
SENATE BILL 5708

State of Washington

62nd Legislature

2011 Regular Session

By Senator Keiser

Read first time 02/08/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to reshaping the delivery of long-term care
2 services; amending RCW 18.20.020, 18.20.030, 18.20.330, 18.20.160,
3 18.52.030, 18.51.010, and 70.126.020; adding new sections to chapter
4 74.42 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature has a long history of
7 supporting seniors where they live whether it is at home or in a
8 licensed care facility. It is widely recognized that the consumer of
9 senior services and long-term care of tomorrow will have different
10 demands and expectations for the type and manner of supportive and
11 health care services that they receive. Cost efficiencies must and can
12 be achieved within the health care system. Through the use of care
13 coaches, technology-supported health and wellness programs, and by
14 allowing greater flexibility for the specialization and use of nursing
15 facility beds, costly hospitalizations and rehospitalizations can be
16 reduced and the entry to licensed care settings can be delayed.

17 **Sec. 2.** RCW 18.20.020 and 2006 c 242 s 1 are each amended to read
18 as follows:

1 As used in this chapter:

2 (1) "Boarding home" means any home or other institution, however
3 named, which is advertised, announced, or maintained for the express or
4 implied purpose of providing housing, basic services, and assuming
5 general responsibility for the safety and well-being of the residents,
6 and may also provide domiciliary care, consistent with chapter 142,
7 Laws of 2004, to seven or more residents after July 1, 2000. However,
8 a boarding home that is licensed for three to six residents prior to or
9 on July 1, 2000, may maintain its boarding home license as long as it
10 is continually licensed as a boarding home. "Boarding home" shall not
11 include facilities certified as group training homes pursuant to RCW
12 71A.22.040, nor any home, institution or section thereof which is
13 otherwise licensed and regulated under the provisions of state law
14 providing specifically for the licensing and regulation of such home,
15 institution or section thereof. Nor shall it include any independent
16 senior housing, independent living units in continuing care retirement
17 communities, or other similar living situations including those
18 subsidized by the department of housing and urban development.

19 (2) "Basic services" means housekeeping services, meals, nutritious
20 snacks, laundry, and activities.

21 (3) "Person" means any individual, firm, partnership, corporation,
22 company, association, or joint stock association, and the legal
23 successor thereof.

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

25 (5) "Department" means the state department of social and health
26 services.

27 (6) "Resident's representative" means a person designated
28 voluntarily by a competent resident, in writing, to act in the
29 resident's behalf concerning the care and services provided by the
30 boarding home and to receive information from the boarding home, if
31 there is no legal representative. The resident's competence shall be
32 determined using the criteria in RCW 11.88.010(1)(e). The resident's
33 representative may not be affiliated with the licensee, boarding home,
34 or management company, unless the affiliated person is a family member
35 of the resident. The resident's representative shall not have
36 authority to act on behalf of the resident once the resident is no
37 longer competent.

1 (7) "Domiciliary care" means: Assistance with activities of daily
2 living provided by the boarding home either directly or indirectly; or
3 health support services, if provided directly or indirectly by the
4 boarding home; or (~~intermittent~~) nursing services, if provided
5 directly or indirectly by the boarding home.

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

21 (9) "Legal representative" means a person or persons identified in
22 RCW 7.70.065 who may act on behalf of the resident pursuant to the
23 scope of their legal authority. The legal representative shall not be
24 affiliated with the licensee, boarding home, or management company,
25 unless the affiliated person is a family member of the resident.

26 (10) "Nonresident individual" means a person who resides in
27 independent senior housing, independent living units in continuing care
28 retirement communities, or in other similar living environments or in
29 an unlicensed room located within a boarding home (~~and may receive~~).
30 Nothing in this chapter prohibits nonresidents from receiving one or
31 more of the services listed in RCW 18.20.030(5) or requires licensure
32 as a boarding home when one or more of the services listed in RCW
33 18.20.030(5) are provided to nonresidents. A nonresident individual
34 may not receive domiciliary care, as defined in this chapter, directly
35 or indirectly by the boarding home and may not receive the items and
36 services listed in subsection (8) of this section, except during the
37 time the person is receiving adult day services as defined in this
38 section.

1 (11) "Resident" means an individual who is not related by blood or
2 marriage to the operator of the boarding home, and by reason of age or
3 disability, chooses to reside in the boarding home and receives basic
4 services and one or more of the services listed under general
5 responsibility for the safety and well-being of the resident and may
6 receive domiciliary care or respite care provided directly or
7 indirectly by the boarding home and shall be permitted to receive
8 hospice care through an outside service provider when arranged by the
9 resident or the resident's legal representative under RCW 18.20.380.

