

HOUSE BILL REPORT

E2SSB 5278

As Passed House - Amended:

April 7, 2023

Title: An act relating to implementing audit recommendations to reduce barriers to home care aide certification.

Brief Description: Implementing audit recommendations to reduce barriers to home care aide certification.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wilson, L., Fortunato, Lovick, Muzzall, Robinson, Shewmake, Torres, Warnick and Wilson, C.).

Brief History:

Committee Activity:

Postsecondary Education & Workforce: 3/14/23, 3/24/23 [DPA];

Appropriations: 4/1/23, 4/4/23 [DPA(PEW)].

Floor Activity:

Passed House: 4/7/23, 96-0.

Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Changes examination requirements for certified home care aides.

HOUSE COMMITTEE ON POSTSECONDARY EDUCATION & WORKFORCE

Majority Report: Do pass as amended. Signed by 13 members: Representatives Slatter, Chair; Entenman, Vice Chair; Reed, Vice Chair; Ybarra, Ranking Minority Member; Waters, Assistant Ranking Minority Member; Chandler, Hansen, Klicker, Leavitt, Paul, Pollet, Schmidt and Timmons.

Minority Report: Without recommendation. Signed by 2 members: Representatives Jacobsen and McEntire.

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

Staff: Jim Morishima (786-7191).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Postsecondary Education & Workforce. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Lily Smith (786-7175).

Background:

A long-term care worker is any person who provides paid, hands-on personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to people with developmental disabilities, direct care workers in assisted-living facilities and adult family homes, and respite care providers. Most long-term care workers must become certified as home care aides within 200 days of being hired. To become certified as a home care aide, a long-term care worker must complete 75 hours of training, pass state and federal background checks, and pass an examination.

The Department of Health (DOH), in consultation with consumer and worker representatives, must develop the examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. The examination must include both a knowledge test and a skills demonstration component. Core competencies covered by the examination include communication skills, worker self-care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, home care aide roles and boundaries, supporting activities of daily living, and food preparation and handling.

Subject to certain exceptions, only a person who has completed the training requirements may sit for the examination. The examination must be conducted in a fair and impartial manner by the DOH or a contractor that is neither an employer of long-term care workers nor a private contractor providing training services. The examination papers and records related to the skills demonstration must be preserved for at least one year.

The DOH may adopt rules regarding persons who fail the examination. Under those rules, a person who fails the examination may retake the portion of the examination the person failed two times. If the person fails the examination three consecutive times, the person must retake the core competency portion of the entry-level training.

In 2022 the State Auditor completed a required performance audit of the home care aide certification system. Recommendations resulting from the audit include providing the DOH with the same authority and discretion in testing home care aides that it has for testing nursing assistants, providing more testing sites, and allowing applicants to schedule examinations during training so the examinations may be completed shortly after training.

Summary of Amended Bill:

Development of the Examination.

The examination may be a series of examinations, instead of one examination.

Eligibility for the Examination.

Any portion of the examination may be administered throughout training, on the last day of training, or after a student's formal training. An applicant may apply to take the examination during or after training. However, an applicant may not sit for any part of the examination prior to completing the part of the training associated with that part of the examination.

Conducting the Examination.

The prohibition against a contractor who is administering the examination also being a contractor who provides training is eliminated. The list of persons and entities who may administer and evaluate the examination is expanded to include:

- an employer of long-term care workers who is a Department of Social and Health Services (DSHS) approved instructor and has met Department of Health (DOH) standards for administration of the examination; and
- a high school or community college that has met department standards for administering the examination.

The examination may be conducted at local testing sites around the state. The DOH must explore alternative testing options such as remote testing. The requirement that examination papers and records be preserved is eliminated.

Evaluating Examination Translations.

The examination must be available in the preferred language for the applicant. The DOH must conduct an annual evaluation of the examination results of applicants who complete the examination in a language other than English. If the DOH finds that applicants taking the examination in a particular language fail at a disproportionately higher rate than other examination takers, the DOH must conduct a review of the translation to ensure that it is accurate and understandable.

