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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1694

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State of Washington

68th Legislature

2023 Regular Session

**By** House Appropriations (originally sponsored by Representatives Alvarado, Tharinger, Berry, Lekanoff, Reed, Leavitt, Fitzgibbon, Callan, Santos, Chopp, Ortiz-Self, Senn, Taylor, Pollet, Macri, Riccelli, and Simmons)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to addressing home care workforce shortages;  
2 amending RCW 18.88B.021, 18.88B.031, 74.39A.341, 18.88B.041, and  
3 74.39A.076; reenacting and amending RCW 18.88B.010; adding new  
4 sections to chapter 18.88B RCW; adding a new section to chapter  
5 18.88A RCW; adding a new section to chapter 74.39A RCW; creating new  
6 sections; and providing expiration dates.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

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

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

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

17 ((+3)) (4) "Home care aide" means a person certified under this  
18 chapter.

19 ((+4)) (5) "Individual provider" has the same meaning as defined  
20 in RCW 74.39A.009.

1       ~~((5))~~ (6) "Long-term care worker" has the same meaning as  
2 defined in RCW 74.39A.009.

3       ~~((6))~~ (7) "Personal care services" has the same meaning as  
4 defined in RCW 74.39A.009.

5       ~~((7))~~ (8) "Secretary" means the secretary of the department of  
6 health.

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

9       (1) Beginning January 7, 2012, except as provided in RCW  
10 18.88B.041, any person hired as a long-term care worker must be  
11 certified as a home care aide as provided in this chapter within  
12 ~~((two hundred))~~ 200 calendar days after the date of hire ~~((, as~~  
13 ~~defined by the department. The department may adopt rules determining~~  
14 ~~under which circumstances a long-term care worker may have more than~~  
15 ~~one date of hire, restarting the person's 200-day period to obtain~~  
16 ~~certification as a home care aide))~~. A long-term care worker who is  
17 not currently certified or eligible to reactivate an expired  
18 credential shall receive a new date of hire when beginning work with  
19 either a new employer or returning to a former employer after prior  
20 employment has ended.

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

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

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

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

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

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

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

14 **Sec. 3.** RCW 18.88B.031 and 2012 c 164 s 304 are each amended to  
15 read as follows:

16 (1) Except as provided in RCW 18.88B.041 and subject to the other  
17 requirements of this chapter, to be certified as a home care aide, a  
18 long-term care worker must successfully complete the training  
19 required under RCW 74.39A.074(1) and a certification examination. Any  
20 long-term care worker failing to make the required grade for the  
21 examination may not be certified as a home care aide.

22 (2) The department, in consultation with consumer and worker  
23 representatives, shall develop a home care aide certification  
24 examination to evaluate whether an applicant possesses the skills and  
25 knowledge necessary to practice competently. ~~((Except as provided by  
26 RCW 18.88B.041(1)(a)(ii), only those who have completed the training  
27 requirements in RCW 74.39A.074(1) shall be eligible to sit for this  
28 examination.))~~

29 (3) The examination or series of examinations shall include both  
30 a skills demonstration and a written or oral knowledge test. The  
31 skills demonstration, the knowledge test, or both, may be  
32 administered during or after a student's formal training. The  
33 examination papers, all grading of the papers, and records related to  
34 the grading of skills demonstration shall be preserved for a period  
35 of not less than one year. The department shall establish rules  
36 governing the number of times and under what circumstances  
37 individuals who have failed the examination may sit for the  
38 examination, including whether any intermediate remedial steps should  
39 be required.

1 (4) All examinations shall be conducted by fair and wholly  
2 impartial methods. The certification examination shall be  
3 administered and evaluated by ~~((the))~~:

4 (a) The department ~~((or by a))~~;

5 (b) A contractor to the department that is ~~((neither))~~ not an  
6 employer of long-term care workers ~~((or a private contractor~~  
7 ~~providing training services under this chapter.~~

8 ~~(5))~~, unless the employer is a department of social and health  
9 services approved instructor and has met the department standards for  
10 administering the examination; or

11 (c) A high school or community college that has met department  
12 standards for administering the examination.

13 (5) In addition to the standards under subsection (4) of this  
14 section, the department shall examine and authorize innovative ways  
15 to reduce barriers to certification and testing, including allowing  
16 for remote proctoring of the knowledge examination, allowing long-  
17 term care workers to sign up for testing upon registering for  
18 training contingent on completion of training, and expanding the  
19 number and type of testing locations.

20 (6) By October 1, 2023, the department must conduct an analysis  
21 of the number of test applications for both the skills demonstration  
22 test and the knowledge test using various geographic measures,  
23 including by county and by zip code. By December 1, 2023, the  
24 department must report to the governor and the health policy  
25 committees of the legislature on the results of the analysis and how  
26 it may inform decisions for approving testing locations.

