
SUBSTITUTE HOUSE BILL 1727

State of Washington 63rd Legislature 2013 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Morrell, Green, Walsh, Ryu, Appleton, Tharinger, and Pollet)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to raising licensure limits to allow assisted
2 living facilities to serve a higher acuity resident population;
3 amending RCW 18.20.330, 18.20.160, and 18.20.030; reenacting and
4 amending RCW 18.20.020; and adding new sections to chapter 18.20 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 18.20.330 and 2012 c 10 s 22 are each amended to read
7 as follows:

8 (1) Assisted living facilities are not required to provide
9 intermittent nursing services. The assisted living facility licensee
10 may choose to provide any of the following intermittent nursing
11 services through appropriately licensed and credentialed staff,
12 however, the facility may or may not need to provide additional
13 intermittent nursing services to comply with the reasonable
14 accommodation requirements in federal or state law:

- 15 (a) Medication administration;
- 16 (b) Administration of health care treatments;
- 17 (c) Diabetic management;
- 18 (d) Nonroutine ostomy care;
- 19 (e) Tube feeding; and

1 (f) Nurse delegation consistent with chapter 18.79 RCW.

2 (2) The licensee shall clarify on the disclosure form any
3 limitations, additional services, or conditions that may apply under
4 this section.

5 (3) In providing intermittent nursing services, the assisted living
6 facility shall observe the resident for changes in overall functioning
7 and respond appropriately when there are observable or reported changes
8 in the resident's physical, mental, or emotional functioning.

9 (4) The assisted living facility may provide intermittent nursing
10 services to (~~the extent permitted by RCW 18.20.160~~) residents who do
11 not require the frequent presence and supervision of a licensed
12 registered nurse.

13 NEW SECTION. Sec. 2. A new section is added to chapter 18.20 RCW
14 to read as follows:

15 (1) In addition to the intermittent nursing services that may be
16 provided under RCW 18.20.330, the licensee may, but is not required to,
17 provide continuing nursing services, as defined by the department in
18 rule, to meet the needs of more complex residents that can be served
19 under RCW 18.20.330, if the licensee has obtained a designation on its
20 license under section 4 of this act.

21 (2) The licensee shall clarify on the disclosure form any
22 limitations, additional services, or conditions that may apply under
23 this section.

24 (3) In providing continuing nursing services, the assisted living
25 facility shall observe the resident for changes in overall functioning
26 and respond appropriately when there are observable or reported changes
27 in the resident's physical, mental, or emotional functioning that
28 exceed the licensee's licensure limitations and any limitations
29 described in the disclosure form.

30 (4) The assisted living facility may provide continuing nursing
31 services to the extent permitted by RCW 18.20.160.

32 **Sec. 3.** RCW 18.20.160 and 2012 c 10 s 11 are each amended to read
33 as follows:

34 (~~No person operating an assisted living facility licensed under~~
35 ~~this chapter shall admit to or retain in the assisted living facility~~
36 ~~any aged person requiring nursing or medical care of a type provided by~~

1 ~~institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except~~
2 ~~that when registered nurses are available, and upon a doctor's order~~
3 ~~that a supervised medication service is needed, it may be provided.~~
4 ~~Supervised medication services, as defined by the department and~~
5 ~~consistent with chapters 69.41 and 18.79 RCW, may include an approved~~
6 ~~program of self-medication or self-directed medication. Such~~
7 ~~medication service shall be provided only to residents who otherwise~~
8 ~~meet all requirements for residency in an assisted living facility. No~~
9 ~~assisted living facility shall admit or retain a person who requires~~
10 ~~the frequent presence and frequent evaluation of a registered nurse,~~
11 ~~excluding persons who are receiving hospice care or persons who have a~~
12 ~~short-term illness that is expected to be resolved within fourteen~~
13 ~~days.)) The assisted living facility licensed under this chapter must~~
14 ~~assume general responsibility for each resident and must promote each~~
15 ~~resident's health, safety, and well-being consistent with the resident~~
16 ~~negotiated care plan. In addition, the assisted living facility may~~
17 ~~provide assistance with activities of daily living, health support~~
18 ~~services, intermittent nursing services, and continuing nursing~~
19 ~~services, as may be further defined by the department in rule, and~~
20 ~~consistent with the care and services included in the disclosure form~~
21 ~~required under RCW 18.20.300. To provide continuing nursing services,~~
22 ~~the licensee shall obtain from the department a designation on its~~
23 ~~license under section 4 of this act. No assisted living facility may~~
24 ~~admit or retain a person who requires the frequent presence and~~
25 ~~frequent evaluation of a licensed registered nurse, excluding persons~~
26 ~~who are receiving hospice care or persons who have a short-term illness~~
27 ~~that is expected to be resolved within fourteen days, without first~~
28 ~~obtaining a designation on its license under section 4 of this act.~~
29 ~~The assisted living facility must assure that sufficient numbers and~~
30 ~~appropriately qualified and trained staff are available to provide care~~
31 ~~and services consistent with this chapter.~~

32 NEW SECTION. Sec. 4. A new section is added to chapter 18.20 RCW
33 to read as follows:

34 (1) An assisted living facility may provide continuing nursing
35 services if it secures a designation on its license from the
36 department.

