

HOUSE BILL REPORT

HB 1548

As Reported by House Committee On: Ways & Means

Title: An act relating to implementation of long-term care worker requirements regarding background checks and training.

Brief Description: Concerning the implementation of long-term care worker requirements regarding background checks and training.

Sponsors: Representatives Hunter, Darneille and Kenney; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Ways & Means: 1/31/11, 4/15/11 [DPS].

Brief Summary of Substitute Bill

- Delays the implementation of new basic training and the requirement for home care aide certification for those long-term care (LTC) workers hired on or after January 1, 2014, except for certain individual providers and home care agency providers whose training requirement begins with those hired on or after January 1, 2011, and whose certification requirement begins July 1, 2014.
- Delays the start date for increased continuing education hours for LTC workers to July 1, 2014, and requires compliance only for those required or choosing to maintain home care aide certification, and delays the start date for advanced training and peer mentoring to January 1, 2014.
- Allows nurse delegation to certified home care aides who complete the required nurse delegation training.
- Delays the requirement for fingerprint-based background checks for LTC workers to those hired on or after January 1, 2014.

HOUSE COMMITTEE ON WAYS & MEANS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Seaquist, Springer, Sullivan and Wilcox.

Minority Report: Do not pass. Signed by 2 members: Representatives Hinkle and Schmick.

Staff: Carma Matti-Jackson (786-7140).

Background:

Long-term care (LTC) workers provide care to elderly and disabled clients, many of whom are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Disabilities Services Administration. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores.

The services may be provided: (1) by LTC workers employed in various regulated residential settings; or (2) in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. A paid individual provider may be a relative or a household member, although the client's spouse may not be a paid individual provider under most programs.

The term "long-term care worker" does not include persons employed in nursing homes, hospitals, hospice agencies, or adult day care or health day care centers.

Training/Certification Requirements for LTC Workers.

Various statutory and administrative training requirements apply to LTC workers. In Initiative 1029 (I-1029) adopted in November 2008, mandatory training requirements were increased and home care aide certification was required for certain LTC workers. This law, as amended in 2009, requires the following:

1. an increase from 35 hours of basic training under administrative rules to 75 hours of basic training, to be completed within 120 days of hire for LTC workers hired on or after January 1, 2011. Individual providers must be compensated for training time. Exceptions from the training requirements include:
 - parents caring for only their developmentally disabled child, who must have 12 hours of relevant training within 120 days of becoming an individual provider; and
 - individual providers caring only for their child or their parent and, until 2014, certain respite providers, who must have 35 hours of training within 120 days of becoming an individual provider;
2. certification as home care aides for all LTC workers hired on or after January 1, 2011, except for supported living providers and individual providers caring only for their child or parent; and

3. increased continuing education requirements for LTC workers beginning July 1, 2011, from 10 hours required in administrative rules to 12 hours. Exemptions from continuing education requirements are provided for individual providers caring only for their child and, until 2014, certain respite providers. Individual providers must be compensated for training time.

Advanced training opportunities must be offered to LTC workers beginning January 1, 2012, and a peer mentorship program must begin on July 1, 2011.

As of January 1, 2010, for individual providers represented by an exclusive bargaining representative, all required training and peer mentoring is provided by a training partnership. As of July 1, 2009, contributions to the training partnership are made pursuant to a collective bargaining agreement negotiated with the Governor.

Delegation of Nursing Care Tasks.

Registered nurses may delegate nursing care tasks that are within the nurse's scope of practice to other individuals where the nurse finds it to be in the patient's best interest. Before delegating a nursing care task, the registered nurse must determine the competency of the person to perform the delegated task and evaluate the appropriateness of the delegation. The registered nurse must supervise the person performing the delegated task.

Nursing care tasks requiring substantial skill or the administration of medications generally may not be delegated unless the delegation is to a registered or certified nursing assistant working in a community-based or in-home care setting. Nursing assistants receiving delegation of nursing care tasks must first complete the required core nurse delegation training and, if administering insulin, must complete specialized diabetes nurse delegation training.

Background Checks for LTC Workers.

Under various laws, the DSHS is responsible for investigating the suitability of applicants or service providers who provide in-home services under DSHS programs. These investigations include an examination of state criminal history record information, and under some statutes applicants must be fingerprinted through both the Washington State Patrol and the Federal Bureau of Investigation (FBI).

The passage of I-1029 in 2008, as amended in 2009, requires all LTC workers hired after January 1, 2012, to be screened through state and federal background checks, including checking against the FBI fingerprint identification records system and the National Sex Offenders Registry.

Summary of Substitute Bill:

The training/certification and background check requirements for LTC workers are modified as follows:

Basic Training.

Long-term care workers initially hired before January 1, 2014, who complete the training required at the time of hire are exempt from the new basic training requirements, except that the following LTC workers are exempt only if they were initially hired before January 1, 2011, and completed the training required at the time of hire:

- individual providers, other than respite care providers (those who provide 20 or fewer hours of care for one person in any month) and family member providers (those caring only for the individual provider's spouse or domestic partner, parent, child, sibling, aunt, uncle, cousin, grandparent, grandchild, grandniece or grandnephew, or such relatives related by marriage or domestic partnership); and
- direct care workers employed by home care agencies.

