H-2035.1

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**SUBSTITUTE HOUSE BILL 1784**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Tharinger, Cody, Van De Wege, Riccelli, Jinkins, and Moeller)

AN ACT Relating to promoting quality in nursing homes; amending RCW 74.42.360; adding a new section to chapter 74.46 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  The legislature finds that Washington's nursing facilities provide important long‑term care services for tens of thousands of seniors. However, according to recent reports by AARP and the SCAN foundation, Washington state ranks poorly compared to other states in nursing home quality and certified nursing assistant turnover measures. Washington is one of only a few states without minimum certified nursing assistant direct care staffing requirements. These minimum staffing requirements have linked to improved quality care for residents. With the age wave dramatically increasing the number of seniors needing long‑term services and supports, it is the intent of the legislature to put in place policies that promote high quality care and reductions in direct care staff turnover in our state's licensed nursing facilities.

**Sec.**  RCW 74.42.360 and 1979 ex.s. c 211 s 36 are each amended to read as follows:

(1) The facility shall have staff on duty twenty-four hours daily sufficient in number and qualifications to carry out the provisions of RCW 74.42.010 through 74.42.570 and the policies, responsibilities, and programs of the facility.

(2) Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(3) Essential community providers and small nonessential community providers must have a registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week.

(4)(a) By January 1, 2017, each facility must have adequate staff on duty to provide a minimum average daily level of 2.4 hours of direct care per resident per day, as adjusted by an acuity factor determined by the department. At least a minimum daily average of 0.7 hours per resident per day must be provided by a registered nurse or licensed practical nurse, as adjusted by an acuity factor by the department.

(b) By January 1, 2018, each facility must have adequate staff on duty to provide a minimum average daily level of 3.3 hours of direct care per resident per day, as adjusted by an acuity factor determined by the department. At least a minimum average daily level of 1.0 hour per resident per day must be provided by a registered nurse or licensed practical nurse, as adjusted by an acuity factor determined by the department.

(c) By January 1, 2019, each facility must have adequate staff on duty to provide a minimum average daily level of 3.6 hours of direct care per resident per day, as adjusted by an acuity factor determined by the department. At least a minimum average daily level of 1.1 hours per resident per day must be provided by a registered nurse or licensed practical nurse, as adjusted by an acuity factor determined by the department.

(5) The department shall require facilities to submit quarterly reports to the department that include the daily staffing ratio, calculated by the daily total of direct care and registered nurse staff hours worked according to the facility's payroll and time sheet data, divided by the facility's daily resident census number. The department shall develop an automated system for collecting information, including payroll records for relevant pay periods. The department shall also adopt procedures to assure consistency in reporting standards.

(6) In accordance with the department's authority under RCW 18.51.065:

(a) If the department determines that a facility has failed to comply with the standards established under subsection (4) of this section, the department may cite the facility for deficiencies and assess a penalty of up to ten thousand dollars for each month that the facility failed to comply, including five percent interest;

(b) If the department determines that a facility has failed to comply with the standards established under subsection (4) of this section for more than twenty percent of the shifts in a month, the department may cite the facility for deficiencies, assess a penalty of up to fifteen thousand dollars for each month that the facility failed to comply, including five percent interest, and place restrictions on the admission of new residents.

(7) When conducting an investigation under subsection (6) of this section, if the department determines that any residents or employees experienced negative outcomes that were caused by the failure to comply with the standards established under subsection (4) of this section, the department may cite the facility for deficiencies and assess a penalty of up to twenty thousand dollars, including five percent interest, per event. These penalties are in addition to any penalties assessed under subsection (6) of this section.

(8) The department shall assess cost report data for quality indicators in facilities with low staffing levels. The quality indicators shall include: Prevalence of falls, prevalence of stage one through four pressure ulcers, high rates of antipsychotic use in the absence of psychotic and related conditions, medication error rates of five percent or higher, incidence of decline in late loss of activities of daily living, direct care staff injuries while handling patients, and staff turnover rates above forty percent annually.

(9) The department shall adopt rules to structure the staffing requirements under subsection (4) of this section to allow for compliance as calculated on a per shift basis. The rules must include specific minimum staffing levels at different acuity levels.

(10) The provisions of this section do not apply to residential habilitation facilities operated by the department.

NEW SECTION. **Sec.**  A new section is added to chapter 74.46 RCW to read as follows:

(1) The department shall develop a payment methodology to incorporate outcome-based measures into nursing home rates. The payment methodology must designate up to ten percent of the rate paid to nursing homes to be based upon achieving quality indicators, such as reducing bed sores, reducing resident falls, reducing medication errors, reducing the frequency of unnecessary calls to 911, reducing worker injuries, reducing worker turnover, increasing resident and family satisfaction, and other measures identified by the stakeholder group established in subsection (2) of this section.

(2) When determining the quality indicators, the department shall consult advice regarding appropriate standards from stakeholders including advocates for residents, workers, and care providers.

(3) The provisions of this section do not apply to residential habilitation facilities operated by the department.

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