

ESHB 2693 - S AMD 268
By Senator Keiser

PULLED 03/06/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Department" means the department of health.

6 (2) "Secretary" means the secretary of health.

7 (3) "Long-term care worker" has the same meaning as in RCW
8 74.39A.009.

9 (4) "Certified long-term care worker" means a long-term care worker
10 certified under this chapter.

11 (5) "Registered long-term care worker" means a long-term care
12 worker registered under this chapter.

13 (6) "Individual provider" has the same meaning as in RCW
14 74.39A.240.

15 (7) "Personal care services" has the same meaning as in RCW
16 74.39A.009.

17 (8) "Certification examination" means the measurement of an
18 individual's knowledge and skills as related to safe, competent
19 performance as a long-term care worker.

20 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2010, and except as
21 provided in section 11 of this act, any person hired as a long-term
22 care worker must be certified within one hundred twenty days after his
23 or her date of hire. The department, for good cause, may extend the
24 one hundred twenty day time period by up to sixty days.

25 (2) Beginning January 1, 2010, and except as provided in subsection
26 (3) of this section, any person hired as a long-term care worker not
27 subject to certification under this chapter must be registered within
28 one hundred twenty days after his or her date of hire. The department,

1 for good cause, may extend the one hundred twenty day time period by up
2 to sixty days.

3 (3) Subsection (2) of this section does not apply to persons
4 covered by section 11(1)(d) or (2) of this act.

5 (4) No person may practice or, by use of any title or description,
6 represent himself or herself as a registered long-term care worker
7 without being registered pursuant to this chapter.

8 (5) No person may practice or, by use of any title or description,
9 represent himself or herself as a certified long-term care worker
10 without being certified pursuant to this chapter.

11 NEW SECTION. **Sec. 3.** In addition to any other authority provided
12 by law, the secretary has the authority to:

13 (1) Set all initial registration, certification, and renewal fees
14 in accordance with RCW 43.70.250 and to collect and deposit all such
15 fees in the health professions account established under RCW 43.70.320;

16 (2) Establish forms, procedures, and examinations necessary to
17 administer this chapter;

18 (3) Hire clerical, administrative, and investigative staff as
19 needed to implement this chapter;

20 (4) Issue a registration to any applicant who has met the
21 requirements for registration;

22 (5) Issue a certificate to any applicant who has met the
23 requirements for certification;

24 (6) Maintain the official record for the department of all
25 applicants and persons with registrations and certificates;

26 (7) Exercise disciplinary authority as authorized in chapter 18.130
27 RCW;

28 (8) Deny registration to any applicant who fails to meet
29 requirement for registration; and

30 (9) Deny certification to applicants who do not meet the
31 requirements for certification.

32 NEW SECTION. **Sec. 4.** Beginning January 1, 2010, the secretary
33 shall issue a registration to any applicant who:

34 (1) Pays any applicable fees;

35 (2) Submits, on forms provided by the secretary, the applicant's

1 name, address, and other information as determined by the secretary;
2 and

- 3 (3) Establishes, to the secretary's satisfaction, that:
4 (a) The applicant has completed any required background check; and
5 (b) There are no grounds for denial of registration or issuance of
6 a conditional registration under this chapter or chapter 18.130 RCW.

7 NEW SECTION. **Sec. 5.** (1) Beginning January 1, 2010, the secretary
8 shall issue a certificate to any applicant who:

- 9 (a) Pays any applicable fees;
10 (b) Submits, on forms provided by the secretary, his or her name,
11 address, and other information as determined by the secretary;
12 (c) Establishes to the secretary's satisfaction that:
13 (i) He or she has completed at least seventy-five hours of training
14 approved by the department covering the skills and knowledge necessary
15 to practice competently as a long-term care worker;
16 (ii) He or she has passed a certification examination;
17 (iii) He or she has completed any required background check; and
18 (iv) There exist no grounds for denial of certification under
19 chapter 18.130 RCW.

20 (2) The date and location of examinations shall be established by
21 the secretary. Applicants who have been found by the secretary to meet
22 the requirements for certification shall be scheduled for the next
23 examination following the filing of the application. The secretary
24 shall establish by rule the examination application deadline.

25 (3) The examination must include both a skills demonstration and a
26 written or oral knowledge test. Examinations shall be limited to the
27 purpose of determining whether the applicant possesses the minimum
28 skill and knowledge necessary to practice competently as a long-term
29 care worker.

30 (4) The examination papers, all grading of the papers, and the
31 grading of skills demonstration shall be preserved for a period of not
32 less than one year after the secretary has made and published the
33 decisions. All examinations shall be conducted under fair and wholly
34 impartial methods.

35 (5) Any applicant failing to make the required grade in the first
36 examination may take up to three subsequent examinations as the
37 applicant desires upon prepaying a fee determined by the secretary

1 under RCW 43.70.250 for each subsequent examination. Upon failing four
2 examinations, the secretary may invalidate the original application and
3 require remedial training before the person may take future
4 examinations.

5 (6) The certification examination may not be administered or graded
6 by any employer of long-term care workers, any private contractor
7 providing training programs offered to assist persons in passing the
8 examination, or the training partnership defined in RCW 74.39A.009.

9 NEW SECTION. **Sec. 6.** (1) A certified long-term care worker may
10 apply for a specialty endorsement in the specialty areas identified by
11 the secretary in consultation with the department of social and health
12 services. The secretary shall issue an endorsement to an applicant
13 who:

14 (a) Completes the hours of training and practical experience
15 required in rules adopted by the secretary for the relevant specialty
16 endorsement;

17 (b) Pays any applicable fee; and

18 (c) Submits any other information as determined by the secretary.

19 (2) A certified long-term care worker who has been granted a
20 specialty endorsement under this section may include the specialty in
21 his or her title, as permitted under rules adopted by the secretary.

22 NEW SECTION. **Sec. 7.** An applicant holding a credential in another
23 state may be certified in this state without training or examination if
24 the secretary determines that the other state's credentialing standards
25 for long-term care workers are substantially equivalent to the
26 standards in this state.

27 NEW SECTION. **Sec. 8.** (1) Registrations and certifications shall
28 be renewed according to administrative procedures, administrative
29 requirements, and fees determined by the secretary under RCW 43.70.250
30 and 43.70.280.

31 (2) Completion of continuing education as required in RCW
32 74.39A.340 is a prerequisite to renewing a certification under this
33 chapter.

1 NEW SECTION. **Sec. 9.** (1) The uniform disciplinary act, chapter
2 18.130 RCW, governs unregistered or uncertified practice, issuance of
3 certificates and registrations, and the discipline of persons
4 registered or with certificates under this chapter. The secretary
5 shall be the disciplinary authority under this chapter.

6 (2)(a) The secretary may take action to immediately suspend the
7 registration or certification of a long-term care worker upon finding
8 that conduct of the long-term care worker has caused or presents an
9 imminent threat of harm to a functionally disabled person in his or her
10 care.

