

E2SHB 1694 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED 04/06/2023

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

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

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

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

12 ~~((3))~~ (4) "Home care aide" means a person certified under this
13 chapter.

14 ~~((4))~~ (5) "Individual provider" has the same meaning as defined
15 in RCW 74.39A.009.

16 ~~((5))~~ (6) "Long-term care worker" has the same meaning as
17 defined in RCW 74.39A.009.

18 ~~((6))~~ (7) "Personal care services" has the same meaning as
19 defined in RCW 74.39A.009.

20 ~~((7))~~ (8) "Secretary" means the secretary of the department of
21 health.

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

24 (1) Beginning January 7, 2012, except as provided in RCW
25 18.88B.041, any person hired as a long-term care worker must be
26 certified as a home care aide as provided in this chapter within
27 ~~((two hundred))~~ 200 calendar days after the date of hire ~~((, as~~
28 ~~defined by the department. The department may adopt rules determining~~
29 ~~under which circumstances a long-term care worker may have more than~~
30 ~~one date of hire, restarting the person's 200-day period to obtain~~
31 certification as a home care aide)). A long-term care worker who is

1 not currently certified or eligible to reactivate an expired
2 credential shall receive a new date of hire when beginning work with
3 either a new employer or returning to a former employer after prior
4 employment has ended.

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.88B
37 RCW to read as follows:

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

- 1 (a) Completes an abbreviated application form;
- 2 (b) Pays any necessary fees, including the current certification
3 fee, late renewal fees, and expired credential reissuance fees,
4 unless exempt pursuant to section 4 of this act;
- 5 (c) Provides a written declaration that no action has been taken
6 by a state or federal jurisdiction or hospital which would prevent or
7 restrict the person holding the expired certificate from practicing
8 as a home care aide;
- 9 (d) Provides a written declaration that the person holding the
10 expired certificate has not voluntarily given up any credential or
11 privilege or has not been restricted from practicing as a home care
12 aide in lieu of or to avoid formal action; and
- 13 (e) Submits to a state and federal background check as required
14 by RCW 74.39A.056, if the certificate has been expired for more than
15 one year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (b) An individual provider caring only for the individual
4 provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent,
5 or grandchild, including when related by marriage or domestic
6 partnership;

7 (c) Registered nurses and licensed practical nurses licensed
8 under chapter 18.79 RCW;

9 (~~(c)~~) (d) Before January 1, 2016, a long-term care worker
10 employed by a community residential service business;

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

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

17 (g) A person whose certificate has been expired for less than
18 five years who seeks to restore the certificate to active status. The
19 person does not need to complete continuing education requirements in
20 order for their certificate to be restored to active status.
21 Subsection (1) of this section applies to persons once the
22 certificate has been restored to active status, beginning on the date
23 the certificate is restored to active status.

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

27 (a) Has been developed with input from consumer and worker
28 representatives; and

29 (b) Requires comprehensive instruction by qualified instructors.

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

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

37 (a) Rules adopted under this subsection (6) are effective until
38 the termination of the pandemic, natural disaster, or other declared
39 state of emergency or until the department determines that all long-
40 term care workers who were unable to complete the training required

1 in this section have had adequate access to complete the required
2 training, whichever is later. Once the department determines a rule
3 adopted under this subsection (6) is no longer necessary, it must
4 repeal the rule under RCW 34.05.353.

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

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

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

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

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

17 (a) (i) (A) Registered nurses, licensed practical nurses, certified
18 nursing assistants or persons who are in an approved training program
19 for certified nursing assistants under chapter 18.88A RCW, medicare-
20 certified home health aides, or other persons who hold a similar
21 health credential, as determined by the secretary, or persons with
22 special education training and an endorsement granted by the
23 superintendent of public instruction, as described in RCW
24 28A.300.010, if the secretary determines that the circumstances do
25 not require certification.

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

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

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

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

37 (ii) An individual provider caring only for the individual
38 provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent,

1 or grandchild, including when related by marriage or domestic
2 partnership.

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

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

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

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

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

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

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

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

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

29 (b) A spouse or registered domestic partner who is a long-term
30 care worker only for a spouse or domestic partner, pursuant to the
31 long-term services and supports trust program established in chapter
32 50B.04 RCW, must receive fifteen hours of basic training, and at
33 least six hours of additional focused training based on the care-
34 receiving spouse's or partner's needs, within the first one hundred
35 twenty days after becoming a long-term care worker.

