

Report to the Legislature

Nursing Homes—Physician Employment

Substitute House Bill 1315
As codified in RCW 18.51.560

January 1, 2013

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Background

There is no nursing home licensing law that prohibits nursing homes from employing physicians on staff. However, under the common law in Washington, a professional service organization is prohibited to engage in any businesses other than those for which it was incorporated. There was concern that nursing homes, incorporated under state law, are not legally authorized to hire their own physicians.

In April 2011, the Washington State legislature passed Substitute House Bill 1315, explicitly allowing nursing homes to employ physicians on staff. The law became effective July 22, 2011 and has been codified as RCW 18.51.560. The law requires the Department of Social and Health Services to do a one-time report on information on consumer satisfaction and medical cost implications of including physicians on staff in nursing homes.

The Department of Social and Health Services used the 2011 Nursing Home Cost Report to determine medical cost implications by examining the usage of in-house physicians. To determine consumer satisfaction, the Department asked nursing homes to provide information if they hired physicians on staff. Further, the Department examined citation data (from regular inspection surveys and complaint surveys) to determine if nursing homes were not allowing residents to choose a personal attending physician and whether the physician was on staff. The Department writes a citation when the nursing home has not met the related federal or state requirement.

Medical Costs

Methodology:

In order to determine the medical cost implications of hiring physicians on staff in nursing homes, the Department of Social and Health Services used the 2011 Nursing Home Cost Report. This Cost Report was due to the Department on April 2, 2012. This report was reviewed to determine usage of in-house physicians. The physicians cost can be found on Schedule G of the Cost Report under direct care expenses. They are direct care costs classified as either purchased services or allocated costs.

Data:

In calendar year 2011, no nursing homes reported that they employed physicians in-house. Therefore, there were no in-house physician cost implications for 2011. In response to a Department letter, five nursing homes reported having an in-house physician but the time period included up to July 2012. This may lead to nursing homes reporting in-house physician services on their 2012 cost reports.

Consumer Satisfaction

Methodology:

In order to determine consumer satisfaction, the Department of Social and Health Services used two avenues of information gathering. Those two avenues were: (1) Asking nursing homes to respond to written requests for information related to hiring physicians; and (2) Analyzing nursing home survey and complaint investigation citation data over a period of time.

In June 2011, the Department sent a letter to all nursing homes, interested parties and stakeholders and providing the following information:

- The passage of Substitute House Bill (SHB) 1315;
- Highlights of the requirements;
- A link to the newly passed law; and
- Specific information they would need to keep if they chose to hire a physician; such as the hire date, end date (if applicable), total capacity of their nursing home and number of residents who chose to be served by the hired physician.

In July 2012, the Department sent a follow up letter requesting nursing homes to provide information if they had hired a physician in accordance with RCW 18.51.560.

The Department used data from annual federal certification and state licensure surveys of nursing homes, and from any investigation resulting from resident or family complaints. During the annual survey process Department staff interview approximately forty (40) residents at each nursing home. The interviews cover a variety of topics including general satisfaction of the treatment, care and services received, and the right to choose a personal physician. Any complaint investigated about the issue would determine if there was a regulatory violation.

The Department examined citation data from both surveys and complaint investigations to determine if nursing homes were not allowing residents to choose a personal attending physician. The inability of a resident to select their own physician is an indicator of consumer satisfaction.

Data:

Six nursing homes responded to the Department’s letter for information on physicians hired in-house from the effective date of the law (July 2011 to July 2012). Please note that this timeframe was longer than the cost implication timeframe which had only 2011 calendar year data available. There is a possibility that some nursing homes hired physicians on staff but did not respond to the Department’s letter.

Of the six, five nursing homes reported hiring in-house physicians, while one nursing home indicated the intent to possibly hire an in-house physician in the future. The five nursing homes, that reported hiring physicians, reported that anywhere from eighteen to eighty-nine percent of residents used the services of the in-house physician.

