
HOUSE BILL 2789

State of Washington**55th Legislature****1998 Regular Session**

By Representatives Backlund, Dyer, Cody, Skinner, Conway, Mitchell, Hickel, Carlson, Cooke, Kenney, Wood, Tokuda, Cole, Murray, Regala and Van Luven

Read first time 01/20/98. Referred to Committee on Health Care.

1 AN ACT Relating to improving long-term care; amending RCW
2 70.129.030; adding a new section to chapter 18.20 RCW; adding a new
3 section to chapter 70.128 RCW; creating a new section; providing an
4 effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that many residents of
7 long-term care facilities are exceptionally vulnerable and their health
8 and well-being are heavily dependent on their caregivers. The
9 legislature further finds that the quality of staff in long-term care
10 facilities is often the key to good care. The need for well-trained
11 staff and well-managed facilities is growing as the state's population
12 ages and the acuity of the health care problems of residents increases.
13 In order to better protect and care for residents, the legislature
14 directs that the minimum training standards for licensees serving
15 residents with special needs, such as mental illness, dementia, or a
16 developmental disability, be increased, and that licensees receive
17 additional appropriate training, and that the training delivery system
18 be improved.

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

3 (1) The department of social and health services shall design and
4 develop, in coordination with the department of health and the nursing
5 care quality assurance commission, proposed revisions to the training
6 standards for administrators and resident caregiving staff. The
7 departments and the commission shall submit to the appropriate
8 committees of the house of representatives and the senate by December
9 1, 1998, specific recommendations for enhancement of the training
10 standards and delivery system, including necessary statutory changes
11 and funding requirements. The proposed enhancements shall be
12 consistent with this section, shall take into account and not duplicate
13 other training requirements applicable to facilities and staff, and
14 shall be developed with the input of facility and resident
15 representatives, health care professionals, and other vested interest
16 groups. The enhanced training standards and delivery system shall be
17 relevant to the needs of residents served by the facility and shall be
18 sufficient to ensure that administrators and caregiving staff have the
19 skills and knowledge necessary to provide high quality, appropriate
20 care. Following the action of the 1999 legislature, the departments
21 and commission shall adopt appropriate rules to implement the enhanced
22 training standards and improved training delivery system.

23 (2) The proposed training standards shall include enhanced minimum
24 standards for all administrators and caregiving staff and specialized
25 training standards for administrators and staff serving residents with
26 special needs. Residents with special needs include, but are not
27 limited to, residents with a diagnosis of mental illness, dementia, or
28 developmental disability.

29 (3) The proposed training standards shall consist of modules, with
30 competency testing for each module. At least one module of not less
31 than five hours in the minimum standards shall be dedicated to
32 residents' rights under chapter 70.129 RCW. The proposed standards
33 shall include an appropriate mixture of coursework and practical or
34 clinical training. The competency tests shall include a demonstration
35 of skills when appropriate for the subject, and shall be sufficiently
36 detailed and rigorous to provide evidence of the individual's
37 competence.

38 (4) Prospective administrators and caregiving staff with
39 professional health care or social services licenses, as determined by

1 the department by rule, shall be exempted from part or all of the
2 minimum training, except for the module regarding residents' rights,
3 provided that they successfully pass competency testing by the
4 department. For purpose of this section, "prospective" means
5 individuals who become licensed to operate a facility, or are employed
6 by or for a facility, after the effective date of the rules adopted
7 under chapter . . . , Laws of 1998 (this act). Current administrators
8 and caregiving staff who have successfully completed previous
9 department-required minimum training standards are exempted from
10 portions of the department's enhanced minimum training standards that
11 duplicate the previous standards. Current administrators and
12 caregiving staff shall also be exempted from the enhanced minimum
13 training standards, except for the module regarding residents' rights,
14 if they successfully pass competency testing by the department. The
15 department shall exempt prospective and current administrators and
16 caregiving staff from part or all of the specialized training standards
17 if they successfully pass additional competency testing by the
18 department. To the extent consistent with state and federal law, a
19 certificate of completion of modules of the training, or the entire
20 training, shall be transferable between different health care settings.

21 (5) The proposed training standards shall provide that all
22 prospective administrators, unless exempted, must successfully pass the
23 enhanced minimum training standards prior to receiving a license or
24 providing care to residents. Prospective caregiving staff shall
25 complete a portion of the enhanced minimum training standards on key
26 areas of resident care before providing care to residents. The
27 remainder of the minimum training standards shall be completed by
28 prospective caregiving staff within four months of employment. Until
29 the minimum training is successfully completed, caregiving staff hired
30 after the effective date of the enhanced training standards shall
31 provide care only under the direct supervision of an individual who has
32 successfully completed department-required minimum training. All
33 current administrators and caregiving staff, to the extent not
34 exempted, shall successfully complete the enhanced minimum training
35 standards within four months of the effective date of the revised
36 standards.