11 (b) If the secretary imposes suspension or conditions for
12 continuation of registration or certification, the suspension or
13 conditions for continuation are effective immediately upon notice and
14 shall continue in effect pending the outcome of any hearing.

15 NEW SECTION. **Sec. 10.** (1) By September 1, 2009, the department
16 shall adopt rules necessary to implement this chapter. In developing
17 rules, the department shall consult with the department of social and
18 health services, the nursing care quality assurance commission, adult
19 family home providers, boarding home providers, in-home personal care
20 providers, the training partnership defined in RCW 74.39A.009, affected
21 labor organizations, community and technical colleges, and long-term
22 care consumers and other interested organizations.

23 (2) The department shall implement this chapter in a cost-effective
24 manner with the intent that the certification program assist a long-
25 term care worker to enter, if desired, a career path to other health
26 care or allied health professions, including articulation, to the
27 maximum extent possible under federal law, from long-term care worker
28 certification to nursing assistant certification under chapter 18.88A
29 RCW.

30 NEW SECTION. **Sec. 11.** (1) Section 2(1) of this act does not apply
31 to:

32 (a) A person first hired as a long-term care worker prior to
33 January 1, 2010;

34 (b) A registered nurse, licensed practical nurse, certified nursing
35 assistant, medicare certified home health aide, or other person who
36 holds a similar health credential, as determined by the secretary, or

1 person with special education training and an endorsement granted by
2 the superintendent of public instruction that is recognized by the
3 secretary as appropriate to specified personal care services
4 circumstances;

5 (c) A long-term care worker employed by supportive living providers
6 regulated under chapter 388-101 WAC; and

7 (d) A person, who is the individual provider for his or her
8 biological, step, or adoptive father, mother, son, or daughter.

9 (2) Prior to January 1, 2014, section 2(1) of this act does not
10 apply to a person hired as an individual provider for one person for
11 twenty hours or less in any calendar month.

12 (3) Nothing in this chapter may be construed to prohibit or
13 restrict:

14 (a) The practice by an individual licensed, certified, or
15 registered under the laws of this state and performing services within
16 his or her authorized scope of practice;

17 (b) The practice by an individual employed by the government of the
18 United States while engaged in the performance of duties prescribed by
19 the laws of the United States;

20 (c) The practice by a person who is a regular student in an
21 educational program approved by the secretary, and whose performance of
22 services is pursuant to a regular course of instruction or assignments
23 from an instructor and under the general supervision of the instructor;

24 (d) A certified long-term care worker from accepting direction from
25 a person who is self-directing his or her care; or

26 (e) A long-term care worker exempt under subsection (1) or (2) of
27 this section from applying for certification, subject to meeting the
28 requirements for such application.

29 **Sec. 12.** RCW 18.130.040 and 2007 c 269 s 17 and 2007 c 70 s 11 are
30 each reenacted and amended to read as follows:

31 (1) This chapter applies only to the secretary and the boards and
32 commissions having jurisdiction in relation to the professions licensed
33 under the chapters specified in this section. This chapter does not
34 apply to any business or profession not licensed under the chapters
35 specified in this section.

36 (2)(a) The secretary has authority under this chapter in relation
37 to the following professions:

1 (i) Dispensing opticians licensed and designated apprentices under
2 chapter 18.34 RCW;
3 (ii) Naturopaths licensed under chapter 18.36A RCW;
4 (iii) Midwives licensed under chapter 18.50 RCW;
5 (iv) Ocularists licensed under chapter 18.55 RCW;
6 (v) Massage operators and businesses licensed under chapter 18.108
7 RCW;
8 (vi) Dental hygienists licensed under chapter 18.29 RCW;
9 (vii) Acupuncturists licensed under chapter 18.06 RCW;
10 (viii) Radiologic technologists certified and X-ray technicians
11 registered under chapter 18.84 RCW;
12 (ix) Respiratory care practitioners licensed under chapter 18.89
13 RCW;
14 (x) Persons registered under chapter 18.19 RCW;
15 (xi) Persons licensed as mental health counselors, marriage and
16 family therapists, and social workers under chapter 18.225 RCW;
17 (xii) Persons registered as nursing pool operators under chapter
18 18.52C RCW;
19 (xiii) Nursing assistants registered or certified under chapter
20 18.88A RCW;
21 (xiv) Health care assistants certified under chapter 18.135 RCW;
22 (xv) Dietitians and nutritionists certified under chapter 18.138
23 RCW;
24 (xvi) Chemical dependency professionals certified under chapter
25 18.205 RCW;
26 (xvii) Sex offender treatment providers and certified affiliate sex
27 offender treatment providers certified under chapter 18.155 RCW;
28 (xviii) Persons licensed and certified under chapter 18.73 RCW or
29 RCW 18.71.205;
30 (xix) Denturists licensed under chapter 18.30 RCW;
31 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;
32 (xxi) Surgical technologists registered under chapter 18.215 RCW;
33 (xxii) Recreational therapists; (~~and~~)
34 (xxiii) Animal massage practitioners certified under chapter 18.240
35 RCW; and
36 (xxiv) Long-term care workers registered or certified under chapter
37 18.-- RCW (the new chapter created in section 29 of this act).

1 (b) The boards and commissions having authority under this chapter
2 are as follows:

3 (i) The podiatric medical board as established in chapter 18.22
4 RCW;

5 (ii) The chiropractic quality assurance commission as established
6 in chapter 18.25 RCW;

7 (iii) The dental quality assurance commission as established in
8 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
9 licenses and registrations issued under chapter 18.260 RCW;

10 (iv) The board of hearing and speech as established in chapter
11 18.35 RCW;

12 (v) The board of examiners for nursing home administrators as
13 established in chapter 18.52 RCW;

14 (vi) The optometry board as established in chapter 18.54 RCW
15 governing licenses issued under chapter 18.53 RCW;

16 (vii) The board of osteopathic medicine and surgery as established
17 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
18 18.57A RCW;

19 (viii) The board of pharmacy as established in chapter 18.64 RCW
20 governing licenses issued under chapters 18.64 and 18.64A RCW;

21 (ix) The medical quality assurance commission as established in
22 chapter 18.71 RCW governing licenses and registrations issued under
23 chapters 18.71 and 18.71A RCW;

24 (x) The board of physical therapy as established in chapter 18.74
25 RCW;

26 (xi) The board of occupational therapy practice as established in
27 chapter 18.59 RCW;

28 (xii) The nursing care quality assurance commission as established
29 in chapter 18.79 RCW governing licenses and registrations issued under
30 that chapter;

31 (xiii) The examining board of psychology and its disciplinary
32 committee as established in chapter 18.83 RCW; and

33 (xiv) The veterinary board of governors as established in chapter
34 18.92 RCW.