36 (c) A person working as an individual provider who (i) provides
37 respite care services only for individuals with developmental
38 disabilities receiving services under Title 71A RCW or only for
39 individuals who receive services under this chapter, and (ii) works

1 three hundred hours or less in any calendar year, must complete
2 fourteen hours of training within the first one hundred twenty days
3 after becoming an individual provider. Five of the fourteen hours
4 must be completed before becoming eligible to provide care, including
5 two hours of orientation training regarding the caregiving role and
6 terms of employment and three hours of safety training. The training
7 partnership identified in RCW 74.39A.360 must offer at least twelve
8 of the fourteen hours online, and five of those online hours must be
9 individually selected from elective courses.

10 (d) Individual providers identified in (d)(i) or (ii) of this
11 subsection must complete thirty-five hours of training within the
12 first one hundred twenty days after becoming an individual provider.
13 Five of the thirty-five hours must be completed before becoming
14 eligible to provide care. Two of these five hours shall be devoted to
15 an orientation training regarding an individual provider's role as
16 caregiver and the applicable terms of employment, and three hours
17 shall be devoted to safety training, including basic safety
18 precautions, emergency procedures, and infection control. Individual
19 providers subject to this requirement include:

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

23 (B) An individual provider caring only for the individual
24 provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent,
25 or grandchild, including when related by marriage or domestic
26 partnership; ((and))

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

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

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

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

39 (a) Has been developed with input from consumer and worker
40 representatives; and

1 (b) Requires comprehensive instruction by qualified instructors.

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

7 (a) Rules adopted under this subsection (4) are effective until
8 the termination of the pandemic, natural disaster, or other declared
9 state of emergency or until the department determines that all long-
10 term care workers who were unable to complete the training required
11 in subsection (1) of this section have had adequate access to
12 complete the required training, whichever is later. Once the
13 department determines a rule adopted under this subsection (4) is no
14 longer necessary, it must repeal the rule under RCW 34.05.353.

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

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

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

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

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

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

28 (3) Projections of service demands;

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

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

33 NEW SECTION. **Sec. 10.** The department of social and health
34 services shall design a pilot project to allow the spouse or domestic
35 partner of a person with complex medical needs who is eligible for
36 long-term services and supports through the department of social and
37 health services to receive payment for providing home care services
38 to the spouse or domestic partner. The design shall consider the

1 appropriate acuity level of the care-receiving spouse or domestic
2 partner, the training needs of the care-providing spouse or domestic
3 partner, payment parameters, fiscal considerations and use of
4 medicaid matching funds, geographic locations for implementing the
5 pilot project, ways to design the project to aid in future statewide
6 implementation, cost estimates for implementing the pilot project,
7 cost estimates for implementing a pilot project expansion, projected
8 number of individuals to be served, a proposed timeline for
9 implementation of the pilot project, and a proposed timeline for
10 implementation of an expanded pilot project. The department of social
11 and health services shall submit the pilot project design to the
12 office of financial management and the appropriate fiscal committees
13 of the legislature by December 31, 2023.

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

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

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By Committee on Health & Long Term Care

ADOPTED 04/06/2023

1 On page 1, at the beginning of line 2 of the title, strike the
2 remainder of the title and insert "amending RCW 18.88B.021,
3 74.39A.341, 18.88B.041, and 74.39A.076; reenacting and amending RCW
4 18.88B.010; adding new sections to chapter 18.88B RCW; adding a new
5 section to chapter 18.88A RCW; adding a new section to chapter 74.39A
6 RCW; creating new sections; and providing expiration dates."

EFFECT: Removes provisions in the bill relating to changing certification examination requirements for home care aides. Aligns the effective date for the expanded family member exemption with the rest of the bill instead of applying the effective date to those individuals hired after September 1, 2023. Exempts the individuals qualified under the expanded family member definition from the long-term care workers' continuing education training requirements. Removes the requirement for Department of Social and Health Services and the Health Care Authority to prepare and submit a waiver to the federal Centers for Medicare and Medicaid Services to allow the state to receive federal matching funds to support the pilot project.

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