37 (6) After the effective date of the specialized training standards,
38 prospective administrators who will be serving residents with special
39 care needs, including residents with a diagnosis of developmental

1 disability, dementia, or mental illness, shall successfully complete
2 the specialized training regarding these residents prior to receiving
3 a license or providing care to residents with special care needs.
4 After the effective date of the specialized standards, prospective
5 caregiving staff who will be serving residents with special care needs
6 shall complete a portion of the specialized training on key areas of
7 such care before providing care to residents with special care needs.
8 The remainder of the specialized training shall be completed within
9 four months of employment. Until the specialized training is
10 successfully completed, caregiving staff hired after the effective date
11 of the specialized standards shall provide care to residents with
12 special needs only under the direct supervision of an individual who
13 has successfully completed department-required specialized training.
14 All current administrators and caregiving staff who serve residents
15 with special care needs shall successfully complete the specialized
16 training within four months of the effective date of the specialized
17 standards.

18 (7) For facilities with a small percentage of residents with
19 special care needs, the department may by rule determine that only the
20 administrators and caregiving staff who interact with these residents
21 are required to complete the specialized training.

22 (8) The minimum and specialized training may be conducted by
23 persons and entities approved by the department. The December 1, 1998,
24 recommendations of the department of social and health services, the
25 department of health, and the nursing care quality assurance commission
26 to the legislature shall include recommendations regarding a revised
27 training delivery system, which may include, but is not limited to,
28 training through the department, community colleges, area agencies on
29 aging, regional support networks, other persons or entities with
30 expertise on long-term care or special care needs, and by long-term
31 care facilities if the facility does not have a history of significant
32 noncompliance with federal or state laws concerning the care of
33 vulnerable adults or children. No person, entity, or facility may
34 conduct training until they also meet relevant standards set by the
35 department to ensure high quality training.

36 (9) The department of social and health services, the department of
37 health, and the nursing care quality assurance commission, with input
38 from interested persons, shall use their best efforts to design the
39 training modules and competency testing to teach and test appropriate

1 skill areas. The commission shall accept some or all of the
2 successfully competed modules towards meeting the requirements for a
3 nursing assistant certificate under chapter 18.88A RCW.

4 (10) The department of social and health services shall establish
5 payment rates to cover the reasonable costs of the enhanced minimum
6 training and specialized standards for facilities with a contract to
7 accept state-funded residents. The payment rates shall compensate
8 facilities on a pro rata basis, based upon the facility's ratio of
9 state-funded residents to private-pay residents. Compensation by the
10 department of social and health services shall include the reasonable
11 cost of tuition for the training and the reasonable cost for
12 administrators and caregiving staff while they attend required
13 training. To the extent possible, the department of social and health
14 services shall seek federal reimbursement for these training-related
15 costs. Facilities that admit only private-pay residents shall not have
16 training costs paid for by the state.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.128 RCW
18 to read as follows:

19 (1) The department of social and health services shall design and
20 develop, in coordination with the department of health and the nursing
21 care quality assurance commission, proposed revisions to the training
22 standards for providers and resident managers and resident caregiving
23 staff. The departments and the commission shall submit to the
24 appropriate committees of the house of representatives and the senate
25 by December 1, 1998, specific recommendations for enhancement of the
26 training standards and delivery system, including necessary statutory
27 changes and funding requirements. The proposed enhancements shall be
28 consistent with this section, shall take into account and not duplicate
29 other training requirements applicable to facilities and staff, and
30 shall be developed with the input of facility and resident
31 representatives, health care professionals, and other vested interest
32 groups. The enhanced training standards and delivery system shall be
33 relevant to the needs of residents served by the facility and shall be
34 sufficient to ensure that providers and resident managers and
35 caregiving staff have the skills and knowledge necessary to provide
36 high quality, appropriate care. Following the action of the 1999
37 legislature, the departments and commission shall adopt appropriate

1 rules to implement the enhanced training standards and improved
2 training delivery system.

3 (2) The proposed training standards shall include enhanced minimum
4 standards for all providers and resident managers and caregiving staff
5 and specialized training standards for providers and resident managers
6 and staff serving residents with special needs. Residents with special
7 needs include, but are not limited to, residents with a diagnosis of
8 mental illness, dementia, or developmental disability.

