

HOUSE BILL REPORT

HB 2693

As Reported by House Committee On:

Health Care & Wellness

Appropriations

Title: An act relating to required basic training and certification of long-term care workers.

Brief Description: Regarding training and certification of long-term care workers.

Sponsors: Representatives Morrell, Darneille, Moeller, Hudgins, Eddy, Upthegrove, Campbell, McIntire, Conway, O'Brien, Simpson, Kenney, Wood and Sells.

Brief History:

Committee Activity:

Health Care & Wellness: 1/30/08, 2/4/08 [DP];

Appropriations: 2/11/08 [DPS].

Brief Summary of Substitute Bill

- Establishes, beginning January 1, 2010, a new program of training and certification for long-term care workers who are paid to provide personal care assistance to persons with functional disabilities.
- Parents who are individual providers for their disabled adult child, and their intermittent respite care providers, are exempted from additional basic training hours and are given the option to choose participation in continuing education.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 10 members: Representatives Cody, Chair; Morrell, Vice Chair; Barlow, Campbell, DeBolt, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

Minority Report: Do not pass. Signed by 3 members: Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Condotta.

Staff: Chris Cordes (786-7103).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Long-term Care Workers

Long-term care workers provide long-term care services to elderly and disabled clients, many of whom are eligible for publicly-funded services through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores.

By statute, long-term care workers include all persons who are long-term care workers for an elderly or disabled client, including individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities, all direct care workers in boarding homes, assisted living facilities, and adult family homes, respite care providers, and other direct care workers providing home or community-based services to these clients. They do not include workers in nursing homes, hospitals, hospice agencies, or adult day care or health day care centers.

Long-term Care Worker Training Requirements

Long-term Care Worker Training Generally. Individual providers and some agency care workers must meet certain training requirements under various state statutes and the DSHS rules. These training requirements include:

- an orientation which provides basic introductory information appropriate to the in-home setting and the population served;
- basic training as to the core knowledge and skills needed to provide personal care services effectively and safely; and
- continuing education designed to increase and keep current a person's knowledge and skills.

This training is generally met with 34 hours of training, to be completed within 120 days of hire. However, orientation and safety training may be required before working with the client. Long-term care workers must also have an additional 10 hours of continuing education annually, which increases to 12 hours in 2010.

Different training requirements apply to parents who are individual providers for only their developmentally disabled son or daughter who is receiving services through the Division of Developmental Disabilities in the DSHS. They must complete six hours of training within 180 days. They are not required to have continuing education until 2010 when they must begin completing 12 hours of continuing education annually.

The DSHS may deny payment to an individual provider or home care provider who does not complete the required training within 120 days of employment.

The DSHS, working with the Nursing Care Quality Assurance Commission, must have a long-term care training program under which some or all training hours earned under the long-term care worker training program may be applied toward the requirements for a nursing

assistant certificate. Testing is permitted to allow caregivers to verify their competency to enter into a nursing assistant training program.

Training Requirements after January 1, 2010. Various additional training requirements apply to long-term care workers after January 1, 2010. These include requirements that:

- long-term care workers who begin working on or after January 1, 2010, must be offered on-the-job training or peer mentorship for at least one hour per week in the first 90 days of work from a long-term care worker who has completed 12 hours of mentor training and is mentoring no more than 10 other workers;
- all long-term care workers must complete 12 hours of continuing education training in advanced training topics each year; and
- the DSHS must offer sufficient opportunities for all long-term care workers, who choose to do so, to accumulate 65 hours of training within a reasonable time period.

For individual providers represented by an exclusive bargaining representative, all required training and peer mentoring must be provided by the Individual Provider Training Partnership (Training Partnership) beginning January 1, 2010. Employer contributions to the Training Partnership for this training and other specified career development training are subject to collective bargaining at the request of the individual providers' exclusive bargaining representative.

2007 Study of Long-term Care Worker Training

In 2007 the Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management (Task Force) was charged with establishing a 15-member Home and Community Long-Term Care Workforce Development Workgroup (Workgroup). The Workgroup was co-chaired by the Chair of the Task Force and the Executive Director of the Home Care Quality Authority.

