

Initiative Measure No. 1097

FILED

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SECRETARY OF STATE
STATE OF WASHINGTON

1 AN ACT Relating to long-term care services for the elderly and
2 persons with disabilities; amending RCW 74.39A.009, 18.88B.020,
3 74.39A.073, 18.88B.030, 18.88B.040, 74.39A.075, 74.39A.340, 74.39A.350,
4 74.39A.085, 74.39A.050, and 74.39A.310; adding a new section to chapter
5 74.39A RCW; and creating new sections.

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

7 NEW SECTION. Sec. 1. It is the intent of the people, through this
8 initiative, to protect and improve access to safe, quality care for the
9 vulnerable elderly and persons with disabilities. The people find and
10 declare that current procedures to train and educate long-term care
11 workers are insufficient. The people find and declare that long-term
12 care workers for the elderly or persons with disabilities should have
13 a formal system of education and experiential qualifications leading to
14 a certification test.

15 Sec. 2. RCW 74.39A.009 and 2009 c 580 s 1 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

1 (1) "Adult family home" means a home licensed under chapter 70.128
2 RCW.

3 (2) "Adult residential care" means services provided by a boarding
4 home that is licensed under chapter 18.20 RCW and that has a contract
5 with the department under RCW 74.39A.020 to provide personal care
6 services.

7 (3) "Assisted living services" means services provided by a
8 boarding home that has a contract with the department under RCW
9 74.39A.010 to provide personal care services, intermittent nursing
10 services, and medication administration services, and the resident is
11 housed in a private apartment-like unit.

12 (4) "Boarding home" means a facility licensed under chapter 18.20
13 RCW.

14 (5) "Core competencies" means basic training topics, including but
15 not limited to, communication skills, worker self-care, problem
16 solving, maintaining dignity, consumer directed care, cultural
17 sensitivity, body mechanics, fall prevention, skin and body care, long-
18 term care worker roles and boundaries, supporting activities of daily
19 living, and food preparation and handling.

20 (6) "Cost-effective care" means care provided in a setting of an
21 individual's choice that is necessary to promote the most appropriate
22 level of physical, mental, and psychosocial well-being consistent with
23 client choice, in an environment that is appropriate to the care and
24 safety needs of the individual, and such care cannot be provided at a
25 lower cost in any other setting. But this in no way precludes an
26 individual from choosing a different residential setting to achieve his
27 or her desired quality of life.

28 (7) "Department" means the department of social and health
29 services.

30 (8) "Developmental disability" has the same meaning as defined in
31 RCW 71A.10.020.

32 (9) "Direct care worker" means a paid caregiver who provides
33 direct, hands-on personal care services to persons with disabilities or
34 the elderly requiring long-term care.

35 (10) "Enhanced adult residential care" means services provided by
36 a boarding home that is licensed under chapter 18.20 RCW and that has
37 a contract with the department under RCW 74.39A.010 to provide personal

1 care services, intermittent nursing services, and medication
2 administration services.

3 (11) "Functionally disabled person" or "person who is functionally
4 disabled" is synonymous with chronic functionally disabled and means a
5 person who because of a recognized chronic physical or mental condition
6 or disease, or developmental disability, including chemical dependency,
7 is impaired to the extent of being dependent upon others for direct
8 care, support, supervision, or monitoring to perform activities of
9 daily living. "Activities of daily living", in this context, means
10 self-care abilities related to personal care such as bathing, eating,
11 using the toilet, dressing, and transfer. Instrumental activities of
12 daily living may also be used to assess a person's functional abilities
13 as they are related to the mental capacity to perform activities in the
14 home and the community such as cooking, shopping, house cleaning, doing
15 laundry, working, and managing personal finances.

16 (12) "Home and community services" means adult family homes, in-
17 home services, and other services administered or provided by contract
18 by the department directly or through contract with area agencies on
19 aging or similar services provided by facilities and agencies licensed
20 by the department.

21 (13) (a) "Home care aide" means a long-term care worker who has
22 ((obtained certification as a home care aide by the department of
23 health)) obtained five hours of safety and orientation training as
24 defined in subsection (21) of this section and is in the process of
25 obtaining certification as a home care aide from the department of
26 health or exempted from certification under RCW 18.88B.040 (1) and (2).

27 (b) "Certified home care aide" means a long-term care worker who
28 has obtained certification as a home care aide by the department of
29 health pursuant to RCW 18.88B.020.

30 (14) "Individual provider" is defined according to RCW 74.39A.240.

