

Chapter 74.41 RCW
RESPIRE CARE SERVICES

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RCW 74.41.010 Legislative findings. The legislature recognizes that:

- (1) Most care provided for functionally disabled adults is delivered by family members or friends who are not compensated for their services. Family involvement is a crucial element for avoiding or postponing institutionalization of the disabled adult.
- (2) Family or other caregivers who provide continuous care in the home are frequently under substantial stress, physical, psychological, and financial. The stress, if unrelieved by family or community support to the caregiver, may lead to premature or unnecessary nursing home placement.
- (3) Respite care and other community-based supportive services for the caregiver and for the disabled adult could relieve some of the stresses, maintain and strengthen the family structure, and postpone or prevent institutionalization.
- (4) With family and friends providing the primary care for the disabled adult, supplemented by community health and social services, long-term care may be less costly than if the individual were institutionalized. [1984 c 158 § 1.]

RCW 74.41.020 Intent. It is the intent of the legislature to provide a comprehensive program of long-term care information and support, including in-home and out-of-home respite care services, for family and other unpaid caregivers who provide the daily services required when caring for adults with functional disabilities. The family caregiver long-term care information and support services shall:

- (1) Provide information, relief, and support to family or other unpaid caregivers of adults with functional disabilities;
- (2) Encourage family and other nonpaid individuals to provide care for adults with functional disabilities at home, and thus offer a viable alternative to placement in a long-term care facility;
- (3) Ensure that respite care is made generally available on a sliding-fee basis to eligible participants in the program according to priorities established by the department;

(4) Be provided in the least restrictive setting available consistent with the individually assessed needs of the adults with functional disabilities;

(5) Include services appropriate to the needs of persons caring for individuals with dementing illnesses; and

(6) Provide unpaid family and other unpaid caregivers with services that enable them to make informed decisions about current and future care plans, solve day-to-day caregiving problems, learn essential caregiving skills, and locate services that may strengthen their capacity to provide care. [2000 c 207 § 2; 1987 c 409 § 1; 1984 c 158 § 2.]

Short title—2000 c 207: "This act shall be known and cited as the Fred Mills act." [2000 c 207 § 1.]

RCW 74.41.030 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Family caregiver long-term care information and support services" means providing long-term care information and support services to unpaid family and other unpaid caregivers of adults with functional disabilities, including but not limited to providing: (a) Information about available public and private long-term care support services; (b) assistance in gaining access to an array of appropriate long-term care family caregiver services; (c) promotion and implementation of support groups; (d) caregiver training to assist the nonpaid caregivers in making decisions and solving challenges relating to their caregiving roles; (e) respite care services; and (f) additional supportive long-term care services that may include but not be limited to translating/interpreter services, specialized transportation, coordination of health care services, help purchasing needed supplies, durable goods, or equipment, and other forms of information and support necessary to maintain the unpaid caregiving activity.

(2) "Respite care services" means relief care for families or other caregivers of adults with functional disabilities, eligibility for which shall be determined by the department by rule. The services provide temporary care or supervision of adults with functional disabilities in substitution for the caregiver. The term includes adult day services.

(3) "Eligible participant for family caregiver long-term care information and support services" means an adult who needs substantially continuous care or supervision by reason of his or her functional disability and may be at risk of placement into a long-term care facility.

(4) "Eligible participant for respite care services" means an adult who needs substantially continuous care or supervision by reason of his or her functional disability and is also assessed as requiring placement into a long-term care facility in the absence of an unpaid family or other unpaid caregiver.

(5) "Unpaid caregiver" means a spouse, relative, or friend who has primary responsibility for the care of an adult with a functional disability and who does not receive financial compensation for the care. To be eligible for respite care and for family caregiver support services, the caregiver is considered the client.

(6) "Adult day services" means nonmedical services to persons who live with their families, cannot be left unsupervised, and are at risk of being placed in a twenty-four-hour care facility if their families do not receive some relief from constant care.

(7) "Department" means the department of social and health services. [2000 c 207 § 3; 1987 c 409 § 2; 1984 c 158 § 3.]

Short title—2000 c 207: See note following RCW 74.41.020.

