



1 years have resulted in duplicated provisions, ambiguities, and other  
2 technical errors. The legislature intends to make corrections and  
3 clarify provisions governing services by long-term care workers.

## 4 II. DEFINITIONS

5 **Sec. 201.** RCW 18.88B.010 and 2009 c 2 s 17 are each amended to  
6 read as follows:

7 The definitions in (~~RCW 74.39A.009~~) this section apply throughout  
8 this chapter unless the context clearly requires otherwise.

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

11 (2) "Department" means the department of health.

12 (3) "Home care aide" means a person certified under this chapter.

13 (4) "Individual provider" has the same meaning as defined in RCW  
14 74.39A.009.

15 (5) "Personal care services" has the same meaning as defined in RCW  
16 74.39A.009.

17 (6) "Secretary" means the secretary of the department of health.

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

20 **Sec. 202.** RCW 74.39A.009 and 2009 c 580 s 1 are each amended to  
21 read as follows:

22 Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout this chapter.

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

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

30 (3) "Assisted living services" means services provided by a  
31 boarding home that has a contract with the department under RCW  
32 74.39A.010 to provide personal care services, intermittent nursing  
33 services, and medication administration services, and the resident is  
34 housed in a private apartment-like unit.

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

3 (5) "Community residential service business" means a business that:  
4 (a) Is certified by the department of social and health services to  
5 provide to individuals who have a developmental disability as defined  
6 in RCW 71A.10.020(4):  
7 (i) Group home services;  
8 (ii) Group training home services;  
9 (iii) Supported living services; or  
10 (iv) Voluntary placement services provided in a licensed staff  
11 residential facility for children;  
12 (b) Has a contract with the division of developmental disabilities  
13 to provide the services identified in (a) of this subsection; and  
14 (c) All of the business's long-term care workers are subject to  
15 statutory or regulatory training requirements that are required to  
16 provide the services identified in (a) of this subsection.

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

23 ((+6)) (7) "Cost-effective care" means care provided in a setting  
24 of an individual's choice that is necessary to promote the most  
25 appropriate level of physical, mental, and psychosocial well-being  
26 consistent with client choice, in an environment that is appropriate to  
27 the care and safety needs of the individual, and such care cannot be  
28 provided at a lower cost in any other setting. But this in no way  
29 precludes an individual from choosing a different residential setting  
30 to achieve his or her desired quality of life.

31 ((+7)) (8) "Department" means the department of social and health  
32 services.

33 ((+8)) (9) "Developmental disability" has the same meaning as  
34 defined in RCW 71A.10.020.

35 ((+9)) (10) "Direct care worker" means a paid caregiver who  
36 provides direct, hands-on personal care services to persons with  
37 disabilities or the elderly requiring long-term care.

1       (~~(10)~~) (11) "Enhanced adult residential care" means services  
2 provided by a boarding home that is licensed under chapter 18.20 RCW  
3 and that has a contract with the department under RCW 74.39A.010 to  
4 provide personal care services, intermittent nursing services, and  
5 medication administration services.

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

20       (~~(12)~~) (13) "Home and community-based services" means adult  
21 family homes, in-home services, and other services administered or  
22 provided by contract by the department directly or through contract  
23 with area agencies on aging or similar services provided by facilities  
24 and agencies licensed by the department.

25       (~~(13)~~) (14) "Home care aide" means a long-term care worker who  
26 has obtained certification as a home care aide by the department of  
27 health.

28       (~~(14)~~) (15) "Individual provider" is defined according to RCW  
29 74.39A.240.