10 (12) "Resident applicant" means an individual who is seeking
11 admission to a licensed boarding home and who has completed and signed
12 an application for admission, or such application for admission has
13 been completed and signed in their behalf by their legal representative
14 if any, and if not, then the designated representative if any.

15 (13) "Adult day services" means care and services provided to a
16 nonresident individual by the boarding home on the boarding home
17 premises, for a period of time not to exceed ten continuous hours, and
18 does not involve an overnight stay.

19 **Sec. 3.** RCW 18.20.030 and 2004 c 142 s 17 are each amended to read
20 as follows:

21 (1) After January 1, 1958, no person shall operate or maintain a
22 boarding home as defined in this chapter within this state without a
23 license under this chapter.

24 (2) A boarding home license is not required for the housing, or
25 services, that are customarily provided under landlord tenant
26 agreements governed by the residential landlord-tenant act, chapter
27 59.18 RCW, or when housing nonresident individuals who(~~(, without~~
28 ~~ongoing assistance from the boarding home, initiate and arrange for~~
29 ~~services provided by persons other than)) chose to participate in
30 programs or services under subsection (5) of this section, when offered
31 by the boarding home licensee or the licensee's contractor. This
32 subsection does not prohibit the licensee from furnishing written
33 information concerning available community resources to the nonresident
34 individual or the individual's family members or legal representatives.
35 The licensee may not require the use of any particular service
36 provider.~~

1 (3) Residents receiving domiciliary care, directly or indirectly by
2 the boarding home, are not considered nonresident individuals for the
3 purposes of this section.

4 (4) A boarding home license is required when any person other than
5 an outside service provider, under RCW 18.20.380, or family member:

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

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

10 (c) Provides health support services, either directly or
11 indirectly; or

12 (d) Provides (~~intermittent~~) nursing services, either directly or
13 indirectly.

14 (5) A boarding home license is not required for one or more of the
15 following services that may, upon the request of the nonresident, be
16 provided to a nonresident individual: (a) Emergency assistance
17 provided on an intermittent or nonroutine basis (~~to any nonresident~~
18 ~~individual~~); (b) systems, including technology-based monitoring
19 devices, employed by independent senior housing, or independent living
20 units in continuing care retirement communities, to respond to the
21 potential need for emergency services (~~for nonresident individuals~~);
22 (c) (~~infrequent, voluntary, and~~) scheduled and nonscheduled blood
23 pressure checks (~~for nonresident individuals~~); (d) (~~nurse referral~~)
24 nursing assessment services (~~provided at the request of a nonresident~~
25 ~~individual~~) to determine whether referral to an outside health care
26 provider is recommended; (e) making and reminding the nonresident of
27 health care appointments (~~at the request of nonresident individuals~~);
28 (f) preadmission assessment(~~, at the request of the nonresident~~
29 ~~individual,~~) for the purposes of transitioning to a licensed care
30 setting; (~~or~~) (g) medication assistance when performed by a nurse
31 licensed under chapter 18.79 RCW and may include reminding or coaching
32 the nonresident, opening the nonresident's medication container, using
33 an enabler, and prefilling insulin syringes; (h) falls risk assessment
34 and prevention services; (i) nutrition management and education
35 services; (j) dental services; (k) wellness programs; or (l) services
36 customarily provided under landlord tenant agreements governed by the
37 residential landlord-tenant act, chapter 59.18 RCW. (~~The preceding~~

1 ~~services may not include continual care or supervision of a nonresident~~
2 ~~individual without a boarding home license.))~~

3 **Sec. 4.** RCW 18.20.330 and 2004 c 142 s 5 are each amended to read
4 as follows:

5 (1) Boarding homes are not required to provide ~~((intermittent))~~
6 nursing services. The boarding home licensee may choose to provide any
7 of the following ~~((intermittent))~~ nursing services through
8 appropriately licensed and credentialed staff, however, the facility
9 may or may not need to provide additional ~~((intermittent))~~ nursing
10 services to comply with the reasonable accommodation requirements in
11 federal or state law:

- 12 (a) Medication administration;
- 13 (b) Administration of health care treatments;
- 14 (c) Diabetic management;
- 15 (d) Nonroutine ostomy care;
- 16 (e) Tube feeding; ~~((and))~~
- 17 (f) Nurse delegation consistent with chapter 18.79 RCW; and
- 18 (g) Other personal and special care services as defined by the
19 department in rule.

