

INITIATIVE 970

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 970 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to long-term care services for the elderly and
2 people with disabilities; amending RCW 74.39A.009, 74.39A.050,
3 74.39A.270, 74.39A.300, 74.39A.310, 41.56.465, and 18.130.040; adding
4 new sections to chapter 74.39A RCW; adding a new section to chapter
5 18.88A RCW; creating new sections; and repealing RCW 74.39A.190.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.39A RCW
8 to read as follows:

9 The people take special note of the contributions made by long-term
10 care workers for the elderly or persons with disabilities whose tasks
11 are arduous and critical for the care of our growing elderly population
12 and for persons with disabilities. The people find and declare that
13 long-term care workers for the elderly or persons with disabilities
14 should have a formal system of education and experiential
15 qualifications leading to career mobility and advancement. Their
16 establishment should bring about a more stabilized workforce and
17 provide a valuable resource for recruitment into long-term care
18 services for the elderly and persons with disabilities.

1 The people find that the quality of long-term care services for the
2 elderly and persons with disabilities is dependent upon the competence
3 of the workers who provide those services. To assure and enhance the
4 quality of long-term care services for the elderly and persons with
5 disabilities, the people recognize the need for increased training
6 requirements, mentoring and on-the-job training opportunities, and a
7 formal process to certify home care aides and allow them to obtain
8 certificates of apprenticeship.

9 **Sec. 2.** RCW 74.39A.009 and 2004 c 142 s 14 are each amended to
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

19 (3) "Assisted living services" means services provided by a
20 boarding home that has a contract with the department under RCW
21 74.39A.010 to provide personal care services, intermittent nursing
22 services, and medication administration services, and the resident is
23 housed in a private apartment-like unit.

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

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

34 (6) "Department" means the department of social and health
35 services.

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

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

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

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

21 (10) "Long-term care" is synonymous with chronic care and means
22 care and supports delivered indefinitely, intermittently, or over a
23 sustained time to persons of any age disabled by chronic mental or
24 physical illness, disease, chemical dependency, or a medical condition
25 that is permanent, not reversible or curable, or is long-lasting and
26 severely limits their mental or physical capacity for self-care. The
27 use of this definition is not intended to expand the scope of services,
28 care, or assistance by any individuals, groups, residential care
29 settings, or professions unless otherwise expressed by law.

30 (11) "Long-term care workers for the elderly or persons with
31 disabilities" means all persons, other than licensed health
32 professionals, employed to directly provide state-funded or reimbursed
33 in-home or community-based long-term care services or supportive
34 services to eligible elderly persons or persons with disabilities,
35 including but not limited to individual providers of home care
36 services, direct care employees of home care agencies, adult day care
37 providers, providers of home care services to persons with
38 developmental disabilities under Title 71 RCW, boarding homes, adult
39 family homes, assisted living facilities, respite care providers,

1 community residential service providers, and any other providers of
2 home or community-based services to the elderly or persons with
3 disabilities or developmental disabilities.

4 (12) "Nursing home" means a facility licensed under chapter 18.51
5 RCW.

6 ~~((+12+))~~ (13) "Secretary" means the secretary of social and health
7 services.

8 ~~((+13+))~~ (14) "Tribally licensed boarding home" means a boarding
9 home licensed by a federally recognized Indian tribe which home
10 provides services similar to boarding homes licensed under chapter
11 18.20 RCW.

12 NEW SECTION. Sec. 3. A new section is added to chapter 74.39A RCW
13 to read as follows:

14 (1) Effective January 1, 2009, the department shall require that
15 all persons employed as long-term care workers for the elderly or
16 persons with disabilities meet the minimum training requirements in
17 this section.

18 (2)(a) All entry-level persons employed as long-term care workers
19 for the elderly or persons with disabilities shall be required to
20 obtain eighty-five hours of entry-level training, as follows:

21 (i) Two hours of orientation training in the role of the caregiver
22 and the terms of employment to be completed within two weeks of
23 employment or within fifty hours of work;

24 (ii) Three hours of safety training including basic safety
25 precautions, emergency procedures, and infection control to be
26 completed within two weeks of employment or within fifty hours of work;

27 (iii) Eighty hours of long-term care core competencies training
28 including but not limited to the following training topics: The role
29 of the caregiver; consumer rights and confidentiality; communication
30 and problem-solving skills; personal care skills; health-related tasks
31 training; in-home and nutritional support; body systems; disease and
32 disability training; self-care training; and other training topics
33 relevant to each individual worker's skill needs. This training
34 requirement must be completed within six months of employment or within
35 six hundred hours of work.

