

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1753

Chapter 140, Laws of 2003

58th Legislature
2003 Regular Session

COMMUNITY-BASED AND IN-HOME CARE--NURSING

EFFECTIVE DATE: 5/7/03

Passed by the House April 21, 2003
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 15, 2003
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved May 7, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1753** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 7, 2003 - 3:12 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1753

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Representatives Cody, Pflug, Skinner, Clibborn, Morrell, Benson and Edwards; by request of Department of Social and Health Services and Department of Health

Read first time 02/07/2003. Referred to Committee on Health Care.

1 AN ACT Relating to nursing practices in community-based and in-home
2 care; amending RCW 18.79.040, 18.79.260, 18.88A.140, 18.88A.200,
3 18.88A.210, 18.88A.230, 70.127.010, 70.127.040, 70.127.120, 70.127.170,
4 69.41.010, and 69.41.085; and declaring an emergency.

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

6 **Sec. 1.** RCW 18.79.040 and 1995 1st sp.s. c 18 s 50 are each
7 amended to read as follows:

8 (1) "Registered nursing practice" means the performance of acts
9 requiring substantial specialized knowledge, judgment, and skill based
10 on the principles of the biological, physiological, behavioral, and
11 sociological sciences in either:

12 (a) The observation, assessment, diagnosis, care or counsel, and
13 health teaching of (~~the ill, injured, or infirm~~) individuals with
14 illnesses, injuries, or disabilities, or in the maintenance of health
15 or prevention of illness of others;

16 (b) The performance of such additional acts requiring education and
17 training and that are recognized by the medical and nursing professions
18 as proper and recognized by the commission to be performed by

1 registered nurses licensed under this chapter and that are authorized
2 by the commission through its rules;

3 (c) The administration, supervision, delegation, and evaluation of
4 nursing practice. However, nothing in this subsection affects the
5 authority of a hospital, hospital district, in-home service agency,
6 community-based care setting, medical clinic, or office, concerning its
7 administration and supervision;

8 (d) The teaching of nursing;

9 (e) The executing of medical regimen as prescribed by a licensed
10 physician and surgeon, dentist, osteopathic physician and surgeon,
11 podiatric physician and surgeon, physician assistant, osteopathic
12 physician assistant, or advanced registered nurse practitioner.

13 (2) Nothing in this section prohibits a person from practicing a
14 profession for which a license has been issued under the laws of this
15 state or specifically authorized by any other law of the state of
16 Washington.

17 (3) This section does not prohibit (a) the nursing care of the
18 sick, without compensation, by an unlicensed person who does not hold
19 himself or herself out to be a registered nurse, (b) the practice of
20 licensed practical nursing by a licensed practical nurse, or (c) the
21 practice of a nursing assistant, providing delegated nursing tasks
22 under chapter 18.88A RCW.

23 **Sec. 2.** RCW 18.79.260 and 2000 c 95 s 3 are each amended to read
24 as follows:

25 (1) A registered nurse under his or her license may perform for
26 compensation nursing care, as that term is usually understood, (~~of the~~
27 ~~ill, injured, or infirm~~) to individuals with illnesses, injuries, or
28 disabilities.

29 (2) A registered nurse may, at or under the general direction of a
30 licensed physician and surgeon, dentist, osteopathic physician and
31 surgeon, naturopathic physician, podiatric physician and surgeon,
32 physician assistant, osteopathic physician assistant, or advanced
33 registered nurse practitioner acting within the scope of his or her
34 license, administer medications, treatments, tests, and inoculations,
35 whether or not the severing or penetrating of tissues is involved and
36 whether or not a degree of independent judgment and skill is required.

1 Such direction must be for acts which are within the scope of
2 registered nursing practice.

3 (3) A registered nurse may delegate tasks of nursing care to other
4 individuals where the registered nurse determines that it is in the
5 best interest of the patient.

