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ENGROSSED SUBSTITUTE HOUSE BILL 2363

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State of Washington

55th Legislature

1998 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Backlund, Cody, Skinner, Dyer, Anderson and D. Sommers; by request of Department of Health)

Read first time 01/29/98. Referred to Committee on .

1 AN ACT Relating to department of health recommendations removing  
2 barriers to nurse delegation; amending RCW 18.88A.030, 18.88A.210, and  
3 18.88A.230; amending 1995 1st sp.s. c 18 s 54 (uncodified); and  
4 declaring an emergency.

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

6 **Sec. 1.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each  
7 amended to read as follows:

8 (1) A nursing assistant may assist in the care of individuals as  
9 delegated by and under the direction and supervision of a licensed  
10 (registered) nurse or licensed practical nurse.

11 (2) A health care facility shall not assign a nursing assistant-  
12 registered to provide care until the nursing assistant-registered has  
13 demonstrated skills necessary to perform competently all assigned  
14 duties and responsibilities.

15 (3) Nothing in this chapter shall be construed to confer on a  
16 nursing assistant the authority to administer medication except as  
17 authorized in public and private schools under RCW 28A.210.260 unless  
18 delegated as a specific nursing task pursuant to this chapter or to

1 practice as a licensed (registered) nurse or licensed practical nurse  
2 as defined in chapter 18.79 RCW.

3 (4) Certification is voluntary for nursing assistants working in  
4 health care facilities other than nursing homes unless otherwise  
5 required by state or federal law or regulation.

6 (5) The commission may adopt rules to implement the provisions of  
7 this chapter.

8 **Sec. 2.** RCW 18.88A.210 and 1995 1st sp.s. c 18 s 46 are each  
9 amended to read as follows:

10 (1) A nurse may delegate specific care tasks to nursing assistants  
11 meeting the requirements of this section and who provide care to  
12 individuals in community residential programs for the developmentally  
13 disabled certified by the department of social and health services  
14 under chapter 71A.12 RCW, to individuals residing in adult family homes  
15 licensed under chapter 70.128 RCW, and to individuals residing in  
16 boarding homes licensed under chapter 18.20 RCW contracting with the  
17 department of social and health services to provide assisted living  
18 services pursuant to RCW 74.39A.010.

19 (2) For the purposes of this section, "nursing assistant" means a  
20 nursing assistant-registered or a nursing assistant-certified. Nothing  
21 in this section may be construed to affect the authority of nurses to  
22 delegate nursing tasks to other persons, including licensed practical  
23 nurses, as authorized by law.

24 (3) Before commencing any specific nursing care tasks authorized  
25 under this chapter, the nursing assistant must (a) provide to the  
26 delegating nurse a certificate of completion issued by the department  
27 of social and health services indicating the completion of basic core  
28 training as provided in this section, (b) be regulated by the  
29 department of health pursuant to this chapter, subject to the uniform  
30 disciplinary act under chapter 18.130 RCW, and (c) meet any additional  
31 training requirements identified by the nursing care quality assurance  
32 commission and authorized by this section.

33 (4) A nurse may delegate the following care tasks:

34 (a) Oral and topical medications and ointments;

35 (b) Nose, ear, eye drops, and ointments;

36 (c) Dressing changes and catheterization using clean techniques as  
37 defined by the nursing care quality assurance commission;

38 (d) Suppositories, enemas, ostomy care;

1 (e) Blood glucose monitoring;

2 (f) Gastrostomy feedings in established and healed condition.

3 (5) On or before September 1, 1995, the nursing care quality  
4 assurance commission, in conjunction with the professional nursing  
5 organizations, shall develop rules for nurse delegation protocols and  
6 by December 5, 1995, identify training beyond the core training that is  
7 deemed necessary for the delegation of complex tasks and patient care.