36 (b) The department may develop a review process waiving some or all
37 mandatory training requirements for persons who already possess health
38 care degrees or other previous formal training or certification.

1 (c) The requirements of this subsection do not apply to persons
2 already employed prior to January 1, 2009, as long-term care workers
3 for the elderly or persons with disabilities.

4 (3) Effective January 1, 2009, the department shall require that
5 all long-term care workers for the elderly or persons with disabilities
6 obtain twelve hours continuing education training in advanced and
7 specialty training topics each year beginning on the anniversary date
8 of completion of the one hundred fifty hours of training or beginning
9 on January 1, 2010, for existing workers.

10 (4) Only training curriculum approved by the department may be used
11 to fulfill the training requirements specified in this act. The
12 department shall approve any training curriculum that has been
13 developed with input from consumer and worker representatives; allows
14 for comprehensive instruction by qualified instructors on the
15 competencies and training topics in this section; and encourages direct
16 participation by consumers and workers.

17 (5) The department shall deny payment to any long-term care worker
18 for the elderly or persons with disabilities who does not or whose
19 employees do not complete the training requirements and obtain
20 certification as a home care aide within the time limit specified in
21 this chapter.

22 (6) For all long-term care workers for the elderly or persons with
23 disabilities represented by an exclusive bargaining representative
24 under RCW 74.39A.270 and 74.39A.300, all training under this section
25 shall be provided by joint labor-management partnership or trust. The
26 partnership or trust shall provide reports as required by the
27 department verifying that all providers have complied with all training
28 requirements. Employer contributions to the entity are a mandatory
29 subject of the collective bargaining agreement and shall be fixed at a
30 level sufficient to meet the cost of the training requirements and to
31 contribute towards the cost of other services such as adult education,
32 caregiver support, and career development services necessary to recruit
33 and retain a high quality direct care workforce. The partnership or
34 trust must be designated by the certified exclusive bargaining
35 representative representing at least twenty thousand employees.

36 (7) The requirements of this section do not apply to nursing homes
37 licensed under chapter 18.51 RCW.

38 (8) The department shall adopt rules to implement the provisions of
39 this section.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.39A RCW
2 to read as follows:

3 (1) Effective January 1, 2010, the department shall require that
4 all long-term care workers for the elderly or persons with disabilities
5 shall be offered or made available on-the-job training or peer
6 mentorship either in person or remotely for at least one hour a week
7 for the first one hundred twenty days of work. The training or
8 mentoring shall be provided by a long-term care worker who has
9 completed a twelve-hour mentor training course and is mentoring no more
10 than ten other workers at any given time.

11 (2) Effective January 1, 2011, the department shall require that
12 all long-term care workers for the elderly or persons with disabilities
13 shall be offered or made available sixty-five hours of advanced and
14 specialty training including but not limited to topics such as: Client
15 rights; personal care; mental illness; dementia; developmental
16 disabilities; depression; medication assistance; advanced communication
17 skills; positive client behavior support; developing or improving
18 client centered activities; dealing with wandering or aggressive client
19 behaviors; medical conditions; nurse delegation core training; peer
20 mentor training; and advocacy for quality care training.

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

23 (1) After January 1, 2009, all long-term care workers for the
24 elderly or persons with disabilities who have completed the training
25 requirements in section 3 of this act must apply for certification by
26 the department as a home care aide by July 1, 2009, or within six
27 months of employment, or six hundred hours of work, whichever comes
28 first.

29 (2) The department has the authority to:

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

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

34 (c) Issue a certification as a home care aide to any applicant who
35 has passed a home care aide examination;

36 (d) Maintain the official record for the department of all
37 applicants and persons with certificates;

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

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

5 (3) Nursing assistants certified under Chapter 18.88A RCW are
6 eligible to take the state-approved home care aide examination to
7 become certified as a home care aide. If a nursing assistant applicant
8 fails the examination, the applicant shall complete a training course
9 that covers topics specific to home care settings, the duration and
10 scope of which are determined by the department, before becoming
11 eligible to take the examination again.