6 (a) The delegating nurse shall:

7 (i) Determine the competency of the individual to perform the
8 tasks;

9 (ii) Evaluate the appropriateness of the delegation;

10 (iii) Supervise the actions of the person performing the delegated
11 task; and

12 (iv) Delegate only those tasks that are within the registered
13 nurse's scope of practice.

14 (b) A registered nurse, working for a home health or hospice agency
15 regulated under chapter 70.127 RCW, may delegate the application,
16 instillation, or insertion of medications to a registered or certified
17 nursing assistant under a plan of care.

18 (c) Except as authorized in (b) or (e) of this subsection, a
19 registered nurse may not delegate the administration of medications.
20 Except as authorized in (e) of this subsection, a registered nurse may
21 not delegate acts requiring substantial skill, ~~((the administration of~~
22 ~~medications, or)) and may not delegate piercing or severing of tissues
23 ~~((except to registered or certified nursing assistants who provide care~~
24 ~~to individuals in community based care settings as authorized under (d)~~
25 ~~of this subsection)).~~ Acts that require nursing judgment shall not be
26 delegated.~~

27 ~~((+e))~~ (d) No person may coerce a nurse into compromising patient
28 safety by requiring the nurse to delegate if the nurse determines that
29 it is inappropriate to do so. Nurses shall not be subject to any
30 employer reprisal or disciplinary action by the nursing care quality
31 assurance commission for refusing to delegate tasks or refusing to
32 provide the required training for delegation if the nurse determines
33 delegation may compromise patient safety.

34 ~~((+d))~~ (e) For delegation in community-based care settings or in-
35 home care settings, a registered nurse may delegate nursing care tasks
36 only to registered or certified nursing assistants. Simple care tasks
37 such as blood pressure monitoring, personal care service, or other

1 tasks as defined by the nursing care quality assurance commission are
2 exempted from this requirement.

3 (i) "Community-based care settings" includes: Community
4 residential programs for the developmentally disabled, certified by the
5 department of social and health services under chapter 71A.12 RCW;
6 adult family homes licensed under chapter 70.128 RCW; and boarding
7 homes licensed under chapter 18.20 RCW. Community-based care settings
8 do not include acute care or skilled nursing facilities.

9 ~~((+i))~~ (ii) "In-home care settings" include an individual's place
10 of temporary or permanent residence, but does not include acute care or
11 skilled nursing facilities, and does not include community-based care
12 settings as defined in (e)(i) of this subsection.

13 (iii) Delegation of nursing care tasks in community-based care
14 settings and in-home care settings is only allowed for individuals who
15 have a stable and predictable condition. "Stable and predictable
16 condition" means a situation in which the individual's clinical and
17 behavioral status is known and does not require the frequent presence
18 and evaluation of a registered nurse.

19 ~~((+ii))~~ (iv) The determination of the appropriateness of
20 delegation of a nursing task is at the discretion of the registered
21 nurse. However, the administration of medications by injection,
22 sterile procedures, and central line maintenance may never be
23 delegated.

24 ~~((+iii))~~ (v) The registered nurse shall verify that the nursing
25 assistant has completed the required core nurse delegation training
26 required in chapter 18.88A RCW prior to authorizing delegation.

27 ~~((+iv))~~ (vi) The nurse is accountable for his or her own
28 individual actions in the delegation process. Nurses acting within the
29 protocols of their delegation authority are immune from liability for
30 any action performed in the course of their delegation duties.

31 ~~((+v) On or before June 30, 2001, the nursing care quality~~
32 ~~assurance commission, in conjunction with the professional nursing~~
33 ~~organizations and the department of social and health services, shall~~
34 ~~make any needed revisions or additions to nurse delegation protocols by~~
35 ~~rule, including standards for nurses to obtain informed consent prior~~
36 ~~to the delegation of nursing care tasks.))~~

37 (vii) Nursing task delegation protocols are not intended to
38 regulate the settings in which delegation may occur, but are intended

1 to ensure that nursing care services have a consistent standard of
2 practice upon which the public and the profession may rely, and to
3 safeguard the authority of the nurse to make independent professional
4 decisions regarding the delegation of a task.