35 (3) In addition to the authority to discipline license holders, the
36 disciplining authority has the authority to grant or deny licenses
37 based on the conditions and criteria established in this chapter and
38 the chapters specified in subsection (2) of this section. This chapter

1 also governs any investigation, hearing, or proceeding relating to
2 denial of licensure or issuance of a license conditioned on the
3 applicant's compliance with an order entered pursuant to RCW 18.130.160
4 by the disciplining authority.

5 (4) All disciplining authorities shall adopt procedures to ensure
6 substantially consistent application of this chapter, the Uniform
7 Disciplinary Act, among the disciplining authorities listed in
8 subsection (2) of this section.

9 **Sec. 13.** RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and
10 2007 c 70 s 11 are each reenacted and amended to read as follows:

11 (1) This chapter applies only to the secretary and the boards and
12 commissions having jurisdiction in relation to the professions licensed
13 under the chapters specified in this section. This chapter does not
14 apply to any business or profession not licensed under the chapters
15 specified in this section.

16 (2)(a) The secretary has authority under this chapter in relation
17 to the following professions:

18 (i) Dispensing opticians licensed and designated apprentices under
19 chapter 18.34 RCW;

20 (ii) Naturopaths licensed under chapter 18.36A RCW;

21 (iii) Midwives licensed under chapter 18.50 RCW;

22 (iv) Ocularists licensed under chapter 18.55 RCW;

23 (v) Massage operators and businesses licensed under chapter 18.108
24 RCW;

25 (vi) Dental hygienists licensed under chapter 18.29 RCW;

26 (vii) Acupuncturists licensed under chapter 18.06 RCW;

27 (viii) Radiologic technologists certified and X-ray technicians
28 registered under chapter 18.84 RCW;

29 (ix) Respiratory care practitioners licensed under chapter 18.89
30 RCW;

31 (x) Persons registered under chapter 18.19 RCW;

32 (xi) Persons licensed as mental health counselors, marriage and
33 family therapists, and social workers under chapter 18.225 RCW;

34 (xii) Persons registered as nursing pool operators under chapter
35 18.52C RCW;

36 (xiii) Nursing assistants registered or certified under chapter
37 18.88A RCW;

1 (xiv) Health care assistants certified under chapter 18.135 RCW;
2 (xv) Dietitians and nutritionists certified under chapter 18.138
3 RCW;
4 (xvi) Chemical dependency professionals certified under chapter
5 18.205 RCW;
6 (xvii) Sex offender treatment providers and certified affiliate sex
7 offender treatment providers certified under chapter 18.155 RCW;
8 (xviii) Persons licensed and certified under chapter 18.73 RCW or
9 RCW 18.71.205;
10 (xix) Denturists licensed under chapter 18.30 RCW;
11 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;
12 (xxi) Surgical technologists registered under chapter 18.215 RCW;
13 (xxii) Recreational therapists;
14 (xxiii) Animal massage practitioners certified under chapter 18.240
15 RCW; (~~and~~)
16 (xxiv) Athletic trainers licensed under chapter 18.250 RCW; and
17 (xxv) Long-term care workers registered or certified under chapter
18 18.-- RCW (the new chapter created in section 29 of this act).
19 (b) The boards and commissions having authority under this chapter
20 are as follows:
21 (i) The podiatric medical board as established in chapter 18.22
22 RCW;
23 (ii) The chiropractic quality assurance commission as established
24 in chapter 18.25 RCW;
25 (iii) The dental quality assurance commission as established in
26 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
27 licenses and registrations issued under chapter 18.260 RCW;
28 (iv) The board of hearing and speech as established in chapter
29 18.35 RCW;
30 (v) The board of examiners for nursing home administrators as
31 established in chapter 18.52 RCW;
32 (vi) The optometry board as established in chapter 18.54 RCW
33 governing licenses issued under chapter 18.53 RCW;
34 (vii) The board of osteopathic medicine and surgery as established
35 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
36 18.57A RCW;
37 (viii) The board of pharmacy as established in chapter 18.64 RCW
38 governing licenses issued under chapters 18.64 and 18.64A RCW;

1 (ix) The medical quality assurance commission as established in
2 chapter 18.71 RCW governing licenses and registrations issued under
3 chapters 18.71 and 18.71A RCW;

4 (x) The board of physical therapy as established in chapter 18.74
5 RCW;

6 (xi) The board of occupational therapy practice as established in
7 chapter 18.59 RCW;

8 (xii) The nursing care quality assurance commission as established
9 in chapter 18.79 RCW governing licenses and registrations issued under
10 that chapter;

11 (xiii) The examining board of psychology and its disciplinary
12 committee as established in chapter 18.83 RCW; and

13 (xiv) The veterinary board of governors as established in chapter
14 18.92 RCW.

15 (3) In addition to the authority to discipline license holders, the
16 disciplining authority has the authority to grant or deny licenses
17 based on the conditions and criteria established in this chapter and
18 the chapters specified in subsection (2) of this section. This chapter
19 also governs any investigation, hearing, or proceeding relating to
20 denial of licensure or issuance of a license conditioned on the
21 applicant's compliance with an order entered pursuant to RCW 18.130.160
22 by the disciplining authority.

23 (4) All disciplining authorities shall adopt procedures to ensure
24 substantially consistent application of this chapter, the Uniform
25 Disciplinary Act, among the disciplining authorities listed in
26 subsection (2) of this section.

27 **Sec. 14.** RCW 74.39A.009 and 2007 c 361 s 2 are each amended to
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

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

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

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

6 (4) "Boarding home" means a facility licensed under chapter 18.20
7 RCW.

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

16 (6) "Department" means the department of social and health
17 services.

18 (7) "Enhanced adult residential care" means services provided by a
19 boarding home that is licensed under chapter 18.20 RCW and that has a
20 contract with the department under RCW 74.39A.010 to provide personal
21 care services, intermittent nursing services, and medication
22 administration services.

23 (8) "Functionally disabled person" or "person who is functionally
24 disabled" is synonymous with chronic functionally disabled and means a
25 person who because of a recognized chronic physical or mental condition
26 or disease, including chemical dependency, or developmental disability,
27 is impaired to the extent of being dependent upon others for direct
28 care, support, supervision, or monitoring to perform activities of
29 daily living. "Activities of daily living", in this context, means
30 self-care abilities related to personal care such as bathing, eating,
31 using the toilet, dressing, and transfer. Instrumental activities of
32 daily living may also be used to assess a person's functional abilities
33 as they are related to the mental capacity to perform activities in the
34 home and the community such as cooking, shopping, house cleaning, doing
35 laundry, working, and managing personal finances.

36 (9) "Home and community services" means adult family homes, in-home
37 services, and other services administered or provided by contract by

1 the department directly or through contract with area agencies on aging
2 or similar services provided by facilities and agencies licensed by the
3 department.

