
HOUSE BILL 2600

State of Washington

66th Legislature

2020 Regular Session

By Representatives Callan and Kilduff; by request of Department of Social and Health Services

1 AN ACT Relating to the definition of "community residential
2 service business" for the purposes of chapter 74.39A RCW; and
3 amending RCW 74.39A.009.

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

5 **Sec. 1.** RCW 74.39A.009 and 2018 c 278 s 2 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Adult family home" means a home licensed under chapter
10 70.128 RCW.

11 (2) "Adult residential care" means services provided by an
12 assisted living facility that is licensed under chapter 18.20 RCW and
13 that has a contract with the department under RCW 74.39A.020 to
14 provide personal care services.

15 (3) "Assisted living facility" means a facility licensed under
16 chapter 18.20 RCW.

17 (4) "Assisted living services" means services provided by an
18 assisted living facility that has a contract with the department
19 under RCW 74.39A.010 to provide personal care services, intermittent
20 nursing services, and medication administration services; and the

1 facility provides these services to residents who are living in
2 private apartment-like units.

3 (5) "Community residential service business" means a community
4 program operated by the developmental disabilities administration or
5 a business that:

6 (a) Is certified by the department of social and health services
7 to provide to individuals who have a developmental disability as
8 defined in RCW 71A.10.020(5):

9 (i) Group home services;

10 (ii) Group training home services;

11 (iii) Supported living services; or

12 (iv) Voluntary placement services provided in a licensed staff
13 residential facility for children;

14 (b) Has a contract with the developmental disabilities
15 administration to provide the services identified in (a) of this
16 subsection or is operated in the community by the developmental
17 disabilities administration; and

18 (c) All of the business's or program's long-term care workers are
19 subject to statutory or regulatory training requirements that are
20 required to provide the services identified in (a) of this
21 subsection.

22 (6) "Consumer" or "client" means a person who is receiving or has
23 applied for services under this chapter, including a person who is
24 receiving services from an individual provider.

25 (7) "Consumer directed employer" is a private entity that
26 contracts with the department to be the legal employer of individual
27 providers for purposes of performing administrative functions. The
28 consumer directed employer is patterned after the agency with choice
29 model, recognized by the federal centers for medicare and medicaid
30 services for financial management in consumer directed programs. The
31 entity's responsibilities are described in RCW 74.39A.515 and
32 throughout this chapter and include: (a) Coordination with the
33 consumer, who is the individual provider's managing employer; (b)
34 withholding, filing, and paying income and employment taxes,
35 including workers' compensation premiums and unemployment taxes, for
36 individual providers; (c) verifying an individual provider's
37 qualifications; and (d) providing other administrative and
38 employment-related supports. The consumer directed employer is a
39 social service agency and its employees are mandated reporters as
40 defined in RCW 74.34.020.

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

7 (9) "Cost-effective care" means care provided in a setting of an
8 individual's choice that is necessary to promote the most appropriate
9 level of physical, mental, and psychosocial well-being consistent
10 with client choice, in an environment that is appropriate to the care
11 and safety needs of the individual, and such care cannot be provided
12 at a lower cost in any other setting. But this in no way precludes an
13 individual from choosing a different residential setting to achieve
14 his or her desired quality of life.

15 (10) "Department" means the department of social and health
16 services.

17 (11) "Developmental disability" has the same meaning as defined
18 in RCW 71A.10.020.

19 (12) "Direct care worker" means a paid caregiver who provides
20 direct, hands-on personal care services to persons with disabilities
21 or the elderly requiring long-term care.

22 (13) "Enhanced adult residential care" means services provided by
23 an assisted living facility that is licensed under chapter 18.20 RCW
24 and that has a contract with the department under RCW 74.39A.010 to
25 provide personal care services, intermittent nursing services, and
26 medication administration services.

27 (14) "Facility" means an adult family home, an assisted living
28 facility, a nursing home, an enhanced services facility licensed
29 under chapter 70.97 RCW, or a facility certified to provide medicare
30 or medicaid services in nursing facilities or intermediate care
31 facilities for individuals with intellectual disabilities under 42
32 C.F.R. Part 483.

33 (15) "Home and community-based services" means services provided
34 in adult family homes, in-home services, and other services
35 administered or provided by contract by the department directly or
36 through contract with area agencies on aging or similar services
37 provided by facilities and agencies licensed or certified by the
38 department.