30       (~~(15)~~) (16) "Long-term care" is synonymous with chronic care and  
31 means care and supports delivered indefinitely, intermittently, or over  
32 a 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+))~~ (17)(a) "Long-term care workers ~~((for the elderly or~~  
2 ~~persons with disabilities" or "long-term care workers))~~" include~~((s))~~  
3 all persons who ~~((are long-term care workers))~~ provide paid, hands-on  
4 personal care services for the elderly or persons with disabilities,  
5 including but not limited to individual providers of home care  
6 services, direct care ~~((employees of))~~ workers employed by home care  
7 agencies, providers of home care services to persons with developmental  
8 disabilities under Title 71A RCW, all direct care workers in  
9 state-licensed boarding homes, assisted living facilities, and adult  
10 family homes, respite care providers, direct care workers employed by  
11 community residential service ~~((providers))~~ businesses, and any other  
12 direct care worker providing home or community-based services to the  
13 elderly or persons with functional disabilities or developmental  
14 disabilities.

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

23        ~~((+17+))~~ (18) "Nursing home" means a facility licensed under  
24 chapter 18.51 RCW.

25        ~~((+18+))~~ (19) "Personal care services" means physical or verbal  
26 assistance with activities of daily living and instrumental activities  
27 of daily living provided because of a person's functional disability.

28        ~~((+19+))~~ (20) "Population specific competencies" means basic  
29 training topics unique to the care needs of the population the long-  
30 term care worker is serving, including but not limited to, mental  
31 health, dementia, developmental disabilities, young adults with  
32 physical disabilities, and older adults.

33        ~~((+20+))~~ (21) "Qualified instructor" means a registered nurse or  
34 other person with specific knowledge, training, and work experience in  
35 the provision of direct, hands-on personal care and other assistance  
36 services to the elderly or persons with disabilities requiring  
37 long-term care.



1 or which is specifically authorized under this state's laws; or (ii)  
2 who is exempt from certification under RCW 18.88B.041 from providing  
3 services as a long-term care worker.

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

9 ~~(3) The department ((of health)) shall adopt rules ((by August 1,~~  
10 ~~2010,)) to implement this section.~~

11 **Sec. 302.** RCW 18.88B.041 and 2012 c 1 s 105 (Initiative Measure  
12 No. 1163) are each amended to read as follows:

13 (1) The following long-term care workers are not required to become  
14 a certified home care aide pursuant to this chapter((  
15 ~~1~~))):

16 (a)(i)(A) Registered nurses, licensed practical nurses, certified  
17 nursing assistants or persons who are in an approved training program  
18 for certified nursing assistants under chapter 18.88A RCW, medicare-  
19 certified home health aides, or other persons who hold a similar health  
20 credential, as determined by the secretary ((of health)), or persons  
21 with special education training and an endorsement granted by the  
22 superintendent of public instruction, as described in RCW 28A.300.010,  
23 if the secretary ((of health)) determines that the circumstances do not  
24 require certification. ((Individuals exempted by this subsection may  
25 obtain certification as a home care aide from the department of health  
26 without fulfilling the training requirements in RCW 74.39A.073 but must  
27 successfully complete a certification examination pursuant to RCW  
28 18.88B.030.

29 ~~(2))~~ (B) A person ((already employed)) who was initially hired as  
30 a long-term care worker prior to January ((1, 2011)) 7, 2012, and who  
31 completes all of his or her training requirements in effect as of the  
32 date he or she was hired((, is not required to obtain certification)).

33 (ii) Individuals exempted by (a)(i) of this subsection may obtain  
34 certification as a home care aide ((from the department of health))  
35 without fulfilling the training requirements in RCW ((74.39A.073))  
36 74.39A.074(1)(d)(ii) but must successfully complete a certification  
37 examination pursuant to RCW ((18.88B.030)) 18.88B.031.

1       ~~((+3))~~ (b) All long-term care workers employed by ~~((supported~~  
2 ~~living providers are not required to obtain certification under this~~  
3 ~~chapter))~~ community residential service businesses.

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

7       ~~((+5))~~ (d) Prior to ~~((June 30))~~ July 1, 2014, a person hired as an  
8 individual provider who provides twenty hours or less of care for one  
9 person in any calendar month ~~((is not required to obtain certification~~  
10 ~~under this chapter))~~.

