
SECOND SUBSTITUTE HOUSE BILL 1694

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Alvarado, Tharinger, Berry, Lekanoff, Reed, Leavitt, Fitzgibbon, Callan, Santos, Chopp, Ortiz-Self, Senn, Taylor, Pollet, Macri, Riccelli, and Simmons)

1 AN ACT Relating to addressing home care workforce shortages;
2 amending RCW 18.88B.021, 18.88B.031, 74.39A.341, 18.88B.041, and
3 74.39A.076; reenacting and amending RCW 18.88B.010; adding new
4 sections to chapter 18.88B RCW; adding a new section to chapter
5 18.88A RCW; adding a new section to chapter 74.39A RCW; creating new
6 sections; and providing expiration dates.

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

8 **Sec. 1.** RCW 18.88B.010 and 2012 c 164 s 201 are each reenacted
9 and amended to read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Community residential service business" has the same meaning
13 as defined in RCW 74.39A.009.

14 (2) "Date of hire" means the first day the long-term care worker
15 is employed by any employer.

16 (3) "Department" means the department of health.

17 ((+3)) (4) "Home care aide" means a person certified under this
18 chapter.

19 ((+4)) (5) "Individual provider" has the same meaning as defined
20 in RCW 74.39A.009.

1 ~~((5))~~ (6) "Long-term care worker" has the same meaning as
2 defined in RCW 74.39A.009.

3 ~~((6))~~ (7) "Personal care services" has the same meaning as
4 defined in RCW 74.39A.009.

5 ~~((7))~~ (8) "Secretary" means the secretary of the department of
6 health.

7 **Sec. 2.** RCW 18.88B.021 and 2021 c 203 s 10 are each amended to
8 read as follows:

9 (1) Beginning January 7, 2012, except as provided in RCW
10 18.88B.041, any person hired as a long-term care worker must be
11 certified as a home care aide as provided in this chapter within
12 ~~((two hundred))~~ 200 calendar days after the date of hire ~~((, as~~
13 ~~defined by the department. The department may adopt rules determining~~
14 ~~under which circumstances a long-term care worker may have more than~~
15 ~~one date of hire, restarting the person's 200-day period to obtain~~
16 ~~certification as a home care aide)).~~ A long-term care worker who is
17 not currently certified or eligible to reactivate an expired
18 credential shall receive a new date of hire when beginning work with
19 either a new employer or returning to a former employer after prior
20 employment has ended.

21 (2)(a) No person may practice or, by use of any title or
22 description, represent himself or herself as a certified home care
23 aide without being certified as provided in this chapter.

24 (b) This section does not prohibit a person: (i) From practicing
25 a profession for which the person has been issued a license or which
26 is specifically authorized under this state's laws; or (ii) who is
27 exempt from certification under RCW 18.88B.041 from providing
28 services as a long-term care worker.

29 (c) In consultation with consumer and worker representatives, the
30 department shall, by January 1, 2013, establish by rule a single
31 scope of practice that encompasses both long-term care workers who
32 are certified home care aides and long-term care workers who are
33 exempted from certification under RCW 18.88B.041.

34 (3) If a pandemic, natural disaster, or other declared state of
35 emergency impacts the ability of long-term care workers to complete
36 certification as required by this section, the department may adopt
37 rules to allow long-term care workers additional time to become
38 certified.

1 (a) Rules adopted under this subsection (3) are effective until
2 the termination of the pandemic, natural disaster, or other declared
3 state of emergency or until the department determines that additional
4 time for long-term care workers to become certified is no longer
5 necessary, whichever is later. Once the department determines a rule
6 adopted under this subsection (3) is no longer necessary, it must
7 repeal the rule under RCW 34.05.353.

8 (b) Within 12 months of the termination of the pandemic, natural
9 disaster, or other declared state of emergency, the department shall
10 conduct a review of certification compliance with subsection (1) of
11 this section and rules adopted under this subsection (3) and provide
12 the legislature with a report.

13 (4) The department shall adopt rules to implement this section.