4 (10) "Long-term care" is synonymous with chronic care and means
5 care and supports delivered indefinitely, intermittently, or over a
6 sustained time to persons of any age disabled by chronic mental or
7 physical illness, disease, chemical dependency, or a medical condition
8 that is permanent, not reversible or curable, or is long-lasting and
9 severely limits their mental or physical capacity for self-care. The
10 use of this definition is not intended to expand the scope of services,
11 care, or assistance by any individuals, groups, residential care
12 settings, or professions unless otherwise expressed by law.

13 (11)(a) "Long-term care workers" includes all persons who are
14 (~~long term care workers for the elderly or~~) paid by the state, or by
15 a private agency or facility licensed by the state, to provide personal
16 care services to persons with functional disabilities, including but
17 not limited to individual providers of home care services, direct care
18 employees of home care agencies, providers of home care services to
19 persons with developmental disabilities under Title 71 RCW, all direct
20 care workers in state-licensed boarding homes, assisted living
21 facilities, and adult family homes, respite care providers, community
22 residential service providers, and any other direct care worker
23 providing home or community-based services to (~~the elderly or~~)
24 persons with functional disabilities or developmental disabilities.

25 (b) "Long-term care workers" do not include persons employed in
26 nursing homes subject to chapter 18.51 RCW, hospitals or other acute
27 care settings, hospice agencies subject to chapter 70.127 RCW, adult
28 day care centers, and adult day health care centers.

29 (12) "Nursing home" means a facility licensed under chapter 18.51
30 RCW.

31 (13) "Personal care services" means physical or verbal assistance
32 with activities of daily living and instrumental activities of daily
33 living provided because of a person's functional limitations.

34 (14) "Secretary" means the secretary of social and health services.

35 (~~(14)~~) (15) "Training partnership" means a joint partnership or
36 trust (~~established and maintained jointly by~~) that includes the
37 office of the governor and the exclusive bargaining representative of
38 individual providers under RCW 74.39A.270 with the capacity to provide

1 training(~~(7)~~) and peer mentoring(~~(7) and examinations~~) required under
2 this chapter, and educational, career development, or other related
3 services to individual providers.

4 (~~(15)~~) (16) "Tribally licensed boarding home" means a boarding
5 home licensed by a federally recognized Indian tribe which home
6 provides services similar to boarding homes licensed under chapter
7 18.20 RCW.

8 **Sec. 15.** RCW 74.39A.240 and 2002 c 3 s 3 are each amended to read
9 as follows:

10 The definitions in this section apply throughout RCW 74.39A.030 and
11 74.39A.095 and 74.39A.220 through 74.39A.300, section 16 of this act,
12 41.56.026, 70.127.041, and 74.09.740 unless the context clearly
13 requires otherwise.

14 (1) "Authority" means the home care quality authority.

15 (2) "Board" means the board created under RCW 74.39A.230.

16 (3) "Consumer" means a person to whom an individual provider
17 provides any such services.

18 (4) "Individual provider" means a person, including a personal
19 aide, who has contracted with the department to provide personal care
20 or respite care services to (~~functionally disabled persons~~) persons
21 with functional disabilities under the medicaid personal care,
22 community options program entry system, chore services program, or
23 respite care program, or to provide respite care or residential
24 services and support to persons with developmental disabilities under
25 chapter 71A.12 RCW, or to provide respite care as defined in RCW
26 74.13.270.

27 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.39A
28 RCW to read as follows:

29 (1) The department shall deny payment to any individual provider of
30 home care services who is not a registered or certified long-term care
31 worker as required under chapter 18.-- RCW (the new chapter created in
32 section 29 of this act).

33 (2) The department may terminate the contract of any individual
34 provider of home care services, or take any other enforcement measure
35 deemed appropriate by the department if the individual provider's

1 registration or certification is revoked under chapter 18.-- RCW (the
2 new chapter created in section 29 of this act).

3 (3) The department and the department of health shall take
4 appropriate enforcement action related to the contract or licensure of
5 a private agency or facility licensed by the state to provide personal
6 care services, other than an individual provider, who knowingly employs
7 a long-term care worker who is not a registered or certified long-term
8 care worker as required under chapter 18.-- RCW (the new chapter
9 created in section 29 of this act).

10 (4) Chapter 34.05 RCW governs department actions under this
11 section.

12 **Sec. 17.** RCW 70.127.100 and 2000 c 175 s 9 are each amended to
13 read as follows:

14 Upon receipt of an application under RCW 70.127.080 for a license
15 and the license fee, the department shall issue a license if the
16 applicant meets the requirements established under this chapter. A
17 license issued under this chapter shall not be transferred or assigned
18 without thirty days prior notice to the department and the department's
19 approval. A license, unless suspended or revoked, is effective for a
20 period of two years, however an initial license is only effective for
21 twelve months. The department shall conduct a survey within each
22 licensure period, and may conduct a licensure survey after ownership
23 transfer, to assure compliance with this chapter and the rules adopted
24 under this chapter, and to enforce section 16(3) of this act.

25 **Sec. 18.** RCW 18.20.110 and 2004 c 144 s 3 are each amended to read
26 as follows:

27 (1) The department shall make or cause to be made, at least every
28 eighteen months with an annual average of fifteen months, an inspection
29 and investigation of all boarding homes. However, the department may
30 delay an inspection to twenty-four months if the boarding home has had
31 three consecutive inspections with no written notice of violations and
32 has received no written notice of violations resulting from complaint
33 investigation during that same time period. The department may at
34 anytime make an unannounced inspection of a licensed home to assure
35 that the licensee is in compliance with this chapter and the rules
36 adopted under this chapter, and to enforce section 16(3) of this act.

1 Every inspection shall focus primarily on actual or potential resident
2 outcomes, and may include an inspection of every part of the premises
3 and an examination of all records, methods of administration, the
4 general and special dietary, and the stores and methods of supply;
5 however, the department shall not have access to financial records or
6 to other records or reports described in RCW 18.20.390. Financial
7 records of the boarding home may be examined when the department has
8 reasonable cause to believe that a financial obligation related to
9 resident care or services will not be met, such as a complaint that
10 staff wages or utility costs have not been paid, or when necessary for
11 the department to investigate alleged financial exploitation of a
12 resident.

13 (2) Following such an inspection or inspections, written notice of
14 any violation of this law or the rules adopted hereunder shall be given
15 to the applicant or licensee and the department.

16 (3) The department may prescribe by rule that any licensee or
17 applicant desiring to make specified types of alterations or additions
18 to its facilities or to construct new facilities shall, before
19 commencing such alteration, addition, or new construction, submit plans
20 and specifications therefor to the agencies responsible for plan
21 reviews for preliminary inspection and approval or recommendations with
22 respect to compliance with the rules and standards herein authorized.