Long-term care workers who are subject to the January 1, 2011, training date are allowed 120 days after being hired or 120 days after the bill's effective date, whichever is later, to obtain the new basic training.

The statutory and/or administrative training currently required for LTC workers employed by community residential service businesses is to be applied toward the required hours of new basic training (instead of applying the new basic training toward those statutory and/or administrative training requirements).

Nurse Delegation Training.

Registered nurses are permitted to delegate certain nursing care tasks to certified home care aides. Certified home care aides who wish to perform nurse delegated nursing care tasks must first complete the required nurse delegation core training. Before administering insulin, the certified home care aide must complete the specialized diabetes nurse delegation training.

Continuing Education.

The increase from 10 to 12 hours of continuing education begins July 1, 2014, instead of July 1, 2011, and applies only to LTC workers who are required or choose to maintain home care aide certification.

Other Training.

Advanced training is offered beginning January 1, 2014, instead of January 1, 2012, and peer mentoring begins January 1, 2014, instead of July 1, 2011.

Home Care Aide Certification.

The home care aide certification requirement is delayed to July 1, 2011, instead of January 1, 2011. The exemptions from the home care aide certification requirement are expanded to include LTC workers who are:

- family member providers; or
- employed by a community residential service business.

Long-term care workers who are subject to the July 1, 2011, certification date are allowed 150 days after being hired or 150 days after July 1, 2011, whichever is later, to obtain certification.

Background Checks.

The requirement to conduct FBI fingerprint-based background checks for LTC workers applies to those hired after January 1, 2014, instead of January 1, 2012.

Definitions.

The definition of "long-term care worker" is modified to specify that these workers provide paid, hands-on personal care services for the elderly or persons with disabilities. A "community residential service business" is defined as one that provides habilitation, instruction, and support to clients who have a developmental disability.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes: (1) retains the January 1, 2011, beginning date for certain individual providers and direct care workers employed by home care agencies, and provides for an alternative compliance date within 120 days after the bill's effective date; (2) allows current training hours for LTC workers in residential programs for adults with developmental disabilities to be applied toward the new basic training hours; (3) delays the certification requirement for LTC workers subject to the new basic training beginning January 1, 2011, until July 1, 2011, and provides for an alternative compliance date within 150 days after July 1, 2011; (4) expands the exemptions from certification to include all LTC workers in community residential programs for adults with developmental disabilities and all family member providers; and (5) provides that continuing education is required only for those LTC workers who must, or choose to, maintain home care certification.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Delaying training saves the state money. Home health and hospice workers are concerned if they have to take this extra training because they care for private pay clients. They will have to pay out of pocket for this extra training. There is already a shortage of home care workers and this new cost for training for private pay workers will create barriers to entering the system. Training should be delayed entirely because there are at least 200 private pay agencies that cannot afford to pay for this training for their workers. The earlier the training delay can be implemented the more savings can be realized. The way the current economy is, additional training should not be the priority. Supported living providers already have significant training that is client centered. Delay training rather than cutting essential services. Licensing and regulations are the issues, not training.

(Opposed) The most pervasive problem with home care is that workers are not trained well enough to care for their clients. Training has already started and it is needed to keep clients

out of nursing homes. Many vulnerable individuals have dementia or developmental disabilities and cannot verbalize their needs. Training needs to be structured around these special needs. Clients with critical needs are at risk of death without the appropriate training. Do not postpone training. Washington is a leader in preparing for the future. This training helps draw young people into home care as a path for employment. Training will help reduce the very high turnover in staff that is seen in this industry. Training standards benefit colleges, employees, clients, and health care providers. It creates a career pathway that does not exist today. Patients deserve the best level of care possible.

Persons Testifying: (In support) Leslie Emerick, Home Care Association of Washington and Washington State Hospice and Palliative Care; Julianne Ferguson, Washington Private Duty Association; Mary Anne Lindeblad, Aging and Disability Services Administration, Department of Social and Health Services; Terry Kohl, Frank Velasquez, and Dorothy W. Schlimme, Washington State Residential Care Council of Adult Family Homes; Cora Castor, Cora's Elder Adult Family Home; Scott Livengood, Community Residential Services Association; and Gerry Scully, L'Arche Noah Sealth of Seattle.

(Opposed) Nancy Dapper; Louise Ryan, Washington State Long-term Care Ombudsman; Joanne Maher, Alzheimer's Association of Western and Central Washington; Sharon Kitchel Purdue, Richmond Nguyen, and Deborah Osborn, Service Employees International Union Healthcare; Dave Budd, ElderHealth; Steve Miller, North Seattle Community College; Leslie Kennedy, Tacoma Community College; and Kris Mason, Highline Community College.

Persons Signed In To Testify But Not Testifying: None.