5 ~~((e))~~ (f) The nursing care quality assurance commission may adopt
6 rules to implement this section.

7 (4) Only a person licensed as a registered nurse may instruct
8 nurses in technical subjects pertaining to nursing.

9 (5) Only a person licensed as a registered nurse may hold herself
10 or himself out to the public or designate herself or himself as a
11 registered nurse.

12 **Sec. 3.** RCW 18.88A.140 and 2000 c 171 s 25 are each amended to
13 read as follows:

14 Nothing in this chapter may be construed to prohibit or restrict:

15 (1) The practice by an individual licensed, certified, or
16 registered under the laws of this state and performing services within
17 their authorized scope of practice;

18 (2) The practice by an individual employed by the government of the
19 United States while engaged in the performance of duties prescribed by
20 the laws of the United States;

21 (3) The practice by a person who is a regular student in an
22 educational program approved by the secretary, and whose performance of
23 services is pursuant to a regular course of instruction or assignments
24 from an instructor and under the general supervision of the instructor;

25 (4) A nursing assistant, while employed as a personal aide as
26 defined in RCW 74.39.007, from accepting direction from an individual
27 who is self-directing their care.

28 **Sec. 4.** RCW 18.88A.200 and 1995 1st sp.s. c 18 s 45 are each
29 amended to read as follows:

30 The legislature recognizes that nurses have been successfully
31 delegating nursing care tasks to family members and auxiliary staff for
32 many years. The opportunity for a nurse to delegate to nursing
33 assistants qualifying under RCW 18.88A.210 may enhance the viability
34 and quality of health care services in ~~((community health))~~ community-
35 based care settings ~~((for long term care services))~~ and in-home care

1 settings to allow (~~(citizens)~~) individuals to live as independently as
2 possible with maximum safeguards.

3 **Sec. 5.** RCW 18.88A.210 and 2000 c 95 s 1 are each amended to read
4 as follows:

5 (1) A nursing assistant meeting the requirements of this section
6 who provides care to individuals in community-based care settings or
7 in-home care settings, as defined in RCW 18.79.260(3), may accept
8 delegation of nursing care tasks by a registered nurse as provided in
9 RCW 18.79.260(3).

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

15 (3) Before commencing any specific nursing care tasks authorized
16 under this chapter, the nursing assistant must (a) provide to the
17 delegating nurse a certificate of completion issued by the department
18 of social and health services indicating the completion of basic core
19 nurse delegation training, (b) be regulated by the department of health
20 pursuant to this chapter, subject to the uniform disciplinary act under
21 chapter 18.130 RCW, and (c) meet any additional training requirements
22 identified by the nursing care quality assurance commission.
23 Exceptions to these training requirements must adhere to RCW
24 18.79.260(3)(~~(d)(iii)~~) (e)(v).

25 **Sec. 6.** RCW 18.88A.230 and 2000 c 95 s 2 are each amended to read
26 as follows:

27 (1) The nursing assistant shall be accountable for their own
28 individual actions in the delegation process. Nursing assistants
29 following written delegation instructions from registered nurses
30 performed in the course of their accurately written, delegated duties
31 shall be immune from liability.

32 (2) Nursing assistants shall not be subject to any employer
33 reprisal or disciplinary action by the secretary for refusing to accept
34 delegation of a nursing task based on patient safety issues. No
35 community-based care setting as defined in RCW 18.79.260(3)(~~(d)~~) (e),
36 or in-home services agency as defined in RCW 70.127.010, may

1 discriminate or retaliate in any manner against a person because the
2 person made a complaint or cooperated in the investigation of a
3 complaint.

4 **Sec. 7.** RCW 70.127.010 and 2000 c 175 s 1 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Administrator" means an individual responsible for managing
9 the operation of an agency.

10 (2) "Department" means the department of health.

11 (3) "Director of clinical services" means an individual responsible
12 for nursing, therapy, nutritional, social, and related services that
13 support the plan of care provided by in-home health and hospice
14 agencies.