23 **Sec. 19.** RCW 70.128.090 and 2001 c 319 s 7 are each amended to
24 read as follows:

25 (1) During inspections of an adult family home, the department
26 shall have access and authority to examine areas and articles in the
27 home used to provide care or support to residents, including residents'
28 records, accounts, and the physical premises, including the buildings,
29 grounds, and equipment. The personal records of the provider are not
30 subject to department inspection nor is the separate bedroom of the
31 provider, not used in direct care of a client, subject to review. The
32 department may inspect all rooms during the initial licensing of the
33 home. However, during a complaint investigation, the department shall
34 have access to the entire premises and all pertinent records when
35 necessary to conduct official business. The department also shall have
36 the authority to interview the provider and residents of an adult
37 family home.

1 (2) Whenever an inspection is conducted, the department shall
2 prepare a written report that summarizes all information obtained
3 during the inspection, and if the home is in violation of this chapter
4 or the rules adopted under this chapter, or if the department is
5 enforcing section 16(3) of this act, serve a copy of the inspection
6 report upon the provider at the same time as a notice of violation.
7 This notice shall be mailed to the provider within ten working days of
8 the completion of the inspection process. If the home is not in
9 violation of this chapter, a copy of the inspection report shall be
10 mailed to the provider within ten calendar days of the inspection of
11 the home. All inspection reports shall be made available to the public
12 at the department during business hours.

13 (3) The provider shall develop corrective measures for any
14 violations found by the department's inspection. The department shall
15 upon request provide consultation and technical assistance to assist
16 the provider in developing effective corrective measures. The
17 department shall include a statement of the provider's corrective
18 measures in the department's inspection report.

19 **Sec. 20.** RCW 74.39A.050 and 2004 c 140 s 6 are each amended to
20 read as follows:

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

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

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

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

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

1 (5) Monitoring should be outcome based and responsive to consumer
2 complaints and based on a clear set of health, quality of care, and
3 safety standards that are easily understandable and have been made
4 available to providers, residents, and other interested parties.

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

15 (7) To the extent funding is available, all long-term care staff
16 directly responsible for the care, supervision, or treatment of
17 vulnerable persons should be screened through background checks in a
18 uniform and timely manner to ensure that they do not have a criminal
19 history that would disqualify them from working with vulnerable
20 persons. Whenever a state conviction record check is required by state
21 law, persons may be employed or engaged as volunteers or independent
22 contractors on a conditional basis according to law and rules adopted
23 by the department.

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

32 (9) The department shall establish, by rule, a state registry which
33 contains identifying information about personal care aides identified
34 under this chapter who have substantiated findings of abuse, neglect,
35 financial exploitation, or abandonment of a vulnerable adult as defined
36 in RCW 74.34.020. The rule must include disclosure, disposition of
37 findings, notification, findings of fact, appeal rights, and fair

1 hearing requirements. The department shall disclose, upon request,
2 substantiated findings of abuse, neglect, financial exploitation, or
3 abandonment to any person so requesting this information.

4 (10) The department shall by rule develop training requirements for
5 individual providers and home care agency providers. Effective March
6 1, 2002, individual providers and home care agency providers must
7 satisfactorily complete department-approved orientation, basic
8 training, and continuing education within the time period specified by
9 the department in rule. (~~The department shall adopt rules by March 1,
10 2002, for the implementation of this section based on the
11 recommendations of the community long term care training and education
12 steering committee established in RCW 74.39A.190.~~) The department
13 shall deny payment to an individual provider or a home care provider
14 who does not complete the training requirements within the time limit
15 specified by the department by rule.

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

23 (12) The department shall create an approval system by March 1,
24 2002, for those seeking to conduct department-approved training. (~~In
25 the rule making process, the department shall adopt rules based on the
26 recommendations of the community long term care training and education
27 steering committee established in RCW 74.39A.190.~~)

28 (13) The department shall establish, by rule, training, background
29 checks, and other quality assurance requirements for personal aides who
30 provide in-home services funded by medicaid personal care as described
31 in RCW 74.09.520, community options program entry system waiver
32 services as described in RCW 74.39A.030, or chore services as described
33 in RCW 74.39A.110 that are equivalent to requirements for individual
34 providers.

35 (14) Under existing funds the department shall establish internally
36 a quality improvement standards committee to monitor the development of
37 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 (16) Except for the orientation required under subsection (10) of
31 this section, a long-term care worker certified under chapter 18.-- RCW
32 (the new chapter created in section 29 of this act) is exempt from this
33 section.

34 **Sec. 21.** RCW 18.20.270 and 2002 c 233 s 1 are each amended to read
35 as follows:

36 (1) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

1 (a) "Caregiver" includes any person who provides residents with
2 hands-on personal care on behalf of a boarding home, except volunteers
3 who are directly supervised.

4 (b) "Direct supervision" means oversight by a person who has
5 demonstrated competency in the core areas or has been fully exempted
6 from the training requirements pursuant to this section, is on the
7 premises, and is quickly and easily available to the caregiver.

8 (2) Training must have the following components: Orientation,
9 basic training, specialty training as appropriate, and continuing
10 education. All boarding home employees or volunteers who routinely
11 interact with residents shall complete orientation. Boarding home
12 administrators, or their designees, and caregivers shall complete
13 orientation, basic training, specialty training as appropriate, and
14 continuing education.

15 (3) Orientation consists of introductory information on residents'
16 rights, communication skills, fire and life safety, and universal
17 precautions. Orientation must be provided at the facility by
18 appropriate boarding home staff to all boarding home employees before
19 the employees have routine interaction with residents.

20 (4) Basic training consists of modules on the core knowledge and
21 skills that caregivers need to learn and understand to effectively and
22 safely provide care to residents. Basic training must be outcome-
23 based, and the effectiveness of the basic training must be measured by
24 demonstrated competency in the core areas through the use of a
25 competency test. Basic training must be completed by caregivers within
26 one hundred twenty days of the date on which they begin to provide
27 hands-on care or within one hundred twenty days of September 1, 2002,
28 whichever is later. Until competency in the core areas has been
29 demonstrated, caregivers shall not provide hands-on personal care to
30 residents without direct supervision. Boarding home administrators, or
31 their designees, must complete basic training and demonstrate
32 competency within one hundred twenty days of employment or within one
33 hundred twenty days of September 1, 2002, whichever is later.