See the following table for details:

Nursing Home Reported Data

Number of Physicians Hired In the Nursing Home	Total Capacity	Number of Residents Chosen to be Served by Hired Physician	Percentage of Residents Using Hired Physicians
1	113 beds	101	89%
1	190 beds	35	18%
1	70 nursing home beds/25 assisted living beds (related living facility beds)	45	47%
1	106 beds	62	58%
4 hired/1 no longer employed there	183 beds	150	82%

The federal Code of Federal Regulations (CFR) 483.10(d)(1) gives each nursing home resident the right to choose a personal attending physician. The Department collected data on the number of citations related to this regulation.

The Department reviewed citations related to the relevant federal regulations for both the year before the law passed and the year after it passed. The Department found no relevant non-compliance issues related to the applicable federal regulation. Please see the following:

- Complaints: There were no relevant citations from complaint surveys during the year before the law passed and the year after the law passed.
- Full surveys: There were no relevant citations from regular surveys for either the year before, or the year after the law passed.

Please see the following tables.

Citations on Complaint Surveys for 483.10(d)(1)/F-tag 163

Time Period	Number of Citations
July 2010 to June 2011	0
July 2011 to August 2012	0

Citations on All Other Surveys 483.10(d)(1)/F-tag 163

	Number of Citations
July 2010 to June 2011	0
July 2011 to August 2012	1

Appendix A: Copy of Letter Sent to Nursing Homes in 2011

2011 NH "Dear Administrator" Letters

June 16, 2011

ADSA: NH #2011-007

SUBSTITUTE HOUSE BILL 1315 - EMPLOYMENT OF PHYSICIANS

Dear Nursing Facility/Home Administrator:

The purpose of this letter is to let you know that the Governor recently signed into law Substitute House Bill 1315, an act relating to employment of physicians by nursing homes. The effective date of this bill is July 22, 2011.

Highlights of this recently passed legislation follows. The nursing home:

- May employ physicians to provide professional services to residents of the nursing home under these conditions:
 - Nursing homes may not supplant, diminish or regulate any employed physician's judgment, directly or indirectly, concerning the practice of medicine or diagnosis and treatment of any patient; and
 - The employed physicians may provide professional services only to residents of the nursing home or a related living facility as defined in the bill.
- Licensee still is ultimately responsible for the daily operations of the nursing home.
- Must continue to comply with applicable federal and state resident rights laws and rules.

To ensure that the hiring facility is in compliance with applicable federal and state resident rights laws and rules the department will monitor nursing homes during survey and complaint investigations. To read the newly passed legislation, please go to this link:

<http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/Session%20Law%202011/1315-S.SL.pdf>

The legislation also requires the department to submit a report to the legislature by January 1, 2013 on consumer satisfaction and medical cost implications. If you choose to hire physicians, please keep the following information: hire date, end date (if applicable), total capacity of your facility and the number of residents who have chosen to be served by the hired physician. In August 2012, we will send a letter requesting that you provide this information to us so that it can be included in the report. If you have any questions, please contact your RCS Field Manager.

Sincerely,
Joyce Pashley Stockwell, Director
Residential Care Services

Appendix B: Copy of Letter Sent to Nursing Homes in 2012

2012 NH "Dear Administrator" Letters
ADSA: NH #2012-007
EMPLOYMENT OF PHYSICIANS

July 20, 2012

Dear Nursing Facility/Home Administrator:

As you may recall, in June of 2011, we sent a letter informing you that Substitute House Bill 1315 (SHB 1315), an act relating to employment of physicians by nursing homes, was signed into law. To briefly summarize, the law allows nursing homes to employ physicians to provide professional services to nursing home residents or residents of a related living facility under certain circumstances.

The Department is required by law to submit a report to the legislature on consumer satisfaction and medical cost implications. If you chose to hire physicians in accordance with SHB 1315, please submit the following information via email to Lisa Yanagida at yanagln2@dshs.wa.gov by August 6, 2012:

- Hire date;
- End date (if applicable);
- Total capacity of your facility; and
- The number of residents who have chosen to be served by the hired physician.

To read SHB 1315, please see the following link:

<http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/Session%20Law%202011/1315-S.SL.pdf>

If you have any questions about this letter, please contact Lisa Yanagida at (360) 725-2589 or email at yanagln2@dshs.wa.gov.

Sincerely,
Joyce Pashley Stockwell, Director
Residential Care Services