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**HOUSE BILL 1694**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Alvarado, Tharinger, Berry, Lekanoff, Reed, Leavitt, Fitzgibbon, Callan, Santos, Chopp, Ortiz-Self, Senn, Taylor, Pollet, Macri, Riccelli, and Simmons

Read first time 01/31/23. Referred to Committee on Health Care & Wellness.

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

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

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

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

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

12 (2) "Date of hire" means the first day the long-term care worker  
13 is paid to provide direct care by any employer.

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

15 ((3)) (4) "Home care aide" means a person certified under this  
16 chapter.

17 ((4)) (5) "Individual provider" has the same meaning as defined  
18 in RCW 74.39A.009.

19 ((5)) (6) "Long-term care worker" has the same meaning as  
20 defined in RCW 74.39A.009.

1       ~~((6))~~ (7) "Personal care services" has the same meaning as  
2 defined in RCW 74.39A.009.

3       ~~((7))~~ (8) "Secretary" means the secretary of the department of  
4 health.

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

7       (1) Beginning January 7, 2012, except as provided in RCW  
8 18.88B.041, any person hired as a long-term care worker must be  
9 certified as a home care aide as provided in this chapter within  
10 ~~((two hundred))~~ 200 calendar days after the date of hire(~~(, as~~  
11 ~~defined by the department. The department may adopt rules determining~~  
12 ~~under which circumstances a long-term care worker may have more than~~  
13 ~~one date of hire, restarting the person's 200-day period to obtain~~  
14 ~~certification as a home care aide)). A long-term care worker who is  
15 not currently certified or eligible to reactivate an expired  
16 credential shall receive a new date of hire when beginning work with  
17 either a new employer or returning to a former employer after prior  
18 employment has ended.~~

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

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

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

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

37       (a) Rules adopted under this subsection (3) are effective until  
38 the termination of the pandemic, natural disaster, or other declared  
39 state of emergency or until the department determines that additional

1 time for long-term care workers to become certified is no longer  
2 necessary, whichever is later. Once the department determines a rule  
3 adopted under this subsection (3) 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 certification compliance with subsection (1) of  
8 this section and rules adopted under this subsection (3) and provide  
9 the legislature with a report.

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

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

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

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

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

37 (4) All examinations shall be conducted by fair and wholly  
38 impartial methods. The certification examination shall be  
39 administered and evaluated by the department ~~((or))~~, by a contractor

1 to the department that is (~~neither~~) not an employer of long-term  
2 care workers (~~or a private contractor providing training services~~  
3 ~~under this chapter.~~

4 ~~(5))~~, or by a high school or community college that has met  
5 department standards for administering the examination.

6 (5) In addition to the standards under subsection (4) of this  
7 section, the department shall examine and authorize innovative ways  
8 to reduce barriers to certification and testing, including allowing  
9 for remote proctoring of the knowledge examination, allowing long-  
10 term care workers to sign up for testing at the time of hire  
11 contingent on completion of training, and expanding the number and  
12 type of testing locations.

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

14 **Sec. 4.** RCW 18.88B.041 and 2019 c 363 s 20 are each amended to  
15 read as follows:

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

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

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

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

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

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

38 (ii) For individual providers hired after September 1, 2023, an  
39 individual provider caring only for the individual provider's

1 sibling, aunt, uncle, cousin, niece, nephew, grandparent, or  
2 grandchild, including when related by marriage or domestic  
3 partnership.

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

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

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

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

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

17 **Sec. 5.** RCW 74.39A.076 and 2021 c 203 s 8 are each amended to  
18 read as follows:

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

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

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

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

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

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

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

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

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

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

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

32 (a) Has been developed with input from consumer and worker  
33 representatives; and

34 (b) Requires comprehensive instruction by qualified instructors.

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

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

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

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

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.39A  
15 RCW to read as follows:

16 (1) By June 1, 2025, the department shall establish a workforce  
17 data collection and public reporting monitoring system to accurately  
18 determine the status of:

19 (a) The long-term care worker supply;

20 (b) Long-term care worker shortages;

21 (c) Delays in the ability for long-term care workers to receive  
22 required training, testing, and certification;

23 (d) Unmet service demands; and

24 (e) Geographic areas and populations for which there are  
25 disparities in long-term care workers and services.

26 (2) The monitoring system shall be capable of tracking and  
27 understanding long-term care workforce data trends in Washington and  
28 providing regular reports.

29 NEW SECTION. **Sec. 7.** The department of social and health  
30 services shall design a pilot project to allow the spouse of a person  
31 with complex medical needs who is eligible for long-term services and  
32 supports through the department of social and health services to  
33 receive payment for providing home care services to the spouse. The  
34 design shall consider the appropriate acuity level of the care-  
35 receiving spouse, the training needs of the care-providing spouse,  
36 payment parameters, fiscal considerations and use of medicaid  
37 matching funds, geographic locations for implementing the pilot  
38 project, ways to design the project to aid in future statewide

1 implementation, cost estimates for implementing the pilot project,  
2 projected number of individuals to be served, and proposed timeline  
3 for implementation. The department of social and health services  
4 shall submit the pilot project design to the office of financial  
5 management and the appropriate fiscal committees of the legislature  
6 by November 1, 2023.

7 NEW SECTION. **Sec. 8.** The department of social and health  
8 services shall study the feasibility and cost of paying the parents  
9 of children under 18 years old who are medically complex or have  
10 complex support needs related to their behaviors. The department of  
11 social and health services must submit a report to the office of  
12 financial management and the appropriate fiscal committees of the  
13 legislature by December 31, 2023. The report shall address any  
14 statutory or regulatory changes needed to authorize the payments,  
15 necessary information technology changes for the agency and  
16 associated costs, elements needed to prepare a federal waiver or  
17 state plan amendments to allow for the use of federal matching funds  
18 for the payments to parents, estimates of the number of children  
19 expected to be served, the anticipated annual cost to the state both  
20 if federal matching funds are available and if they are not  
21 available, recommendations on the types of training needed for  
22 parents to support their children's care needs, and a proposed  
23 timeline for implementation which may be phased, if necessary.

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