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HOUSE BILL 2083

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State of Washington

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By Representatives Macri, Harris, Santos, and Gilday

Read first time 01/24/22. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to addressing consent to long-term care placement  
2 and services; amending RCW 70.41.310, 11.130.585, and 11.130.590; and  
3 adding a new section to chapter 11.130 RCW.

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

5 **Sec. 1.** RCW 70.41.310 and 1995 1st sp.s. c 18 s 3 are each  
6 amended to read as follows:

7 (1)(a) The department of social and health services, in  
8 consultation with hospitals and acute care facilities, shall promote  
9 the most appropriate and cost-effective use of long-term care  
10 services by developing and distributing to hospitals and other  
11 appropriate health care settings information on the various chronic  
12 long-term care programs that it administers directly or through  
13 contract. The information developed by the department of social and  
14 health services shall, at a minimum, include the following:

15 (i) An identification and detailed description of each long-term  
16 care service available in the state;

17 (ii) Functional, cognitive, and medicaid eligibility criteria  
18 that may be required for placement or admission to each long-term  
19 care service; and

20 (iii) A long-term care services resource manual for each  
21 hospital, that identifies the long-term care services operating

1 within each hospital's patient service area. The long-term care  
2 services resource manual shall, at a minimum, identify the name,  
3 address, and telephone number of each entity known to be providing  
4 long-term care services; a brief description of the programs or  
5 services provided by each of the identified entities; and the name or  
6 names of a person or persons who may be contacted for further  
7 information or assistance in accessing the programs or services at  
8 each of the identified entities.

9 (b) The information required in (a) of this subsection shall be  
10 periodically updated and distributed to hospitals by the department  
11 of social and health services so that the information reflects  
12 current long-term care service options available within each  
13 hospital's patient service area.

14 (2) To the extent that a patient will have continuing care needs,  
15 once discharged from the hospital setting, hospitals shall, during  
16 the course of the patient's hospital stay, promote each patient's  
17 family member's and/or legal representative's understanding of  
18 available long-term care service discharge options by, at a minimum:

19 (a) Discussing the various and relevant long-term care services  
20 available, including eligibility criteria;

21 (b) Making available, to patients, their family members, and/or  
22 legal representative, a copy of the most current long-term care  
23 services resource manual;

24 (c) Responding to long-term care questions posed by patients,  
25 their family members, and/or legal representative;

26 (d) Assisting the patient, their family members, and/or legal  
27 representative in contacting appropriate persons or entities to  
28 respond to the question or questions posed; and

29 (e) Linking the patient and family to the local, state-designated  
30 aging and long-term care network to ensure effective transitions to  
31 appropriate levels of care and ongoing support.

32 (3) (a) If a patient who does not have the capacity to make health  
33 care decisions requires long-term care, as defined in RCW 74.39A.009,  
34 when discharged from the hospital setting, persons authorized under  
35 RCW 7.70.065 to provide informed consent to health care on behalf of  
36 the patient are also authorized to provide consent for long-term care  
37 as an individual's representative in the order of priority  
38 established in RCW 7.70.065.

39 (b) Persons providing consent for long-term care pursuant to (a)  
40 of this subsection shall provide a declaration, signed and dated

1 under penalty of perjury pursuant to chapter 5.50 RCW, that the  
2 person shall actively assist in any initiation of guardianship,  
3 conservatorship, or other protective arrangement proceedings under  
4 chapter 11.130 RCW.

5 (c) The department of social and health services, the hospital,  
6 or an interested party may file for guardianship, conservatorship, or  
7 other protective arrangement proceedings under chapter 11.130 RCW as  
8 necessary.

9 **Sec. 2.** RCW 11.130.585 and 2020 c 312 s 315 are each amended to  
10 read as follows:

11 (1) After the hearing on a petition under RCW 11.130.270 for a  
12 guardianship or under RCW 11.130.580(2) for a protective arrangement  
13 instead of guardianship, the court may issue an order under  
14 subsection (2) of this section for a protective arrangement instead  
15 of guardianship if the court finds by clear and convincing evidence  
16 that:

17 (a) The respondent lacks the ability to meet essential  
18 requirements for physical health, safety, or self-care because the  
19 respondent is unable to receive and evaluate information or make or  
20 communicate decisions, even with appropriate supportive services,  
21 technological assistance, or supported decision making; and

22 (b) The respondent's identified needs cannot be met by a less  
23 restrictive alternative.

24 (2) If the court makes the findings under subsection (1) of this  
25 section, the court, instead of appointing a guardian, may:

26 (a) Authorize or direct a transaction necessary to meet the  
27 respondent's need for health, safety, or care, including:

28 (i) A particular medical treatment or refusal of a particular  
29 medical treatment; (~~or~~)

30 (ii) Visitation or supervised visitation between the respondent  
31 and another person;

32 (iii) Discharge from an acute care hospital to home or to a  
33 licensed or certified long-term care setting capable of meeting the  
34 health and safety needs of the respondent and willing to provide care  
35 to the respondent; or

36 (iv) A plan of care required to receive medicaid or other  
37 services funded by a governmental entity;

1 (b) Restrict access to the respondent by a specified person whose  
2 access places the respondent at serious risk of physical,  
3 psychological, or financial harm; and

4 (c) Reorder other arrangements on a limited basis that are  
5 appropriate.