RCW 74.41.040 Administration—Rules—Program standards. The department shall administer this chapter and shall establish such rules and standards as the department deems necessary in carrying out this chapter. The department shall not require the development of plans of care or discharge plans by nursing homes or adult family homes providing respite care service under this chapter. Assisted living facilities providing respite care services shall comply with the assessment and plan of care provisions of RCW 18.20.350.

The department shall develop standards for the respite program in conjunction with the selected area agencies on aging. The program standards shall serve as the basis for soliciting bids, entering into subcontracts, and developing sliding fee scales to be used in determining the ability of eligible participants to participate in paying for respite care. [2012 c 10 § 68; 2008 c 146 § 2; 1987 c 409 § 3; 1984 c 158 § 4.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Intent—2008 c 146: "The legislature finds that Washingtonians sixty-five years of age and older will nearly double in the next twenty years, from eleven percent of our population today to almost twenty percent of our population in 2025. Younger people with disabilities will also require supportive long-term care services. Nationally, young people with a disability account for thirty-seven percent of the total number of people who need long-term care.

The legislature further finds that to address this increasing need, the long-term care system should support autonomy and self-determination, and support the role of informal caregivers and families. It should promote personal planning and savings combined with public support, when needed. It should also include culturally appropriate, high quality information, services, and supports delivered in a cost-effective and efficient manner.

The legislature further finds that more than fifteen percent of adults over age sixty-five in Washington state have diabetes. Current nurse delegation statutes limit the ability of elderly and disabled persons with diabetes to remain in their own homes or in other home-like long-term care settings. It is the intent of the legislature to modify nurse delegation statutes to enable elderly persons and persons with disabilities who have diabetes to continue to reside in their own home or other home-like settings.

The legislature further finds that the long-term care system should utilize evidence-based practices for the prevention and management of chronic disease to improve the general health of Washingtonians over their lifetime and reduce health care and long-term care costs related to ineffective chronic care management." [2008 c 146 § 1.]

Severability—2008 c 146: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 146 § 14.]

RCW 74.41.050 Family caregiver long-term care information and support services—Respite services, evaluation of need, caregiver abilities. The department shall contract with area agencies on aging or other appropriate agencies to conduct family caregiver long-term care information and support services to the extent of available funding. The responsibilities of the agencies shall include but not be limited to: (1) Administering a program of family caregiver long-term care information and support services; (2) negotiating rates of payment, administering sliding-fee scales to enable eligible participants to participate in paying for respite care, and arranging for respite care information, training, and other support services; and (3) developing an evidence-based tailored caregiver assessment and referral tool. In evaluating the need for respite services, consideration shall be given to the mental and physical ability of the caregiver to perform necessary caregiver functions. [2008 c 146 § 4; 2000 c 207 § 4; 1989 c 427 § 8; 1987 c 409 § 4; 1984 c 158 § 5.]

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

Short title—2000 c 207: See note following RCW 74.41.020.

RCW 74.41.060 Respite care program—Criteria. The department shall insure that the respite care program is designed to meet the following criteria:

- (1) Make maximum use of services which provide care to the greatest number of eligible participants with the fewest number of staff consistent with adequate care;
- (2) Provide for use of one-on-one care when necessary;
- (3) Provide for both day care and overnight care;
- (4) Provide personal care to continue at the same level which the caregiver ordinarily provides to the eligible participant; and
- (5) Provide for the utilization of family home settings. [1984 c 158 § 6.]

RCW 74.41.070 Family caregiver long-term care information and support services—Data. The area agencies on aging administering family caregiver long-term care information and support services shall maintain data which indicates demand for family caregiver long-term care information and support services. [2000 c 207 § 5; 1998 c 245 § 151; 1987 c 409 § 5; 1984 c 158 § 7.]

Short title—2000 c 207: See note following RCW 74.41.020.

RCW 74.41.080 Health care practitioners and facilities not impaired. Nothing in this chapter shall impair the practice of any

licensed health care practitioner or licensed health care facility.
[1984 c 158 § 8.]

RCW 74.41.090 Entitlement not created. Nothing in this chapter creates or provides any individual with an entitlement to services or benefits. It is the intent of the legislature that services under this chapter shall be made available only to the extent of the availability and level of appropriation made by the legislature. [1987 c 409 § 6.]

RCW 74.41.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 182.]