34 (5) For boarding homes that serve residents with special needs such
35 as dementia, developmental disabilities, or mental illness, specialty
36 training is required of administrators, or designees, and caregivers.
37 Specialty training consists of modules on the core knowledge and skills
38 that caregivers need to effectively and safely provide care to

1 residents with special needs. Specialty training should be integrated
2 into basic training wherever appropriate. Specialty training must be
3 outcome-based, and the effectiveness of the specialty training measured
4 by demonstrated competency in the core specialty areas through the use
5 of a competency test. Specialty training must be completed by
6 caregivers within one hundred twenty days of the date on which they
7 begin to provide hands-on care to a resident having special needs or
8 within one hundred twenty days of September 1, 2002, whichever is
9 later. However, if specialty training is not integrated with basic
10 training, the specialty training must be completed within ninety days
11 of completion of basic training. Until competency in the core
12 specialty areas has been demonstrated, caregivers shall not provide
13 hands-on personal care to residents with special needs without direct
14 supervision. Boarding home administrators, or their designees, must
15 complete specialty training and demonstrate competency within one
16 hundred twenty days of September 1, 2002, or one hundred twenty days
17 from the date on which the administrator or his or her designee is
18 hired, whichever is later, if the boarding home serves one or more
19 residents with special needs.

20 (6) Continuing education consists of ongoing delivery of
21 information to caregivers on various topics relevant to the care
22 setting and care needs of residents. Competency testing is not
23 required for continuing education. Continuing education is not
24 required in the same calendar year in which basic or modified basic
25 training is successfully completed. Continuing education is required
26 in each calendar year thereafter. If specialty training is completed,
27 the specialty training applies toward any continuing education
28 requirement for up to two years following the completion of the
29 specialty training.

30 (7) Persons who successfully challenge the competency test for
31 basic training or who are certified under chapter 18.-- RCW (the new
32 chapter created in section 29 of this act) are fully exempt from the
33 basic training requirements of this section. Persons who successfully
34 challenge the specialty training competency test are fully exempt from
35 the specialty training requirements of this section.

36 (8) Licensed persons who perform the tasks for which they are
37 licensed are fully or partially exempt from the training requirements
38 of this section, as specified by the department in rule.

1 (9) In an effort to improve access to training and education and
2 reduce costs, especially for rural communities, the coordinated system
3 of long-term care training and education must include the use of
4 innovative types of learning strategies such as internet resources,
5 videotapes, and distance learning using satellite technology
6 coordinated through community colleges or other entities, as defined by
7 the department.

8 (10) The department shall develop criteria for the approval of
9 orientation, basic training, and specialty training programs.

10 (11) Boarding homes that desire to deliver facility-based training
11 with facility designated trainers, or boarding homes that desire to
12 pool their resources to create shared training systems, must be
13 encouraged by the department in their efforts. The department shall
14 develop criteria for reviewing and approving trainers and training
15 materials that are substantially similar to or better than the
16 materials developed by the department. The department may approve a
17 curriculum based upon attestation by a boarding home administrator that
18 the boarding home's training curriculum addresses basic and specialty
19 training competencies identified by the department, and shall review a
20 curriculum to verify that it meets these requirements. The department
21 may conduct the review as part of the next regularly scheduled yearly
22 inspection and investigation required under RCW 18.20.110. The
23 department shall rescind approval of any curriculum if it determines
24 that the curriculum does not meet these requirements.

25 (12) The department shall adopt rules by September 1, 2002, for the
26 implementation of this section.

27 (13) The orientation, basic training, specialty training, and
28 continuing education requirements of this section commence September 1,
29 2002, or one hundred twenty days from the date of employment, whichever
30 is later, and shall be applied to (a) employees hired subsequent to
31 September 1, 2002; and (b) existing employees that on September 1,
32 2002, have not successfully completed the training requirements under
33 RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who
34 have not successfully completed the training requirements under RCW
35 74.39A.010 or 74.39A.020 shall be subject to all applicable
36 requirements of this section. However, prior to September 1, 2002,
37 nothing in this section affects the current training requirements under
38 RCW 74.39A.010.

1 **Sec. 22.** RCW 70.128.230 and 2002 c 233 s 3 are each amended to
2 read as follows:

3 (1) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Caregiver" includes all adult family home resident managers
6 and any person who provides residents with hands-on personal care on
7 behalf of an adult family home, except volunteers who are directly
8 supervised.

9 (b) "Indirect supervision" means oversight by a person who has
10 demonstrated competency in the core areas or has been fully exempted
11 from the training requirements pursuant to this section and is quickly
12 and easily available to the caregiver, but not necessarily on-site.

13 (2) Training must have three components: Orientation, basic
14 training, and continuing education. All adult family home providers,
15 resident managers, and employees, or volunteers who routinely interact
16 with residents shall complete orientation. Caregivers shall complete
17 orientation, basic training, and continuing education.

18 (3) Orientation consists of introductory information on residents'
19 rights, communication skills, fire and life safety, and universal
20 precautions. Orientation must be provided at the facility by
21 appropriate adult family home staff to all adult family home employees
22 before the employees have routine interaction with residents.

23 (4) Basic training consists of modules on the core knowledge and
24 skills that caregivers need to learn and understand to effectively and
25 safely provide care to residents. Basic training must be outcome-
26 based, and the effectiveness of the basic training must be measured by
27 demonstrated competency in the core areas through the use of a
28 competency test. Basic training must be completed by caregivers within
29 one hundred twenty days of the date on which they begin to provide
30 hands-on care or within one hundred twenty days of September 1, 2002,
31 whichever is later. Until competency in the core areas has been
32 demonstrated, caregivers shall not provide hands-on personal care to
33 residents without indirect supervision.

34 (5) For adult family homes that serve residents with special needs
35 such as dementia, developmental disabilities, or mental illness,
36 specialty training is required of providers and resident managers.
37 Specialty training consists of modules on the core knowledge and skills
38 that providers and resident managers need to effectively and safely

1 provide care to residents with special needs. Specialty training
2 should be integrated into basic training wherever appropriate.
3 Specialty training must be outcome-based, and the effectiveness of the
4 specialty training measured by demonstrated competency in the core
5 specialty areas through the use of a competency test. Specialty
6 training must be completed by providers and resident managers before
7 admitting and serving residents who have been determined to have
8 special needs related to mental illness, dementia, or a developmental
9 disability. Should a resident develop special needs while living in a
10 home without specialty designation, the provider and resident manager
11 have one hundred twenty days to complete specialty training.

12 (6) Continuing education consists of ongoing delivery of
13 information to caregivers on various topics relevant to the care
14 setting and care needs of residents. Competency testing is not
15 required for continuing education. Continuing education is not
16 required in the same calendar year in which basic or modified basic
17 training is successfully completed. Continuing education is required
18 in each calendar year thereafter. If specialty training is completed,
19 the specialty training applies toward any continuing education
20 requirement for up to two years following the completion of the
21 specialty training.

22 (7) Persons who successfully challenge the competency test for
23 basic training or who are certified under chapter 18.-- RCW (the new
24 chapter created in section 29 of this act) are fully exempt from the
25 basic training requirements of this section. Persons who successfully
26 challenge the specialty training competency test are fully exempt from
27 the specialty training requirements of this section.

28 (8) Licensed persons who perform the tasks for which they are
29 licensed are fully or partially exempt from the training requirements
30 of this section, as specified by the department in rule.

