Initiative Measure No. 1097

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SECRETARY OF STATE
STATE OF WASHINGTON

1 AN ACT Relating to long-term care services for the elderly and
2 persons with disabilities; amending RCW 74.39A.009, 18.88B.020,
3 74.39A.073, 18.88B.030, 18.88B.040, 74.39A.075, 74.39A.340, 74.39A.350,
4 74.39A.085, 74.39A.050, and 74.39A.310; adding a new section to chapter
5 74.39A RCW; and creating new sections.

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** It is the intent of the people, through this
8 initiative, to protect and improve access to safe, quality care for the
9 vulnerable elderly and persons with disabilities. The people find and
10 declare that current procedures to train and educate long-term care
11 workers are insufficient. The people find and declare that long-term
12 care workers for the elderly or persons with disabilities should have
13 a formal system of education and experiential qualifications leading to
14 a certification test.

15 **Sec. 2.** RCW 74.39A.009 and 2009 c 580 s 1 are each amended to read
16 as follows:
17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

(1) "Adult family home" means a home licensed under chapter 70.128 RCW.

(2) "Adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.020 to provide personal care services.

(3) "Assisted living services" means services provided by a boarding home that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services, and the resident is housed in a private apartment-like unit.

(4) "Boarding home" means a facility licensed under chapter 18.20 RCW.

(5) "Core competencies" means basic training topics, including but not limited to, communication skills, worker self-care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, long-term care worker roles and boundaries, supporting activities of daily living, and food preparation and handling.

(6) "Cost-effective care" means care provided in a setting of an individual's choice that is necessary to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice, in an environment that is appropriate to the care and safety needs of the individual, and such care cannot be provided at a lower cost in any other setting. But this in no way precludes an individual from choosing a different residential setting to achieve his or her desired quality of life.

(7) "Department" means the department of social and health services.

(8) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(9) "Direct care worker" means a paid caregiver who provides direct, hands-on personal care services to persons with disabilities or the elderly requiring long-term care.

(10) "Enhanced adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.010 to provide personal

care services, intermittent nursing services, and medication administration services.

(11) "Functionally disabled person" or "person who is functionally disabled" is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living", in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities as they are related to the mental capacity to perform activities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(12) "Home and community services" means adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or similar services provided by facilities and agencies licensed by the department.

(13)(a) "Home care aide" means a long-term care worker who has ((~~obtained certification as a home care aide by the department of health~~)) obtained five hours of safety and orientation training as defined in subsection (21) of this section and is in the process of obtaining certification as a home care aide from the department of health or exempted from certification under RCW 18.88B.040 (1) and (2).

(b) "Certified home care aide" means a long-term care worker who has obtained certification as a home care aide by the department of health pursuant to RCW 18.88B.020.

(14) "Individual provider" is defined according to RCW 74.39A.240.

(15) "Long-term care" is synonymous with chronic care and means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age disabled by chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long-lasting and severely limits their mental or physical capacity for self-care. The use of this definition is not intended to expand the scope of services,

care, or assistance by any individuals, groups, residential care settings, or professions unless otherwise expressed by law.

(16)(a) "Long-term care workers for the elderly or persons with disabilities" or "long-term care workers" includes all persons who are long-term care workers for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care ((~~employees of~~)) workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71 RCW, all direct care workers in state-licensed boarding homes, assisted living facilities, and adult family homes, respite care providers, community residential service providers, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) "Long-term care workers" do not include: (i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or (ii) persons who are not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(17) "Nursing home" means a facility licensed under chapter 18.51 RCW.

(18) "Personal care services" means physical or verbal assistance with activities of daily living and instrumental activities of daily living provided because of a person's functional disability.

(19) "Population specific competencies" means basic training topics unique to the care needs of the population the long-term care worker is serving, including but not limited to, mental health, dementia, developmental disabilities, young adults with physical disabilities, and older adults.

(20) "Qualified instructor" means a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands-on personal care and other assistance services to the elderly or persons with disabilities requiring long-term care.