9 (3) The proposed training standards shall consist of modules, with
10 competency testing for each module. At least one module of not less
11 than five hours in the minimum standards shall be dedicated to
12 residents' rights under chapter 70.129 RCW. The proposed standards
13 shall include an appropriate mixture of coursework and practical or
14 clinical training. The competency tests shall include a demonstration
15 of skills when appropriate for the subject, and shall be sufficiently
16 detailed and rigorous to provide evidence of the individual's
17 competence.

18 (4) Prospective providers and resident managers and caregiving
19 staff with professional health care or social services licenses, as
20 determined by the department by rule, shall be exempted from part or
21 all of the minimum training, except for the module regarding residents'
22 rights, provided that they successfully pass competency testing by the
23 department. For purpose of this section, "prospective" means
24 individuals who become licensed to operate a facility, or are employed
25 by or for a facility, after the effective date of the rules adopted
26 under chapter . . ., Laws of 1998 (this act). Current providers and
27 resident managers and caregiving staff who have successfully completed
28 previous department-required minimum training standards are exempted
29 from portions of the department's enhanced minimum training standards
30 that duplicate the previous standards. Current providers and resident
31 managers and caregiving staff shall also be exempted from the enhanced
32 minimum training standards, except for the module regarding residents'
33 rights, if they successfully pass competency testing by the department.
34 The department shall exempt prospective and current providers and
35 resident managers and caregiving staff from part or all of the
36 specialized training standards if they successfully pass additional
37 competency testing by the department. To the extent consistent with
38 state and federal law, a certificate of completion of modules of the

1 training, or the entire training, shall be transferable between
2 different health care settings.

3 (5) The proposed training standards shall provide that all
4 prospective providers and resident managers, unless exempted, must
5 successfully pass the enhanced minimum training standards prior to
6 receiving a license or providing care to residents. Prospective
7 caregiving staff shall complete a portion of the enhanced minimum
8 training standards on key areas of resident care before providing care
9 to residents. The remainder of the minimum training standards shall be
10 completed by prospective caregiving staff within four months of
11 employment. Until the minimum training is successfully completed,
12 caregiving staff hired after the effective date of the enhanced
13 training standards shall provide care only under the direct supervision
14 of an individual who has successfully completed department-required
15 minimum training. All current providers and resident managers and
16 caregiving staff, to the extent not exempted, shall successfully
17 complete the enhanced minimum training standards within four months of
18 the effective date of the revised standards.

19 (6) After the effective date of the specialized training standards,
20 prospective providers and resident managers who will be serving
21 residents with special care needs, including residents with a diagnosis
22 of developmental disability, dementia, or mental illness, shall
23 successfully complete the specialized training regarding these
24 residents prior to receiving a license or providing care to residents
25 with special care needs. After the effective date of the specialized
26 standards, prospective caregiving staff who will be serving residents
27 with special care needs shall complete a portion of the specialized
28 training on key areas of such care before providing care to residents
29 with special care needs. The remainder of the specialized training
30 shall be completed within four months of employment. Until the
31 specialized training is successfully completed, caregiving staff hired
32 after the effective date of the specialized standards shall provide
33 care to residents with special needs only under the direct supervision
34 of an individual who has successfully completed department-required
35 specialized training. All current providers and resident managers and
36 caregiving staff who serve residents with special care needs shall
37 successfully complete the specialized training within four months of
38 the effective date of the specialized standards.

1 (7) For facilities with a small percentage of residents with
2 special care needs, the department may by rule determine that only the
3 providers and resident managers and caregiving staff who interact with
4 these residents are required to complete the specialized training.

5 (8) The minimum and specialized training may be conducted by
6 persons and entities approved by the department. The December 1, 1998,
7 recommendations of the department of social and health services, the
8 department of health, and the nursing care quality assurance commission
9 to the legislature shall include recommendations regarding a revised
10 training delivery system, which may include, but is not limited to,
11 training through the department, community colleges, area agencies on
12 aging, regional support networks, other persons or entities with
13 expertise on long-term care or special care needs, and by long-term
14 care facilities if the facility does not have a history of significant
15 noncompliance with federal or state laws concerning the care of
16 vulnerable adults or children. No person, entity, or facility may
17 conduct training until they also meet relevant standards set by the
18 department to ensure high quality training.

19 (9) The department of social and health services, the department of
20 health, and the nursing care quality assurance commission, with input
21 from interested persons, shall use their best efforts to design the
22 training modules and competency testing to teach and test appropriate
23 skill areas. The commission shall accept some or all of the
24 successfully competed modules towards meeting the requirements for a
25 nursing assistant certificate under chapter 18.88A RCW.