31 (9) In an effort to improve access to training and education and
32 reduce costs, especially for rural communities, the coordinated system
33 of long-term care training and education must include the use of
34 innovative types of learning strategies such as internet resources,
35 videotapes, and distance learning using satellite technology
36 coordinated through community colleges, private associations, or other
37 entities, as defined by the department.

1 (10) Adult family homes that desire to deliver facility-based
2 training with facility designated trainers, or adult family homes that
3 desire to pool their resources to create shared training systems, must
4 be encouraged by the department in their efforts. The department shall
5 develop criteria for reviewing and approving trainers and training
6 materials. The department may approve a curriculum based upon
7 attestation by an adult family home administrator that the adult family
8 home's training curriculum addresses basic and specialty training
9 competencies identified by the department, and shall review a
10 curriculum to verify that it meets these requirements. The department
11 may conduct the review as part of the next regularly scheduled
12 inspection authorized under RCW 70.128.070. The department shall
13 rescind approval of any curriculum if it determines that the curriculum
14 does not meet these requirements.

15 (11) The department shall adopt rules by September 1, 2002, for the
16 implementation of this section.

17 (12) The orientation, basic training, specialty training, and
18 continuing education requirements of this section commence September 1,
19 2002, and shall be applied to (a) employees hired subsequent to
20 September 1, 2002; or (b) existing employees that on September 1, 2002,
21 have not successfully completed the training requirements under RCW
22 70.128.120 or 70.128.130 and this section. Existing employees who have
23 not successfully completed the training requirements under RCW
24 70.128.120 or 70.128.130 shall be subject to all applicable
25 requirements of this section. However, until September 1, 2002,
26 nothing in this section affects the current training requirements under
27 RCW 70.128.120 and 70.128.130.

28 **Sec. 23.** RCW 74.39A.340 and 2007 c 361 s 4 are each amended to
29 read as follows:

30 (1) Except as provided in subsection (2) of this section, long-term
31 care workers shall complete twelve hours of continuing education
32 training in advanced training topics each year. This requirement
33 applies beginning on January 1, 2010.

34 (2) Unless he or she is a certified long-term care worker,
35 subsection (1) of this section does not apply to: (a) A biological,
36 step, or adoptive parent who is the individual provider for only his or

1 her son or daughter who is developmentally or functionally disabled; or
2 (b) a person covered by section 11(2) of this act.

3 **Sec. 24.** RCW 74.39A.350 and 2007 c 361 s 5 are each amended to
4 read as follows:

5 The department shall offer, directly or through contract, training
6 opportunities sufficient for a long-term care worker to accumulate
7 sixty-five hours of training within a reasonable time period. For
8 individual providers represented by an exclusive bargaining
9 representative under RCW 74.39A.270, the training opportunities shall
10 be offered through a contract with the training partnership established
11 under RCW 74.39A.360. Training topics shall include, but are not
12 limited to: Client rights; personal care; mental illness; dementia;
13 developmental disabilities; depression; medication assistance; advanced
14 communication skills; positive client behavior support; developing or
15 improving client-centered activities; dealing with wandering or
16 aggressive client behaviors; medical conditions; nurse delegation core
17 training; peer mentor training; and advocacy for quality care training.
18 The department may not require long-term care workers to obtain the
19 training described in this section. This requirement to offer advanced
20 training applies beginning January 1, ((2010)) 2012.

21 **Sec. 25.** RCW 74.39A.270 and 2007 c 361 s 7 and 2007 c 278 s 3 are
22 each reenacted and amended to read as follows:

23 (1) Solely for the purposes of collective bargaining and as
24 expressly limited under subsections (2) and (3) of this section, the
25 governor is the public employer, as defined in chapter 41.56 RCW, of
26 individual providers, who, solely for the purposes of collective
27 bargaining, are public employees as defined in chapter 41.56 RCW. To
28 accommodate the role of the state as payor for the community-based
29 services provided under this chapter and to ensure coordination with
30 state employee collective bargaining under chapter 41.80 RCW and the
31 coordination necessary to implement RCW 74.39A.300, the public employer
32 shall be represented for bargaining purposes by the governor or the
33 governor's designee appointed under chapter 41.80 RCW. The governor or
34 governor's designee shall periodically consult with the authority
35 during the collective bargaining process to allow the authority to
36 communicate issues relating to the long-term in-home care services

1 received by consumers. The governor or the governor's designee shall
2 consult the authority on all issues for which the exclusive bargaining
3 representative requests to engage in collective bargaining under
4 subsections (6) and (7) of this section. The authority shall work with
5 the developmental disabilities council, the governor's committee on
6 disability issues and employment, the state council on aging, and other
7 consumer advocacy organizations to obtain informed input from consumers
8 on their interests, including impacts on consumer choice, for all
9 issues proposed for collective bargaining under subsections (6) and (7)
10 of this section.

11 (2) Chapter 41.56 RCW governs the collective bargaining
12 relationship between the governor and individual providers, except as
13 otherwise expressly provided in this chapter and except as follows:

14 (a) The only unit appropriate for the purpose of collective
15 bargaining under RCW 41.56.060 is a statewide unit of all individual
16 providers;

17 (b) The showing of interest required to request an election under
18 RCW 41.56.060 is ten percent of the unit, and any intervener seeking to
19 appear on the ballot must make the same showing of interest;

20 (c) The mediation and interest arbitration provisions of RCW
21 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

22 (i) With respect to commencement of negotiations between the
23 governor and the bargaining representative of individual providers,
24 negotiations shall be commenced by May 1st of any year prior to the
25 year in which an existing collective bargaining agreement expires; and

26 (ii) The decision of the arbitration panel is not binding on the
27 legislature and, if the legislature does not approve the request for
28 funds necessary to implement the compensation and fringe benefit
29 provisions of the arbitrated collective bargaining agreement, is not
30 binding on the authority or the state;

31 (d) Individual providers do not have the right to strike; and

32 (e) Individual providers who are related to, or family members of,
33 consumers or prospective consumers are not, for that reason, exempt
34 from this chapter or chapter 41.56 RCW.

35 (3) Individual providers who are public employees solely for the
36 purposes of collective bargaining under subsection (1) of this section
37 are not, for that reason, employees of the state, its political
38 subdivisions, or an area agency on aging for any purpose. Chapter

1 41.56 RCW applies only to the governance of the collective bargaining
2 relationship between the employer and individual providers as provided
3 in subsections (1) and (2) of this section.

4 (4) Consumers and prospective consumers retain the right to select,
5 hire, supervise the work of, and terminate any individual provider
6 providing services to them. Consumers may elect to receive long-term
7 in-home care services from individual providers who are not referred to
8 them by the authority.

9 (5) In implementing and administering this chapter, neither the
10 authority nor any of its contractors may reduce or increase the hours
11 of service for any consumer below or above the amount determined to be
12 necessary under any assessment prepared by the department or an area
13 agency on aging.

