

2E2SHB 1727 - S COMM AMD
By Committee on Health Care

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and
4 amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Adult day services" means care and services provided to a
8 nonresident individual by the assisted living facility on the assisted
9 living facility premises, for a period of time not to exceed ten
10 continuous hours, and does not involve an overnight stay.

11 (2) "Assisted living facility" means any home or other institution,
12 however named, which is advertised, announced, or maintained for the
13 express or implied purpose of providing housing, basic services, and
14 assuming general responsibility for the safety and well-being of the
15 residents, and may also provide domiciliary care, consistent with
16 chapter 142, Laws of 2004, to seven or more residents after July 1,
17 2000. However, an assisted living facility that is licensed for three
18 to six residents prior to or on July 1, 2000, may maintain its assisted
19 living facility license as long as it is continually licensed as an
20 assisted living facility. "Assisted living facility" shall not include
21 facilities certified as group training homes pursuant to RCW
22 71A.22.040, nor any home, institution or section thereof which is
23 otherwise licensed and regulated under the provisions of state law
24 providing specifically for the licensing and regulation of such home,
25 institution or section thereof. Nor shall it include any independent
26 senior housing, independent living units in continuing care retirement
27 communities, or other similar living situations including those
28 subsidized by the department of housing and urban development.

29 (3) "Basic services" means housekeeping services, meals, nutritious
30 snacks, laundry, and activities.

1 (4) "Continuing nursing services" means the resident has been
2 assessed with a condition or diagnosis that is expected to require the
3 frequent presence and supervision of a licensed registered nurse.

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

6 (~~(+5)~~) (6) "Domiciliary care" means: Assistance with activities
7 of daily living provided by the assisted living facility either
8 directly or indirectly; or health support services, if provided
9 directly or indirectly by the assisted living facility; or intermittent
10 nursing services, if provided directly or indirectly by the assisted
11 living facility; or continuing nursing services, if provided directly
12 or indirectly by the assisted living facility.

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

28 (~~(+7)~~) (8) "Legal representative" means a person or persons
29 identified in RCW 7.70.065 who may act on behalf of the resident
30 pursuant to the scope of their legal authority. The legal
31 representative shall not be affiliated with the licensee, assisted
32 living facility, or management company, unless the affiliated person is
33 a family member of the resident.

34 (~~(+8)~~) (9) "Nonresident individual" means a person who resides in
35 independent senior housing, independent living units in continuing care
36 retirement communities, or in other similar living environments or in
37 an unlicensed room located within an assisted living facility. Nothing
38 in this chapter prohibits nonresidents from receiving one or more of

1 the services listed in RCW 18.20.030(5) or requires licensure as an
2 assisted living facility when one or more of the services listed in RCW
3 18.20.030(5) are provided to nonresidents. A nonresident individual
4 may not receive domiciliary care, as defined in this chapter, directly
5 or indirectly by the assisted living facility and may not receive the
6 items and services listed in subsection ~~((+6+))~~ (7) of this section,
7 except during the time the person is receiving adult day services as
8 defined in this section.

9 ~~((+9+))~~ (10) "Person" means any individual, firm, partnership,
10 corporation, company, association, or joint stock association, and the
11 legal successor thereof.

12 ~~((+10+))~~ (11) "Resident" means an individual who is not related by
13 blood or marriage to the operator of the assisted living facility, and
14 by reason of age or disability, chooses to reside in the assisted
15 living facility and receives basic services and one or more of the
16 services listed under general responsibility for the safety and well-
17 being of the resident and may receive domiciliary care or respite care
18 provided directly or indirectly by the assisted living facility and
19 shall be permitted to receive hospice care through an outside service
20 provider when arranged by the resident or the resident's legal
21 representative under RCW 18.20.380.

22 ~~((+11+))~~ (12) "Resident applicant" means an individual who is
23 seeking admission to a licensed assisted living facility and who has
24 completed and signed an application for admission, or such application
25 for admission has been completed and signed in their behalf by their
26 legal representative if any, and if not, then the designated
27 representative if any.

28 ~~((+12+))~~ (13) "Resident's representative" means a person designated
29 voluntarily by a competent resident, in writing, to act in the
30 resident's behalf concerning the care and services provided by the
31 assisted living facility and to receive information from the assisted
32 living facility, if there is no legal representative. The resident's
33 competence shall be determined using the criteria in RCW
34 11.88.010(1)(e). The resident's representative may not be affiliated
35 with the licensee, assisted living facility, or management company,
36 unless the affiliated person is a family member of the resident. The
37 resident's representative shall not have authority to act on behalf of
38 the resident once the resident is no longer competent.

1 (~~(13)~~) (14) "Secretary" means the secretary of social and health
2 services.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.20 RCW
4 to read as follows:

5 (1) An assisted living facility may provide continuing nursing
6 services if it secures a designation on its license from the
7 department.

8 (2) At least sixty days prior to the anticipated designation to
9 provide continuing nursing services, the applicant must submit to the
10 department a completed application on a form developed by the
11 department.