15 (4) "Family" means individuals who are important to, and designated
16 by, the patient or client and who need not be relatives.

17 (5) "Home care agency" means a person administering or providing
18 home care services directly or through a contract arrangement to
19 individuals in places of temporary or permanent residence. A home care
20 agency that provides delegated tasks of nursing under RCW
21 18.79.260(3)(e) is not considered a home health agency for the purposes
22 of this chapter.

23 (6) "Home care services" means nonmedical services and assistance
24 provided to ill, disabled, (~~infirm~~) or vulnerable individuals that
25 enable them to remain in their residences. Home care services include,
26 but are not limited to: Personal care such as assistance with
27 dressing, feeding, and personal hygiene to facilitate self-care;
28 homemaker assistance with household tasks, such as housekeeping,
29 shopping, meal planning and preparation, and transportation; respite
30 care assistance and support provided to the family; or other nonmedical
31 services or delegated tasks of nursing under RCW 18.79.260(3)(e).

32 (7) "Home health agency" means a person administering or providing
33 two or more home health services directly or through a contract
34 arrangement to individuals in places of temporary or permanent
35 residence. A person administering or providing nursing services only
36 may elect to be designated a home health agency for purposes of
37 licensure.

1 (8) "Home health services" means services provided to ill,
2 disabled, (~~infirm,~~) or vulnerable individuals. These services
3 include but are not limited to nursing services, home health aide
4 services, physical therapy services, occupational therapy services,
5 speech therapy services, respiratory therapy services, nutritional
6 services, medical social services, and home medical supplies or
7 equipment services.

8 (9) "Home health aide services" means services provided by a home
9 health agency or a hospice agency under the supervision of a registered
10 nurse, physical therapist, occupational therapist, or speech therapist
11 who is employed by or under contract to a home health or hospice
12 agency. Such care includes ambulation and exercise, assistance with
13 self-administered medications, reporting changes in patients'
14 conditions and needs, completing appropriate records, and personal care
15 or homemaker services.

16 (10) "Home medical supplies" or "equipment services" means
17 diagnostic, treatment, and monitoring equipment and supplies provided
18 for the direct care of individuals within a plan of care.

19 (11) "Hospice agency" means a person administering or providing
20 hospice services directly or through a contract arrangement to
21 individuals in places of temporary or permanent residence under the
22 direction of an interdisciplinary team composed of at least a nurse,
23 social worker, physician, spiritual counselor, and a volunteer.

24 (12) "Hospice care center" means a homelike, noninstitutional
25 facility where hospice services are provided, and that meets the
26 requirements for operation under RCW 70.127.280.

27 (13) "Hospice services" means symptom and pain management provided
28 to a terminally ill individual, and emotional, spiritual, and
29 bereavement support for the individual and family in a place of
30 temporary or permanent residence, and may include the provision of home
31 health and home care services for the terminally ill individual.

32 (14) "In-home services agency" means a person licensed to
33 administer or provide home health, home care, hospice services, or
34 hospice care center services directly or through a contract arrangement
35 to individuals in a place of temporary or permanent residence.

36 (15) "Person" means any individual, business, firm, partnership,
37 corporation, company, association, joint stock association, public or

1 private agency or organization, or the legal successor thereof that
2 employs or contracts with two or more individuals.

3 (16) "Plan of care" means a written document based on assessment of
4 individual needs that identifies services to meet these needs.

5 (17) "Quality improvement" means reviewing and evaluating
6 appropriateness and effectiveness of services provided under this
7 chapter.

8 (18) "Service area" means the geographic area in which the
9 department has given prior approval to a licensee to provide home
10 health, hospice, or home care services.

11 (19) "Survey" means an inspection conducted by the department to
12 evaluate and monitor an agency's compliance with this chapter.