1 (2) At least sixty days prior to the anticipated designation to
2 provide continuing nursing services, the applicant must submit to the
3 department a completed application on a form developed by the
4 department.

5 (3)(a) The applicant must, annually and at least thirty calendar
6 days prior to any changes to increase or decrease the scope of services
7 provided under this section, demonstrate to the satisfaction of the
8 department the ability to provide continuing nursing services to meet
9 the nursing-related needs of residents under this section and
10 consistent with the applicant's disclosure statement or as it may later
11 be revised.

12 (b) The department shall consider the following criteria when
13 granting a continuing nursing service designation under this section:

14 (i) The experience of the applicant for endorsement; and

15 (ii) The compliance history of the applicant in the operation of a
16 Washington state licensed nursing facility, adult family home, or
17 assisted living facility, as applicable.

18 (4) If an assisted living facility with a continuing nursing
19 services designation has reason to believe that a resident has medicare
20 part B coverage for the continuing nursing services, in whole or in
21 part, provided under this section, the assisted living facility shall
22 inform the resident of this possible benefit. If the resident opts to
23 use his or her medicare part B benefit, the resident may then contract
24 for nursing or rehabilitative services offered through an outside
25 health care provider under RCW 18.20.380.

26 (5) The department shall establish fees to be paid by assisted
27 living facilities prior to the issuance of an initial or renewal
28 designation under this section. The department shall establish the fee
29 at a level that defrays the cost of the administration of the
30 designation program.

31 (6) For the purposes of this section, "continuing nursing services"
32 means the resident has been assessed with a condition or diagnosis that
33 is expected to require the frequent presence and supervision of a
34 licensed registered nurse.

35 **Sec. 5.** RCW 18.20.030 and 2012 c 10 s 3 are each amended to read
36 as follows:

1 (1) After January 1, 1958, no person shall operate or maintain an
2 assisted living facility as defined in this chapter within this state
3 without a license under this chapter.

4 (2) An assisted living facility license is not required for the
5 housing, or services, that are customarily provided under landlord
6 tenant agreements governed by the residential landlord-tenant act,
7 chapter 59.18 RCW, or when housing nonresident individuals who chose to
8 participate in programs or services under subsection (5) of this
9 section, when offered by the assisted living facility licensee or the
10 licensee's contractor. This subsection does not prohibit the licensee
11 from furnishing written information concerning available community
12 resources to the nonresident individual or the individual's family
13 members or legal representatives. The licensee may not require the use
14 of any particular service provider.

15 (3) Residents receiving domiciliary care, directly or indirectly by
16 the assisted living facility, are not considered nonresident
17 individuals for the purposes of this section.

18 (4) An assisted living facility license is required when any person
19 other than an outside service provider, under RCW 18.20.380, or family
20 member:

21 (a) Assumes general responsibility for the safety and well-being of
22 a resident;

23 (b) Provides assistance with activities of daily living, either
24 directly or indirectly;

25 (c) Provides health support services, either directly or
26 indirectly; (~~or~~)

27 (d) Provides intermittent nursing services, either directly or
28 indirectly; or

29 (e) Provides continuing nursing services, either directly or
30 indirectly.

31 (5) An assisted living facility license is not required for one or
32 more of the following services that may, upon the request of the
33 nonresident, be provided to a nonresident individual: (a) Emergency
34 assistance provided on an intermittent or nonroutine basis; (b)
35 systems, including technology-based monitoring devices, employed by
36 independent senior housing, or independent living units in continuing
37 care retirement communities, to respond to the potential need for
38 emergency services; (c) scheduled and nonscheduled blood pressure

1 checks; (d) nursing assessment services to determine whether referral
2 to an outside health care provider is recommended; (e) making and
3 reminding the nonresident of health care appointments; (f) preadmission
4 assessment for the purposes of transitioning to a licensed care
5 setting; (g) medication assistance which may include reminding or
6 coaching the nonresident, opening the nonresident's medication
7 container, using an enabler, and handing prefilled insulin syringes to
8 the nonresident; (h) falls risk assessment; (i) nutrition management
9 and education services; (j) dental services; (k) wellness programs; (l)
10 prefilling insulin syringes when performed by a nurse licensed under
11 chapter 18.79 RCW; or (m) services customarily provided under landlord
12 tenant agreements governed by the residential landlord-tenant act,
13 chapter 59.18 RCW.

14 **Sec. 6.** RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and
15 amended to read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Adult day services" means care and services provided to a
19 nonresident individual by the assisted living facility on the assisted
20 living facility premises, for a period of time not to exceed ten
21 continuous hours, and does not involve an overnight stay.

