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**Health Care & Wellness Committee**

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**HB 1315**

**Brief Description:** Concerning the employment of physicians by nursing homes.

**Sponsors:** Representatives Kelley, Schmick, Cody, Hinkle, Van De Wege, Miloscia, Jinkins, Seaquist, Angel and Harris.

**Brief Summary of Bill**

- Allows nursing homes to employ physicians to provide professional services to its residents.
- Prohibits nursing homes from interfering with the employed physician's judgment concerning the practice of medicine or diagnosis and treatment of any patient.
- Requires the Department of Social and Health Services to be notified annually of physicians employed by nursing homes.

**Hearing Date:** 2/2/11

**Staff:** Morgan Powell (786-7119); Chris Cordes (786-7103)

**Background:**

Medical Services in Nursing Homes.

Nursing homes are licensed facilities that provide convalescent care and/or chronic care for more than 24 consecutive hours for three or more unrelated patients who are unable to care for themselves.

Each resident of a nursing home must have a comprehensive plan of care prepared by an interdisciplinary team that includes the attending physician. The nursing home must inform a resident of the name and specialty of the physician responsible for the resident's care and provide a way for the resident to contact his or her physician. According to federal interpretive guidelines for the Medicare and Medicaid programs, residents should be allowed to designate a

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personal physician, and the nursing home is responsible for assisting the resident to obtain these services.

A nursing home must ensure that a resident is seen by a physician whenever necessary and that the medical care provided by the nursing home is supervised by a physician (except for nursing homes that have not contracted to provide care under the Medicare or Medicaid programs). This includes supervising the medical care when the attending physician is not available and providing physician services 24 hours a day in case of emergency. Under some circumstances, physician tasks may be delegated to a physician assistant or advanced registered nurse practitioner who is not an employee of the nursing home.

A nursing home must designate a medical director who is responsible for implementing resident care policies and coordinating medical care in the facility.

A nursing home may maintain a quality assurance committee that includes a physician designated by the nursing home, along with the director of nursing services and three other staff members.

### The Corporate Practice of Medicine.

Generally, under the common law in Washington, a business entity is prohibited from employing a medical professional to practice his or her licensed profession unless legislatively authorized. Courts conclude that this prohibition exists to protect the relationship between the professional and the patient.

By statute, persons licensed or authorized to render the same professional services are allowed to form a professional corporation (including a limited liability company). The Washington Supreme Court (Court) held that this statute did not authorize a business partnership between a nurse and a physician. In a 2010 case, the Court considered whether this statute or the corporate practice of medicine doctrine was violated by a limited liability company owned by physicians that employed physical therapists. The Court found no violation of either, reasoning that both physicians and physical therapists were providing aspects of the "practice of medicine."

### **Summary of Bill:**

A nursing home may employ physicians to provide professional services to residents of the nursing home or a related living facility (such as a boarding home on the same campus). The nursing home may not supplant, diminish, or regulate any employed physician's judgment directly or indirectly, concerning the practice of medicine or diagnosis and treatment of any patient.

Physicians may be employed by an entity that owns, controls, or manages a nursing home or a separate entity that has common or overlapping ownership of any entity that owns, controls, or manages a nursing home.

An entity that employs physicians must annually notify the Department of Social and Health Services of such employment.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.