13 **Sec. 8.** RCW 70.127.040 and 2000 c 175 s 4 are each amended to read
14 as follows:

15 The following are not subject to regulation for the purposes of
16 this chapter:

17 (1) A family member providing home health, hospice, or home care
18 services;

19 (2) A person who provides only meal services in an individual's
20 permanent or temporary residence;

21 (3) An individual providing home care through a direct agreement
22 with a recipient of care in an individual's permanent or temporary
23 residence;

24 (4) A person furnishing or delivering home medical supplies or
25 equipment that does not involve the provision of services beyond those
26 necessary to deliver, set up, and monitor the proper functioning of the
27 equipment and educate the user on its proper use;

28 (5) A person who provides services through a contract with a
29 licensed agency;

30 (6) An employee or volunteer of a licensed agency who provides
31 services only as an employee or volunteer;

32 (7) Facilities and institutions, including but not limited to
33 nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41
34 RCW, adult family homes under chapter 70.128 RCW, boarding homes under
35 chapter 18.20 RCW, developmental disability residential programs under
36 chapter ((71.12)) 71A.12 RCW, other entities licensed under chapter

1 71.12 RCW, or other licensed facilities and institutions, only when
2 providing services to persons residing within the facility or
3 institution;

4 (8) Local and combined city-county health departments providing
5 services under chapters 70.05 and 70.08 RCW;

6 (9) An individual providing care to ill, disabled, (~~(infirm)~~) or
7 vulnerable individuals through a contract with the department of social
8 and health services;

9 (10) Nursing homes, hospitals, or other institutions, agencies,
10 organizations, or persons that contract with licensed home health,
11 hospice, or home care agencies for the delivery of services;

12 (11) In-home assessments of an ill, disabled, or vulnerable(~~(~~or~~~~
13 ~~infirm~~)) individual that does not result in regular ongoing care at
14 home;

15 (12) Services conducted by and for the adherents of a church or
16 religious denomination that rely upon spiritual means alone through
17 prayer for healing in accordance with the tenets and practices of such
18 church or religious denomination and the bona fide religious beliefs
19 genuinely held by such adherents;

20 (13) A medicare-approved dialysis center operating a medicare-
21 approved home dialysis program;

22 (14) A person providing case management services. For the purposes
23 of this subsection, "case management" means the assessment,
24 coordination, authorization, planning, training, and monitoring of home
25 health, hospice, and home care, and does not include the direct
26 provision of care to an individual;

27 (15) Pharmacies licensed under RCW 18.64.043 that deliver
28 prescription drugs and durable medical equipment that does not involve
29 the use of professional services beyond those authorized to be
30 performed by licensed pharmacists pursuant to chapter 18.64 RCW and
31 those necessary to set up and monitor the proper functioning of the
32 equipment and educate the person on its proper use;

33 (16) A volunteer hospice complying with the requirements of RCW
34 70.127.050; and

35 (17) A person who provides home care services without compensation.

36 **Sec. 9.** RCW 70.127.120 and 2000 c 175 s 10 are each amended to
37 read as follows:

1 The department shall adopt rules consistent with RCW 70.127.005
2 necessary to implement this chapter under chapter 34.05 RCW. In order
3 to ensure safe and adequate care, the rules shall address at a minimum
4 the following:

5 (1) Maintenance and preservation of all records relating directly
6 to the care and treatment of individuals by licensees;

7 (2) Establishment and implementation of a procedure for the
8 receipt, investigation, and disposition of complaints regarding
9 services provided;

10 (3) Establishment and implementation of a plan for ongoing care of
11 individuals and preservation of records if the licensee ceases
12 operations;

13 (4) Supervision of services;

14 (5) Establishment and implementation of written policies regarding
15 response to referrals and access to services;

16 (6) Establishment and implementation of written personnel policies,
17 procedures and personnel records for paid staff that provide for
18 prehire screening, minimum qualifications, regular performance
19 evaluations, including observation in the home, participation in
20 orientation and in-service training, and involvement in quality
21 improvement activities. The department may not establish experience or
22 other qualifications for agency personnel or contractors beyond that
23 required by state law;

24 (7) Establishment and implementation of written policies and
25 procedures for volunteers who have direct patient/client contact and
26 that provide for background and health screening, orientation, and
27 supervision;