12 (4) The department shall examine each applicant, by a written or
13 oral and a manual component of competency evaluation. Examinations
14 shall be limited to the purpose of determining whether the applicant
15 possesses the minimum skill and knowledge necessary to practice
16 competently. The examination papers, all grading of the papers, and
17 the grading of skills demonstration shall be preserved for a period of
18 not less than one year. All examinations shall be conducted under fair
19 and wholly impartial methods.

20 (5) The department shall deny payment to any long-term care worker
21 for the elderly or persons with disabilities who does not obtain
22 certification as a home care aide within the time limit specified in
23 this section.

24 (6) With input from consumer and worker representatives, the
25 department shall adopt rules by January 1, 2009, that establish the
26 procedures and examinations necessary to carry into effect the
27 provisions of this chapter.

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

30 Certified home care aides who complete the on-the-job training or
31 peer mentoring in section 4(1) of this act, and the advanced and
32 specialty training of section 4(2) of this act are eligible to receive
33 a certificate of apprenticeship from the Washington state
34 apprenticeship and training council in accordance with the standards of
35 apprenticeship established by local apprenticeship committees.

36 **Sec. 7.** RCW 74.39A.050 and 2004 c 140 s 6 are each amended to read
37 as follows:

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

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

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

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

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

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

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

32 (7) To the extent funding is available, all long-term care staff
33 directly responsible for the care, supervision, or treatment of
34 vulnerable persons should be screened through background checks in a
35 uniform and timely manner to ensure that they do not have a criminal
36 history that would disqualify them from working with vulnerable
37 persons. Whenever a state conviction record check is required by state
38 law, persons may be employed or engaged as volunteers or independent

1 contractors on a conditional basis according to law and rules adopted
2 by the department.

3 (8) No provider or staff, or prospective provider or staff, with a
4 stipulated finding of fact, conclusion of law, an agreed order, or
5 finding of fact, conclusion of law, or final order issued by a
6 disciplining authority, a court of law, or entered into a state
7 registry finding him or her guilty of abuse, neglect, exploitation, or
8 abandonment of a minor or a vulnerable adult as defined in chapter
9 74.34 RCW shall be employed in the care of and have unsupervised access
10 to vulnerable adults.

11 (9) The department shall establish, by rule, a state registry which
12 contains identifying information about personal care aides identified
13 under this chapter who have substantiated findings of abuse, neglect,
14 financial exploitation, or abandonment of a vulnerable adult as defined
15 in RCW 74.34.020. The rule must include disclosure, disposition of
16 findings, notification, findings of fact, appeal rights, and fair
17 hearing requirements. The department shall disclose, upon request,
18 substantiated findings of abuse, neglect, financial exploitation, or
19 abandonment to any person so requesting this information.

20 ~~(10) ((The department shall by rule develop training requirements~~
21 ~~for individual providers and home care agency providers. Effective~~
22 ~~March 1, 2002, individual providers and home care agency providers must~~
23 ~~satisfactorily complete department-approved orientation, basic~~
24 ~~training, and continuing education within the time period specified by~~
25 ~~the department in rule. The department shall adopt rules by March 1,~~
26 ~~2002, for the implementation of this section based on the~~
27 ~~recommendations of the community long-term care training and education~~
28 ~~steering committee established in RCW 74.39A.190. The department shall~~
29 ~~deny payment to an individual provider or a home care provider who does~~
30 ~~not complete the training requirements within the time limit specified~~
31 ~~by the department by rule.~~

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

1 ~~— (12) The department shall create an approval system by March 1,~~
2 ~~2002, for those seeking to conduct department-approved training. In~~
3 ~~the rule-making process, the department shall adopt rules based on the~~
4 ~~recommendations of the community long-term care training and education~~
5 ~~steering committee established in RCW 74.39A.190.~~

6 ~~— (13))~~ The department shall establish, by rule, ((training,))
7 background checks((7)) and other quality assurance requirements for
8 personal aides who provide in-home services funded by medicaid personal
9 care as described in RCW 74.09.520, community options program entry
10 system waiver services as described in RCW 74.39A.030, or chore
11 services as described in RCW 74.39A.110 that are equivalent to
12 requirements for individual providers.