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

23 (3) In providing ~~((intermittent))~~ nursing services, the boarding
24 home shall observe the resident for changes in overall functioning and
25 respond appropriately when there are observable or reported changes in
26 the resident's physical, mental, or emotional functioning.

27 (4) The boarding home ~~((may))~~ must provide ~~((intermittent))~~ nursing
28 services ~~((to the extent permitted by))~~ consistent with the staffing
29 requirements described in RCW 18.20.160.

30 **Sec. 5.** RCW 18.20.160 and 2004 c 142 s 12 are each amended to read
31 as follows:

32 ~~((No person operating a boarding home licensed under this chapter~~
33 ~~shall admit to or retain in the boarding home any aged person requiring~~
34 ~~nursing or medical care of a type provided by institutions licensed~~
35 ~~under chapters 18.51, 70.41 or 71.12 RCW, except that when registered~~
36 ~~nurses are available, and upon a doctor's order that a supervised~~

1 medication service is needed, it may be provided. Supervised
2 medication services, as defined by the department and consistent with
3 chapters 69.41 and 18.79 RCW, may include an approved program of self-
4 medication or self-directed medication. Such medication service shall
5 be provided only to residents who otherwise meet all requirements for
6 residency in a boarding home. No boarding home shall admit or retain
7 a person who requires the frequent presence and frequent evaluation of
8 a registered nurse, excluding persons who are receiving hospice care or
9 persons who have a short term illness that is expected to be resolved
10 within fourteen days.) The boarding home must assure that sufficient
11 numbers of appropriately qualified and trained staff are available to
12 provide care and services consistent with this chapter.

13 **Sec. 6.** RCW 18.52.030 and 2000 c 93 s 6 are each amended to read
14 as follows:

15 Nursing homes operating within this state shall be under the
16 active, overall administrative charge and supervision of an on-site
17 full-time administrator licensed as provided in this chapter. No
18 person acting in any capacity, unless the holder of a nursing home
19 administrator's license issued under this chapter, shall be charged
20 with the overall responsibility to make decisions or direct actions
21 involved in managing the internal operation of a nursing home, except
22 as specifically delegated in writing by the administrator to identify
23 a responsible person to act on the administrator's behalf when the
24 administrator is absent. The administrator shall review the decisions
25 upon the administrator's return and amend the decisions if necessary.
26 The board shall define by rule the parameters for on-site full-time
27 administrators in nursing homes with small resident populations
28 ((and)), nursing homes in rural areas, nursing homes with small
29 resident populations when the nursing home has converted some of its
30 licensed nursing facility bed capacity for use as assisted living or
31 enhanced assisted living services under chapter 74.39A RCW, or
32 separately licensed facilities collocated on the same campus.

33 **Sec. 7.** RCW 18.51.010 and 1983 c 236 s 1 are each amended to read
34 as follows:

35 (1) "Nursing home" means any home, place or institution which
36 operates or maintains facilities ((providing)) to provide one or more

1 of the following: Convalescent (~~(or)~~) care, chronic care, or (~~both~~)
2 postacute care for a period in excess of twenty-four consecutive hours
3 for three or more patients not related by blood or marriage to the
4 operator, who by reason of illness or infirmity, are unable properly to
5 care for themselves. Postacute care may include those services as
6 defined by the department in rule and consistent with section 10 of
7 this act. Convalescent and chronic care may include but not be limited
8 to any or all procedures commonly employed in waiting on the sick, such
9 as administration of medicines, preparation of special diets, giving of
10 bedside nursing care, application of dressings and bandages, and
11 carrying out of treatment prescribed by a duly licensed practitioner of
12 the healing arts. It may also include care of mentally incompetent
13 persons. It may also include community-based care in the absence of
14 alternative placement options. Nothing in this definition shall be
15 construed to include general hospitals or other places which provide
16 care and treatment for the acutely ill and maintain and operate
17 facilities for major surgery or obstetrics, or both. Nothing in this
18 definition shall be construed to include any boarding home, guest home,
19 hotel or related institution which is held forth to the public as
20 providing, and which is operated to give only board, room and laundry
21 to persons not in need of medical or nursing treatment or supervision
22 except in the case of temporary acute illness. The mere designation by
23 the operator of any place or institution as a hospital, sanitarium, or
24 any other similar name, which does not provide care for the acutely ill
25 and maintain and operate facilities for major surgery or obstetrics, or
26 both, shall not exclude such place or institution from the provisions
27 of this chapter: PROVIDED, That any nursing home providing psychiatric
28 treatment shall, with respect to patients receiving such treatment,
29 comply with the provisions of RCW 71.12.560 and 71.12.570.