11       ~~((+6))~~ (2) A long-term care worker exempted by this section from  
12 the training requirements contained in RCW ~~((74.39A.073))~~ 74.39A.074  
13 may not be prohibited from enrolling in training pursuant to that  
14 section.

15       ~~((+7))~~ (3) The department ~~((of health))~~ shall adopt rules ~~((by~~  
16 ~~August 1, 2010,))~~ to implement this section.

17       NEW SECTION. Sec. 303. A new section is added to chapter 18.88B  
18 RCW to read as follows:

19       (1) The department has the authority to:

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

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

24       (c) Issue certification as a home care aide to any applicant who  
25 has successfully completed the home care aide examination, and renew  
26 such certificates;

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

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

31       (f) Deny certification to applicants who do not meet training,  
32 competency examination, and conduct requirements, including background  
33 checks, for certification.

34       (2) The department shall adopt rules that establish the procedures,  
35 including criteria for reviewing an applicant's state and federal  
36 background checks, and examinations necessary to implement this  
37 section.

1       **Sec. 304.** RCW 18.88B.031 and 2012 c 1 s 104 (Initiative Measure  
2 No. 1163) are each amended to read as follows:

3       (1) (~~Effective January 1, 2011,~~) Except as provided in RCW  
4 (~~18.88B.040~~) 18.88B.041 and subject to the other requirements of this  
5 chapter, (the department of health shall require that all) to be  
6 certified as a home care aide, a long-term care worker(~~s~~) must  
7 successfully complete the training required under RCW 74.39A.074(1) and  
8 a certification examination. Any long-term care worker failing to make  
9 the required grade for the examination (~~will~~) may not be certified as  
10 a 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~~)  
15 Except as provided by RCW (~~18.88B.040 (1) and (2)~~)  
16 18.88B.041(1)(a)(ii), only those who have completed the training  
17 requirements in RCW (~~74.39A.073~~) 74.39A.074(1) shall be eligible to  
18 sit for this examination.

19       (3) The examination shall include both a skills demonstration and  
20 a written or oral knowledge test. The examination papers, all grading  
21 of the papers, and records related to the grading of skills  
22 demonstration shall be preserved for a period of not less than one  
23 year. The department (~~of health~~) shall establish rules governing the  
24 number of times and under what circumstances individuals who have  
25 failed the examination may sit for the examination, including whether  
26 any intermediate remedial steps should be required.

27       (4) All examinations shall be conducted by fair and wholly  
28 impartial methods. The certification examination shall be administered  
29 and evaluated by the department (~~of health~~) or by a contractor to the  
30 department (~~of health~~) that is neither an employer of long-term care  
31 workers or a private contractor(~~s~~) providing training services under  
32 this chapter.

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

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

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

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

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

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

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

9 ~~(6)) The department ((of health)) shall adopt rules ((by August 1,~~  
10 ~~2010, that establish the procedures, including criteria for reviewing~~  
11 ~~an applicant's state and federal background checks, and examinations~~  
12 ~~necessary to carry this section into effect)) to implement this~~  
13 ~~section.~~

#### 14 IV. TRAINING PROVISIONS

15 **Sec. 401.** RCW 74.39A.074 and 2012 c 1 s 107 (Initiative Measure  
16 No. 1163) are each amended to read as follows:

17 (1) ~~((Effective January 1, 2011,))~~ (a) Beginning January 7, 2012,  
18 except ((as provided in RCW 18.88B.040)) for long-term care workers  
19 exempt from certification under RCW 18.88B.041(1)(a) and, until January  
20 1, 2016, those exempt under RCW 18.88B.041(1)(b), all persons  
21 ((employed)) hired as long-term care workers ((for the elderly or  
22 persons with disabilities)) must meet the minimum training requirements  
23 in this section within one hundred twenty calendar days ((of  
24 employment)) after the date of being hired or within one hundred twenty  
25 calendar days after the effective date of this section, whichever is  
26 later. In computing the time periods in this subsection, the first day  
27 is the date of hire or the effective date of this section, whichever is  
28 applicable.

