

Initiative Measure No. 1080

FILED

MAR 29 2010

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 (1) "Adult family home" means a home licensed under chapter 70.128
2 RCW.
- 3 (2) "Adult residential care" means services provided by a boarding
4 home that is licensed under chapter 18.20 RCW and that has a contract
5 with the department under RCW 74.39A.020 to provide personal care
6 services.
- 7 (3) "Assisted living services" means services provided by a
8 boarding home that has a contract with the department under RCW
9 74.39A.010 to provide personal care services, intermittent nursing
10 services, and medication administration services, and the resident is
11 housed in a private apartment-like unit.
- 12 (4) "Boarding home" means a facility licensed under chapter 18.20
13 RCW.
- 14 (5) "Core competencies" means basic training topics, including but
15 not limited to, communication skills, worker self-care, problem
16 solving, maintaining dignity, consumer directed care, cultural
17 sensitivity, body mechanics, fall prevention, skin and body care, long-
18 term care worker roles and boundaries, supporting activities of daily
19 living, and food preparation and handling.
- 20 (6) "Cost-effective care" means care provided in a setting of an
21 individual's choice that is necessary to promote the most appropriate
22 level of physical, mental, and psychosocial well-being consistent with
23 client choice, in an environment that is appropriate to the care and
24 safety needs of the individual, and such care cannot be provided at a
25 lower cost in any other setting. But this in no way precludes an
26 individual from choosing a different residential setting to achieve his
27 or her desired quality of life.
- 28 (7) "Department" means the department of social and health
29 services.
- 30 (8) "Developmental disability" has the same meaning as defined in
31 RCW 71A.10.020.
- 32 (9) "Direct care worker" means a paid caregiver who provides
33 direct, hands-on personal care services to persons with disabilities or
34 the elderly requiring long-term care.
- 35 (10) "Enhanced adult residential care" means services provided by
36 a boarding home that is licensed under chapter 18.20 RCW and that has
37 a contract with the department under RCW 74.39A.010 to provide personal

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

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

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

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

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

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

30 (15) "Long-term care" is synonymous with chronic care and means
31 care and supports delivered indefinitely, intermittently, or over a
32 sustained time to persons of any age disabled by chronic mental or
33 physical illness, disease, chemical dependency, or a medical condition
34 that is permanent, not reversible or curable, or is long-lasting and
35 severely limits their mental or physical capacity for self-care. The
36 use of this definition is not intended to expand the scope of services,
37 care, or assistance by any individuals, groups, residential care
38 settings, or professions unless otherwise expressed by law.

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

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

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

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

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

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

36 (21) "Safety and orientation training" means training under RCW
37 74.39A.073, addressing the role of a home care aide, the applicable

1 terms of employment, basic safety precautions, emergency procedures,
2 and infection control.

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

4 ~~((+22+))~~ (23) "Secretary of health" means the secretary of health
5 or the secretary's designee.

6 ~~((+23+))~~ (24) "Training partnership" means a joint partnership or
7 trust that includes the office of the governor and the exclusive
8 bargaining representative of individual providers under RCW 74.39A.270
9 with the capacity to provide training, peer mentoring, and workforce
10 development, or other services to individual providers.

11 ~~((+24+))~~ (25) "Tribally licensed boarding home" means a boarding
12 home licensed by a federally recognized Indian tribe which home
13 provides services similar to boarding homes licensed under chapter
14 18.20 RCW.

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

17 (1) Effective January 1, 2011, except as provided in RCW
18 18.88B.040, the department of health shall require that any person
19 hired as a long-term care worker for the elderly or persons with
20 disabilities must be certified as a home care aide within one hundred
21 fifty days from the date of being hired.

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

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

29 (4) A person may not practice or, by use of any title or
30 description, represent himself or herself as a home care aide without:
31 (a) Receiving five hours of safety and orientation training and seeking
32 certification as a home care aide from the department of health or (b)
33 qualifying for an exemption from certification under RCW 18.88B.040.
34 The department of health shall make available to home care aides a
35 registry by which home care aides may be identified by the public as
36 eligible to provide long-term care services.

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

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

5 (1) Effective January 1, 2011, except as provided in RCW
6 18.88B.040, all persons employed as long-term care workers for the
7 elderly or persons with disabilities must meet the minimum training
8 requirements in this section within one hundred twenty calendar days of
9 employment.