30 (2) "Person" means any individual, firm, partnership, corporation,
31 company, association, or joint stock association, and the legal
32 successor thereof.

33 (3) "Secretary" means the secretary of the department of social and
34 health services.

35 (4) "Department" means the state department of social and health
36 services.

37 (5) "Community-based care" means but is not limited to the
38 following:

- 1 (a) Home delivered nursing services;
- 2 (b) Personal care;
- 3 (c) Day care;
- 4 (d) Nutritional services, both in-home and in a communal dining
- 5 setting;
- 6 (e) Habilitation care; and
- 7 (f) Respite care.

8 **Sec. 8.** RCW 70.126.020 and 1984 c 22 s 5 are each amended to read
9 as follows:

10 (1) Home health care shall be provided by a home health agency and
11 shall:

12 (a) Be delivered by a registered nurse, physical therapist,
13 occupational therapist, speech therapist, or home health aide on a
14 part-time or intermittent basis;

15 (b) Include, as applicable under the written plan, supplies and
16 equipment such as:

17 (i) Drugs and medicines that are legally obtainable only upon a
18 physician's written prescription, and insulin;

19 (ii) Rental of durable medical apparatus and medical equipment such
20 as wheelchairs, hospital beds, respirators, splints, trusses, braces,
21 or crutches needed for treatment;

22 (iii) Supplies normally used for hospital inpatients and dispensed
23 by the home health agency such as oxygen, catheters, needles, syringes,
24 dressings, materials used in aseptic techniques, irrigation solutions,
25 and intravenous fluids.

26 (2) The following services may be included when medically
27 necessary, ordered by the attending physician, and included in the
28 approved plan of treatment:

29 (a) Licensed practical nurses;

30 (b) Respiratory therapists;

31 (c) Social workers holding a master's degree;

32 (d) Ambulance service that is certified by the physician as
33 necessary in the approved plan of treatment because of the patient's
34 physical condition or for unexpected emergency situations.

35 (3) Services not included in home health care include:

36 (a) Nonmedical, custodial, or housekeeping services except by home
37 health aides as ordered in the approved plan of treatment;

- 1 (b) "Meals on Wheels" or similar food services;
- 2 (c) Nutritional guidance;
- 3 (d) Services performed by family members;
- 4 (e) Services not included in an approved plan of treatment;
- 5 (f) Supportive environmental materials such as handrails, ramps,
- 6 telephones, air conditioners, and similar appliances and devices; and
- 7 (g) Follow to home services provided by a care coach as authorized
- 8 under section 9 of this act.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.42 RCW
10 to read as follows:

11 Nursing homes may establish and provide nonmedical care management
12 services to persons discharged to home for a period of up to thirty
13 days following discharge from the nursing home. The services provided
14 under this section should improve care transitions to the home,
15 minimize patient safety concerns within the home environment, lead to
16 improved care outcomes by monitoring patient compliance with the
17 postdischarge plan of care, and lead to more timely intervention and
18 coordination with outside service providers when needed. The on-site
19 or remote visit schedule should occur within two, seven, fourteen,
20 twenty-one, and thirty days following the nursing home discharge. The
21 follow to home services provided under this section are not available
22 to patients who are eligible for and require home health services under
23 chapter 70.126 RCW.

24 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.42 RCW
25 to read as follows:

26 The department shall adopt rules to establish postacute care
27 program certification standards. The postacute care program
28 certification standards established under this section must be designed
29 for patients requiring medical care, skilled nursing care, or
30 rehabilitation services due to complex medical conditions or multiple
31 acute or chronic illnesses following an acute hospital stay and prior
32 to returning to home. Postacute care programs authorized under this
33 section must be limited to persons expected to have relatively shorter
34 stays in duration of ninety days or less. The department may establish
35 exceptions to the ninety day limitation. Persons requiring chronic
36 care or convalescent care may not be admitted to or retained in a

1 postacute care certified unit unless they otherwise need the level and
2 intensity of the care and services offered by the postacute care
3 programs.

4 NEW SECTION. **Sec. 11.** The department of social and health
5 services shall convene a work group of stakeholders to discuss and
6 identify one or more mechanisms to incentivize nursing facilities to
7 close or to eliminate licensed beds from active service. The
8 department shall adopt rules to implement the recommendations of the
9 work group. By September 1, 2011, the department shall report to the
10 governor and the legislature on the recommendations of the work group
11 and the status of the department's rule-making efforts and any
12 statutory impediments to the implementation of any of the
13 recommendations.

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