13 ((+14)) (11) Under existing funds the department shall establish
14 internally a quality improvement standards committee to monitor the
15 development of standards and to suggest modifications.

16 ((+15) ~~Within existing funds~~) (12) Consistent with the provisions
17 of section 3 of this act, the department shall design, develop, and
18 implement a long-term care training program that is flexible, relevant,
19 and qualifies towards the requirements for a nursing assistant
20 certificate as established under chapter 18.88A RCW. This subsection
21 does not require completion of the nursing assistant certificate
22 training program by providers or their staff. The long-term care
23 teaching curriculum must consist of a fundamental module, or modules,
24 and a range of other available relevant training modules that provide
25 the caregiver with appropriate options that assist in meeting the
26 resident's care needs. Some of the training modules may include, but
27 are not limited to, specific training on the special care needs of
28 persons with developmental disabilities, dementia, mental illness, and
29 the care needs of the elderly. No less than one training module must
30 be dedicated to workplace violence prevention. The nursing care
31 quality assurance commission shall work together with the department to
32 develop the curriculum modules. The nursing care quality assurance
33 commission shall direct the nursing assistant training programs to
34 accept some or all of the skills and competencies from the curriculum
35 modules towards meeting the requirements for a nursing assistant
36 certificate as defined in chapter 18.88A RCW. A process may be
37 developed to test persons completing modules from a caregiver's class
38 to verify that they have the transferable skills and competencies for
39 entry into a nursing assistant training program. The department may

1 review whether facilities can develop their own related long-term care
2 training programs. The department may develop a review process for
3 determining what previous experience and training may be used to waive
4 some or all of the mandatory training. (~~The department of social and
5 health services and the nursing care quality assurance commission shall
6 work together to develop an implementation plan by December 12, 1998.~~)

7 **Sec. 8.** RCW 74.39A.270 and 2006 c 106 s 1 are each amended to read
8 as follows:

9 (1) Solely for the purposes of collective bargaining and as
10 expressly limited under subsections (2) and (3) of this section, the
11 governor is the public employer, as defined in chapter 41.56 RCW, of
12 individual providers, who, solely for the purposes of collective
13 bargaining, are public employees as defined in chapter 41.56 RCW. To
14 accommodate the role of the state as payor for the community-based
15 services provided under this chapter and to ensure coordination with
16 state employee collective bargaining under chapter 41.80 RCW and the
17 coordination necessary to implement RCW 74.39A.300, the public employer
18 shall be represented for bargaining purposes by the governor or the
19 governor's designee appointed under chapter 41.80 RCW. The governor or
20 governor's designee shall periodically consult with the authority
21 during the collective bargaining process to allow the authority to
22 communicate issues relating to the long-term in-home care services
23 received by consumers. The governor or the governor's designee shall
24 consult the authority on all issues for which the exclusive bargaining
25 representative requests to engage in collective bargaining under
26 subsections (6) and (7) of this section. The authority shall work with
27 the developmental disabilities council, the governor's committee on
28 disability issues and employment, the state council on aging, and other
29 consumer advocacy organizations to obtain informed input from consumers
30 on their interests, including impacts on consumer choice, for all
31 issues proposed for collective bargaining under subsection (6) of this
32 section.

33 (2) Chapter 41.56 RCW governs the collective bargaining
34 relationship between the governor and individual providers, except as
35 otherwise expressly provided in this chapter and except as follows:

36 (a) The only unit appropriate for the purpose of collective
37 bargaining under RCW 41.56.060 is a statewide unit of all individual
38 providers;

1 (b) The showing of interest required to request an election under
2 RCW 41.56.060 is ten percent of the unit, and any intervener seeking to
3 appear on the ballot must make the same showing of interest;

4 (c) The mediation and interest arbitration provisions of RCW
5 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

6 (i) With respect to commencement of negotiations between the
7 governor and the bargaining representative of individual providers,
8 negotiations shall be commenced by May 1st of any year prior to the
9 year in which an existing collective bargaining agreement expires;