27 (7) By October 1, 2023, the department must conduct a survey of  
28 all approved testing locations in Washington to determine their  
29 current capacity for offering tests and their potential capacity to  
30 offer tests if not for the lack of available proctors. By December 1,  
31 2023, the department must report to the governor and the health  
32 policy committees of the legislature on the results of the survey,  
33 including an analysis that compares testing capacity with the number  
34 of test applications for both the skills demonstration test and the  
35 knowledge test using various geographic measures, including by county  
36 and by zip code.

37 (8) The department shall adopt rules to implement this section.

38 NEW SECTION. Sec. 4. A new section is added to chapter 18.88B  
39 RCW to read as follows:

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

3 (a) Completes an abbreviated application form;

4 (b) Pays any necessary fees, including the current certification  
5 fee, late renewal fees, and expired credential reissuance fees,  
6 unless exempt pursuant to section 5 of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) Registered nurses and licensed practical nurses licensed  
6 under chapter 18.79 RCW;

7 (c) Before January 1, 2016, a long-term care worker employed by a  
8 community residential service business;

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

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

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

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

25 (a) Has been developed with input from consumer and worker  
26 representatives; and

27 (b) Requires comprehensive instruction by qualified instructors.

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

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

35 (a) Rules adopted under this subsection (6) are effective until  
36 the termination of the pandemic, natural disaster, or other declared  
37 state of emergency or until the department determines that all long-  
38 term care workers who were unable to complete the training required  
39 in this section have had adequate access to complete the required  
40 training, whichever is later. Once the department determines a rule

1 adopted under this subsection (6) is no longer necessary, it must  
2 repeal the rule under RCW 34.05.353.

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

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

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

11 **Sec. 8.** RCW 18.88B.041 and 2019 c 363 s 20 are each amended to  
12 read as follows:

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

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

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

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

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

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

35 (ii) For individual providers hired after September 1, 2023, an  
36 individual provider caring only for the individual provider's  
37 sibling, aunt, uncle, cousin, niece, nephew, grandparent, or  
38 grandchild, including when related by marriage or domestic  
39 partnership.



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

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

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

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

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

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

18 **Sec. 9.** RCW 74.39A.076 and 2021 c 203 s 8 are each amended to  
19 read as follows:

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

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

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

34 (c) A person working as an individual provider who (i) provides  
35 respite care services only for individuals with developmental  
36 disabilities receiving services under Title 71A RCW or only for  
37 individuals who receive services under this chapter, and (ii) works  
38 three hundred hours or less in any calendar year, must complete  
39 fourteen hours of training within the first one hundred twenty days

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

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

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

21 (B) For individual providers hired after September 1, 2023, an  
22 individual provider caring only for the individual provider's  
23 sibling, aunt, uncle, cousin, niece, nephew, grandparent, or  
24 grandchild, including when related by marriage or domestic  
25 partnership; ((and))

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

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

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

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

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

40 (b) Requires comprehensive instruction by qualified instructors.

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

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

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

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

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.39A  
20 RCW to read as follows:

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

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

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

27 (3) Projections of service demands;

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

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

32 NEW SECTION. **Sec. 11.** The department of social and health  
33 services shall design a pilot project to allow the spouse or domestic  
34 partner of a person with complex medical needs who is eligible for  
35 long-term services and supports through the department of social and  
36 health services to receive payment for providing home care services  
37 to the spouse or domestic partner. The design shall consider the  
38 appropriate acuity level of the care-receiving spouse or domestic

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

17 NEW SECTION. **Sec. 12.** The department of social and health  
18 services shall study the feasibility and cost of paying the parents  
19 of children under 18 years old who are medically complex or have  
20 complex support needs related to their behaviors. The department of  
21 social and health services must submit a report to the office of  
22 financial management and the appropriate fiscal committees of the  
23 legislature by December 31, 2023. The report shall address any  
24 statutory or regulatory changes needed to authorize the payments,  
25 necessary information technology changes for the agency and  
26 associated costs, elements needed to prepare a federal waiver or  
27 state plan amendments to allow for the use of federal matching funds  
28 for the payments to parents, estimates of the number of children  
29 expected to be served, the anticipated annual cost to the state both  
30 if federal matching funds are available and if they are not  
31 available, recommendations on the types of training needed for  
32 parents to support their children's care needs, and a proposed  
33 timeline for implementation which may be phased, if necessary.

34 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
35 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2023, in the omnibus appropriations act, this  
2 act is null and void.

--- **END** ---