12 (3) Prior to granting an initial continuing nursing services
13 designation, the department shall make an inspection visit to the
14 assisted living facility applicant to determine the facility's
15 compliance with the continuing nursing services rules. At least once
16 every eighteen months, the department shall inspect the assisted living
17 facility to determine the facility's compliance with the applicable
18 rules to determine whether the designation may be continued.

19 (4) The department shall establish fees to be paid by assisted
20 living facilities prior to the issuance of an initial or renewal
21 designation under this section. The department shall establish the fee
22 at a level that covers the cost of the administration of the
23 designation program.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.20 RCW
25 to read as follows:

26 (1) If an assisted living facility chooses to provide continuing
27 nursing services and admits a person who requires the frequent presence
28 and evaluation of a registered nurse, the facility must have a
29 registered nurse available to assure the safe delivery of the required
30 care and services in accordance with applicable rules developed by the
31 department.

32 (2) An assisted living facility that is unable to assure that a
33 registered nurse is available to provide or direct the safe delivery of
34 the required care and services may not admit or retain a person who
35 requires the frequent presence and evaluation of a registered nurse.
36 Persons who are receiving hospice care or have a short-term illness

1 that is expected to be resolved within fourteen days may remain or be
2 admitted in the facility provided that the facility is able to assure
3 that sufficient numbers and appropriately qualified and trained staff
4 or outside service providers under RCW 18.20.380 are available to meet
5 the needs of such persons.

6 (3) If the assisted living facility license has the designation
7 required under section 2 of this act, the facility may provide
8 continuing nursing services, as defined by the department in rule, to
9 meet the needs of residents whose needs could not be met through
10 intermittent nursing services under RCW 18.20.330.

11 (4) On the disclosure form, the assisted living facility shall
12 describe any limitations, additional services, or conditions that may
13 apply under this section.

14 (5) In providing continuing nursing services, the assisted living
15 facility shall observe the resident for changes in overall functioning
16 and respond appropriately when there are observable or reported changes
17 in the resident's physical, mental, or emotional functioning that
18 exceed the licensee's licensure limitations and any limitations
19 described in the disclosure form.

20 (6) If an assisted living facility with a continuing nursing
21 services designation determines, or has reason to believe, that a
22 resident needs continuing nursing services or rehabilitative therapy
23 services, then the facility must provide the resident, the resident's
24 legal representative, if any, and, if not, the resident representative,
25 with a department-approved written notice informing the client that he
26 or she may be eligible for complete or partial coverage of those
27 services through medicare, medicaid, veterans' benefits, long-term care
28 insurance, or other benefit programs. The department shall develop the
29 written notice with input from stakeholders. The notice must inform
30 residents of possible coverage under the benefit programs at reduced
31 fee or no cost to the resident, and provide contact information for
32 those programs. The notice must be signed and dated by the resident,
33 or his or her representative if the resident lacks capacity. The
34 facility must retain a copy of the signed notice. If the resident
35 chooses to use his or her benefits under medicare, medicaid, veterans'
36 benefits, long-term care insurance, or other programs, the resident may
37 elect to receive the nursing or rehabilitative therapy services offered
38 through an outside health care provider under RCW 18.20.380, or from

1 the assisted living facility if the facility is an authorized provider
2 under the relevant benefit program. An assisted living facility that
3 fails to give the notice required under this subsection and charges
4 residents privately for the provision of continuing nursing or
5 rehabilitative services and such services were otherwise eligible for
6 medicare, veterans' benefits, long-term care insurance, or other third-
7 party coverage, commits an act that constitutes financial exploitation
8 under chapter 74.34 RCW.

9 (7) An assisted living facility that chooses to provide continuing
10 nursing services, and has residents whose care is paid for in whole or
11 in part by medicaid, may not use the continuing nursing services
12 designation, or any physical plant alterations or application process
13 necessary for such designation, as a basis for the permanent discharge
14 of any of the facility's current medicaid residents. An assisted
15 living facility that receives an initial continuing nursing services
16 designation may not, for one year following the initial designation,
17 reduce the number of medicaid residents that the facility accepts or
18 retains below the highest number of medicaid residents living at the
19 facility within one year prior to the application for an initial
20 continuing nursing services designation.

21 **Sec. 4.** RCW 18.20.030 and 2012 c 10 s 3 are each amended to read
22 as follows:

23 (1) After January 1, 1958, no person shall operate or maintain an
24 assisted living facility as defined in this chapter within this state
25 without a license under this chapter.

26 (2) An assisted living facility license is not required for the
27 housing, or services, that are customarily provided under landlord
28 tenant agreements governed by the residential landlord-tenant act,
29 chapter 59.18 RCW, or when housing nonresident individuals who chose to
30 participate in programs or services under subsection (5) of this
31 section, when offered by the assisted living facility licensee or the
32 licensee's contractor. This subsection does not prohibit the licensee
33 from furnishing written information concerning available community
34 resources to the nonresident individual or the individual's family
35 members or legal representatives. The licensee may not require the use
36 of any particular service provider.