10 (ii) With respect to factors to be taken into consideration by an
11 interest arbitration panel, the panel shall consider the financial
12 ability of the state to pay for the compensation and fringe benefit
13 provisions of a collective bargaining agreement; and

14 (iii) The decision of the arbitration panel is not binding on the
15 legislature and, if the legislature does not approve the request for
16 funds necessary to implement the compensation and fringe benefit
17 provisions of the arbitrated collective bargaining agreement, is not
18 binding on the authority or the state;

19 (d) Individual providers do not have the right to strike; and

20 (e) Individual providers who are related to, or family members of,
21 consumers or prospective consumers are not, for that reason, exempt
22 from this chapter or chapter 41.56 RCW.

23 (3) Individual providers who are public employees solely for the
24 purposes of collective bargaining under subsection (1) of this section
25 are not, for that reason, employees of the state, its political
26 subdivisions, or an area agency on aging for any purpose. Chapter
27 41.56 RCW applies only to the governance of the collective bargaining
28 relationship between the employer and individual providers as provided
29 in subsections (1) and (2) of this section.

30 (4) Consumers and prospective consumers retain the right to select,
31 hire, supervise the work of, and terminate any individual provider
32 providing services to them. Consumers may elect to receive long-term
33 in-home care services from individual providers who are not referred to
34 them by the authority.

35 (5) In implementing and administering this chapter, neither the
36 authority nor any of its contractors may reduce or increase the hours
37 of service for any consumer below or above the amount determined to be
38 necessary under any assessment prepared by the department or an area
39 agency on aging.

1 (6) Except as expressly limited in this section and RCW 74.39A.300,
2 the wages, hours, and working conditions of individual providers are
3 determined solely through collective bargaining as provided in this
4 chapter. No agency or department of the state may establish policies
5 or rules governing the wages or hours of individual providers.
6 However, this subsection does not modify:

7 (a) The department's authority to establish a plan of care for each
8 consumer or its core responsibility to manage long-term in-home care
9 services under this chapter, including determination of the level of
10 care that each consumer is eligible to receive. However, at the
11 request of the exclusive bargaining representative, the governor or the
12 governor's designee appointed under chapter 41.80 RCW shall engage in
13 collective bargaining, as defined in RCW 41.56.030(4), with the
14 exclusive bargaining representative over how the department's core
15 responsibility affects hours of work for individual providers. This
16 subsection shall not be interpreted to require collective bargaining
17 over an individual consumer's plan of care;

18 (b) The department's authority to terminate its contracts with
19 individual providers who are not adequately meeting the needs of a
20 particular consumer, or to deny a contract under RCW 74.39A.095(8);

21 (c) The consumer's right to assign hours to one or more individual
22 providers selected by the consumer within the maximum hours determined
23 by his or her plan of care;

24 (d) The consumer's right to select, hire, terminate, supervise the
25 work of, and determine the conditions of employment for each individual
26 provider providing services to the consumer under this chapter;

27 (e) The department's obligation to comply with the federal medicaid
28 statute and regulations and the terms of any community-based waiver
29 granted by the federal department of health and human services and to
30 ensure federal financial participation in the provision of the
31 services; and

32 (f) The legislature's right to make programmatic modifications to
33 the delivery of state services under this title, including standards of
34 eligibility of consumers and individual providers participating in the
35 programs under this title, and the nature of services provided. The
36 governor shall not enter into, extend, or renew any agreement under
37 this chapter that does not expressly reserve the legislative rights
38 described in this subsection (6)(f).

1 (7) At the request of the exclusive bargaining representative, the
2 governor or the governor's designee appointed under chapter 41.80 RCW
3 shall engage in collective bargaining, as defined in RCW 41.56.030(4),
4 with the exclusive bargaining representative over employer
5 contributions for the cost of meeting the training requirements in
6 section 3 of this act and providing such other programs and services
7 necessary to establish and promote the education, training, career
8 development, career ladders, certification, and licensing of a stable,
9 professionally trained long-term care workforce.