14 **Sec. 3.** RCW 18.88B.031 and 2012 c 164 s 304 are each amended to
15 read as follows:

16 (1) Except as provided in RCW 18.88B.041 and subject to the other
17 requirements of this chapter, to be certified as a home care aide, a
18 long-term care worker must successfully complete the training
19 required under RCW 74.39A.074(1) and a certification examination. Any
20 long-term care worker failing to make the required grade for the
21 examination may not be certified as a home care aide.

22 (2) The department, in consultation with consumer and worker
23 representatives, shall develop a home care aide certification
24 examination to evaluate whether an applicant possesses the skills and
25 knowledge necessary to practice competently. ~~((Except as provided by
26 RCW 18.88B.041(1)(a)(ii), only those who have completed the training
27 requirements in RCW 74.39A.074(1) shall be eligible to sit for this
28 examination.))~~

29 (3) The examination or series of examinations shall include both
30 a skills demonstration and a written or oral knowledge test. The
31 skills demonstration, the knowledge test, or both, may be
32 administered during or after a student's formal training. The
33 examination papers, all grading of the papers, and records related to
34 the grading of skills demonstration shall be preserved for a period
35 of not less than one year. The department shall establish rules
36 governing the number of times and under what circumstances
37 individuals who have failed the examination may sit for the
38 examination, including whether any intermediate remedial steps should
39 be required.

1 (4) All examinations shall be conducted by fair and wholly
2 impartial methods. The certification examination shall be
3 administered and evaluated by ~~((the))~~:

4 (a) The department ~~((or by a))~~;

5 (b) A contractor to the department that is ~~((neither))~~ not an
6 employer of long-term care workers ~~((or a private contractor~~
7 ~~providing training services under this chapter.~~

8 ~~(5))~~, unless the employer is a department of social and health
9 services approved instructor and has met the department standards for
10 administering the examination; or

11 (c) A high school or community college that has met department
12 standards for administering the examination.

13 (5) In addition to the standards under subsection (4) of this
14 section, the department shall examine and authorize innovative ways
15 to reduce barriers to certification and testing, including allowing
16 for remote proctoring of the knowledge examination, allowing long-
17 term care workers to sign up for testing upon registering for
18 training contingent on completion of training, and expanding the
19 number and type of testing locations.

20 (6) The department shall adopt rules to implement this section.

21 NEW SECTION. Sec. 4. A new section is added to chapter 18.88B
22 RCW to read as follows:

23 (1) A certificate that has been expired for five years or less
24 may be reinstated if the person holding the expired certificate:

25 (a) Completes an abbreviated application form;

26 (b) Pays any necessary fees, including the current certification
27 fee, late renewal fees, and expired credential reissuance fees,
28 unless exempt pursuant to section 5 of this act;

29 (c) Provides a written declaration that no action has been taken
30 by a state or federal jurisdiction or hospital which would prevent or
31 restrict the person holding the expired certificate from practicing
32 as a home care aide;

33 (d) Provides a written declaration that the person holding the
34 expired certificate has not voluntarily given up any credential or
35 privilege or has not been restricted from practicing as a home care
36 aide in lieu of or to avoid formal action; and

37 (e) Submits to a state and federal background check as required
38 by RCW 74.39A.056, if the certificate has been expired for more than
39 one year.

1 (2) In addition to meeting the requirements of subsection (1) of
2 this section, a certificate that has been expired for more than five
3 years may be reinstated if the person holding the expired certificate
4 demonstrates competence to the standards established by the secretary
5 and meets other requirements established by the secretary.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.88B
7 RCW to read as follows:

8 (1) Beginning September 1, 2023, a person whose home care aide
9 certificate has been expired for more than six months and less than
10 two years who seeks to restore the certificate to active status is
11 exempt from the payment of any late renewal fee or current renewal
12 fee if the person complies with all other certification requirements
13 determined necessary by the department to return to active status.

14 (2) The department shall send a notification to the last known
15 address of each person who held a certificate under this chapter and,
16 since January 1, 2020, failed to renew the certificate to inform the
17 person that a certificate may be restored without a financial penalty
18 or payment of a renewal fee under subsection (1) of this section. For
19 persons who have allowed their certificates to expire since January
20 1, 2023, the department must allow six months to pass since the
21 expiration prior to contacting them to inform them that a certificate
22 may be restored without a financial penalty or payment of a renewal
23 fee under subsection (1) of this section.