28 (8) Establishment and implementation of written policies for
29 obtaining regular reports on patient satisfaction;

30 (9) Establishment and implementation of a quality improvement
31 process; ((and))

32 (10) Establishment and implementation of policies related to the
33 delivery of care including:

34 (a) Plan of care for each individual served;

35 (b) Periodic review of the plan of care;

36 (c) Supervision of care and clinical consultation as necessary;

37 (d) Care consistent with the plan;

38 (e) Admission, transfer, and discharge from care; and

1 (f) For hospice services:

2 (i) Availability of twenty-four hour seven days a week hospice
3 registered nurse consultation and in-home services as appropriate;

4 (ii) Interdisciplinary team communication as appropriate and
5 necessary; and

6 (iii) The use and availability of volunteers to provide family
7 support and respite care; and

8 (11) Establishment and implementation of policies related to agency
9 implementation and oversight of nurse delegation as defined in RCW
10 18.79.260(3)(e).

11 **Sec. 10.** RCW 70.127.170 and 2000 c 175 s 14 are each amended to
12 read as follows:

13 Pursuant to chapter 34.05 RCW and RCW 70.127.180(3), the department
14 may deny, restrict, condition, modify, suspend, or revoke a license
15 under this chapter or, in lieu thereof or in addition thereto, assess
16 monetary penalties of a civil nature not to exceed one thousand dollars
17 per violation, or require a refund of any amounts billed to, and
18 collected from, the consumer or third-party payor in any case in which
19 it finds that the licensee, or any applicant, officer, director,
20 partner, managing employee, or owner of ten percent or more of the
21 applicant's or licensee's assets:

22 (1) Failed or refused to comply with the requirements of this
23 chapter or the standards or rules adopted under this chapter;

24 (2) Was the holder of a license issued pursuant to this chapter
25 that was revoked for cause and never reissued by the department, or
26 that was suspended for cause and the terms of the suspension have not
27 been fulfilled and the licensee has continued to operate;

28 (3) Has knowingly or with reason to know made a misrepresentation
29 of, false statement of, or failed to disclose, a material fact to the
30 department in an application for the license or any data attached
31 thereto or in any record required by this chapter or matter under
32 investigation by the department, or during a survey, or concerning
33 information requested by the department;

34 (4) Refused to allow representatives of the department to inspect
35 any book, record, or file required by this chapter to be maintained or
36 any portion of the licensee's premises;

1 (5) Willfully prevented, interfered with, or attempted to impede in
2 any way the work of any representative of the department and the lawful
3 enforcement of any provision of this chapter. This includes but is not
4 limited to: Willful misrepresentation of facts during a survey,
5 investigation, or administrative proceeding or any other legal action;
6 or use of threats or harassment against any patient, client, or
7 witness, or use of financial inducements to any patient, client, or
8 witness to prevent or attempt to prevent him or her from providing
9 evidence during a survey or investigation, in an administrative
10 proceeding, or any other legal action involving the department;

11 (6) Willfully prevented or interfered with any representative of
12 the department in the preservation of evidence of any violation of this
13 chapter or the rules adopted under this chapter;

14 (7) Failed to pay any civil monetary penalty assessed by the
15 department pursuant to this chapter within ten days after the
16 assessment becomes final;

17 (8) Used advertising that is false, fraudulent, or misleading;

18 (9) Has repeated incidents of personnel performing services beyond
19 their authorized scope of practice;

20 (10) Misrepresented or was fraudulent in any aspect of the conduct
21 of the licensee's business;

22 (11) Within the last five years, has been found in a civil or
23 criminal proceeding to have committed any act that reasonably relates
24 to the person's fitness to establish, maintain, or administer an agency
25 or to provide care in the home of another;

26 (12) Was the holder of a license to provide care or treatment to
27 ill, disabled, (~~infirm~~) or vulnerable individuals that was denied,
28 restricted, not renewed, surrendered, suspended, or revoked by a
29 competent authority in any state, federal, or foreign jurisdiction. A
30 certified copy of the order, stipulation, or agreement is conclusive
31 evidence of the denial, restriction, nonrenewal, surrender, suspension,
32 or revocation;