(21) "Safety and orientation training" means training under RCW 74.39A.073(2)(b) addressing the role of a home care aide, the applicable terms of employment, basic safety precautions, emergency procedures, and infection control.

(22) "Secretary" means the secretary of social and health services.

((~~(22)~~)) (23) "Secretary of health" means the secretary of health or the secretary's designee.

((~~(23)~~)) (24) "Training partnership" means a joint partnership or trust that includes the office of the governor and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

((~~(24)~~)) (25) "Tribally licensed boarding home" means a boarding home licensed by a federally recognized Indian tribe which home provides services similar to boarding homes licensed under chapter 18.20 RCW.

Sec. 3. RCW 18.88B.020 and 2009 c 580 s 18 are each amended to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, the department of health shall require that any person hired as a long-term care worker for the elderly or persons with disabilities must be certified as a home care aide within one hundred fifty days from the date of being hired.

(2) Except as provided in RCW 18.88B.040, certification as a home care aide requires both completion of ((~~seventy five~~)) eighty-five hours of training and successful completion of a certification examination pursuant to RCW 74.39A.073 and 18.88B.030.

(3) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified pursuant to this chapter.

(4) No person may practice or, by use of any title or description, represent himself or herself as a home care aide without (a) receiving five hours of safety and orientation training and seeking certification as a home care aide from the department of health or (b) qualifying for an exemption from certification under RCW 18.88B.040 (1) ~~and~~ or (2). The department of health shall make available to home care aides a registry

by which home care aides can be identified by the public as eligible to provide long-term care services.

(5) The department of health shall adopt rules by August 1, 2010, to implement this section.

Sec. 4. RCW 74.39A.073 and 2009 c 580 s 10 are each amended to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, all persons employed as long-term care workers for the elderly or persons with disabilities must meet the minimum training requirements in this section within one hundred twenty calendar days of employment.

(2) All persons employed as long-term care workers must ((~~obtain seventy-five hours of entry-level training approved by the department. A long-term care worker must accomplish five of these seventy-five hours before becoming eligible to provide care~~)) complete eighty-five hours of entry-level training as follows: (a) Five hours of safety and orientation training before becoming eligible to provide care and (b) eighty hours of long-term care basic training, including training on core competencies and population specific competencies.

(3) Training required by subsection ((~~(4)(c)~~)) (2)(b) of this section will be applied towards training required under RCW 18.20.270 or 70.128.230 as well as any statutory or regulatory training requirements for long-term care workers employed by supportive living providers.

(4) Only training curriculum approved by the department pursuant to section 5 of this act may be used to fulfill the training requirements specified in this section, RCW 74.39A.340 and 74.39A.350. ((~~The seventy-five hours of entry-level training required shall be as follows:~~

~~(a) Before a long-term care worker is eligible to provide care, he or she must complete two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment;~~

~~(b) Before a long-term care worker is eligible to provide care, he or she must complete three hours of safety training, including basic safety precautions, emergency procedures, and infection control; and~~

~~(c) All long-term care workers must complete seventy hours of~~

~~long-term care basic training, including training related to core competencies and population specific competencies.~~

~~(5) The department shall only approve training curriculum that:~~

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

~~(b) Requires comprehensive instruction by qualified instructors on the competencies and training topics in this section.~~

~~(6)~~)) (5) Individual providers under RCW 74.39A.270 shall be compensated by the department for training time required by this section.

((~~(7)~~)) (6) Home care agency workers who provide direct care shall be compensated for training time required by this section. Training wages to be paid pursuant to this subsection are wages under RCW 74.39A.310.

(7) The governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to administer subsections (5) and (6) of this section or for legislation necessary to implement these subsections.

(8) The department of health shall adopt rules by August 1, 2010, to implement subsections (1), (2), ((~~and~~)) (3), and (4) of this section.

((~~(8)~~)) (9) The department shall adopt rules by August 1, 2010, to implement subsections ((~~(4) and~~)) (5) and (6) of this section.