8 (6) Nursing task delegation protocols are not intended to regulate  
9 the settings in which delegation may occur but are intended to ensure  
10 that nursing care services have a consistent standard of practice upon  
11 which the public and profession may rely and to safeguard the authority  
12 of the nurse to make independent professional decisions regarding the  
13 delegation of a task. Protocols shall include at least the following:

14 (a) Ensure that determination of the appropriateness of delegation  
15 of a nursing task is at the discretion of the nurse;

16 (b) Allow delegation of a nursing care task only for patients who  
17 have a stable and predictable condition. "Stable and predictable  
18 condition" means a situation, as defined by rule by the nursing care  
19 quality assurance commission, in which the patient's clinical and  
20 behavioral status is known and does not require frequent presence and  
21 evaluation of a registered nurse;

22 (c) Assure that the (~~delegations of nursing tasks pursuant to this~~  
23 ~~chapter have the written informed consent of the patient consistent~~  
24 ~~with the provisions for informed consent under chapter 7.70 RCW, as~~  
25 ~~well as with the consent of the delegating nurse and nursing assistant.~~  
26 ~~The delegating nurse shall inform patients of the level of training of~~  
27 ~~all care providers in the setting)) initial delegating nurse obtains  
28 written consent to the nurse delegation process from the patient or a  
29 person authorized under RCW 7.70.065. Written consent is only  
30 necessary at the initial use of the nurse delegation process for each  
31 patient and is not necessary for task additions or changes or if a  
32 different nurse or nursing assistant will be participating in the  
33 process. The written consent must include at a minimum the following:~~

34 (i) A list of the tasks that could potentially be delegated per RCW  
35 18.88A.210; and

36 (ii) A statement that a nursing assistant through the nurse  
37 delegation process will be performing a task that would previously have  
38 been performed by a registered or licensed practical nurse;

- 1 (d) Verify that the nursing assistant has completed the core  
2 training;
- 3 (e) Require assessment by the nurse of the ability and willingness  
4 of the nursing assistant to perform the delegated nursing task in the  
5 absence of direct nurse supervision and to refrain from delegation if  
6 the nursing assistant is not able or willing to perform the task;
- 7 (f) Require the nurse to analyze the complexity of the nursing task  
8 that is considered for delegation and determine the appropriate level  
9 of training and any need of additional training for the nursing  
10 assistant;
- 11 (g) Require the teaching of the nursing care task to the nursing  
12 assistant (~~including~~) utilizing one or more of the following: (i)  
13 Verification of competency via return demonstration (~~under observation~~  
14 while performing the task)); (ii) other methods for verification of  
15 competency to perform the nursing task; or (iii) assurance that the  
16 nursing assistant is competent to perform the nursing task as a result  
17 of systems in place in the community residential program for the  
18 developmentally disabled, adult family home, or boarding home providing  
19 assisted living services;
- 20 (h) Require a plan of nursing supervision and reevaluation of the  
21 delegated nursing task. "Nursing supervision" means that the  
22 registered nurse monitors by direct observation or by whatever means is  
23 deemed appropriate by the registered nurse the skill and ability of the  
24 nursing assistant to perform delegated nursing tasks. Frequency of  
25 supervision is at the discretion of the registered nurse but shall  
26 occur at least every sixty days;
- 27 (i) Require instruction to the nursing assistant that the delegated  
28 nursing task is specific to a patient and is not transferable;
- 29 (j) Require documentation and written instruction related to the  
30 delegated nursing task be provided to the nursing assistant and a copy  
31 maintained in the patient record;
- 32 (k) Ensure that the nursing assistant is prepared to effectively  
33 deal with the predictable outcomes of performing the nursing task;
- 34 (l) Include in the delegation of tasks an awareness of the nature  
35 of the condition requiring treatment, risks of the treatment, side  
36 effects, and interaction of prescribed medications;
- 37 (m) Require documentation in the patient's record of the rationale  
38 for delegating or not delegating nursing tasks.

1 (7) A basic core training curriculum on providing care for  
2 individuals in community residential programs for the developmentally  
3 disabled certified by the department of social and health services  
4 under chapter 71A.12 RCW shall be in addition to the training  
5 requirements specified in subsection (5) of this section. Basic core  
6 training shall be developed and adopted by rule by the secretary of the  
7 department of social and health services. The department of social and  
8 health services shall appoint an advisory panel to assist in the  
9 development of core training comprised of representatives of the  
10 following:

- 11 (a) The division of developmental disabilities;
- 12 (b) The nursing care quality assurance commission;
- 13 (c) Professional nursing organizations;
- 14 (d) A state-wide organization of community residential service  
15 providers whose members are programs certified by the department under  
16 chapter 71A.12 RCW.