6 (3) In deciding whether to issue an order under this section, the  
7 court shall consider the factors under RCW 11.130.330 and 11.130.335  
8 that a guardian must consider when making a decision on behalf of an  
9 adult subject to guardianship.

10 **Sec. 3.** RCW 11.130.590 and 2019 c 437 s 503 are each amended to  
11 read as follows:

12 (1) After the hearing on a petition under RCW 11.130.365 for  
13 conservatorship for an adult or under RCW 11.130.580(3) for a  
14 protective arrangement instead of a conservatorship for an adult, the  
15 court may issue an order under subsection (3) of this section for a  
16 protective arrangement instead of conservatorship for the adult if  
17 the court finds by clear and convincing evidence that:

18 (a) The adult is unable to manage property or financial affairs  
19 because:

20 (i) Of a limitation in the ability to receive and evaluate  
21 information or make or communicate decisions, even with appropriate  
22 supportive services, technological assistance, or supported decision  
23 making; or

24 (ii) The adult is missing, detained, or unable to return to the  
25 United States;

26 (b) An order under subsection (3) of this section is necessary  
27 to:

28 (i) Avoid harm to the adult or significant dissipation of the  
29 property of the adult; or

30 (ii) Obtain or provide funds or other property needed for the  
31 support, care, education, health, or welfare of the adult or an  
32 individual entitled to the adult's support; and

33 (c) The respondent's identified needs cannot be met by a less  
34 restrictive alternative.

35 (2) After the hearing on a petition under RCW 11.130.365 for  
36 conservatorship for a minor or under RCW 11.130.580(3) for a  
37 protective arrangement instead of conservatorship for a minor, the  
38 court may issue an order under subsection (3) of this section for a  
39 protective arrangement instead of conservatorship for the respondent

1 if the court finds by a preponderance of the evidence that the  
2 arrangement is in the minor's best interest, and:

3 (a) If the minor has a parent, the court gives weight to any  
4 recommendation of the parent whether an arrangement is in the minor's  
5 best interest;

6 (b) Either:

7 (i) The minor owns money or property requiring management or  
8 protection that otherwise cannot be provided;

9 (ii) The minor has or may have financial affairs that may be put  
10 at unreasonable risk or hindered because of the minor's age; or

11 (iii) The arrangement is necessary or desirable to obtain or  
12 provide funds or other property needed for the support, care,  
13 education, health, or welfare of the minor; and

14 (iv) The order under subsection (3) of this section is necessary  
15 or desirable to obtain or provide money needed for the support, care,  
16 education, health, or welfare of the minor.

17 (3) If the court makes the findings under subsection (1) or (2)  
18 of this section, the court, instead of appointing a conservator, may:

19 (a) Authorize or direct a transaction necessary to protect the  
20 financial interest or property of the respondent, including:

21 (i) An action to establish eligibility for benefits, including  
22 medicaid;

23 (ii) Payment, delivery, deposit, or retention of funds or  
24 property;

25 (iii) Sale, mortgage, lease, or other transfer of property;

26 (iv) Purchase of an annuity;

27 (v) Entry into a contractual relationship, including a contract  
28 to provide for personal care, supportive services, education,  
29 training, or employment;

30 (vi) Addition to or establishment of a trust;

31 (vii) Ratification or invalidation of a contract, trust, will, or  
32 other transaction, including a transaction related to the property or  
33 business affairs of the respondent; (~~or~~)

34 (viii) Settlement of a claim; or

35 (ix) Authorization of medicaid or other services funded by a  
36 governmental entity; or

37 (b) Restrict access to the respondent's property by a specified  
38 person whose access to the property places the respondent at serious  
39 risk of financial harm.

1 (4) After the hearing on a petition under RCW 11.130.580(1)(b),  
2 whether or not the court makes the findings under subsection (1) or  
3 (2) of this section, the court may issue an order to restrict access  
4 to the respondent or the respondent's property by a specified person  
5 that the court finds by clear and convincing evidence:

6 (a) Through fraud, coercion, duress, or the use of deception and  
7 control caused or attempted to cause an action that would have  
8 resulted in financial harm to the respondent or the respondent's  
9 property; and

10 (b) Poses a serious risk of substantial financial harm to the  
11 respondent or the respondent's property.

12 (5) Before issuing an order under subsection (3) or (4) of this  
13 section, the court shall consider the factors under RCW 11.130.505 a  
14 conservator must consider when making a decision on behalf of an  
15 individual subject to conservatorship.

16 (6) Before issuing an order under subsection (3) or (4) of this  
17 section for a respondent who is a minor, the court also shall  
18 consider the best interest of the minor, the preference of the  
19 parents of the minor, and the preference of the minor, if the minor  
20 is twelve years of age or older.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 11.130  
22 RCW to read as follows:

23 Every superior court shall prioritize guardianship petitions for  
24 any respondent who is a patient in an acute care hospital at the time  
25 the petition is filed.

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