Additional Requirements.

The DOH, in consultation with the DSHS and other relevant participants, must devise a system that reduces delays between training and testing for home care aides. The system must include:

- developing and implementing a plan to integrate testing into training that allows applicants to test at the same location where they train;
- allowing remote testing within home care aide training programs immediately or shortly after completion of the program; and
- determining the benefits and costs of having home care aide training programs authorize applicants to test instead of the DOH.

The DOH, in consultation with the DSHS and other relevant participants, must also examine existing challenges related to a lack of testing sites and develop a plan, including an estimation of costs, to expand testing sites. When conducting this work, the DOH must use various geographic measures, including by county and by zip code, and conduct a survey of all approved testing locations in Washington to determine their current capacity for offering tests and their potential capacity to offer tests but for the lack of available proctors. The plan must include the following considerations:

- applicant travel time and availability of testing for comparable professions;
- how many test sites are needed, where the sites should be located, and the best way to establish appropriate partnerships that may lead to new test sites;
- how often test sites should be available to applicants; and
- whether there are areas of the state where a stipend for travel expenses would be beneficial and appropriate protocols for those stipends.

Additionally, the DOH, in consultation with the DSHS and other relevant participants, must:

- establish performance measures and data collection criteria to monitor the overall length of time between training and testing and number of available test sites;
- establish accountability mechanisms for the overall training to testing process; and
- establish performance-based contracts for vendors who administer the tests that include all performance measures expected, including a definition of what sufficient access to test sites entails, and detailed vendor costs.

When conducting its work the DOH must ensure that its decisions are informed by existing data on test completion, including passage and failure rates for both parts of the examination. The DOH, in consultation with the DSHS and other relevant participants, must submit to the Governor and the Legislature a preliminary report no later than June 30, 2024, and a final report no later than December 31, 2024. The reports must include a summary of the work conducted and any recommendations for improvement.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 7, 2023.

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

Staff Summary of Public Testimony (Postsecondary Education & Workforce):

(In support) The silver tsunami is coming, which means the state needs a lot more home care aides. Most providers are not in the industry to run a business. Rather, it is a calling.

There are significant barriers to long-term care workers becoming home care aides, which are causing delays in care. People are dropping out of the workforce because of barriers to testing and certification. Once the training is complete, the contractor is notified and schedules the examination. Although this sounds simple, in reality it takes months. There is only one vendor and large portions of the state do not have testing sites. If an applicant misses the applicant's examination date, the applicant must pay an additional fee.

A lack of testing sites is impeding the state's ability to certify more home care aides. Applicants who already face transportation barriers must travel long distances to test. Many providers do not have driver's licenses or own cars. During the pandemic, testing requirements were waived. Now that the requirements are back in place, testing delays have gotten worse. Delays cause the examination passage rate to go down because test-takers forget what they have learned. The State Auditor's performance audit recommended increasing testing availability.

This bill implements the State Auditor's recommendations. The bill expands who may administer the examination and allows the examination to be scheduled during training.

(Opposed) None.

(Other) This bill implements the State Auditor's recommendations by reducing barriers to becoming a home care aide. Home care aides are a critical component to the health care workforce, but there is a critical shortage of these providers. This bill reduces barriers to testing by allowing testing to be part of training, allowing remote training, expanding testing sites, and shortening the time between testing and training.

Problems with the translation of the examination are causing low test rates. People who failed the examination due to a faulty translation should be reimbursed. Some people who failed the examination almost certainly gave up and left the profession. The failures should be expunged and these people should be allowed to retake the examination. This type of discrimination may violate state law.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Postsecondary Education & Workforce): (In support) Senator Lynda Wilson, prime sponsor; Bob Le Roy, The Long-Term Care Foundation; Demas Nesterenko, Service Employees International Union 775; Amina Abdalla, Adult Family Home Council; and Madonna Maxaner, Dayspring and Sunrise Adult Family Homes.

(Other) John Stewart, Prometric, Incorporated; John Stewart; and Shawna Fox, Washington State Department of Health.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Postsecondary Education & Workforce): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.