33 (13) Violated any state or federal statute, or administrative rule
34 regulating the operation of the agency;

35 (14) Failed to comply with an order issued by the secretary or
36 designee;

37 (15) Aided or abetted the unlicensed operation of an in-home
38 services agency;

- 1 (16) Operated beyond the scope of the in-home services agency
- 2 license;
- 3 (17) Failed to adequately supervise staff to the extent that the
- 4 health or safety of a patient or client was at risk;
- 5 (18) Compromised the health or safety of a patient or client,
- 6 including, but not limited to, the individual performing services
- 7 beyond their authorized scope of practice;
- 8 (19) Continued to operate after license revocation, suspension, or
- 9 expiration, or operating outside the parameters of a modified,
- 10 conditioned, or restricted license;
- 11 (20) Failed or refused to comply with chapter 70.02 RCW;
- 12 (21) Abused, neglected, abandoned, or financially exploited a
- 13 patient or client as these terms are defined in RCW 74.34.020;
- 14 (22) Misappropriated the property of an individual;
- 15 (23) Is unqualified or unable to operate or direct the operation of
- 16 the agency according to this chapter and the rules adopted under this
- 17 chapter;
- 18 (24) Obtained or attempted to obtain a license by fraudulent means
- 19 or misrepresentation; or
- 20 (25) Failed to report abuse or neglect of a patient or client in
- 21 violation of chapter 74.34 RCW.

22 **Sec. 11.** RCW 69.41.010 and 2000 c 8 s 2 are each amended to read
23 as follows:

24 As used in this chapter, the following terms have the meanings
25 indicated unless the context clearly requires otherwise:

26 (1) "Administer" means the direct application of a legend drug
27 whether by injection, inhalation, ingestion, or any other means, to the
28 body of a patient or research subject by:

- 29 (a) A practitioner; or
- 30 (b) The patient or research subject at the direction of the
- 31 practitioner.

32 (2) "Community-based care settings" include: Community residential
33 programs for the developmentally disabled, certified by the department
34 of social and health services under chapter 71A.12 RCW; adult family
35 homes licensed under chapter 70.128 RCW; and boarding homes licensed
36 under chapter 18.20 RCW. Community-based care settings do not include
37 acute care or skilled nursing facilities.

1 (3) "Deliver" or "delivery" means the actual, constructive, or
2 attempted transfer from one person to another of a legend drug, whether
3 or not there is an agency relationship.

4 ~~((3))~~ (4) "Department" means the department of health.

5 ~~((4))~~ (5) "Dispense" means the interpretation of a prescription
6 or order for a legend drug and, pursuant to that prescription or order,
7 the proper selection, measuring, compounding, labeling, or packaging
8 necessary to prepare that prescription or order for delivery.

9 ~~((5))~~ (6) "Dispenser" means a practitioner who dispenses.

10 ~~((6))~~ (7) "Distribute" means to deliver other than by
11 administering or dispensing a legend drug.

12 ~~((7))~~ (8) "Distributor" means a person who distributes.

13 ~~((8))~~ (9) "Drug" means:

14 (a) Substances recognized as drugs in the official United States
15 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
16 or official national formulary, or any supplement to any of them;

17 (b) Substances intended for use in the diagnosis, cure, mitigation,
18 treatment, or prevention of disease in man or animals;

19 (c) Substances (other than food, minerals or vitamins) intended to
20 affect the structure or any function of the body of man or animals; and

21 (d) Substances intended for use as a component of any article
22 specified in ~~((clause))~~ (a), (b), or (c) of this subsection. It does
23 not include devices or their components, parts, or accessories.