31 (15) "Long-term care" is synonymous with chronic care and means
32 care and supports delivered indefinitely, intermittently, or over a
33 sustained time to persons of any age disabled by chronic mental or
34 physical illness, disease, chemical dependency, or a medical condition
35 that is permanent, not reversible or curable, or is long-lasting and
36 severely limits their mental or physical capacity for self-care. The
37 use of this definition is not intended to expand the scope of services,

1 care, or assistance by any individuals, groups, residential care
2 settings, or professions unless otherwise expressed by law.

3 (16) (a) "Long-term care workers for the elderly or persons with
4 disabilities" or "long-term care workers" includes all persons who are
5 long-term care workers for the elderly or persons with disabilities,
6 including but not limited to individual providers of home care
7 services, direct care (~~(employees of)~~) workers employed by home care
8 agencies, providers of home care services to persons with developmental
9 disabilities under Title 71 RCW, all direct care workers in
10 state-licensed boarding homes, assisted living facilities, and adult
11 family homes, respite care providers, community residential service
12 providers, and any other direct care worker providing home or
13 community-based services to the elderly or persons with functional
14 disabilities or developmental disabilities.

15 (b) "Long-term care workers" do not include: (i) Persons employed
16 by the following facilities or agencies: Nursing homes subject to
17 chapter 18.51 RCW, hospitals or other acute care settings, residential
18 habilitation centers under chapter 71A.20 RCW, facilities certified
19 under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127
20 RCW, adult day care centers, and adult day health care centers; or (ii)
21 persons who are not paid by the state or by a private agency or
22 facility licensed by the state to provide personal care services.

23 (17) "Nursing home" means a facility licensed under chapter 18.51
24 RCW.

25 (18) "Personal care services" means physical or verbal assistance
26 with activities of daily living and instrumental activities of daily
27 living provided because of a person's functional disability.

28 (19) "Population specific competencies" means basic training topics
29 unique to the care needs of the population the long-term care worker is
30 serving, including but not limited to, mental health, dementia,
31 developmental disabilities, young adults with physical disabilities,
32 and older adults.

33 (20) "Qualified instructor" means a registered nurse or other
34 person with specific knowledge, training, and work experience in the
35 provision of direct, hands-on personal care and other assistance
36 services to the elderly or persons with disabilities requiring
37 long-term care.

1 (21) "Safety and orientation training" means training under RCW
2 74.39A.073(2)(b) addressing the role of a home care aide, the
3 applicable terms of employment, basic safety precautions, emergency
4 procedures, and infection control.

5 (22) "Secretary" means the secretary of social and health services.

6 (~~((22))~~) (23) "Secretary of health" means the secretary of health
7 or the secretary's designee.

8 (~~((23))~~) (24) "Training partnership" means a joint partnership or
9 trust that includes the office of the governor and the exclusive
10 bargaining representative of individual providers under RCW 74.39A.270
11 with the capacity to provide training, peer mentoring, and workforce
12 development, or other services to individual providers.

13 (~~((24))~~) (25) "Tribally licensed boarding home" means a boarding
14 home licensed by a federally recognized Indian tribe which home
15 provides services similar to boarding homes licensed under chapter
16 18.20 RCW.

17 Sec. 3. RCW 18.88B.020 and 2009 c 580 s 18 are each amended to
18 read as follows:

19 (1) Effective January 1, 2011, except as provided in RCW
20 18.88B.040, the department of health shall require that any person
21 hired as a long-term care worker for the elderly or persons with
22 disabilities must be certified as a home care aide within one hundred
23 fifty days from the date of being hired.

24 (2) Except as provided in RCW 18.88B.040, certification as a home
25 care aide requires both completion of (~~seventy-five~~) eighty-five
26 hours of training and successful completion of a certification
27 examination pursuant to RCW 74.39A.073 and 18.88B.030.

28 (3) No person may practice or, by use of any title or description,
29 represent himself or herself as a certified home care aide without
30 being certified pursuant to this chapter.

31 (4) No person may practice or, by use of any title or description,
32 represent himself or herself as a home care aide without (a) receiving
33 five hours of safety and orientation training and seeking certification
34 as a home care aide from the department of health or (b) qualifying for
35 an exemption from certification under RCW 18.88B.040 (1) and (2). The
36 department of health shall make available to home care aides a registry

1 by which home care aides can be identified by the public as eligible to
2 provide long-term care services.

3 (5) The department of health shall adopt rules by August 1, 2010,
4 to implement this section.

5 Sec. 4. RCW 74.39A.073 and 2009 c 580 s 10 are each amended to
6 read as follows:

7 (1) Effective January 1, 2011, except as provided in RCW
8 18.88B.040, all persons employed as long-term care workers for the
9 elderly or persons with disabilities must meet the minimum training
10 requirements in this section within one hundred twenty calendar days of
11 employment.