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

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

23 (4) Only training curriculum approved by the department pursuant to
24 section 5 of this act may be used to fulfill the training requirements
25 specified in this section and sections 9 and 10 of this act. ~~((The~~
26 ~~seventy-five hours of entry level training required shall be as~~
27 ~~follows:~~

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

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

34 ~~(c) All long-term care workers must complete seventy hours of~~
35 ~~long-term care basic training, including training related to core~~
36 ~~competencies and population specific competencies.~~

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

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

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

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

8 ~~((7))~~ (6) Home care agency workers who provide direct care shall
9 be compensated for training time required by this section. Training
10 wages to be paid pursuant to this subsection are wages under RCW
11 74.39A.310.

12 (7) The governor must submit, as a part of the proposed biennial or
13 supplemental operating budget submitted to the legislature under RCW
14 43.88.030, a request for funds necessary to administer subsections (5)
15 and (6) of this section or for legislation necessary to implement these
16 subsections.

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

20 ~~((8))~~ (9) The department shall adopt rules by August 1, 2010, to
21 implement subsections ~~((4) and))~~ (5) and (6) of this section.

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

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

31 (2) To qualify as acceptable curriculum for the purposes of RCW
32 74.39A.073, the curriculum must:

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

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

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

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

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

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

24 (a) Program objectives;

25 (b) A curriculum content outline;

26 (c) A sample lesson plan;

27 (d) A skills checklist; and

28 (e) A declaration confirming compliance with the requirements of
29 subsection (2) of this section and RCW 74.39A.073.

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

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

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

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

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

5 (1) Effective January 1, 2011, except as provided in RCW
6 18.88B.040, the department of health shall require that all long-term
7 care workers successfully complete a certification examination. Any
8 (~~long-term-care-worker~~) home care aide failing to make the required
9 grade for the examination will not (~~be~~) become a certified (~~as a~~)
10 home care aide.

11 (2) The department of health, in consultation with consumer and
12 worker representatives, shall develop a home care aide certification
13 examination to evaluate whether an applicant possesses the skills and
14 knowledge necessary to practice competently. Unless excluded by RCW
15 18.88B.040 (1) and (2), only those who have completed the training
16 requirements in RCW 74.39A.073 shall be eligible to sit for this
17 examination.

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

30 (4) All examinations shall be conducted by fair and wholly
31 impartial methods. The certification examination shall be administered
32 and evaluated by the department of health or by a contractor to the
33 department of health that is neither an employer of long-term care
34 workers or private contractors providing training services under this
35 chapter. When an applicant is taking the examination in a language
36 other than English, the department of health shall ensure that the test

1 is administered by an individual or individuals with the language
2 skills of those taking the examination.

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

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

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

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

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

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

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

16 (6) The department of health shall adopt rules by August 1, 2010,
17 that establish the procedures, including criteria for reviewing an
18 applicant's state and federal background checks, ~~((and))~~ determining an
19 applicant's eligibility to sit for an examination pursuant to RCW
20 74.39A.073 or 74.39A.040 (1) and (2), and conducting examinations
21 necessary to carry this section into effect.

22 **Sec. 7.** RCW 18.88B.040 and 2009 c 580 s 15 are each amended to
23 read as follows:

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

26 (1) Registered nurses, licensed practical nurses, certified nursing
27 assistants, medicare-certified home health aides, or other persons who
28 hold a similar health credential, as determined by the secretary of
29 health, or persons with special education training and an endorsement
30 granted by the superintendent of public instruction, as described in
31 RCW 28A.300.010, if the secretary of health determines that the
32 circumstances do not require certification. Individuals exempted by
33 this subsection may obtain certification as a home care aide from the
34 department of health without fulfilling the training requirements in
35 RCW 74.39A.073 but must successfully complete a certification
36 examination pursuant to RCW 18.88B.030.

1 (2) A person already employed as a long-term care worker prior to
2 January 1, 2011, who completes all of his or her training requirements
3 in effect as of the date he or she was hired, is not required to obtain
4 certification. Individuals exempted by this subsection may obtain
5 certification as a home care aide from the department of health without
6 fulfilling the training requirements in RCW 74.39A.073 but must
7 successfully complete a certification examination pursuant to RCW
8 18.88B.030.

