

# SENATE BILL REPORT

## E2SHB 1727

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As Reported by Senate Committee On:  
Health Care, March 28, 2013  
Ways & Means, April 9, 2013

**Title:** An act relating to raising licensure limits to allow assisted living facilities to serve a higher acuity resident population.

**Brief Description:** Raising licensure limits to allow assisted living facilities to serve a higher acuity resident population.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Morrell, Green, Walsh, Ryu, Appleton, Tharinger and Pollet).

**Brief History:** Passed House: 3/11/13, 61-37.

**Committee Activity:** Health Care: 3/25/13, 3/28/13 [DPA-WM, w/oRec].

Ways & Means: 4/08/13, 4/09/13 [DPA(HLTH), w/oRec].

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Keiser, Ranking Member; Bailey, Cleveland, Ericksen, Frockt and Schlicher.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Parlette.

**Staff:** Kathleen Buchli (786-7488)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended by Committee on Health Care.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Fraser, Hasegawa, Hatfield, Hewitt, Keiser, Kohl-Welles, Murray, Padden, Ranker, Rivers, Schoesler and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Parlette.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Megan Atkinson (786-7446)

**Background:** Assisted living facilities are community-based residences that provide housing and basic services to seven or more residents and are licensed by the Department of Social and Health Services (the Department). Residents of assisted living facilities are people who live in the facility for reasons of age or disability and receive services provided by the facility. Assisted living facilities may not admit people who require nursing home or hospital level care or the frequent presence or evaluation of a registered nurse. Services provided to residents by assisted living facilities include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care including assistance with activities of daily living, health support services, and intermittent nursing services. Intermittent nursing services include the following: medication administration, administration of health care treatments, diabetic management, nonroutine ostomy care, tube feeding, and delegated nursing tasks.

Nonresident individuals may also live in an assisted living facility and receive specified services, but they may not receive domiciliary care from the facility. Some of the services that nonresident individuals may receive upon request include emergency assistance; blood pressure checks; nursing assessment services to determine the need for a referral to an outside health care provider; medication assistance such as reminding, opening containers, prefilling insulin syringes, falls risk assessments, nutrition management, and education services; dental services; and wellness programs.

**Summary of Bill (Recommended Amendments):** Assisted living facilities may obtain a designation from the Department to provide continuing nursing services to meet the needs of complex residents. The term continuous nursing services applies to residents that are assessed with a condition or diagnosis that is expected to require the frequent presence and supervision of a registered nurse. Designated assisted living facilities that elect to provide such services must observe the overall functioning of residents receiving these services and respond to any physical, mental, or emotional changes that exceed the facility's capabilities. To become designated, an assisted living facility must demonstrate that it can meet the nursing-related needs of residents. When considering applications, the Department must assess the experience of the applicant and the applicant's history of compliance in operating long-term care facilities. The Department must also inspect the designated assisted living facility every 18 months. Prior to receiving a designation, applicants must pay a fee to the Department to defray the costs of the designation program.

The Department must adopt rules related to the provision of continuing nursing services, including the process for designation, the extent to which continuing nursing services may be provided in assisted living facilities, staffing requirements, and physical plant requirements. The prohibition against assisted living facilities admitting people who require nursing home or hospital level care or the frequent presence or evaluation of a registered nurse is removed. Assisted living facilities must assure that sufficient and appropriately qualified staff are available to provide care and services to residents.

Disclosure forms related to the scope of domiciliary care assistance provided to residents must include any limitations, additional services, or conditions related to the provision of continuing nursing services. If an assisted living facility with a designation to provide

continuous nursing services has reason to believe that a resident needs continuous nursing services or rehabilitative therapy services, the facility must provide a Department-approved notice to the resident and appropriate representatives of the resident. The notice must inform the client that the client may be eligible to have the services covered by Medicare, Medicaid, veterans' benefits, long-term care insurance, or other benefit programs. The resident or appropriate representative must sign the notice. Residents who choose to use other benefits may contract for nursing or rehabilitative services through an outside health care provider or from the assisted living facility. An assisted living facility that fails to give the required notice and charges a resident privately for the provision of continuing nursing services is considered to have committed financial exploitation of a vulnerable adult.

Assisted living facilities that receive a continuing nursing services designation may not use the designation or facility modifications related to the designation to permanently discharge the facility's current Medicaid residents. In addition, for one year following the receipt of the initial designation, an assisted living facility may not reduce the number of Medicaid residents that it retains below the highest number of Medicaid residents living there during the year prior to becoming designated.

**EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments):** Failure to provide the required notice is not a violation of the Consumer Protection Act. An assisted living facility that fails to provide notice and charges the resident privately for nursing services is considered to have committed financial exploitation of a vulnerable adult. The Long-Term Care Ombudsman must provide information to residents, as requested, on the notice and remedies available to people who did not receive the notice.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Health Care):** PRO: We know people need higher levels of care as they age. Assisted living facilities asked for the ability to take on higher acuity level clients. We want the clients to be informed on the services that can be provided to them and that these services could be paid by Medicaid, veteran's benefits, or other benefit programs. Some people would rather stay in assisted living facilities and not move to nursing homes. The Consumer Protection Act does not need to be the method of enforcement; another method could replace that section. This will save the state money and put the state in a better position for health care reform.

**Persons Testifying (Health Care):** PRO: Representative Morrell, prime sponsor; Scott Sigmon, Leading Age WA.

**Staff Summary of Public Testimony on Bill as Amended by Health Care (Ways & Means):** PRO: There is a potential for savings long term. The organizational impact of this bill will be covered by the provider fees, so this is self funded.

**Persons Testifying (Ways & Means):** PRO: Scott Sigman, Leading Age WA.