12 (2) All persons employed as long-term care workers must ~~((obtain~~
13 ~~seventy five hours of entry level training approved by the department.~~
14 ~~A long term care worker must accomplish five of these seventy five~~
15 ~~hours before becoming eligible to provide care)) complete eighty-five
16 hours of entry-level training as follows: (a) Five hours of safety and
17 orientation training before becoming eligible to provide care and (b)
18 eighty hours of long-term care basic training, including training on
19 core competencies and population specific competencies.~~

20 (3) Training required by subsection ~~((4)(e))~~ (2)(b) of this
21 section will be applied towards training required under RCW 18.20.270
22 or 70.128.230 as well as any statutory or regulatory training
23 requirements for long-term care workers employed by supportive living
24 providers.

25 (4) Only training curriculum approved by the department pursuant to
26 section 5 of this act may be used to fulfill the training requirements
27 specified in this section, RCW 74.39A.340 and 74.39A.350. ~~((The~~
28 ~~seventy five hours of entry level training required shall be as~~
29 ~~follows:~~

30 ~~(a) Before a long term care worker is eligible to provide care, he~~
31 ~~or she must complete two hours of orientation training regarding his or~~
32 ~~her role as caregiver and the applicable terms of employment;~~

33 ~~(b) Before a long term care worker is eligible to provide care, he~~
34 ~~or she must complete three hours of safety training, including basic~~
35 ~~safety precautions, emergency procedures, and infection control; and~~

36 ~~(c) All long term care workers must complete seventy hours of~~

1 ~~long-term care basic training, including training related to core~~
2 ~~competencies and population specific competencies.~~

3 ~~(5) The department shall only approve training curriculum that:~~

4 ~~(a) Has been developed with input from consumer and worker~~
5 ~~representatives; and~~

6 ~~(b) Requires comprehensive instruction by qualified instructors on~~
7 ~~the competencies and training topics in this section.~~

8 ~~(6))~~ (5) Individual providers under RCW 74.39A.270 shall be
9 compensated by the department for training time required by this
10 section.

11 ~~((7))~~ (6) Home care agency workers who provide direct care shall
12 be compensated for training time required by this section. Training
13 wages to be paid pursuant to this subsection are wages under RCW
14 74.39A.310.

15 (7) The governor must submit, as a part of the proposed biennial or
16 supplemental operating budget submitted to the legislature under RCW
17 43.88.030, a request for funds necessary to administer subsections (5)
18 and (6) of this section or for legislation necessary to implement these
19 subsections.

20 (8) The department of health shall adopt rules by August 1, 2010,
21 to implement subsections (1), (2), ~~((and))~~ (3), and (4) of this
22 section.

23 ~~((8))~~ (9) The department shall adopt rules by August 1, 2010, to
24 implement subsections ~~((4) and))~~ (5) and (6) of this section.

25 NEW SECTION. Sec. 5. A new section is added to chapter 74.39A RCW
26 to read as follows:

27 (1) The department's authority to approve training curriculum for
28 long-term care workers is established solely by RCW 74.39A.073 and
29 subsection (2) of this section. In exercising its authority, the
30 department is restricted to the curriculum areas described in
31 subsection (2) of this section and the administrative requirements in
32 subsections (3), (4), and (5) of this section. The department shall
33 not develop its own curriculum.

34 (2) To qualify as acceptable curriculum for the purposes of RCW
35 74.39A.073, the curriculum must:

36 (a) Have been developed with input from consumer and worker
37 representatives;

1 (b) Require comprehensive instruction by qualified instructors on
2 the training required by RCW 74.39A.073;

3 (c) Include safety and orientation training curriculum that
4 provides safety training such as basic safety precautions, emergency
5 procedures, and infection control;

6 (d) Include curriculum concerning core competencies that comprises
7 the following topic areas: Communication skills, problem solving,
8 consumer directed care, respecting differences, cultural sensitivity,
9 consumer and worker rights, maintaining client dignity, long-term care
10 worker roles and boundaries, abuse and mandatory reporting, observation
11 and reporting, infection control, blood borne pathogens and HIV/AIDS,
12 food preparation and handling, including nutrition, worker self-care,
13 working with older adults, grief and loss, care of the home and safety,
14 fall prevention, body mechanics, supporting activities of daily living
15 and personal care tasks such as bathing, grooming and oral care,
16 dressing, toileting, assisting with eating and hydration, proper
17 feeding techniques, skin and body care, transfers, positioning,
18 turning, bed making, walking, using assistive devices, and medication
19 assistance; and

20 (e) Include curriculum concerning population specific competencies
21 that offer the following topic areas: Mental health care, dementia
22 care, caring for individuals with developmental disabilities, caring
23 for young adults with physical disabilities, or elder care.