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

4 (4) An assisted living facility license is required when any person
5 other than an outside service provider, under RCW 18.20.380, or family
6 member:

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

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

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

13 (d) Provides intermittent nursing services, either directly or
14 indirectly; or

15 (e) Provides continuing nursing services, either directly or
16 indirectly.

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

1 **Sec. 5.** RCW 18.20.090 and 2012 c 10 s 5 are each amended to read
2 as follows:

3 (1) The department shall adopt, amend, and promulgate such rules,
4 regulations, and standards with respect to all assisted living
5 facilities and operators thereof to be licensed hereunder as may be
6 designed to further the accomplishment of the purposes of this chapter
7 in promoting safe and adequate care of individuals in assisted living
8 facilities and the sanitary, hygienic, and safe conditions of the
9 assisted living facility in the interest of public health, safety, and
10 welfare.

11 (2) The department shall also amend and adopt rules regarding the
12 provision of continuing nursing services, including rules that define:

13 (a) The process for designation of assisted living facilities,
14 including required notices to be provided to residents and their legal
15 representative if any, and if not, the resident's representative;

16 (b) The extent to which continuing nursing services may be provided
17 in assisted living facilities;

18 (c) Staffing requirements; and

19 (d) Physical plant requirements.

20 **Sec. 6.** RCW 18.20.160 and 2012 c 10 s 11 are each amended to read
21 as follows:

22 ~~((No person operating an assisted living facility licensed under~~
23 ~~this chapter shall admit to or retain in the assisted living facility~~
24 ~~any aged person requiring nursing or medical care of a type provided by~~
25 ~~institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except~~
26 ~~that when registered nurses are available, and upon a doctor's order~~
27 ~~that a supervised medication service is needed, it may be provided.~~
28 ~~Supervised medication services, as defined by the department and~~
29 ~~consistent with chapters 69.41 and 18.79 RCW, may include an approved~~
30 ~~program of self-medication or self-directed medication. Such~~
31 ~~medication service shall be provided only to residents who otherwise~~
32 ~~meet all requirements for residency in an assisted living facility. No~~
33 ~~assisted living facility shall admit or retain a person who requires~~
34 ~~the frequent presence and frequent evaluation of a registered nurse,~~
35 ~~excluding persons who are receiving hospice care or persons who have a~~
36 ~~short term illness that is expected to be resolved within fourteen~~
37 ~~days.)) The assisted living facility licensed under this chapter must~~

1 assume general responsibility for each resident and must promote each
2 resident's health, safety, and well-being consistent with the resident
3 negotiated care plan. In addition, the assisted living facility may
4 provide assistance with activities of daily living, health support
5 services, intermittent nursing services, and continuing nursing
6 services, as may be further defined by the department in rule, and
7 consistent with the care and services included in the disclosure form
8 required under RCW 18.20.300. To provide continuing nursing services,
9 the licensee shall obtain from the department a designation as required
10 by section 2 of this act. Without first obtaining the required
11 designation on its license, an assisted living facility may not admit
12 or retain a person who requires the frequent presence and frequent
13 evaluation of a licensed registered nurse, except for persons who are
14 receiving hospice care or persons who have a short-term illness that is
15 expected to be resolved within fourteen days. The assisted living
16 facility must assure that sufficient numbers and appropriately
17 qualified and trained staff are available to provide care and services
18 consistent with this chapter.

19 **Sec. 7.** RCW 18.20.330 and 2012 c 10 s 22 are each amended to read
20 as follows:

21 (1) Assisted living facilities are not required to provide
22 intermittent nursing services. The assisted living facility licensee
23 may choose to provide any of the following intermittent nursing
24 services through appropriately licensed and credentialed staff,
25 however, the facility may or may not need to provide additional
26 intermittent nursing services to comply with the reasonable
27 accommodation requirements in federal or state law:

- 28 (a) Medication administration;
- 29 (b) Administration of health care treatments;
- 30 (c) Diabetic management;
- 31 (d) Nonroutine ostomy care;
- 32 (e) Tube feeding; and
- 33 (f) Nurse delegation consistent with chapter 18.79 RCW.

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

1 (3) In providing intermittent nursing services, the assisted living
2 facility shall observe the resident for changes in overall functioning
3 and respond appropriately when there are observable or reported changes
4 in the resident's physical, mental, or emotional functioning.

5 (4) The assisted living facility may provide intermittent nursing
6 services to (~~the extent permitted by RCW 18.20.160~~) residents who do
7 not require the frequent presence and supervision of a licensed
8 registered nurse."

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9 On page 1, line 2 of the title, after "population;" strike the
10 remainder of the title and insert "amending RCW 18.20.030, 18.20.090,
11 18.20.160, and 18.20.330; reenacting and amending RCW 18.20.020; and
12 adding new sections to chapter 18.20 RCW."

EFFECT: Rearranges sections to move the definitions section and
the section relating to the continuing nursing services designation to
the front of the bill. Moves the definition of continuing nursing
services to the definitions section so that the term applies to the
entire chapter, rather than only the section establishing the
designation.

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