10 (8)(a) The state, the department, the authority, the area agencies
11 on aging, or their contractors under this chapter may not be held
12 vicariously or jointly liable for the action or inaction of any
13 individual provider or prospective individual provider, whether or not
14 that individual provider or prospective individual provider was
15 included on the authority's referral registry or referred to a consumer
16 or prospective consumer. The existence of a collective bargaining
17 agreement, the placement of an individual provider on the referral
18 registry, or the development or approval of a plan of care for a
19 consumer who chooses to use the services of an individual provider and
20 the provision of case management services to that consumer, by the
21 department or an area agency on aging, does not constitute a special
22 relationship with the consumer.

23 (b) The members of the board are immune from any liability
24 resulting from implementation of this chapter.

25 ~~((8))~~ (9) Nothing in this section affects the state's
26 responsibility with respect to unemployment insurance for individual
27 providers. However, individual providers are not to be considered, as
28 a result of the state assuming this responsibility, employees of the
29 state.

30 **Sec. 9.** RCW 74.39A.300 and 2004 c 3 s 2 are each amended to read
31 as follows:

32 (1) Upon meeting the requirements of subsection (2) of this
33 section, the governor must submit, as a part of the proposed biennial
34 or supplemental operating budget submitted to the legislature under RCW
35 43.88.030, a request for funds necessary to administer chapter 3, Laws
36 of 2002 and to implement the compensation and fringe benefits
37 provisions of a collective bargaining agreement entered into under RCW
38 74.39A.270 or for legislation necessary to implement such agreement.

1 (2) Except as provided in subsection (3) of this section, a request
2 for funds necessary to implement the compensation and fringe benefits
3 provisions of a collective bargaining agreement entered into under RCW
4 74.39A.270 shall not be submitted by the governor to the legislature
5 unless such request:

6 (a) Has been submitted to the director of financial management by
7 October 1st prior to the legislative session at which the request is to
8 be considered; and

9 (b) Has been certified by the director of financial management as
10 being feasible financially for the state or reflects the binding
11 decision of an arbitration panel reached under RCW 74.39A.270(2)(c).

12 (3) The governor must submit to the first available legislative
13 session a request for funds necessary to implement the training
14 contributions provisions of a collective bargaining agreement entered
15 into under RCW 74.39A.270 as a part of the proposed biennial or
16 supplemental operating budget submitted to the legislature under RCW
17 43.88.030.

18 (4) The legislature must approve or reject the submission of the
19 request for funds as a whole. If the legislature rejects or fails to
20 act on the submission, any such agreement will be reopened solely for
21 the purpose of renegotiating the funds necessary to implement the
22 agreement.

23 (~~(4)~~) (5) When any increase in individual provider wages or
24 benefits is negotiated or agreed to, no increase in wages or benefits
25 negotiated or agreed to under this chapter will take effect unless and
26 until, before its implementation, the department has determined that
27 the increase is consistent with federal law and federal financial
28 participation in the provision of services under Title XIX of the
29 federal social security act.

30 (~~(5)~~) (6) The governor shall periodically consult with the joint
31 committee on employment relations established by RCW 41.80.010
32 regarding appropriations necessary to implement the compensation and
33 fringe benefits provisions of any collective bargaining agreement and,
34 upon completion of negotiations, advise the committee on the elements
35 of the agreement and on any legislation necessary to implement such
36 agreement.

37 (~~(6)~~) (7) After the expiration date of any collective bargaining
38 agreement entered into under RCW 74.39A.270, all of the terms and
39 conditions specified in any such agreement remain in effect until the

1 effective date of a subsequent agreement, not to exceed one year from
2 the expiration date stated in the agreement, except as provided in RCW
3 74.39A.270(6)(f).

4 ~~((7))~~ (8) If, after the compensation and benefit provisions of an
5 agreement are approved by the legislature, a significant revenue
6 shortfall occurs resulting in reduced appropriations, as declared by
7 proclamation of the governor or by resolution of the legislature, both
8 parties shall immediately enter into collective bargaining for a
9 mutually agreed upon modification of the agreement.