24 (3) All persons seeking training curriculum approval must submit a
25 complete application that includes:

26 (a) Program objectives;

27 (b) A curriculum content outline;

28 (c) A sample lesson plan;

29 (d) A skills checklist; and

30 (e) A declaration guaranteeing compliance with the requirements of
31 subsection (2) of this section and RCW 74.39A.073 as well as any
32 subsequent changes therein.

33 (4) Curriculum approval must be renewed every four years. Failure
34 to renew with the department shall result in automatic withdrawal of
35 approval.

36 (5) The department must be notified if for any reason a person
37 whose curriculum is approved pursuant to this section can no longer
38 meet the requirements of this section.

1 (6) Persons whose curriculum is approved under this section shall
2 also be authorized to provide curriculum appropriate for training under
3 RCW 74.39A.075 and 74.39A.340.

4 (7) The department shall adopt rules by August 1, 2011, to
5 implement this section.

6 Sec. 6. RCW 18.88B.030 and 2009 c 580 s 4 are each amended to read
7 as follows:

8 (1) Effective January 1, 2011, except as provided in RCW
9 18.88B.040, the department of health shall require that all long-term
10 care workers successfully complete a certification examination. Any
11 ~~((long term care worker))~~ home care aide failing to make the required
12 grade for the examination will not ~~((be))~~ become a certified ~~((as a))~~
13 home care aide.

14 (2) The department of health, in consultation with consumer and
15 worker representatives, shall develop a home care aide certification
16 examination to evaluate whether an applicant possesses the skills and
17 knowledge necessary to practice competently. Unless excluded by RCW
18 18.88B.040 ~~((1) and (2))~~, only those who have completed the training
19 requirements in RCW 74.39A.073 shall be eligible to sit for this
20 examination.

21 (3) The examination shall include both a skills demonstration and
22 a written or oral knowledge test. The department of health shall make
23 the certification examination available in languages sufficient to
24 allow all home care aides who have obtained eighty-five hours of
25 training an equal chance of passing the examination. The examination
26 papers, all grading of the papers, and records related to the grading
27 of skills demonstration shall be preserved for a period of not less
28 than one year. The department of health shall establish rules
29 governing the number of times and under what circumstances individuals
30 who have failed the examination may sit for the examination, including
31 whether any intermediate remedial steps should be required.

32 (4) All examinations shall be conducted by fair and wholly
33 impartial methods. The certification examination shall be administered
34 and evaluated by the department of health or by a contractor to the
35 department of health that is neither an employer of long-term care
36 workers or private contractors providing training services under this
37 chapter. When an applicant is taking the examination in a language

1 other than English, the department of health shall ensure that the test
2 is administered by an individual or individuals with the language
3 skills of those taking the examination.

4 (5) The department of health has the authority to:

5 (a) Establish forms, procedures, and examinations necessary to
6 certify home care aides pursuant to this chapter;

7 (b) Hire clerical, administrative, and investigative staff as
8 needed to implement this section;

9 (c) Issue certification as a home care aide to any applicant who
10 has successfully completed the home care aide examination;

11 (d) Maintain the official record of all applicants and persons with
12 certificates;

13 (e) Exercise disciplinary authority as authorized in chapter 18.130
14 RCW; and

15 (f) Deny certification to applicants who do not meet training,
16 competency examination, and conduct requirements for certification.

17 (6) The department of health shall adopt rules by August 1, 2010,
18 that establish the procedures, including criteria for reviewing an
19 applicant's state and federal background checks, determining an
20 applicant's eligibility to sit for an examination pursuant to RCW
21 74.39A.073 or 74.39A.040 (1) and (2), and conducting and examinations
22 necessary to carry this section into effect.

23 **Sec. 7.** RCW 18.88B.040 and 2010 c 169 s 11 are each amended to
24 read as follows:

25 The following long-term care workers are not required to become a
26 certified home care aide pursuant to this chapter.

27 (1) Registered nurses, licensed practical nurses, certified nursing
28 assistants or persons who are in an approved training program for
29 certified nursing assistants under chapter 18.88A RCW, medicare-
30 certified home health aides, or other persons who hold a similar health
31 credential, as determined by the secretary of health, or persons with
32 special education training and an endorsement granted by the
33 superintendent of public instruction, as described in RCW 28A.300.010,
34 if the secretary of health determines that the circumstances do not
35 require certification. Individuals exempted by this subsection may
36 obtain certification as a home care aide from the department of health

1 without fulfilling the training requirements in RCW 74.39A.073 but must
2 successfully complete a certification examination pursuant to RCW
3 18.88B.030.