The Workgroup was required to evaluate current training requirements for long-term care workers and to make recommendations regarding (1) the appropriate number of basic training hours and curricula content; and (2) the development of criteria associated with certification of new long-term care workers. The Workgroup report was issued on December 1, 2007.

Summary of Bill:

Beginning January 1, 2010, a new program of training and certification is established for long-term care workers who provide services to persons with functional disabilities. The training and certification requirements are mandatory for non-exempt long-term care workers, except that different requirements apply to parents who are caring for their developmentally disabled son or daughter and their respite caregivers.

The definition of "long-term care worker" is limited to those who are paid long-term care workers.

Legislative Intent

A statement of legislative findings provides, among other findings, that: (1) the underlying premise of the long-term care system is the value of consumer choice across a full continuum of care; (2) basic training should focus on client care needs; (3) appropriately trained and motivated long-term care workforce contributes to quality care; (4) increased workforce diversity is needed and training should acknowledge cultural diversity; (5) the long-term care workforce has diverse expectations such as career development and quality job performance; (6) the long-term care workforce could benefit from flexible training, and that training should prepare them for many settings and should accommodate workers caring exclusively for family members; (7) care provided by unpaid long-term caregivers should be enhanced and stabilized by training changes; and (8) the long-term care workforce should be increased and enhanced.

Long-term Care Worker Training Requirements

Who Must Complete Training and Hours Required. All long-term care workers, unless exempt, must complete basic training of 35 hours of classroom training and 50 hours of experiential training. Time spent in the statutory mentoring program and in being trained by the worker's client, on-the-job training, and relevant conferences should be included in experiential training. Training provided under boarding home and adult family home statutes counts toward the required 85 hours of training.

Different training requirements apply to parents who are individual providers for only their developmentally disabled son or daughter who is receiving services through the Division of Developmental Disabilities in the DSHS, and persons providing intermittent respite care to the developmentally disabled son or daughter of such parents or parents who are unpaid care givers. The caregivers must have 12 hours of training relevant to the needs of adults with developmental disabilities.

Basic Training Curricula. The required basic training must address the knowledge and competencies that caregivers need, including:

- core competencies regarding the needs and safety of individuals requiring care, which also includes worker orientation; and
- population-specific competencies unique to individuals that long-term care workers will be serving or unique to the setting in which they will work.

Competency testing must be used to measure the effectiveness of the required basic training.

Exemptions. As specified in the DSHS rules, the following persons are fully or partially exempt from training requirements: registered nurses, licensed practical nurses, certified nursing assistants, Medicare certified home health aides, or persons with a similar health certification or licensure. However, these exempt persons must complete worker orientation.

Long-term care workers employed by supportive living providers are exempt, unless the training requirements adopted by the DSHS for these workers are reduced to 85 hours or less.

Persons who successfully challenge the competency test are also exempt, but they must complete worker orientation.

Timelines for Basic Training. The required basic training must be completed within 120 days of beginning to provide hands-on care. The worker orientation must be completed before the long-term care worker has routine interaction with the individual for whom care is provided.

The basic training requirements commence on January 1, 2010, or 120 days from the date of contracting or employment, whichever is later. The requirements apply to long-term care workers newly contracted or hired subsequent to January 1, 2010. Long-term care workers contracted or employed before January 1, 2010, must complete all training required before that date.

The DSHS may defer the training implementation date to July 1, 2010, if it finds that administrative capacities will not be fully functional by January 1, 2010.

Training Standards. The DSHS must adopt experiential training standards to address the integrity and quality of the training and to verify participation. The DSHS must also develop criteria for the approval of training programs.

Long-term Care Worker Certification Program

Who Must Be Certified. After January 1, 2010, certification is required for all long-term care workers except: (1) workers who are caring exclusively for a family member; (2) workers providing intermittent respite care to the developmentally disabled son or daughter of a parent who is an individual provider or an unpaid care giver; and (3) workers who are contracted or employed before January 1, 2010.

A certified long-term care worker may provide direct personal care and assistance services to persons with functional disabilities who need assistance with eating, bathing, dressing, and other activities of daily living.

Program Administration. The certification program is administered by the DSHS, which is authorized to set fees, establish forms, procedures, and examinations, issue a certificate to an applicant that has met the training, background check, and certification examination requirements, and maintain a record of applicants and certificated long-term care workers.