1 (16) "Home care aide" means a long-term care worker who is
2 certified as a home care aide by the department of health under
3 chapter 18.88B RCW.

4 (17) "Individual provider" is defined according to RCW
5 74.39A.240.

6 (18) "Legal employer" means the consumer directed employer, which
7 along with the consumer, coemploys individual providers. The legal
8 employer is responsible for setting wages and benefits for individual
9 providers and must comply with applicable laws including, but not
10 limited to, workers compensation and unemployment insurance laws.

11 (19) "Long-term care" means care and supports delivered
12 indefinitely, intermittently, or over a sustained time to persons of
13 any age who are functionally disabled due to chronic mental or
14 physical illness, disease, chemical dependency, or a medical
15 condition that is permanent, not curable, or is long-lasting and
16 severely limits their mental or physical capacity for self-care. The
17 use of this definition is not intended to expand the scope of
18 services, care, or assistance provided by any individuals, groups,
19 residential care settings, or professions unless otherwise required
20 by law.

21 (20) (a) "Long-term care workers" include all persons who provide
22 paid, hands-on personal care services for the elderly or persons with
23 disabilities, including but not limited to individual providers of
24 home care services, direct care workers employed by home care
25 agencies or a consumer directed employer, providers of home care
26 services to persons with developmental disabilities under Title 71A
27 RCW, all direct care workers in state-licensed assisted living
28 facilities, enhanced services facilities, and adult family homes,
29 respite care providers, direct care workers employed by community
30 residential service businesses, and any other direct care worker
31 providing home or community-based services to the elderly or persons
32 with functional disabilities or developmental disabilities.

33 (b) "Long-term care workers" do not include: (i) Persons employed
34 by the following facilities or agencies: Nursing homes licensed under
35 chapter 18.51 RCW, hospitals or other acute care settings,
36 residential habilitation centers under chapter 71A.20 RCW, facilities
37 certified under 42 C.F.R., Part 483, hospice agencies subject to
38 chapter 70.127 RCW, adult day care centers, and adult day health care
39 centers; or (ii) persons who are not paid by the state or by a

1 private agency or facility licensed or certified by the state to
2 provide personal care services.

3 (21) "Managing employer" means a consumer who coemploys one or
4 more individual providers and whose responsibilities include (a)
5 choosing potential individual providers and referring them to the
6 consumer directed employer; (b) overseeing the day-to-day management
7 and scheduling of the individual provider's tasks consistent with the
8 plan of care; and (c) dismissing the individual provider when
9 desired.

10 (22) "Nursing home" or "nursing facility" means a facility
11 licensed under chapter 18.51 RCW or certified as a medicaid nursing
12 facility under 42 C.F.R. Part 483, or both.

13 (23) "Person who is functionally disabled" means a person who
14 because of a recognized chronic physical or mental condition or
15 disease, including chemical dependency or developmental disability,
16 is dependent upon others for direct care, support, supervision, or
17 monitoring to perform activities of daily living. "Activities of
18 daily living," in this context, means self-care abilities related to
19 personal care such as bathing, eating, using the toilet, dressing,
20 and transfer. Instrumental activities of daily living such as
21 cooking, shopping, house cleaning, doing laundry, working, and
22 managing personal finances may also be considered when assessing a
23 person's functional (~~abilities~~[~~ability~~]) ability to perform
24 activities in the home and the community.

25 (24) "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 (25) "Population specific competencies" means basic training
29 topics unique to the care needs of the population the long-term care
30 worker is serving, including but not limited to, mental health,
31 dementia, developmental disabilities, young adults with physical
32 disabilities, and older adults.

33 (26) "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.

38 (27) "Secretary" means the secretary of social and health
39 services.

1 (28) "Training partnership" means a joint partnership or trust
2 that includes the office of the governor and the exclusive bargaining
3 representative of individual providers under RCW 74.39A.270 with the
4 capacity to provide training, peer mentoring, and workforce
5 development, or other services to individual providers.

6 (29) "Tribally licensed assisted living facility" means an
7 assisted living facility licensed by a federally recognized Indian
8 tribe in which a facility provides services similar to services
9 provided by assisted living facilities licensed under chapter 18.20
10 RCW.

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