4 (2) A person already employed as a long-term care worker prior to
5 January 1, 2011, who completes all of his or her training requirements
6 in effect as of the date he or she was hired, is not required to obtain
7 certification. Individuals exempted by this subsection may obtain
8 certification as a home care aide from the department of health without
9 fulfilling the training requirements in RCW 74.39A.073 but must
10 successfully complete a certification examination pursuant to RCW
11 18.88B.030.

12 (3) All long-term care workers employed by supported living
13 providers are not required to obtain certification under this chapter.

14 (4) An individual provider caring only for his or her biological,
15 step, or adoptive developmentally disabled child ((~~er parent~~)) is not
16 required to obtain certification under this chapter.

17 (5) ((~~Prior to June 30, 2014, a person hired as an individual~~
18 ~~provider who provides twenty hours or less of care for one person in~~
19 ~~any calendar month is not required to obtain certification under this~~
20 ~~chapter.)) Long-term care workers who are not required to become
21 certified home care aides under subsections (1) and (2) of this section
22 may practice or, by use of any title or description, represent himself
23 or herself as a home care aide.~~

24 (6) A long-term care worker exempted by this section from the
25 training requirements contained in RCW 74.39A.073 may not be prohibited
26 from enrolling in training pursuant to that section.

27 (7) The department of health shall adopt rules by August 1, 2010,
28 to implement this section.

29 **Sec. 8.** RCW 74.39A.075 and 2009 c 580 s 11 are each amended to
30 read as follows:

31 (1) Effective January 1, 2011, a biological, step, or adoptive
32 parent who is the individual provider only for his or her
33 developmentally disabled son or daughter must receive twelve hours of
34 training relevant to the needs of adults with developmental
35 disabilities within the first one hundred twenty days of becoming an
36 individual provider.

1 (2) ~~((Effective January 1, 2011, individual providers identified in~~
2 ~~(a) and (b) of this subsection must complete thirty five hours of~~
3 ~~training within the first one hundred twenty days of becoming an~~
4 ~~individual provider. Five of the thirty five hours must be completed~~
5 ~~before becoming eligible to provide care. Two of these five hours~~
6 ~~shall be devoted to an orientation training regarding an individual~~
7 ~~provider's role as caregiver and the applicable terms of employment,~~
8 ~~and three hours shall be devoted to safety training, including basic~~
9 ~~safety precautions, emergency procedures, and infection control.~~
10 ~~Individual providers subject to this requirement include:~~

11 ~~(a) An individual provider caring only for his or her biological,~~
12 ~~step, or adoptive child or parent unless covered by subsection (1) of~~
13 ~~this section; and~~

14 ~~(b) Before January 1, 2014, a person hired as an individual~~
15 ~~provider who provides twenty hours or less of care for one person in~~
16 ~~any calendar month.~~

17 ~~(3) Only training curriculum approved by the department may be used~~
18 ~~to fulfill the training requirements specified in this section. The~~
19 ~~department shall only approve training curriculum that-~~

20 ~~(a) Has been developed with input from consumer and worker~~
21 ~~representatives; and~~

22 ~~(b) Requires comprehensive instruction by qualified instructors.~~

23 ~~(4)) The department shall adopt rules by August 1, 2010, to~~
24 ~~implement this section.~~

25 Sec. 9. RCW 74.39A.340 and 2009 c 580 s 12 are each amended to
26 read as follows:

27 (1) The department of health shall ensure that all long-term care
28 workers shall complete twelve hours of ~~((continuing education))~~
29 training in ~~((advanced training))~~ continuing education topics each
30 year. This requirement applies beginning on July 1, 2011.

31 (2) Completion of continuing education as required in this section
32 is a prerequisite to maintaining home care aide certification under
33 chapter 2, Laws of 2009.

34 (3) Unless voluntarily certified as a home care aide under chapter
35 2, Laws of 2009, subsection (1) of this section does not apply to(~~(-~~

36 ~~(a) An individual provider caring only for his or her)) a~~
37 ~~biological, step, or adoptive ((child; and~~

1 ~~(b) Before June 30, 2014, a person hired as an individual provider~~
2 ~~who provides twenty hours or less of care for one person in any~~
3 ~~calendar month.~~

4 ~~(4) Only training curriculum approved by the department may be used~~
5 ~~to fulfill the training requirements specified in this section. The~~
6 ~~department shall only approve training curriculum that:~~

7 ~~(a) Has been developed with input from consumer and worker~~
8 ~~representatives; and~~

9 ~~(b) Requires comprehensive instruction by qualified instructors.~~

10 ~~(5)) parent who is the individual provider only for his or her~~
11 ~~developmentally disabled son or daughter.~~

12 (4) Individual providers under RCW 74.39A.270 shall be compensated
13 by the department for training time required by this section.