NEW SECTION. **Sec. 5.** A new section is added to chapter 74.39A RCW to read as follows:

(1) The department's authority to approve training curriculum for long-term care workers is established solely by RCW 74.39A.073 and subsection (2) of this section. In exercising its authority, the department is restricted to the curriculum areas described in subsection (2) of this section and the administrative requirements in subsections (3), (4), and (5) of this section. The department shall not develop its own curriculum.

(2) To qualify as acceptable curriculum for the purposes of RCW 74.39A.073, the curriculum must:

(a) Have been developed with input from consumer and worker representatives;

(b) Require comprehensive instruction by qualified instructors on the training required by RCW 74.39A.073;

(c) Include safety and orientation training curriculum that provides safety training such as basic safety precautions, emergency procedures, and infection control;

(d) Include curriculum concerning core competencies that comprises the following topic areas: Communication skills, problem solving, consumer directed care, respecting differences, cultural sensitivity, consumer and worker rights, maintaining client dignity, long-term care worker roles and boundaries, abuse and mandatory reporting, observation and reporting, infection control, blood borne pathogens and HIV/AIDS, food preparation and handling, including nutrition, worker self-care, working with older adults, grief and loss, care of the home and safety, fall prevention, body mechanics, supporting activities of daily living and personal care tasks such as bathing, grooming and oral care, dressing, toileting, assisting with eating and hydration, proper feeding techniques, skin and body care, transfers, positioning, turning, bed making, walking, using assistive devices, and medication assistance; and

(e) Include curriculum concerning population specific competencies that offer the following topic areas: Mental health care, dementia care, caring for individuals with developmental disabilities, caring for young adults with physical disabilities, or elder care.

(3) All persons seeking training curriculum approval must submit a complete application that includes:

(a) Program objectives;

(b) A curriculum content outline;

(c) A sample lesson plan;

(d) A skills checklist; and

(e) A declaration guaranteeing compliance with the requirements of subsection (2) of this section and RCW 74.39A.073 as well as any subsequent changes therein.

(4) Curriculum approval must be renewed every four years. Failure to renew with the department shall result in automatic withdrawal of approval.

(5) The department must be notified if for any reason a person whose curriculum is approved pursuant to this section can no longer meet the requirements of this section.

(6) Persons whose curriculum is approved under this section shall also be authorized to provide curriculum appropriate for training under RCW 74.39A.075 and 74.39A.340.

(7) The department shall adopt rules by August 1, 2011, to implement this section.

Sec. 6. RCW 18.88B.030 and 2009 c 580 s 4 are each amended to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, the department of health shall require that all long-term care workers successfully complete a certification examination. Any ((~~long-term care worker~~)) home care aide failing to make the required grade for the examination will not ((~~be~~)) become a certified ((~~as a~~)) home care aide.

(2) The department of health, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. Unless excluded by RCW 18.88B.040 ((~~(1) and (2)~~)), only those who have completed the training requirements in RCW 74.39A.073 shall be eligible to sit for this examination.

(3) The examination shall include both a skills demonstration and a written or oral knowledge test. The department of health shall make the certification examination available in languages sufficient to allow all home care aides who have obtained eighty-five hours of training an equal chance of passing the examination. The examination papers, all grading of the papers, and records related to the grading of skills demonstration shall be preserved for a period of not less than one year. The department of health shall establish rules governing the number of times and under what circumstances individuals who have failed the examination may sit for the examination, including whether any intermediate remedial steps should be required.

(4) All examinations shall be conducted by fair and wholly impartial methods. The certification examination shall be administered and evaluated by the department of health or by a contractor to the department of health that is neither an employer of long-term care workers or private contractors providing training services under this chapter. When an applicant is taking the examination in a language

other than English, the department of health shall ensure that the test is administered by an individual or individuals with the language skills of those taking the examination.

(5) The department of health has the authority to:

(a) Establish forms, procedures, and examinations necessary to certify home care aides pursuant to this chapter;

(b) Hire clerical, administrative, and investigative staff as needed to implement this section;

(c) Issue certification as a home care aide to any applicant who has successfully completed the home care aide examination;

(d) Maintain the official record of all applicants and persons with certificates;

(e) Exercise disciplinary authority as authorized in chapter 18.130 RCW; and

(f) Deny certification to applicants who do not meet training, competency examination, and conduct requirements for certification.