10 **Sec. 10.** RCW 74.39A.310 and 2006 c 9 s 1 are each amended to read
11 as follows:

12 (1) The department shall create a formula that converts the cost of
13 the increase in wages and benefits negotiated and funded in the
14 contract for individual providers of home care services pursuant to RCW
15 74.39A.270 and 74.39A.300, into a per-hour amount, excluding those
16 benefits defined in subsection (2) of this section. That per-hour
17 amount shall be added to the statewide home care agency vendor rate and
18 shall be used exclusively for improving the wages and benefits of home
19 care agency workers who provide direct care. The formula shall account
20 for:

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

23 (i) Regular wages;

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

25 (iii) Taxes on wages/benefit pay; ~~((and))~~

26 (iv) Mileage; and

27 (v) Contributions to a joint labor-management partnership or trust
28 pursuant to section 3 of this act; and

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

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

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.88A
2 RCW to read as follows:

3 Home care aides certified under section 5 of this act may apply for
4 certification under this chapter. The secretary shall waive classroom
5 training requirements for certified home care aide applicants if their
6 training under section 3 of this act was completed through a program
7 directed by a registered nurse licensed in the state of Washington and
8 if at least seven hours of this training included instruction in AIDS
9 education and training.

10 **Sec. 12.** RCW 41.56.465 and 1995 c 273 s 2 are each amended to read
11 as follows:

12 (1) In making its determination, the panel shall be mindful of the
13 legislative purpose enumerated in RCW 41.56.430 and, as additional
14 standards or guidelines to aid it in reaching a decision, it shall take
15 into consideration the following factors:

16 (a) The constitutional and statutory authority of the employer;

17 (b) Stipulations of the parties;

18 (c)(i) For employees listed in RCW 41.56.030(7)(a) through (d),
19 comparison of the wages, hours, and conditions of employment of
20 personnel involved in the proceedings with the wages, hours, and
21 conditions of employment of like personnel of like employers of similar
22 size on the west coast of the United States;

23 (ii) For employees listed in RCW 41.56.030(7)(e) through (h),
24 comparison of the wages, hours, and conditions of employment of
25 personnel involved in the proceedings with the wages, hours, and
26 conditions of employment of like personnel of public fire departments
27 of similar size on the west coast of the United States. However, when
28 an adequate number of comparable employers exists within the state of
29 Washington, other west coast employers may not be considered;

30 (iii) For employees listed in RCW 41.56.026 and 41.56.028, the cost
31 of meeting the training requirements in section 3 of this act and
32 providing other such programs and services necessary to protect the
33 quality of long-term health services;

34 (d) The average consumer prices for goods and services, commonly
35 known as the cost of living;

36 (e) Changes in any of the circumstances under (a) through (d) of
37 this subsection during the pendency of the proceedings; and

1 (f) Such other factors, not confined to the factors under (a)
2 through (e) of this subsection, that are normally or traditionally
3 taken into consideration in the determination of wages, hours, and
4 conditions of employment. For those employees listed in RCW
5 41.56.030(7)(a) who are employed by the governing body of a city or
6 town with a population of less than fifteen thousand, or a county with
7 a population of less than seventy thousand, consideration must also be
8 given to regional differences in the cost of living.

9 (2) Subsection (1)(c) of this section may not be construed to
10 authorize the panel to require the employer to pay, directly or
11 indirectly, the increased employee contributions resulting from chapter
12 502, Laws of 1993 or chapter 517, Laws of 1993 as required under
13 chapter 41.26 RCW.

14 **Sec. 13.** RCW 18.130.040 and 2004 c 38 s 2 are each amended to read
15 as follows:

16 (1) This chapter applies only to the secretary and the boards and
17 commissions having jurisdiction in relation to the professions licensed
18 under the chapters specified in this section. This chapter does not
19 apply to any business or profession not licensed under the chapters
20 specified in this section.