14 ~~((+6))~~ (5) Home care agency workers who provide direct care shall
15 be compensated for training time required by this section. Training
16 wages to be paid pursuant to this subsection are wages under RCW
17 74.39A.310.

18 (6) The governor must submit, as a part of the proposed biennial or
19 supplemental operating budget submitted to the legislature under RCW
20 43.88.030, a request for funds necessary to administer subsections (4)
21 and (5) of this section or for legislation necessary to implement these
22 subsections.

23 (7) The department of health shall adopt rules by August 1, 2010,
24 to implement subsections (1), (2), and (3) of this section.

25 ~~((+7))~~ (8) The department shall adopt rules by August 1, 2010, to
26 implement subsections (4) and (5) of this section.

27 Sec. 10. RCW 74.39A.350 and 2009 c 580 s 13 are each amended to
28 read as follows:

29 (1) The department shall ((offer, directly or through contract,))
30 ensure training opportunities sufficient for a long-term care worker to
31 accumulate seventy hours of advanced training within a reasonable time
32 period. For individual providers represented by an exclusive
33 bargaining representative under RCW 74.39A.270, the training
34 opportunities shall be offered through the training partnership
35 established under RCW 74.39A.360. Training topics shall include, but
36 are not limited to: Client rights; personal care; mental illness;
37 dementia; developmental disabilities; depression; medication

1 assistance; advanced communication skills; positive client behavior
2 support; developing or improving client-centered activities; dealing
3 with wandering or aggressive client behaviors; medical conditions;
4 nurse delegation core training; peer mentor training; and advocacy for
5 quality care training. The department may not require long-term care
6 workers to obtain the training described in this section.

7 (2) Upon the completion of the training outlined in this section,
8 an individual provider under RCW 74.39A.270 or a home care agency
9 direct care worker under RCW 74.39A.310(1)(a)(i) shall, in addition to
10 his or her regular hourly wage rate, be compensated one dollar per
11 hour.

12 (3) The wage differential in subsection (2) of this section shall
13 increase each year in accordance with increases in the minimum wage
14 under RCW 49.46.020. The governor must submit, as a part of the
15 proposed biennial or supplemental operating budget submitted to the
16 legislature under RCW 43.88.030, a request for funds necessary to
17 administer this subsection and subsection (2) of this section or for
18 legislation necessary to implement this subsection and subsection (2)
19 of this section.

20 (4) This requirement to offer advanced training applies beginning
21 January 1, 2012.

22 **Sec. 11.** RCW 74.39A.085 and 2009 c 580 s 14 are each amended to
23 read as follows:

24 (1) The department shall deny payment to any individual provider of
25 home care services who has not been certified by the department of
26 health as a home care aide as required under chapter 2, Laws of 2009
27 or, if exempted from certification by RCW 18.88B.040, has not completed
28 his or her required training pursuant to chapter 2, Laws of 2009.

29 (2) The department may terminate the contract of any individual
30 provider of home care services, or take any other enforcement measure
31 deemed appropriate by the department if the individual provider does
32 not complete his or her required training or receive certification
33 within the requisite period of time, individual provider's
34 certification is revoked under chapter 2, Laws of 2009 or, if exempted
35 from certification by RCW 18.88B.040, the individual provider has not
36 completed his or her required training pursuant to chapter 2, Laws of
37 2009.

1 (3) The department shall deny payment to private agencies, or other
2 facilities licensed by the state to provide personal care services, if
3 they employ: (a) A long-term care worker who has not completed his or
4 her training or received certification within the requisite period of
5 time, (b) a home care aide whose certification is revoked under chapter
6 2, Laws of 2009 or, (c) if exempted from certification by RCW
7 18.88B.040, a long-term care worker even if he or she has not completed
8 required training pursuant to chapter 2, Laws of 2009.

9 (4) The department shall take appropriate enforcement action
10 ~~((related to the contract of))~~ against a private agency or facility
11 licensed by the state, other than an individual provider, to provide
12 personal care services ~~((, other than an individual provider,))~~ and who
13 ~~((knowingly))~~ negligently employs a long-term care worker who has not
14 completed training within the requisite period of time, who is not a
15 certified home care aide as required under chapter 2, Laws of 2009
16 whose certification as a home care aide was revoked under chapter 2,
17 Laws of 2009, or, if exempted from certification by RCW 18.88B.040, has
18 not completed his or her required training pursuant to chapter 2, Laws
19 of 2009.