(6) The department of health shall adopt rules by August 1, 2010, that establish the procedures, including criteria for reviewing an applicant's state and federal background checks, determining an applicant's eligibility to sit for an examination pursuant to RCW 74.39A.073 or 74.39A.040 (1) and (2), and conducting and examinations necessary to carry this section into effect.

Sec. 7. RCW 18.88B.040 and 2010 c 169 s 11 are each amended to read as follows:

The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary of health, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health

without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(2) A person already employed as a long-term care worker prior to January 1, 2011, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

(4) An individual provider caring only for his or her biological, step, or adoptive developmentally disabled child ((~~or parent~~)) is not required to obtain certification under this chapter.

(5) ((~~Prior to June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month is not required to obtain certification under this chapter.~~)) Long-term care workers who are not required to become certified home care aides under subsections (1) and (2) of this section may practice or, by use of any title or description, represent himself or herself as a home care aide.

(6) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.073 may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2010, to implement this section.

Sec. 8. RCW 74.39A.075 and 2009 c 580 s 11 are each amended to read as follows:

(1) Effective January 1, 2011, a biological, step, or adoptive parent who is the individual provider only for his or her developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of adults with developmental disabilities within the first one hundred twenty days of becoming an individual provider.

(2) ((~~Effective January 1, 2011, individual providers identified in (a) and (b) of this subsection must complete thirty five hours of training within the first one hundred twenty days of becoming an individual provider. Five of the thirty five hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:~~

~~(a) An individual provider caring only for his or her biological, step, or adoptive child or parent unless covered by subsection (1) of this section; and~~

~~(b) Before January 1, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.~~

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

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

~~(b) Requires comprehensive instruction by qualified instructors.~~

~~(4)~~)) The department shall adopt rules by August 1, 2010, to implement this section.

Sec. 9. RCW 74.39A.340 and 2009 c 580 s 12 are each amended to read as follows:

(1) The department of health shall ensure that all long-term care workers shall complete twelve hours of ((~~continuing education~~)) training in ((~~advanced training~~)) <u>continuing education</u> topics each year. This requirement applies beginning on July 1, 2011.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 2, Laws of 2009.

(3) Unless voluntarily certified as a home care aide under chapter 2, Laws of 2009, subsection (1) of this section does not apply to((~~:~~

~~(a) An individual provider caring only for his or her~~)) <u>a</u> biological, step, or adoptive ((~~child; and~~

~~(b) Before June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.~~

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

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

~~(b) Requires comprehensive instruction by qualified instructors.~~

~~(5)~~)) parent who is the individual provider only for his or her developmentally disabled son or daughter.

(4) Individual providers under RCW 74.39A.270 shall be compensated by the department for training time required by this section.

((~~(6)~~)) (5) Home care agency workers who provide direct care shall be compensated for training time required by this section. Training wages to be paid pursuant to this subsection are wages under RCW 74.39A.310.

(6) The governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to administer subsections (4) and (5) of this section or for legislation necessary to implement these subsections.

(7) The department of health shall adopt rules by August 1, 2010, to implement subsections (1), (2), and (3) of this section.

((~~(7)~~)) (8) The department shall adopt rules by August 1, 2010, to implement subsections (4) and (5) of this section.

Sec. 10. RCW 74.39A.350 and 2009 c 580 s 13 are each amended to read as follows:

(1) The department shall ((~~offer, directly or through contract,~~)) ensure training opportunities sufficient for a long-term care worker to accumulate seventy hours of advanced training within a reasonable time period. For individual providers represented by an exclusive bargaining representative under RCW 74.39A.270, the training opportunities shall be offered through the training partnership established under RCW 74.39A.360. Training topics shall include, but are not limited to: Client rights; personal care; mental illness; dementia; developmental disabilities; depression; medication

assistance; advanced communication skills; positive client behavior support; developing or improving client-centered activities; dealing with wandering or aggressive client behaviors; medical conditions; nurse delegation core training; peer mentor training; and advocacy for quality care training. The department may not require long-term care workers to obtain the training described in this section.