Examination Requirements. The DSHS must develop a long-term care worker certification examination to evaluate whether applicants have the minimum skills and knowledge necessary to practice competently. Only those who have completed the long-term care worker training requirements or had the requirements waived (either by exemption or by challenging the competency test) are eligible to sit for the examination.

Enforcement of Certification Requirements. The DSHS must deny payment to an individual provider of home care services who does not complete training or obtain certification within the required time limits. The DSHS may:

- deny certification to an applicant who does not meet the training, background check, or competency examination requirements for certification;
- revoke certification, terminate the contract of an individual provider, or take other appropriate action on finding unprofessional conduct; and

- immediately suspend certification, or immediately terminate the contract of an individual provider, if the long-term care worker caused or presents an imminent threat of harm to his or her client with functional disabilities.

In addition, the DSHS must take appropriate enforcement action related to the contract or licensure of a provider of home and community-based services who knowingly employs a long-term care worker who has not completed the training requirements or obtained certification within the required time limits.

Timelines for Certification. The certification requirement commences on January 1, 2010, or 180 days from initial contracting or employment, whichever is later. The requirement applies to long-term care workers contracted or hired after January 1, 2010.

The DSHS may defer the certification program implementation date to July 1, 2010, if it finds that administrative capacities will not be fully functional by January 1, 2010.

Training under the Individual Provider Training Partnership

The Training Partnership must offer unpaid informal caregivers providing care for family members or friends an opportunity to attend up to 10 hours per year of training at no cost to the caregiver or the state. Attendance may be limited, however, if the maximum capacity for a training module is reserved 24 hours in advance.

Implementing Rules

The DSHS must adopt rules by September 1, 2009, to implement the training and certification requirements, and their enforcement. In developing rules, the DSHS must consult with the Department of Health, the Nursing Care Quality Assurance Commission, adult family home providers, boarding home providers, in-home personal care providers, affected labor organizations, community and technical colleges, long-term care consumers, and other interested parties.

By January 1, 2010, DSHS rules must also permit reciprocity, to the extent possible under federal law, between long-term care worker certification and nursing assistant certification.

Repealed Laws

Statutes addressing the development of training standards in boarding homes and adult family homes are repealed.

Appropriation: None.

Fiscal Note: Requested on January 16, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The Long-Term Care Workers Training Workgroup worked hard last summer and tried to balance all the needs. Not everyone got everything they wanted. The goal stated in the report is that training should be flexible and relevant. There is a need to consider a registration requirement. Training should create opportunities to access a career ladder without a large expense.

(In support with concerns) The bill raises concerns about raising barriers and reducing the available long-term care workforce just when more workers are needed as the "boomer" population ages. Washington's place as a leader in "age in place" strategies should not be undone. The bill should focus on state-funded individual caregivers and not limit options in the private sector. There is no evidence or outcome-based support for tying hours of training with quality care. While the industry could accept the 35-hour training requirement, this is a change as there are not mandated training hours now. The certification should be an option for the private industry sector. Testing is a difficulty for many workers in this industry. Small business owners in this industry take risks to serve this population and will not succeed if the quality of care goes down.

The 50 hours of experiential training is too unstructured. It needs to be real training that can count toward a community college degree or an apprenticeship program. If the training does not use qualified instructors, the community colleges will not accept the training. Quality care is linked to training. This training should apply to all long-term care workers and should not differentiate based on the relationship of the worker and the client or on the hours worked by the worker. All workers, including parents of developmentally disabled children should be supported with better training.

(Opposed) One size does not fit all in providing personal care services. It is wrong to tie the bill's requirements to the Training Partnership. No one has shown that the current training system is broken; the information given to the Workgroup was from other states, not Washington. Adult family homes are required to have a business course before they can open. Currently there is worker training for 28 hours, nine to 10 hours relating to nurse delegation, and additional training in CPR training, specialty training, and continuing education. The industry has been very active in promoting worker education, offering both specific training and online programs. The medical model of credentialing does not work in this industry. Adult family homes should be allowed to opt out of this new training.

Persons Testifying: (In support) Representative Morrell, prime sponsor.