29 ~~((2) All persons employed as long-term care workers must obtain))~~  
30 (b) Except as provided in RCW 74.39A.076, the minimum training  
31 requirement is seventy-five hours of entry-level training approved by  
32 the department. A long-term care worker must ((accomplish))  
33 successfully complete five of these seventy-five hours before  
34 ((becoming)) being eligible to provide care.

35 ~~((3)) (c) Training required by (d) of this subsection ((4)(e) of~~  
36 ~~this section will be applied)) applies toward((s)) the training~~

1 required under RCW 18.20.270 or 70.128.230 (~~as well as~~) or any  
2 statutory or regulatory training requirements for long-term care  
3 workers employed by (~~supportive living providers~~) community  
4 residential service businesses.

5 (~~(4) Only training curriculum approved by the department may be~~  
6 ~~used to fulfill the training requirements specified in this section.~~)

7 (d) The seventy-five hours of entry-level training required shall be  
8 as follows:

9 (~~(a)~~) (i) Before a long-term care worker is eligible to provide  
10 care, he or she must complete:

11 (A) Two hours of orientation training regarding his or her role as  
12 caregiver and the applicable terms of employment; and

13 (~~(b) Before a long term care worker is eligible to provide care,~~  
14 ~~he or she must complete~~) (B) Three hours of safety training, including

15 basic safety precautions, emergency procedures, and infection control;  
16 and

17 (~~(c) All long term care workers must complete~~) (ii) Seventy hours  
18 of long-term care basic training, including training related to core  
19 competencies and population specific competencies.

20 (~~(5)~~) (2) Only training curriculum approved by the department may  
21 be used to fulfill the training requirements specified in this section.

22 The department shall only approve training curriculum that:

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

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

27 (~~(6)~~) (3) Individual providers under RCW 74.39A.270 shall be  
28 compensated for training time required by this section.

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

31 ~~(8)~~) (4) The department shall adopt rules (~~by August 1, 2010,~~)  
32 to implement (~~subsections (4) and (5) of~~) this section.

33 **Sec. 402.** RCW 74.39A.076 and 2012 c 1 s 108 (Initiative Measure  
34 No. 1163) are each amended to read as follows:

35 (1) (~~Effective January 1, 2011,~~) Beginning January 7, 2012:

36 (a) A biological, step, or adoptive parent who is the individual  
37 provider only for his or her developmentally disabled son or daughter

1 must receive twelve hours of training relevant to the needs of adults  
2 with developmental disabilities within the first one hundred twenty  
3 days ~~((of))~~ after becoming an individual provider or within one hundred  
4 twenty calendar days after the effective date of this section,  
5 whichever is later.

6 ~~((2) Effective January 1, 2011,))~~ (b) Individual providers  
7 identified in ~~((a) and))~~ (b)(i) and (ii) of this subsection must  
8 complete thirty-five hours of training within the first one hundred  
9 twenty days ~~((of))~~ after becoming an individual provider or within one  
10 hundred twenty calendar days after the effective date of this section,  
11 whichever is later. Five of the thirty-five hours must be completed  
12 before becoming eligible to provide care. Two of these five hours  
13 shall be devoted to an orientation training regarding an individual  
14 provider's role as caregiver and the applicable terms of employment,  
15 and three hours shall be devoted to safety training, including basic  
16 safety precautions, emergency procedures, and infection control.  
17 Individual providers subject to this requirement include:

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

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

24 (2) In computing the time periods in this section, the first day is  
25 the date of hire or the effective date of this section, whichever is  
26 applicable.

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

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

32 (b) Requires comprehensive instruction by qualified instructors.