(2) Upon the completion of the training outlined in this section, an individual provider under RCW 74.39A.270 or a home care agency direct care worker under RCW 74.39A.310(1)(a)(i) shall, in addition to his or her regular hourly wage rate, be compensated one dollar per hour.

(3) The wage differential in subsection (2) of this section shall increase each year in accordance with increases in the minimum wage under RCW 49.46.020. The governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to administer this subsection and subsection (2) of this section or for legislation necessary to implement this subsection and subsection (2) of this section.

(4) This requirement to offer advanced training applies beginning January 1, 2012.

Sec. 11. RCW 74.39A.085 and 2009 c 580 s 14 are each amended to read as follows:

(1) The department shall deny payment to any individual provider of home care services who has not been certified by the department of health as a home care aide as required under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(2) The department may terminate the contract of any individual provider of home care services, or take any other enforcement measure deemed appropriate by the department if the individual provider does not complete his or her required training or receive certification within the requisite period of time, individual provider's certification is revoked under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, the individual provider has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(3) The department shall deny payment to private agencies, or other facilities licensed by the state to provide personal care services, if they employ: (a) A long-term care worker who has not completed his or her training or received certification within the requisite period of time, (b) a home care aide whose certification is revoked under chapter 2, Laws of 2009 or, (c) if exempted from certification by RCW 18.88B.040, a long-term care worker even if he or she has not completed required training pursuant to chapter 2, Laws of 2009.

(4) The department shall take appropriate enforcement action ((~~related to the contract of~~)) against a private agency or facility licensed by the state, other than an individual provider, to provide personal care services((~~, other than an individual provider,~~)) and who ((~~knowingly~~)) negligently employs a long-term care worker who has not completed training within the requisite period of time, who is not a certified home care aide as required under chapter 2, Laws of 2009 whose certification as a home care aide was revoked under chapter 2, Laws of 2009, or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

((~~(4)~~)) (5) Chapter 34.05 RCW shall govern actions by the department under this section.

((~~(5)~~)) (6) The department shall adopt rules by August 1, 2010, to implement this section.

Sec. 12. RCW 74.39A.050 and 2009 c 580 s 7 are each amended to read as follows:

The department's system of quality improvement for long-term care services shall use the following principles, consistent with applicable federal laws and regulations:

(1) The system shall be client-centered and promote privacy, independence, dignity, choice, and a home or home-like environment for consumers consistent with chapter 392, Laws of 1997.

(2) The goal of the system is continuous quality improvement with the focus on consumer satisfaction and outcomes for consumers. This includes that when conducting licensing or contract inspections, the department shall interview an appropriate percentage of residents, family members, resident case managers, and advocates in addition to interviewing providers and staff.

(3) Providers should be supported in their efforts to improve quality and address identified problems initially through training, consultation, technical assistance, and case management.

(4) The emphasis should be on problem prevention both in monitoring and in screening potential providers of service.

(5) Monitoring should be outcome based and responsive to consumer complaints and based on a clear set of health, quality of care, and safety standards that are easily understandable and have been made available to providers, residents, and other interested parties.

(6) Prompt and specific enforcement remedies shall also be implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160, chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a contract or license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

(7) All long-term care workers shall be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055. This information will be shared with the department of health in accordance with RCW 74.39A.055 to advance the purposes of chapter 2, Laws of 2009.

(8) No provider, or its staff, or long-term care worker, or prospective provider or long-term care worker, with a stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults.

(9) The department shall establish, by rule, a state registry which contains identifying information about long-term care workers identified under this chapter who have substantiated findings of abuse,

neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information will also be shared with the department of health to advance the purposes of chapter 2, Laws of 2009.