26 (10) The department of social and health services shall establish
27 payment rates to cover the reasonable costs of the enhanced minimum
28 training and specialized standards for facilities with a contract to
29 accept state-funded residents. The payment rates shall compensate
30 facilities on a pro rata basis, based upon the facility's ratio of
31 state-funded residents to private-pay residents. Compensation by the
32 department of social and health services shall include the reasonable
33 cost of tuition for the training and the reasonable cost for providers
34 and resident managers and caregiving staff while they attend required
35 training. To the extent possible, the department of social and health
36 services shall seek federal reimbursement for these training-related
37 costs. Facilities that admit only private-pay residents shall not have
38 training costs paid for by the state.

1 **Sec. 4.** RCW 70.129.030 and 1997 c 386 s 31 are each amended to
2 read as follows:

3 (1) The facility must inform the resident both orally and in
4 writing in a language that the resident understands of his or her
5 rights and all rules and regulations governing resident conduct and
6 responsibilities during the stay in the facility. The notification
7 must be made prior to or upon admission. Receipt of the information
8 must be acknowledged in writing.

9 (2) The resident or his or her legal representative has the right:

10 (a) Upon an oral or written request, to access all records
11 pertaining to himself or herself including clinical records within
12 twenty-four hours; and

13 (b) After receipt of his or her records for inspection, to purchase
14 at a cost not to exceed the community standard photocopies of the
15 records or portions of them upon request and two working days' advance
16 notice to the facility.

17 (3) The facility shall only admit or retain individuals whose needs
18 it can safely and appropriately serve in the facility with appropriate
19 available staff or through the provision of reasonable accommodations
20 required by state or federal law. Except in cases of genuine
21 emergency, the facility shall not admit an individual before obtaining
22 a thorough assessment of the resident's needs and preferences. The
23 assessment shall contain, unless unavailable despite the best efforts
24 of the facility, potential resident, and other interested parties, the
25 following minimum information: Recent medical history; necessary and
26 prohibited medications; a medical professional's diagnosis; significant
27 know behaviors or symptoms that may cause concern or require special
28 care; mental illness, except where protected by confidentiality laws;
29 level of personal care needs; activities and service preferences; and
30 preferences regarding other issues important to the potential resident,
31 such as food and daily routine.

32 (4) The facility must inform each resident in writing in a language
33 the resident or his or her representative understands before((, or at
34 the time of)) admission, and at least once every twenty-four months
35 thereafter of: (a) Services, items, and activities customarily
36 available in the facility or arranged for by the facility; (b) charges
37 for those services, items, and activities including charges for
38 services, items, and activities not covered by the facility's per diem
39 rate or applicable public benefit programs; and (c) the rules of

1 facility operations required under RCW 70.129.140(2). Each resident
2 and his or her representative must be informed in writing in advance of
3 changes in the availability or the charges for services, items, or
4 activities, or of changes in the facility's rules. Except in
5 emergencies, thirty days' advance notice must be given prior to the
6 change. However, for facilities licensed for six or fewer residents,
7 if there has been a substantial and continuing change in the resident's
8 condition necessitating substantially greater or lesser services,
9 items, or activities, then the charges for those services, items, or
10 activities may be changed upon fourteen days' advance written notice.

11 ((+4))) (5) The facility must furnish a written description of
12 residents rights that includes:

13 (a) A description of the manner of protecting personal funds, under
14 RCW 70.129.040;

15 (b) A posting of names, addresses, and telephone numbers of the
16 state survey and certification agency, the state licensure office, the
17 state ombudsmen program, and the protection and advocacy systems; and

18 (c) A statement that the resident may file a complaint with the
19 appropriate state licensing agency concerning alleged resident abuse,
20 neglect, and misappropriation of resident property in the facility.

21 ((+5))) (6) Notification of changes.

22 (a) A facility must immediately consult with the resident's
23 physician, and if known, make reasonable efforts to notify the
24 resident's legal representative or an interested family member when
25 there is:

26 (i) An accident involving the resident which requires or has the
27 potential for requiring physician intervention;

28 (ii) A significant change in the resident's physical, mental, or
29 psychosocial status (i.e., a deterioration in health, mental, or
30 psychosocial status in either life-threatening conditions or clinical
31 complications).

32 (b) The facility must promptly notify the resident or the
33 resident's representative shall make reasonable efforts to notify an
34 interested family member, if known, when there is:

35 (i) A change in room or roommate assignment; or

36 (ii) A decision to transfer or discharge the resident from the
37 facility.

1 (c) The facility must record and update the address and phone
2 number of the resident's representative or interested family member,
3 upon receipt of notice from them.

4 NEW SECTION. **Sec. 5.** (1) Section 4 of this act takes effect July
5 1, 1998.

6 (2) Sections 2 and 3 of this act are necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and take effect
9 immediately.

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