21 (2)(a) The secretary has authority under this chapter in relation
22 to the following professions:

23 (i) Dispensing opticians licensed and designated apprentices under
24 chapter 18.34 RCW;

25 (ii) Naturopaths licensed under chapter 18.36A RCW;

26 (iii) Midwives licensed under chapter 18.50 RCW;

27 (iv) Ocularists licensed under chapter 18.55 RCW;

28 (v) Massage operators and businesses licensed under chapter 18.108
29 RCW;

30 (vi) Dental hygienists licensed under chapter 18.29 RCW;

31 (vii) Acupuncturists licensed under chapter 18.06 RCW;

32 (viii) Radiologic technologists certified and X-ray technicians
33 registered under chapter 18.84 RCW;

34 (ix) Respiratory care practitioners licensed under chapter 18.89
35 RCW;

36 (x) Persons registered under chapter 18.19 RCW;

37 (xi) Persons licensed as mental health counselors, marriage and
38 family therapists, and social workers under chapter 18.225 RCW;

1 (xii) Persons registered as nursing pool operators under chapter
2 18.52C RCW;

3 (xiii) Nursing assistants registered or certified under chapter
4 18.88A RCW;

5 (xiv) Health care assistants certified under chapter 18.135 RCW;

6 (xv) Dietitians and nutritionists certified under chapter 18.138
7 RCW;

8 (xvi) Chemical dependency professionals certified under chapter
9 18.205 RCW;

10 (xvii) Sex offender treatment providers and certified affiliate sex
11 offender treatment providers certified under chapter 18.155 RCW;

12 (xviii) Persons licensed and certified under chapter 18.73 RCW or
13 RCW 18.71.205;

14 (xix) Denturists licensed under chapter 18.30 RCW;

15 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

16 (xxi) Surgical technologists registered under chapter 18.215 RCW;

17 ((and))

18 (xxii) Recreational therapists; and

19 (xxiii) Home care aides certified under section 5 of this act.

20 (b) The boards and commissions having authority under this chapter
21 are as follows:

22 (i) The podiatric medical board as established in chapter 18.22
23 RCW;

24 (ii) The chiropractic quality assurance commission as established
25 in chapter 18.25 RCW;

26 (iii) The dental quality assurance commission as established in
27 chapter 18.32 RCW;

28 (iv) The board of hearing and speech as established in chapter
29 18.35 RCW;

30 (v) The board of examiners for nursing home administrators as
31 established in chapter 18.52 RCW;

32 (vi) The optometry board as established in chapter 18.54 RCW
33 governing licenses issued under chapter 18.53 RCW;

34 (vii) The board of osteopathic medicine and surgery as established
35 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
36 18.57A RCW;

37 (viii) The board of pharmacy as established in chapter 18.64 RCW
38 governing licenses issued under chapters 18.64 and 18.64A RCW;

1 (ix) The medical quality assurance commission as established in
2 chapter 18.71 RCW governing licenses and registrations issued under
3 chapters 18.71 and 18.71A RCW;

4 (x) The board of physical therapy as established in chapter 18.74
5 RCW;

6 (xi) The board of occupational therapy practice as established in
7 chapter 18.59 RCW;

8 (xii) The nursing care quality assurance commission as established
9 in chapter 18.79 RCW governing licenses and registrations issued under
10 that chapter;

11 (xiii) The examining board of psychology and its disciplinary
12 committee as established in chapter 18.83 RCW; and

13 (xiv) The veterinary board of governors as established in chapter
14 18.92 RCW.

15 (3) In addition to the authority to discipline license holders, the
16 disciplining authority has the authority to grant or deny licenses
17 based on the conditions and criteria established in this chapter and
18 the chapters specified in subsection (2) of this section. This chapter
19 also governs any investigation, hearing, or proceeding relating to
20 denial of licensure or issuance of a license conditioned on the
21 applicant's compliance with an order entered pursuant to RCW 18.130.160
22 by the disciplining authority.

23 (4) All disciplining authorities shall adopt procedures to ensure
24 substantially consistent application of this chapter, the Uniform
25 Disciplinary Act, among the disciplining authorities listed in
26 subsection (2) of this section.

27 NEW SECTION. **Sec. 14.** RCW 74.39A.190 (Community long-term care
28 training and education steering committee) and 2002 c 233 s 4 & 2000 c
29 121 s 8 are each repealed.

30 NEW SECTION. **Sec. 15.** The provisions of this act are to be
31 liberally construed to effectuate the intent, policies, and purposes of
32 this act.

33 NEW SECTION. **Sec. 16.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 17.** This act may be known and cited as the
2 increased training, mentoring, and certification for long-term care
3 workers for the elderly and persons with disabilities initiative.

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