, through June 30, 2023, the department has no relevant data to consider for the required exception process review report under RCW 74.42.360(3)(b)(ii). However, this letter is intended to meet the reporting requirement under the statute, including recommending the exception process be continued for at least the next three fiscal years. This is meant to implement the intent of the statute: To provide an informed recommendation to the legislature as to whether the exception process should continue based on a review of relevant enforcement, citation, and exception data.

If you require further information or have any questions, please reach out to Laura Han at laura.han@dshs.wa.gov.

Sincerely,

Bea Rector
Assistant Secretary
Department of Social and Health Services
Aging and Long-Term Support Administration