24 (3) The department and the department of social and health
25 services, as applicable, shall adopt rules to assure that continuing
26 education requirements are not a barrier for persons seeking to
27 reactivate their certificates under this chapter.

28 (4) This section expires July 1, 2025.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.88A
30 RCW to read as follows:

31 (1) Beginning September 1, 2023, a person whose nursing assistant
32 certificate has been expired for more than six months and less than
33 two years who seeks to restore the certificate to active status is
34 exempt from the payment of any late renewal fee or current renewal
35 fee if the person complies with all other certification requirements
36 determined necessary by the department to return to active status.

37 (2) The department shall send a notification to the last known
38 address of each person who held a certificate under this chapter and,

1 since January 1, 2020, failed to renew the certificate to inform the
2 person that a certificate may be restored without a financial penalty
3 or payment of a renewal fee under subsection (1) of this section. For
4 persons who have allowed their certificates to expire since January
5 1, 2023, the department must allow six months to pass since the
6 expiration prior to contacting them to inform them that a certificate
7 may be restored without a financial penalty or payment of a renewal
8 fee under subsection (1) of this section.

9 (3) The department shall adopt rules to assure that continuing
10 education requirements are not a barrier for persons seeking to
11 reactivate their certificates under this chapter.

12 (4) This section expires July 1, 2025.

13 **Sec. 7.** RCW 74.39A.341 and 2021 c 203 s 9 are each amended to
14 read as follows:

15 (1) All long-term care workers shall complete twelve hours of
16 continuing education training in advanced training topics each year.
17 This requirement applies beginning July 1, 2012.

18 (2) Completion of continuing education as required in this
19 section is a prerequisite to maintaining home care aide certification
20 under chapter 18.88B RCW.

21 (3) Unless voluntarily certified as a home care aide under
22 chapter 18.88B RCW, subsection (1) of this section does not apply to:

23 (a) An individual provider caring only for his or her biological,
24 step, or adoptive child;

25 (b) Registered nurses and licensed practical nurses licensed
26 under chapter 18.79 RCW;

27 (c) Before January 1, 2016, a long-term care worker employed by a
28 community residential service business;

29 (d) A person working as an individual provider who provides
30 twenty hours or less of care for one person in any calendar month;
31 ((~~or~~))

32 (e) A person working as an individual provider who only provides
33 respite services and works less than three hundred hours in any
34 calendar year; or

35 (f) A person whose certificate has been expired for less than
36 five years who seeks to restore the certificate to active status. The
37 person does not need to complete continuing education requirements in
38 order for their certificate to be restored to active status.
39 Subsection (1) of this section applies to persons once the

1 certificate has been restored to active status, beginning on the date
2 the certificate is restored to active status.

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

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

8 (b) Requires comprehensive instruction by qualified instructors.

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

11 (6) If a pandemic, natural disaster, or other declared state of
12 emergency impacts the ability of long-term care workers to complete
13 training as required by this section, the department may adopt rules
14 to allow long-term care workers additional time to complete the
15 training requirements.

16 (a) Rules adopted under this subsection (6) are effective until
17 the termination of the pandemic, natural disaster, or other declared
18 state of emergency or until the department determines that all long-
19 term care workers who were unable to complete the training required
20 in this section have had adequate access to complete the required
21 training, whichever is later. Once the department determines a rule
22 adopted under this subsection (6) is no longer necessary, it must
23 repeal the rule under RCW 34.05.353.

24 (b) Within 12 months of the termination of the pandemic, natural
25 disaster, or other declared state of emergency, the department shall
26 conduct a review of training compliance with subsection (1) of this
27 section and provide the legislature with a report.

28 (7) The department of health shall adopt rules to implement
29 subsection (1) of this section.

30 (8) The department shall adopt rules to implement subsection (2)
31 of this section.

32 **Sec. 8.** RCW 18.88B.041 and 2019 c 363 s 20 are each amended to
33 read as follows:

34 (1) The following long-term care workers are not required to
35 become a certified home care aide pursuant to this chapter:

36 (a) (i) (A) Registered nurses, licensed practical nurses, certified
37 nursing assistants or persons who are in an approved training program
38 for certified nursing assistants under chapter 18.88A RCW, medicare-
39 certified home health aides, or other persons who hold a similar

1 health credential, as determined by the secretary, or persons with
2 special education training and an endorsement granted by the
3 superintendent of public instruction, as described in RCW
4 28A.300.010, if the secretary determines that the circumstances do
5 not require certification.