24 ~~((9))~~ (10) "Electronic communication of prescription information"
25 means the communication of prescription information by computer, or the
26 transmission of an exact visual image of a prescription by facsimile,
27 or other electronic means for original prescription information or
28 prescription refill information for a legend drug between an authorized
29 practitioner and a pharmacy or the transfer of prescription information
30 for a legend drug from one pharmacy to another pharmacy.

31 ~~((10))~~ (11) "In-home care settings" include an individual's place
32 of temporary and permanent residence, but does not include acute care
33 or skilled nursing facilities, and does not include community-based
34 care settings.

35 (12) "Legend drugs" means any drugs which are required by state law
36 or regulation of the state board of pharmacy to be dispensed on
37 prescription only or are restricted to use by practitioners only.

1 ~~((11))~~ (13) "Legible prescription" means a prescription or
2 medication order issued by a practitioner that is capable of being read
3 and understood by the pharmacist filling the prescription or the nurse
4 or other practitioner implementing the medication order.

5 ~~((12))~~ (14) "Medication assistance" means assistance rendered by
6 a nonpractitioner to an individual residing in a community-based care
7 setting ~~((specified in RCW 69.41.085))~~ or in-home care setting to
8 facilitate the individual's self-administration of a legend drug or
9 controlled substance. It includes reminding or coaching the
10 individual, handing the medication container to the individual, opening
11 the individual's medication container, using an enabler, or placing the
12 medication in the individual's hand, and such other means of medication
13 assistance as defined by rule adopted by the department. ~~((The))~~ A
14 nonpractitioner may help in the preparation of legend drugs or
15 controlled substances for self-administration where a practitioner has
16 determined ~~((, in consultation with the individual or the individual's~~
17 ~~representative,))~~ and communicated orally or by written direction that
18 such medication preparation assistance is necessary and appropriate.
19 Medication assistance shall not include assistance with intravenous
20 medications or injectable medications, except prefilled insulin
21 syringes.

22 ~~((13))~~ (15) "Person" means individual, corporation, government or
23 governmental subdivision or agency, business trust, estate, trust,
24 partnership or association, or any other legal entity.

25 ~~((14))~~ (16) "Practitioner" means:

26 (a) A physician under chapter 18.71 RCW, an osteopathic physician
27 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
28 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
29 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
30 registered nurse, advanced registered nurse practitioner, or licensed
31 practical nurse under chapter 18.79 RCW, an optometrist under chapter
32 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
33 an osteopathic physician assistant under chapter 18.57A RCW, a
34 physician assistant under chapter 18.71A RCW, a naturopath licensed
35 under chapter 18.36A RCW, or a pharmacist under chapter 18.64 RCW;

36 (b) A pharmacy, hospital, or other institution licensed,
37 registered, or otherwise permitted to distribute, dispense, conduct

1 research with respect to, or to administer a legend drug in the course
2 of professional practice or research in this state; and

3 (c) A physician licensed to practice medicine and surgery or a
4 physician licensed to practice osteopathic medicine and surgery in any
5 state, or province of Canada, which shares a common border with the
6 state of Washington.

7 ((+15+)) (17) "Secretary" means the secretary of health or the
8 secretary's designee.

9 **Sec. 12.** RCW 69.41.085 and 1998 c 70 s 1 are each amended to read
10 as follows:

11 Individuals residing in community-based care settings, such as
12 adult family homes, boarding homes, and residential care settings for
13 the developmentally disabled, including an individual's home, ~~((might
14 need medication assistance due to physical or mental limitations that
15 prevent them from self-administering their legend drugs or controlled
16 substances. The practitioner in consultation with the individual or
17 his or her representative and the community based setting, if involved,
18 determines that medication assistance is appropriate for this
19 individual. Medication assistance can take different forms such as
20 opening containers, handing the container or medication to the
21 individual, preparing the medication with prior authorization, using
22 enablers for facilitating the self-administration of medication, and
23 other means of assisting in the administration of legend drugs or
24 controlled substances commonly employed in community based settings))~~
25 may receive medication assistance. Nothing in this chapter affects the
26 right of an individual to refuse medication or requirements relating to
27 informed consent.

28 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately.

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