22 (2) "Assisted living facility" means any home or other institution,
23 however named, which is advertised, announced, or maintained for the
24 express or implied purpose of providing housing, basic services, and
25 assuming general responsibility for the safety and well-being of the
26 residents, and may also provide domiciliary care, consistent with
27 chapter 142, Laws of 2004, to seven or more residents after July 1,
28 2000. However, an assisted living facility that is licensed for three
29 to six residents prior to or on July 1, 2000, may maintain its assisted
30 living facility license as long as it is continually licensed as an
31 assisted living facility. "Assisted living facility" shall not include
32 facilities certified as group training homes pursuant to RCW
33 71A.22.040, nor any home, institution or section thereof which is
34 otherwise licensed and regulated under the provisions of state law
35 providing specifically for the licensing and regulation of such home,
36 institution or section thereof. Nor shall it include any independent

1 senior housing, independent living units in continuing care retirement
2 communities, or other similar living situations including those
3 subsidized by the department of housing and urban development.

4 (3) "Basic services" means housekeeping services, meals, nutritious
5 snacks, laundry, and activities.

6 (4) "Department" means the state department of social and health
7 services.

8 (5) "Domiciliary care" means: Assistance with activities of daily
9 living provided by the assisted living facility either directly or
10 indirectly; or health support services, if provided directly or
11 indirectly by the assisted living facility; or intermittent nursing
12 services, if provided directly or indirectly by the assisted living
13 facility; or continuing nursing services, if provided directly or
14 indirectly by the assisted living facility.

15 (6) "General responsibility for the safety and well-being of the
16 resident" means the provision of the following: Prescribed general low
17 sodium diets; prescribed general diabetic diets; prescribed mechanical
18 soft foods; emergency assistance; monitoring of the resident; arranging
19 health care appointments with outside health care providers and
20 reminding residents of such appointments as necessary; coordinating
21 health care services with outside health care providers consistent with
22 RCW 18.20.380; assisting the resident to obtain and maintain glasses,
23 hearing aids, dentures, canes, crutches, walkers, wheelchairs, and
24 assistive communication devices; observation of the resident for
25 changes in overall functioning; blood pressure checks as scheduled;
26 responding appropriately when there are observable or reported changes
27 in the resident's physical, mental, or emotional functioning; or
28 medication assistance as permitted under RCW 69.41.085 and as defined
29 in RCW 69.41.010.

30 (7) "Legal representative" means a person or persons identified in
31 RCW 7.70.065 who may act on behalf of the resident pursuant to the
32 scope of their legal authority. The legal representative shall not be
33 affiliated with the licensee, assisted living facility, or management
34 company, unless the affiliated person is a family member of the
35 resident.

36 (8) "Nonresident individual" means a person who resides in
37 independent senior housing, independent living units in continuing care
38 retirement communities, or in other similar living environments or in

1 an unlicensed room located within an assisted living facility. Nothing
2 in this chapter prohibits nonresidents from receiving one or more of
3 the services listed in RCW 18.20.030(5) or requires licensure as an
4 assisted living facility when one or more of the services listed in RCW
5 18.20.030(5) are provided to nonresidents. A nonresident individual
6 may not receive domiciliary care, as defined in this chapter, directly
7 or indirectly by the assisted living facility and may not receive the
8 items and services listed in subsection (6) of this section, except
9 during the time the person is receiving adult day services as defined
10 in this section.

11 (9) "Person" means any individual, firm, partnership, corporation,
12 company, association, or joint stock association, and the legal
13 successor thereof.

14 (10) "Resident" means an individual who is not related by blood or
15 marriage to the operator of the assisted living facility, and by reason
16 of age or disability, chooses to reside in the assisted living facility
17 and receives basic services and one or more of the services listed
18 under general responsibility for the safety and well-being of the
19 resident and may receive domiciliary care or respite care provided
20 directly or indirectly by the assisted living facility and shall be
21 permitted to receive hospice care through an outside service provider
22 when arranged by the resident or the resident's legal representative
23 under RCW 18.20.380.

24 (11) "Resident applicant" means an individual who is seeking
25 admission to a licensed assisted living facility and who has completed
26 and signed an application for admission, or such application for
27 admission has been completed and signed in their behalf by their legal
28 representative if any, and if not, then the designated representative
29 if any.

30 (12) "Resident's representative" means a person designated
31 voluntarily by a competent resident, in writing, to act in the
32 resident's behalf concerning the care and services provided by the
33 assisted living facility and to receive information from the assisted
34 living facility, if there is no legal representative. The resident's
35 competence shall be determined using the criteria in RCW
36 11.88.010(1)(e). The resident's representative may not be affiliated
37 with the licensee, assisted living facility, or management company,

1 unless the affiliated person is a family member of the resident. The
2 resident's representative shall not have authority to act on behalf of
3 the resident once the resident is no longer competent.

4 (13) "Secretary" means the secretary of social and health services.

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