(In support with concerns) Leslie Emerick, Home Care Association of Washington, Washington Private Duty Association, and Washington State Hospice and Palliative Care Organization; Sam Miller, Home Care Association of Washington; Ron Bode, Washington Private Duty Association; and Charissa Raynor, Linda Lee, Wardell Henderson, and Cathi Hoffman, SEIU Healthcare 775 Northwest.

(Opposed) Dan Simniow, Janet Rhode, and Craig Fredrickson, Washington State Residential Care Council.

Persons Signed In To Testify But Not Testifying: (In support) Laura Falkenstine and Melissa Johnson, Community Residential Services Association; and Gary Weeks and Beth Johnston, Washington Health Care Association.

(In support with concerns) Julie Ferguson, Advanced Health Care; Marcia Ives, With a Little Help; Ingrid McDonald, American Association of Retired Persons; and David Lawrence, Family Resource Home Care and Washington Private Duty Association.

(Opposed) Joanne O'Neill, The Arc of King County; Lance Morehouse, The Arc of Spokane; Julie Peterson, Washington Association of Housing and Services for the Aging; Cherie Tessier, Pass Port 4 Change; Dennis Eagle, Washington Federation of State Employees; Robb Menaul, Washington State Hospital Association; Bill Day, Adult Family Homes Association; Richard G. Peterson, AAA Residential Services; and Louise Ryan, Long-Term Care Ombudsman.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hunt, Kagi, Kenney, Kessler, Linville, McIntire, Morrell, Pettigrew, Priest, Seaquist, Sullivan and Walsh.

Minority Report: Do not pass. Signed by 10 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Hinkle, Kretz, Ross, Schmick and Schual-Berke.

Staff: Carma Matti (786-7140).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

Parents who are the individual provider for their adult child with developmental disabilities, and their intermittent respite care providers, are exempt from the new 12 hour basic training requirement and mandatory continuing education. They are given the option of becoming a certified long-term care worker if they so choose. A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) None.

(With concerns) We strongly support the 85 hours of training but are disappointed that the bill doesn't have all the long-term care task force recommendations in it. Requiring classes that are not accredited does not support job mobility. The bill is a good start but the training in this bill is not applied equally for all long-term care workers. Instead, this bill offers a tiered approach that allows differing training standards based on the worker's relationship with the client and the number of hours that are worked in a given month. There are several considerations that should be made to mitigate the costs of this bill including using technology that is already available, assuming that some workers will challenge test provisions thereby reducing the costs for training and testing, and considering that over time, higher training standards reduce the need for a high number of workers. Training incentives growth of a full-time, permanent, and committed workforce. When people are well trained, a smaller workforce will provide the same quality of care. This bill has significant fiscal impacts on home care agencies and needs continued discussion and amendments. We support 35 hours of training for all workers, but 50 hours of experiential training should be optional for a licensed agency with supervised care workers. We support registration of all long-term care workers and voluntary, rather than mandatory, certification. We support the flexible nature of the experiential training requirements.

(Opposed) Private duty providers face significant fiscal impacts in this bill since they do not get state funding. Parents of developmentally disabled children should not be required to take additional training. The money that it would cost to train parents to take care of the same child that they have raised from birth would be better spent providing respite. There is no data that identifies a problem with current boarding home training and we believe boarding homes should be exempt from this bill. The Department of Health has reported that boarding homes do not have a care problem. The level of detail in this bill and the fact that the Department of Social and Health Services is required to set rules for training requirements is in direct conflict with the statutes for collective bargaining rights for adult family homes. This bill does harm to collective bargaining and could have serious legal complications. Adult family homes need to be removed from this bill and collective bargaining will handle their training requirements. Washington is already a leader in training for fundamental community based care. This bill moves toward institutionalizing community based services. It promotes a one-size-fits-all approach and is predicated on a medical model. Certification should not be mandatory. There isn't a large number of long-term care workers that fit into the career ladder category.

Persons Testifying: (With concerns) Gary Weeks, Washington Health Care Association; Charissa Rayner, Service Employees International Union Healthcare 775 Northwest; Dennis Eagle, Washington Federation of State Employees; and Leslie Emerick, Washington Health Care Association.

(Opposed) Craig Frederickson and Terry Kohl, Washington State Residential Care Council; and Julie Peterson, Association of Housing and Services for the Aging.

Persons Signed In To Testify But Not Testifying: None.