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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1694

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**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)

READ FIRST TIME 02/24/23.

1            AN ACT Relating to addressing home care workforce shortages;  
2 amending RCW 18.88B.021, 74.39A.341, 18.88B.041, and 74.39A.076;  
3 reenacting and amending RCW 18.88B.010; adding new sections to  
4 chapter 18.88B RCW; adding a new section to chapter 18.88A RCW;  
5 adding a new section to chapter 74.39A RCW; creating new sections;  
6 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 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.88B  
15 RCW to read as follows:

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

18 (a) Completes an abbreviated application form;

19 (b) Pays any necessary fees, including the current certification  
20 fee, late renewal fees, and expired credential reissuance fees,  
21 unless exempt pursuant to section 4 of this act;

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

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

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

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

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 18.88B  
2 RCW to read as follows:

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

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

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

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

24        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 18.88A  
25 RCW to read as follows:

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

32        (2) The department shall send a notification to the last known  
33 address of each person who held a certificate under this chapter and,  
34 since January 1, 2020, failed to renew the certificate to inform the  
35 person that a certificate may be restored without a financial penalty  
36 or payment of a renewal fee under subsection (1) of this section. For  
37 persons who have allowed their certificates to expire since January  
38 1, 2023, the department must allow six months to pass since the  
39 expiration prior to contacting them to inform them that a certificate

1 may be restored without a financial penalty or payment of a renewal  
2 fee under subsection (1) of this section.

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

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

7 **Sec. 6.** RCW 74.39A.341 and 2021 c 203 s 9 are each amended to  
8 read as follows:

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

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

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

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

19 (b) An individual provider caring only for the individual  
20 provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent,  
21 or grandchild, including when related by marriage or domestic  
22 partnership;

23 (c) Registered nurses and licensed practical nurses licensed  
24 under chapter 18.79 RCW;

25 ~~((e))~~ (d) Before January 1, 2016, a long-term care worker  
26 employed by a community residential service business;

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

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

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

1 (4) Only training curriculum approved by the department may be  
2 used to fulfill the training requirements specified in this section.  
3 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.

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

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

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

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

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

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

30 **Sec. 7.** RCW 18.88B.041 and 2019 c 363 s 20 are each amended to  
31 read as follows:

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

34 (a) (i) (A) Registered nurses, licensed practical nurses, certified  
35 nursing assistants or persons who are in an approved training program  
36 for certified nursing assistants under chapter 18.88A RCW, medicare-  
37 certified home health aides, or other persons who hold a similar  
38 health credential, as determined by the secretary, or persons with  
39 special education training and an endorsement granted by the

1 superintendent of public instruction, as described in RCW  
2 28A.300.010, if the secretary determines that the circumstances do  
3 not require certification.

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

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

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

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

15 (ii) An individual provider caring only for the individual  
16 provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent,  
17 or grandchild, including when related by marriage or domestic  
18 partnership.

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

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

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

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

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

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

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

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

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

6 (b) A spouse or registered domestic partner who is a long-term  
7 care worker only for a spouse or domestic partner, pursuant to the  
8 long-term services and supports trust program established in chapter  
9 50B.04 RCW, must receive fifteen hours of basic training, and at  
10 least six hours of additional focused training based on the care-  
11 receiving spouse's or partner's needs, within the first one hundred  
12 twenty days after becoming a long-term care worker.

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

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

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

39 (B) An individual provider caring only for the individual  
40 provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent,



1 or grandchild, including when related by marriage or domestic  
2 partnership; ((and))

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

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

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

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

15 (a) Has been developed with input from consumer and worker  
16 representatives; and

17 (b) Requires comprehensive instruction by qualified instructors.

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

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

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

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

36 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.39A  
37 RCW to read as follows:

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

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

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

7 (3) Projections of service demands;

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

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

12 NEW SECTION. **Sec. 10.** The department of social and health  
13 services shall design a pilot project to allow the spouse or domestic  
14 partner of a person with complex medical needs who is eligible for  
15 long-term services and supports through the department of social and  
16 health services to receive payment for providing home care services  
17 to the spouse or domestic partner. The design shall consider the  
18 appropriate acuity level of the care-receiving spouse or domestic  
19 partner, the training needs of the care-providing spouse or domestic  
20 partner, payment parameters, fiscal considerations and use of  
21 medicaid matching funds, geographic locations for implementing the  
22 pilot project, ways to design the project to aid in future statewide  
23 implementation, cost estimates for implementing the pilot project,  
24 cost estimates for implementing a pilot project expansion, projected  
25 number of individuals to be served, a proposed timeline for  
26 implementation of the pilot project, and a proposed timeline for  
27 implementation of an expanded pilot project. The department of social  
28 and health services shall submit the pilot project design to the  
29 office of financial management and the appropriate fiscal committees  
30 of the legislature by December 31, 2023.

31 NEW SECTION. **Sec. 11.** The department of social and health  
32 services shall study the feasibility and cost of paying the parents  
33 of children under 18 years old who are medically complex or have  
34 complex support needs related to their behaviors. The department of  
35 social and health services must submit a report to the office of  
36 financial management and the appropriate fiscal committees of the  
37 legislature by December 31, 2023. The report shall address any  
38 statutory or regulatory changes needed to authorize the payments,

1 necessary information technology changes for the agency and  
2 associated costs, elements needed to prepare a federal waiver or  
3 state plan amendments to allow for the use of federal matching funds  
4 for the payments to parents, estimates of the number of children  
5 expected to be served, the anticipated annual cost to the state both  
6 if federal matching funds are available and if they are not  
7 available, recommendations on the types of training needed for  
8 parents to support their children's care needs, and a proposed  
9 timeline for implementation which may be phased, if necessary.

10 NEW SECTION. **Sec. 12.** If specific funding for the purposes of  
11 this act, referencing this act by bill or chapter number, is not  
12 provided by June 30, 2023, in the omnibus appropriations act, this  
13 act is null and void.

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