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

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

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

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

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

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

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

34 ~~((Effective January 1, 2011, individual providers identified in
35 (a) and (b) of this subsection must complete thirty five hours of
36 training within the first one hundred twenty days of becoming an
37 individual provider. Five of the thirty five hours must be completed~~

1 ~~before becoming eligible to provide care. Two of these five hours~~
2 ~~shall be devoted to an orientation training regarding an individual~~
3 ~~provider's role as caregiver and the applicable terms of employment,~~
4 ~~and three hours shall be devoted to safety training, including basic~~
5 ~~safety precautions, emergency procedures, and infection control.~~
6 ~~Individual providers subject to this requirement include:~~

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

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

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

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

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

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

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

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

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

30 (3) Unless voluntarily certified as a home care aide under chapter
31 2, Laws of 2009, subsection (1) of this section does not apply to ~~((~~

32 ~~(a) An individual provider caring only for his or her biological,~~
33 ~~step, or adoptive child; and~~

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

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

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

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

7 ~~(5)) a biological, step, or adoptive parent who is the individual~~
8 ~~provider only for his or her developmentally disabled son or daughter.~~

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

11 ~~((6))~~ (5) Home care agency workers who provide direct care shall
12 be compensated for training time required by this section. Training
13 wages to be paid pursuant to this subsection are wages under RCW
14 74.39A.310.

15 (6) The governor must submit, as a part of the proposed biennial or
16 supplemental operating budget submitted to the legislature under RCW
17 43.88.030, a request for funds necessary to administer subsections (4)
18 and (5) of this section or for legislation necessary to implement these
19 subsections.

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

22 ~~((7))~~ (8) The department shall adopt rules by August 1, 2010, to
23 implement subsections (4) and (5) of this section.

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

26 (1) The department shall ~~((offer, directly or through contract,))~~
27 ensure training opportunities sufficient for a long-term care worker to
28 accumulate seventy hours of advanced training within a reasonable time
29 period. For individual providers represented by an exclusive
30 bargaining representative under RCW 74.39A.270, the training
31 opportunities shall be offered through the training partnership
32 established under RCW 74.39A.360. Training topics shall include, but
33 are not limited to: Client rights; personal care; mental illness;
34 dementia; developmental disabilities; depression; medication
35 assistance; advanced communication skills; positive client behavior
36 support; developing or improving client-centered activities; dealing
37 with wandering or aggressive client behaviors; medical conditions;

1 nurse delegation core training; peer mentor training; and advocacy for
2 quality care training. The department may not require long-term care
3 workers to obtain the training described in this section.

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

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

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

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

21 (1) The department shall deny payment to any individual provider or
22 agency home care provider of home care services working as or employing
23 a long-term care worker who has not been certified by the department of
24 health as a home care aide as required under chapter 2, Laws of 2009
25 or, if exempted from certification by RCW 18.88B.040, has not completed
26 his or her required training pursuant to chapter 2, Laws of 2009.

27 (2) The department may terminate the contract of any individual
28 provider of home care services, or take any other enforcement measure
29 deemed appropriate by the department if the individual provider does
30 not complete his or her required training or receive certification
31 within the requisite period of time, the individual provider's
32 certification is revoked under chapter 2, Laws of 2009 or, if exempted
33 from certification by RCW 18.88B.040, the individual provider has not
34 completed his or her required training pursuant to chapter 2, Laws of
35 2009.

36 (3) The department shall take appropriate enforcement action
37 related to the contract of a private agency or facility licensed by the

1 state, to provide personal care services, other than an individual
2 provider, who knowingly employs a long-term care worker who is not a
3 certified home care aide as required under chapter 2, Laws of 2009 or,
4 if exempted from certification by RCW 18.88B.040, has not completed his
5 or her required training pursuant to chapter 2, Laws of 2009.

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

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

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

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

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

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

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

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

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

33 (6) Prompt and specific enforcement remedies shall also be
34 implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160,
35 chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have
36 delivered care or failed to deliver care resulting in problems that are
37 serious, recurring, or uncorrected, or that create a hazard that is

1 causing or likely to cause death or serious harm to one or more
2 residents. These enforcement remedies may also include, when
3 appropriate, reasonable conditions on a contract or license. In the
4 selection of remedies, the safety, health, and well-being of residents
5 shall be of paramount importance.