20 ~~((4))~~ (5) Chapter 34.05 RCW shall govern actions by the
21 department under this section.

22 ~~((5))~~ (6) The department shall adopt rules by August 1, 2010, to
23 implement this section.

24 Sec. 12. RCW 74.39A.050 and 2009 c 580 s 7 are each amended to
25 read as follows:

26 The department's system of quality improvement for long-term care
27 services shall use the following principles, consistent with applicable
28 federal laws and regulations:

29 (1) The system shall be client-centered and promote privacy,
30 independence, dignity, choice, and a home or home-like environment for
31 consumers consistent with chapter 392, Laws of 1997.

32 (2) The goal of the system is continuous quality improvement with
33 the focus on consumer satisfaction and outcomes for consumers. This
34 includes that when conducting licensing or contract inspections, the
35 department shall interview an appropriate percentage of residents,
36 family members, resident case managers, and advocates in addition to
37 interviewing providers and staff.

1 (3) Providers should be supported in their efforts to improve
2 quality and address identified problems initially through training,
3 consultation, technical assistance, and case management.

4 (4) The emphasis should be on problem prevention both in monitoring
5 and in screening potential providers of service.

6 (5) Monitoring should be outcome based and responsive to consumer
7 complaints and based on a clear set of health, quality of care, and
8 safety standards that are easily understandable and have been made
9 available to providers, residents, and other interested parties:

10 (6) Prompt and specific enforcement remedies shall also be
11 implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160,
12 chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have
13 delivered care or failed to deliver care resulting in problems that are
14 serious, recurring, or uncorrected, or that create a hazard that is
15 causing or likely to cause death or serious harm to one or more
16 residents. These enforcement remedies may also include, when
17 appropriate, reasonable conditions on a contract or license. In the
18 selection of remedies, the safety, health, and well-being of residents
19 shall be of paramount importance.

20 (7) All long-term care workers shall be screened through background
21 checks in a uniform and timely manner to ensure that they do not have
22 a criminal history that would disqualify them from working with
23 vulnerable persons. Long-term care workers who are hired after January
24 1, 2012, are subject to background checks under RCW 74.39A.055. This
25 information will be shared with the department of health in accordance
26 with RCW 74.39A.055 to advance the purposes of chapter 2, Laws of 2009.

27 (8) No provider, or its staff, or long-term care worker, or
28 prospective provider or long-term care worker, with a stipulated
29 finding of fact, conclusion of law, an agreed order, or finding of
30 fact, conclusion of law, or final order issued by a disciplining
31 authority, a court of law, or entered into a state registry finding him
32 or her guilty of abuse, neglect, exploitation, or abandonment of a
33 minor or a vulnerable adult as defined in chapter 74.34 RCW shall be
34 employed in the care of and have unsupervised access to vulnerable
35 adults.

36 (9) The department shall establish, by rule, a state registry which
37 contains identifying information about long-term care workers
38 identified under this chapter who have substantiated findings of abuse,

1 neglect, financial exploitation, or abandonment of a vulnerable adult
2 as defined in RCW 74.34.020. The rule must include disclosure,
3 disposition of findings, notification, findings of fact, appeal rights,
4 and fair hearing requirements. The department shall disclose, upon
5 request, substantiated findings of abuse, neglect, financial
6 exploitation, or abandonment to any person so requesting this
7 information. This information will also be shared with the department
8 of health to advance the purposes of chapter 2, Laws of 2009.

9 (10) Until December 31, 2010, individual providers and home care
10 ((agency)) providers employed by agencies must satisfactorily complete
11 department-approved orientation, basic training, and continuing
12 education within the time period specified by the department in rule.
13 ~~((The department shall adopt rules by March 1, 2002, for the
14 implementation of this section.))~~ The department shall deny payment to
15 an individual provider or a home care provider who does not complete
16 the training requirements within the time limit specified by the
17 department by rule.

18 (11) ~~((Until December 31, 2010, in an effort to improve access to
19 training and education and reduce costs, especially for rural
20 communities, the coordinated system of long-term care training and
21 education must include the use of innovative types of learning
22 strategies such as internet resources, videotapes, and distance
23 learning using satellite technology coordinated through community
24 colleges or other entities, as defined by the department.~~

25 ~~(12) The department shall create an approval system by March 1,
26 2002, for those seeking to conduct department-approved training.~~

27 ~~(13))~~ The department shall establish, by rule, background checks
28 ~~((and other quality assurance requirements))~~ for long-term care workers
29 who provide in-home services funded by medicaid personal care as
30 described in RCW 74.09.520, community options program entry system
31 waiver services as described in RCW 74.39A.030, or chore services as
32 described in RCW 74.39A.110 that are equivalent to requirements for
33 individual providers. Long-term care workers who are hired after
34 January 1, 2012, are subject to background checks under RCW 74.39A.055.