17 (8) A basic core training curriculum on providing care to residents  
18 in residential settings licensed under chapter 70.128 RCW, or in  
19 assisted living pursuant to RCW 74.39A.010 shall be mandatory for  
20 nursing assistants prior to assessment by a nurse regarding the ability  
21 and willingness to perform a delegated nursing task. Core training  
22 shall be developed and adopted by rule by the secretary of the  
23 department of social and health services, in conjunction with an  
24 advisory panel. The advisory panel shall be comprised of  
25 representatives from, at a minimum, the following:

- 26 (a) The nursing care quality assurance commission;
- 27 (b) Professional nurse organizations;
- 28 (c) A state-wide association of community residential service  
29 providers whose members are programs certified by the department under  
30 chapter 71A.12 RCW;
- 31 (d) Aging consumer groups;
- 32 (e) Associations representing homes licensed under chapters 70.128  
33 and 18.20 RCW; and
- 34 (f) Associations representing home health, hospice, and home care  
35 agencies licensed under chapter 70.127 RCW.

36 **Sec. 3.** RCW 18.88A.230 and 1997 c 275 s 6 are each amended to read  
37 as follows:

1 (1) The nurse and nursing assistant shall be accountable for their  
2 own individual actions in the delegation process. Nurses acting within  
3 the protocols of their delegation authority shall be immune from  
4 liability for any action performed in the course of their delegation  
5 duties. Nursing assistants following written delegation instructions  
6 from registered nurses performed in the course of their accurately  
7 written, delegated duties shall be immune from liability.

8 (2) No person may coerce a nurse into compromising patient safety  
9 by requiring the nurse to delegate if the nurse determines it is  
10 inappropriate to do so. Nurses shall not be subject to any employer  
11 reprisal or disciplinary action by the Washington nursing care quality  
12 assurance commission for refusing to delegate tasks or refusing to  
13 provide the required training for delegation if the nurse determines  
14 delegation may compromise patient safety. Nursing assistants shall not  
15 be subject to any employer reprisal or disciplinary action by the  
16 nursing care quality assurance commission for refusing to accept  
17 delegation of a nursing task based on patient safety issues. No  
18 community residential program, adult family home, or boarding home  
19 contracting to provide assisted-living services may discriminate or  
20 retaliate in any manner against a person because the person made a  
21 complaint or cooperated in the investigation of a complaint.

22 (3) The department of social and health services (~~shall~~) may  
23 impose a civil fine of not less than two hundred fifty dollars nor more  
24 than one thousand dollars on a community residential program, adult  
25 family home, or boarding home under chapter 18, Laws of 1995 1st sp.  
26 sess. that knowingly permits an employee to perform a nursing task  
27 except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st  
28 sp. sess.

29 **Sec. 4.** 1995 1st sp.s. c 18 s 54 (uncodified) is amended to read  
30 as follows:

31 A special legislative task force is established to monitor  
32 implementation of sections 45 through 53 of this act. The task force  
33 shall consist of four members from the house of representatives, no  
34 more than two of whom shall be members of the same caucus, who shall be  
35 appointed by the speaker of the house of representatives, and four  
36 members from the senate, no more than two of whom shall be members of  
37 the same caucus, who shall be appointed by the president of the senate.  
38 The task force shall:

1 (1) Review the proposed nurse delegation protocols developed by the  
2 nursing care quality assurance commission;

3 (2) Review the proposed core and specialized training curricula  
4 developed by the department of social and health services and by the  
5 nursing care quality assurance commission;

6 (3) Review the program and reimbursement policies, and the  
7 identified barriers to nurse delegation, developed by the department of  
8 health and department of social and health services;

9 (4) Submit an interim report of its findings and recommendations on  
10 the above actions to the legislature by January 1, 1996;

11 (5) During 1996, conduct hearings to assess the effectiveness with  
12 which the delegation protocols, the core training, and nurse oversight  
13 are being implemented, and their impact on patient care and quality of  
14 life;

15 (6) Review and approve the proposed study designs;

16 (7) By February 1, 1997, recommend to the legislature a mechanism  
17 and time frame for extending nurse delegation provisions similar to  
18 those described in this act to persons residing in their own homes;

19 (8) During ((1997)) 1998, receive interim reports on the findings  
20 of the studies conducted in accordance with this act, and conduct  
21 additional fact-finding hearings on the implementation and impact of  
22 the nurse delegation provisions of sections 45 through 53 of this act.

23 The office of program research and senate committee services shall  
24 provide staff support to the task force. The department of health, the  
25 department of social and health services, and the nursing care quality  
26 assurance commission shall provide technical support as needed. The  
27 task force shall cease to exist on January 1, ((1998)) 1999, unless  
28 extended by act of the legislature.

29 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 immediately.

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