(10) Until December 31, 2010, individual providers and home care ((~~agency~~)) providers employed by agencies must satisfactorily complete department-approved orientation, basic training, and continuing education within the time period specified by the department in rule. ((~~The department shall adopt rules by March 1, 2002, for the implementation of this section.~~)) The department shall deny payment to an individual provider or a home care provider who does not complete the training requirements within the time limit specified by the department by rule.

(11) ((~~Until December 31, 2010, in an effort to improve access to training and education and reduce costs, especially for rural communities, the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.~~

~~(12) The department shall create an approval system by March 1, 2002, for those seeking to conduct department-approved training.~~

~~(13)~~)) The department shall establish, by rule, background checks ((~~and other quality assurance requirements~~)) for long-term care workers who provide in-home services funded by medicaid personal care as described in RCW 74.09.520, community options program entry system waiver services as described in RCW 74.39A.030, or chore services as described in RCW 74.39A.110 that are equivalent to requirements for individual providers. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

((~~(14)~~)) (12) Under existing funds the department shall establish internally a quality improvement standards committee to monitor the development of standards and to suggest modifications.

((~~(15) Within existing funds, the department shall design, develop, and implement a long term care training program that is flexible, relevant, and qualifies towards the requirements for a nursing assistant certificate as established under chapter 18.88A RCW. This subsection does not require completion of the nursing assistant certificate training program by providers or their staff. The long-term care teaching curriculum must consist of a fundamental module, or modules, and a range of other available relevant training modules that provide the caregiver with appropriate options that assist in meeting the resident's care needs. Some of the training modules may include, but are not limited to, specific training on the special care needs of persons with developmental disabilities, dementia, mental illness, and the care needs of the elderly. No less than one training module must be dedicated to workplace violence prevention. The nursing care quality assurance commission shall work together with the department to develop the curriculum modules. The nursing care quality assurance commission shall direct the nursing assistant training programs to accept some or all of the skills and competencies from the curriculum modules towards meeting the requirements for a nursing assistant certificate as defined in chapter 18.88A RCW. A process may be developed to test persons completing modules from a caregiver's class to verify that they have the transferable skills and competencies for entry into a nursing assistant training program. The department may review whether facilities can develop their own related long-term care training programs. The department may develop a review process for determining what previous experience and training may be used to waive some or all of the mandatory training. The department of social and health services and the nursing care quality assurance commission shall work together to develop an implementation plan by December 12, 1998.~~))

Sec. 13. RCW 74.39A.310 and 2007 c 361 s 8 are each amended to read as follows:

(1) The department shall create a formula that converts the cost of the increase in wages and benefits negotiated and funded in the contract for individual providers of home care services pursuant to RCW 74.39A.270 and 74.39A.300, into a per-hour amount, excluding those benefits defined in subsections (2) and (3) of this section. That per-hour amount shall be added to the statewide home care agency vendor

rate and shall be used exclusively for improving the wages and benefits of home care agency workers who provide direct care. The formula shall account for:

(a) All types of wages, benefits, and compensation negotiated and funded each biennium, including but not limited to:

(i) Regular, training, and training differential wages;

(ii) Benefit pay, such as vacation, sick, and holiday pay;

(iii) Taxes on wages/benefit pay; and

(iv) Mileage; and

((~~(v) Contributions to a training partnership; and~~))

(b) The increase in the average cost of worker's compensation for home care agencies and application of the increases identified in (a) of this subsection to all hours required to be paid, including travel time, of direct service workers under the wage and hour laws and associated employer taxes.

(2) The contribution rate for health care benefits, including but not limited to medical, dental, and vision benefits, for eligible agency home care workers shall be paid by the department to home care agencies at the same rate as negotiated and funded in the collective bargaining agreement for individual providers of home care services.

(3) The contribution rate for training benefits, including but not limited to entry level training, continuing education, and advanced training for eligible agency home care workers shall be paid by the department to home care agencies at the same rate as negotiated and funded in the collective bargaining agreement for individual providers of home care services.

NEW SECTION. **Sec. 14.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 15.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 16.** This act may be known and cited as the

1 long-term care workers for the elderly and persons with disabilities
2 quality choice initiative.

--- **END** ---