6 (B) A person who was initially hired as a long-term care worker
7 prior to January 7, 2012, and who completes all of the training
8 requirements in effect as of the date the person was hired.

9 (ii) Individuals exempted by (a)(i) of this subsection may obtain
10 certification as a home care aide without fulfilling the training
11 requirements in RCW 74.39A.074(1)(d)(ii) but must successfully
12 complete a certification examination pursuant to RCW 18.88B.031.

13 (b) All long-term care workers employed by community residential
14 service businesses.

15 (c)(i) An individual provider caring only for the individual
16 provider's biological, step, or adoptive child or parent; and

17 (ii) For individual providers hired after September 1, 2023, an
18 individual provider caring only for the individual provider's
19 sibling, aunt, uncle, cousin, niece, nephew, grandparent, or
20 grandchild, including when related by marriage or domestic
21 partnership.

22 (d) A person working as an individual provider who provides
23 twenty hours or less of care for one person in any calendar month.

24 (e) A person working as an individual provider who only provides
25 respite services and works less than three hundred hours in any
26 calendar year.

27 (f) A long-term care worker providing approved services only for
28 a spouse or registered domestic partner, pursuant to the long-term
29 services and supports trust program established in chapter 50B.04
30 RCW.

31 (g) A long-term care worker providing approved services only for
32 a spouse or registered domestic partner and funded through the United
33 States department of veterans affairs home and community-based
34 programs.

35 (2) A long-term care worker exempted by this section from the
36 training requirements contained in RCW 74.39A.074 may not be
37 prohibited from enrolling in training pursuant to that section.

38 (3) The department shall adopt rules to implement this section.

1 **Sec. 9.** RCW 74.39A.076 and 2021 c 203 s 8 are each amended to
2 read as follows:

3 (1) Beginning January 7, 2012, except for long-term care workers
4 exempt from certification under RCW 18.88B.041(1) (a):

5 (a) A biological, step, or adoptive parent who is the individual
6 provider only for the person's developmentally disabled son or
7 daughter must receive twelve hours of training relevant to the needs
8 of (~~adults~~) individuals with developmental disabilities within the
9 first one hundred twenty days after becoming an individual provider.

10 (b) A spouse or registered domestic partner who is a long-term
11 care worker only for a spouse or domestic partner, pursuant to the
12 long-term services and supports trust program established in chapter
13 50B.04 RCW, must receive fifteen hours of basic training, and at
14 least six hours of additional focused training based on the care-
15 receiving spouse's or partner's needs, within the first one hundred
16 twenty days after becoming a long-term care worker.

17 (c) A person working as an individual provider who (i) provides
18 respite care services only for individuals with developmental
19 disabilities receiving services under Title 71A RCW or only for
20 individuals who receive services under this chapter, and (ii) works
21 three hundred hours or less in any calendar year, must complete
22 fourteen hours of training within the first one hundred twenty days
23 after becoming an individual provider. Five of the fourteen hours
24 must be completed before becoming eligible to provide care, including
25 two hours of orientation training regarding the caregiving role and
26 terms of employment and three hours of safety training. The training
27 partnership identified in RCW 74.39A.360 must offer at least twelve
28 of the fourteen hours online, and five of those online hours must be
29 individually selected from elective courses.

30 (d) Individual providers identified in (d)(i) or (ii) of this
31 subsection must complete thirty-five hours of training within the
32 first one hundred twenty days after becoming an individual provider.
33 Five of the thirty-five hours must be completed before becoming
34 eligible to provide care. Two of these five hours shall be devoted to
35 an orientation training regarding an individual provider's role as
36 caregiver and the applicable terms of employment, and three hours
37 shall be devoted to safety training, including basic safety
38 precautions, emergency procedures, and infection control. Individual
39 providers subject to this requirement include:

1 (i) (A) An individual provider caring only for the individual
2 provider's biological, step, or adoptive child or parent unless
3 covered by (a) of this subsection; and

4 (B) For individual providers hired after September 1, 2023, an
5 individual provider caring only for the individual provider's
6 sibling, aunt, uncle, cousin, niece, nephew, grandparent, or
7 grandchild, including when related by marriage or domestic
8 partnership; ((and))

9 (ii) A person working as an individual provider who provides
10 twenty hours or less of care for one person in any calendar month;
11 and

12 (iii) A long-term care worker providing approved services only
13 for a spouse or registered domestic partner and funded through the
14 United States department of veterans affairs home and community-based
15 programs.