35 ~~((14))~~ (12) Under existing funds the department shall establish
36 internally a quality improvement standards committee to monitor the
37 development of standards and to suggest modifications.

1 ~~((15) Within existing funds, the department shall design, develop,~~
2 ~~and implement a long term care training program that is flexible,~~
3 ~~relevant, and qualifies towards the requirements for a nursing~~
4 ~~assistant certificate as established under chapter 18.88A RCW. This~~
5 ~~subsection does not require completion of the nursing assistant~~
6 ~~certificate training program by providers or their staff. The long-~~
7 ~~term care teaching curriculum must consist of a fundamental module, or~~
8 ~~modules, and a range of other available relevant training modules that~~
9 ~~provide the caregiver with appropriate options that assist in meeting~~
10 ~~the resident's care needs. Some of the training modules may include,~~
11 ~~but are not limited to, specific training on the special care needs of~~
12 ~~persons with developmental disabilities, dementia, mental illness, and~~
13 ~~the care needs of the elderly. No less than one training module must~~
14 ~~be dedicated to workplace violence prevention. The nursing care~~
15 ~~quality assurance commission shall work together with the department to~~
16 ~~develop the curriculum modules. The nursing care quality assurance~~
17 ~~commission shall direct the nursing assistant training programs to~~
18 ~~accept some or all of the skills and competencies from the curriculum~~
19 ~~modules towards meeting the requirements for a nursing assistant~~
20 ~~certificate as defined in chapter 18.88A RCW. A process may be~~
21 ~~developed to test persons completing modules from a caregiver's class~~
22 ~~to verify that they have the transferable skills and competencies for~~
23 ~~entry into a nursing assistant training program. The department may~~
24 ~~review whether facilities can develop their own related long term care~~
25 ~~training programs. The department may develop a review process for~~
26 ~~determining what previous experience and training may be used to waive~~
27 ~~some or all of the mandatory training. The department of social and~~
28 ~~health services and the nursing care quality assurance commission shall~~
29 ~~work together to develop an implementation plan by December 12, 1998.))~~

30 **Sec. 13.** RCW 74.39A.310 and 2007 c 361 s 8 are each amended to
31 read as follows:

32 (1) The department shall create a formula that converts the cost of
33 the increase in wages and benefits negotiated and funded in the
34 contract for individual providers of home care services pursuant to RCW
35 74.39A.270 and 74.39A.300, into a per-hour amount, excluding those
36 benefits defined in subsections (2) and (3) of this section. That
37 per-hour amount shall be added to the statewide home care agency vendor

1 rate and shall be used exclusively for improving the wages and benefits
2 of home care agency workers who provide direct care. The formula shall
3 account for:

4 (a) All types of wages, benefits, and compensation negotiated and
5 funded each biennium, including but not limited to:

- 6 (i) Regular, training, and training differential wages;
- 7 (ii) Benefit pay, such as vacation, sick, and holiday pay;
- 8 (iii) Taxes on wages/benefit pay; and
- 9 (iv) Mileage; and

10 (~~(v) Contributions to a training partnership, and~~)

11 (b) The increase in the average cost of worker's compensation for
12 home care agencies and application of the increases identified in (a)
13 of this subsection to all hours required to be paid, including travel
14 time, of direct service workers under the wage and hour laws and
15 associated employer taxes.

16 (2) The contribution rate for health care benefits, including but
17 not limited to medical, dental, and vision benefits, for eligible
18 agency home care workers shall be paid by the department to home care
19 agencies at the same rate as negotiated and funded in the collective
20 bargaining agreement for individual providers of home care services.

21 (3) The contribution rate for training benefits, including but not
22 limited to entry level training, continuing education, and advanced
23 training for eligible agency home care workers shall be paid by the
24 department to home care agencies at the same rate as negotiated and
25 funded in the collective bargaining agreement for individual providers
26 of home care services.

27 NEW SECTION. Sec. 14. The provisions of this act are to be
28 liberally construed to effectuate the intent, policies, and purposes of
29 this act.

30 NEW SECTION. Sec. 15. If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. Sec. 16. This act may be known and cited as the

- 1 long-term care workers for the elderly and persons with disabilities
- 2 quality choice initiative.

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