6 (7) All long-term care workers shall be screened through background
7 checks in a uniform and timely manner to ensure that they do not have
8 a criminal history that would disqualify them from working with
9 vulnerable persons. Long-term care workers who are hired after January
10 1, 2012, are subject to background checks under RCW 74.39A.055. This
11 information will be shared with the department of health in accordance
12 with RCW 74.39A.055 to advance the purposes of chapter 2, Laws of 2009.

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

22 (9) The department shall establish, by rule, a state registry which
23 contains identifying information about long-term care workers
24 identified under this chapter who have substantiated findings of abuse,
25 neglect, financial exploitation, or abandonment of a vulnerable adult
26 as defined in RCW 74.34.020. The rule must include disclosure,
27 disposition of findings, notification, findings of fact, appeal rights,
28 and fair hearing requirements. The department shall disclose, upon
29 request, substantiated findings of abuse, neglect, financial
30 exploitation, or abandonment to any person so requesting this
31 information. This information will also be shared with the department
32 of health to advance the purposes of chapter 2, Laws of 2009.

33 (10) Until December 31, 2010, individual providers and home care
34 agency providers must satisfactorily complete department-approved
35 orientation, basic training, and continuing education within the time
36 period specified by the department in rule. ~~((The department shall
37 adopt rules by March 1, 2002, for the implementation of this section.))~~

1 The department shall deny payment to an individual provider or a home
2 care provider who does not complete the training requirements within
3 the time limit specified by the department by rule.

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

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

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

21 ~~((14))~~ (12) Under existing funds the department shall establish
22 internally a quality improvement standards committee to monitor the
23 development of standards and to suggest modifications.

24 ~~((15) Within existing funds, the department shall design, develop,
25 and implement a long term care training program that is flexible,
26 relevant, and qualifies towards the requirements for a nursing
27 assistant certificate as established under chapter 18.88A RCW. This
28 subsection does not require completion of the nursing assistant
29 certificate training program by providers or their staff. The long
30 term care teaching curriculum must consist of a fundamental module, or
31 modules, and a range of other available relevant training modules that
32 provide the caregiver with appropriate options that assist in meeting
33 the resident's care needs. Some of the training modules may include,
34 but are not limited to, specific training on the special care needs of
35 persons with developmental disabilities, dementia, mental illness, and
36 the care needs of the elderly. No less than one training module must
37 be dedicated to workplace violence prevention. The nursing care
38 quality assurance commission shall work together with the department to~~

1 ~~develop the curriculum modules. The nursing care quality assurance~~
2 ~~commission shall direct the nursing assistant training programs to~~
3 ~~accept some or all of the skills and competencies from the curriculum~~
4 ~~modules towards meeting the requirements for a nursing assistant~~
5 ~~certificate as defined in chapter 18.88A RCW. A process may be~~
6 ~~developed to test persons completing modules from a caregiver's class~~
7 ~~to verify that they have the transferable skills and competencies for~~
8 ~~entry into a nursing assistant training program. The department may~~
9 ~~review whether facilities can develop their own related long term care~~
10 ~~training programs. The department may develop a review process for~~
11 ~~determining what previous experience and training may be used to waive~~
12 ~~some or all of the mandatory training. The department of social and~~
13 ~~health services and the nursing care quality assurance commission shall~~
14 ~~work together to develop an implementation plan by December 12, 1998.))~~

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

17 (1) The department shall create a formula that converts the cost of
18 the increase in wages and benefits negotiated and funded in the
19 contract for individual providers of home care services pursuant to RCW
20 74.39A.270 and 74.39A.300, into a per-hour amount, excluding those
21 benefits defined in subsections (2) and (3) of this section. That
22 per-hour amount shall be added to the statewide home care agency vendor
23 rate and shall be used exclusively for improving the wages and benefits
24 of home care agency workers who provide direct care. The formula shall
25 account for:

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

- 28 (i) Regular, training, and training differential wages;
29 (ii) Benefit pay, such as vacation, sick, and holiday pay;
30 (iii) Taxes on wages/benefit pay;
31 (iv) Mileage; and
32 ~~((v) Contributions to a training partnership; and))~~

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

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

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

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

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

19 NEW SECTION. Sec. 16. This act may be known and cited as the
20 long-term care workers for the elderly and persons with disabilities
21 quality choice initiative.

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