16 (2) In computing the time periods in this section, the first day
17 is the date of hire.

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

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

23 (b) Requires comprehensive instruction by qualified instructors.

24 (4) If a pandemic, natural disaster, or other declared state of
25 emergency impacts the ability of long-term care workers to complete
26 training as required by this section, the department may adopt rules
27 to allow long-term care workers additional time to complete the
28 training requirements.

29 (a) Rules adopted under this subsection (4) are effective until
30 the termination of the pandemic, natural disaster, or other declared
31 state of emergency or until the department determines that all long-
32 term care workers who were unable to complete the training required
33 in subsection (1) of this section have had adequate access to
34 complete the required training, whichever is later. Once the
35 department determines a rule adopted under this subsection (4) is no
36 longer necessary, it must repeal the rule under RCW 34.05.353.

37 (b) Within 12 months of the termination of the pandemic, natural
38 disaster, or other declared state of emergency, the department shall
39 conduct a review of training compliance with subsection (1) of this
40 section and provide the legislature with a report.

1 (5) The department shall adopt rules to implement this section.

2 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.39A
3 RCW to read as follows:

4 Subject to the availability of amounts appropriated for this
5 specific purpose, beginning June 1, 2025, the department shall
6 annually report on the status of:

7 (1) The long-term care worker supply;

8 (2) The average wages of long-term care workers compared to
9 entry-level positions in other industries;

10 (3) Projections of service demands;

11 (4) Geographic disparities in the supply of long-term care
12 workers; and

13 (5) Any race, gender, or other worker demographic data available
14 through preexisting administrative data sources.

15 NEW SECTION. **Sec. 11.** The department of social and health
16 services shall design a pilot project to allow the spouse or domestic
17 partner of a person with complex medical needs who is eligible for
18 long-term services and supports through the department of social and
19 health services to receive payment for providing home care services
20 to the spouse or domestic partner. The design shall consider the
21 appropriate acuity level of the care-receiving spouse or domestic
22 partner, the training needs of the care-providing spouse or domestic
23 partner, payment parameters, fiscal considerations and use of
24 medicaid matching funds, geographic locations for implementing the
25 pilot project, ways to design the project to aid in future statewide
26 implementation, cost estimates for implementing the pilot project,
27 cost estimates for implementing a pilot project expansion, projected
28 number of individuals to be served, a proposed timeline for
29 implementation of the pilot project, and a proposed timeline for
30 implementation of an expanded pilot project. The department of social
31 and health services and the health care authority shall prepare and
32 submit a waiver to the federal centers for medicare and medicaid
33 services to allow the state to receive federal matching funds to
34 support the pilot project. The department of social and health
35 services shall submit the pilot project design to the office of
36 financial management and the appropriate fiscal committees of the
37 legislature by December 31, 2023.

1 NEW SECTION. **Sec. 12.** The department of social and health
2 services shall study the feasibility and cost of paying the parents
3 of children under 18 years old who are medically complex or have
4 complex support needs related to their behaviors. The department of
5 social and health services must submit a report to the office of
6 financial management and the appropriate fiscal committees of the
7 legislature by December 31, 2023. The report shall address any
8 statutory or regulatory changes needed to authorize the payments,
9 necessary information technology changes for the agency and
10 associated costs, elements needed to prepare a federal waiver or
11 state plan amendments to allow for the use of federal matching funds
12 for the payments to parents, estimates of the number of children
13 expected to be served, the anticipated annual cost to the state both
14 if federal matching funds are available and if they are not
15 available, recommendations on the types of training needed for
16 parents to support their children's care needs, and a proposed
17 timeline for implementation which may be phased, if necessary.

18 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2023, in the omnibus appropriations act, this
21 act is null and void.

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