14 (6) Except as expressly limited in this section and RCW 74.39A.300,
15 the wages, hours, and working conditions of individual providers are
16 determined solely through collective bargaining as provided in this
17 chapter. No agency or department of the state may establish policies
18 or rules governing the wages or hours of individual providers.
19 However, this subsection does not modify:

20 (a) The department's authority to establish a plan of care for each
21 consumer or its core responsibility to manage long-term in-home care
22 services under this chapter, including determination of the level of
23 care that each consumer is eligible to receive. However, at the
24 request of the exclusive bargaining representative, the governor or the
25 governor's designee appointed under chapter 41.80 RCW shall engage in
26 collective bargaining, as defined in RCW 41.56.030(4), with the
27 exclusive bargaining representative over how the department's core
28 responsibility affects hours of work for individual providers. This
29 subsection shall not be interpreted to require collective bargaining
30 over an individual consumer's plan of care;

31 (b) The department's authority to terminate its contracts with
32 individual providers who are not adequately meeting the needs of a
33 particular consumer, or to deny a contract under RCW 74.39A.095(8);

34 (c) The consumer's right to assign hours to one or more individual
35 providers selected by the consumer within the maximum hours determined
36 by his or her plan of care;

37 (d) The consumer's right to select, hire, terminate, supervise the

1 work of, and determine the conditions of employment for each individual
2 provider providing services to the consumer under this chapter;

3 (e) The department's obligation to comply with the federal medicaid
4 statute and regulations and the terms of any community-based waiver
5 granted by the federal department of health and human services and to
6 ensure federal financial participation in the provision of the
7 services; and

8 (f) The legislature's right to make programmatic modifications to
9 the delivery of state services under this title, including standards of
10 eligibility of consumers and individual providers participating in the
11 programs under this title, and the nature of services provided. The
12 governor shall not enter into, extend, or renew any agreement under
13 this chapter that does not expressly reserve the legislative rights
14 described in this subsection (6)(f).

15 (7) Except as provided in subsection (8) of this section, at the
16 request of the exclusive bargaining representative, the governor or the
17 governor's designee appointed under chapter 41.80 RCW shall engage in
18 collective bargaining, as defined in RCW 41.56.030(4), with the
19 exclusive bargaining representative over employer contributions to the
20 training partnership for the costs of: (a) Meeting all training and
21 peer mentoring required under this chapter and chapter 18.-- RCW (the
22 new chapter created in section 29 of this act); and (b) other training
23 intended to promote the career development of individual providers.

24 (8) The governor or the governor's designee appointed under chapter
25 41.80 RCW shall engage in collective bargaining, as defined in RCW
26 41.56.030(4), with the exclusive bargaining representative over the
27 payment of wages by the employer to a long-term care worker for time
28 related to the receipt of training under RCW 74.39A.340 or 74.39A.350
29 only at the request of the governor or the governor's designee.

30 (9)(a) The state, the department, the authority, the area agencies
31 on aging, or their contractors under this chapter may not be held
32 vicariously or jointly liable for the action or inaction of any
33 individual provider or prospective individual provider, whether or not
34 that individual provider or prospective individual provider was
35 included on the authority's referral registry or referred to a consumer
36 or prospective consumer. The existence of a collective bargaining
37 agreement, the placement of an individual provider on the referral
38 registry, or the development or approval of a plan of care for a

1 consumer who chooses to use the services of an individual provider and
2 the provision of case management services to that consumer, by the
3 department or an area agency on aging, does not constitute a special
4 relationship with the consumer.

5 (b) The members of the board are immune from any liability
6 resulting from implementation of this chapter.

7 ~~((9))~~ (10) Nothing in this section affects the state's
8 responsibility with respect to unemployment insurance for individual
9 providers. However, individual providers are not to be considered, as
10 a result of the state assuming this responsibility, employees of the
11 state.

12 NEW SECTION. **Sec. 26.** A new section is added to chapter 70.128
13 RCW to read as follows:

14 (1) Adult family homes may participate in a voluntary adult family
15 home certification program through the University of Washington
16 geriatric education center. In addition to the minimum qualifications
17 required under RCW 70.128.120, individuals participating in the
18 voluntary adult family home certification program must complete fifty-
19 two hours of class requirements as established by the University of
20 Washington geriatric education center. Subjects covered by the class
21 requirements must include: Specific age-related physical or mental
22 health conditions that can be prevented, postponed, or alleviated by a
23 health promotion intervention; how to establish health promotion
24 programs in residential settings and communities; preventing falls;
25 addressing health issues of aging families; and issues and health
26 concerns of ethnic older adults and those with developmental
27 disabilities.

28 (2) Individuals completing the requirements of RCW 70.128.120 and
29 the voluntary adult family home certification program shall be issued
30 a certified adult family home license by the department.

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

32 NEW SECTION. **Sec. 27.** A new section is added to chapter 74.39A
33 RCW to read as follows:

34 A biological, step, or adoptive parent who is the individual
35 provider only for his or her developmentally disabled son or daughter

1 must receive twelve hours of training relevant to the needs of adults
2 with developmental disabilities within the first one hundred twenty
3 days of becoming an individual provider.

4 NEW SECTION. **Sec. 28.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 18.20.230 (Training standards review--Proposed
7 enhancements) and 1999 c 372 s 3 & 1998 c 272 s 2; and

8 (2) RCW 70.128.210 (Training standards review--Delivery system--
9 Issues reviewed--Report to the legislature) and 1998 c 272 s 3.

10 NEW SECTION. **Sec. 29.** Sections 1 through 11 of this act
11 constitute a new chapter in Title 18 RCW.

12 NEW SECTION. **Sec. 30.** Section 12 of this act expires July 1,
13 2008.

14 NEW SECTION. **Sec. 31.** Section 13 of this act takes effect July 1,
15 2008.

16 NEW SECTION. **Sec. 32.** If specific funding for the purposes of
17 this act, referencing this act by bill or chapter number, is not
18 provided by June 30, 2008, in the omnibus appropriations act, this act
19 is null and void."

ESHB 2693 - S AMD
By Senator Keiser

PULLED 03/06/2008

20 On page 1, line 1 of the title, after "workers;" strike the
21 remainder of the title and insert "amending RCW 74.39A.009, 74.39A.240,
22 70.127.100, 18.20.110, 70.128.090, 74.39A.050, 18.20.270, 70.128.230,
23 74.39A.340, and 74.39A.350; reenacting and amending RCW 18.130.040,
24 18.130.040, and 74.39A.270; adding a new section to chapter 74.39 RCW;
25 adding a new section to chapter 70.128 RCW; adding a new section to

1 chapter 74.39A RCW; adding a new chapter to Title 18 RCW; creating a
2 new section; repealing RCW 18.20.230 and 70.128.210; providing an
3 effective date; and providing an expiration date."

--- END ---