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

35 **Sec. 403.** RCW 74.39A.331 and 2012 c 1 s 111 (Initiative Measure  
36 No. 1163) are each amended to read as follows:

37 Long-term care workers shall be offered on-the-job training or peer

1 mentorship for at least one hour per week in the first ninety days of  
2 work from a long-term care worker who has completed at least twelve  
3 hours of mentor training and is mentoring no more than ten other  
4 workers at any given time. This requirement applies to long-term care  
5 workers who begin work on or after July 1, (~~(2011)~~) 2012.

6 **Sec. 404.** RCW 74.39A.351 and 2012 c 1 s 113 (Initiative Measure  
7 No. 1163) are each amended to read as follows:

8 (1) The department shall offer, directly or through contract,  
9 training opportunities sufficient for a long-term care worker to  
10 accumulate seventy hours of training within a reasonable time period.  
11 For individual providers represented by an exclusive bargaining  
12 representative under RCW 74.39A.270, the training opportunities shall  
13 be offered through the training partnership established under RCW  
14 74.39A.360.

15 (2) Training topics offered under this section shall include, but  
16 are not limited to: Client rights; personal care; mental illness;  
17 dementia; developmental disabilities; depression; medication  
18 assistance; advanced communication skills; positive client behavior  
19 support; developing or improving client-centered activities; dealing  
20 with wandering or aggressive client behaviors; medical conditions;  
21 nurse delegation core training; peer mentor training; and advocacy for  
22 quality care training.

23 (3) The department may not require long-term care workers to obtain  
24 the training described in this section. (~~(This)~~)

25 (4) The requirement to offer advanced training applies beginning  
26 January 1, (~~(2012)~~) 2013.

27 **Sec. 405.** RCW 74.39A.341 and 2012 c 1 s 112 (Initiative Measure  
28 No. 1163) are each amended to read as follows:

29 ~~(The department of health shall ensure that)~~ All long-term  
30 care workers shall complete twelve hours of continuing education  
31 training in advanced training topics each year. This requirement  
32 applies beginning (~~(on)~~) July 1, (~~(2011)~~) 2012.

33 (2) Completion of continuing education as required in this section  
34 is a prerequisite to maintaining home care aide certification under  
35 chapter (~~(2, Laws of 2009)~~) 18.88B RCW.

1 (3) Unless voluntarily certified as a home care aide under chapter  
2 (~~(2, Laws of 2009)~~) 18.88B RCW, subsection (1) of this section does not  
3 apply to:

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

6 (b) Before January 1, 2016, a long-term care worker employed by a  
7 community residential service business; or

8 (c) Before (~~June 30~~) July 1, 2014, a person hired as an  
9 individual provider who provides twenty hours or less of care for one  
10 person in any calendar month.

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

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

16 (b) Requires comprehensive instruction by qualified instructors.

17 (5) Individual providers under RCW 74.39A.270 shall be compensated  
18 for training time required by this section.

19 (6) The department of health shall adopt rules (~~(by August 1,~~  
20 ~~2010,)~~) to implement subsection(~~(s)~~) (1)(~~(, (2), and (3))~~) of this  
21 section.

22 (7) The department shall adopt rules (~~(by August 1, 2010,)~~) to  
23 implement subsection (~~((4))~~) (2) of this section.

24 NEW SECTION. Sec. 406. A new section is added to chapter 18.88B  
25 RCW to read as follows:

26 (1) The legislature recognizes that nurses have been successfully  
27 delegating nursing care tasks to family members and others for many  
28 years. The opportunity for a nurse to delegate nursing care tasks to  
29 home care aides certified under this chapter may enhance the viability  
30 and quality of health care services in community-based care settings  
31 and in-home care settings to allow individuals to live as independently  
32 as possible with maximum safeguards.

33 (2)(a) A certified home care aide who wishes to perform a nurse  
34 delegated task pursuant to RCW 18.79.260 must complete nurse delegation  
35 core training under chapter 18.88A RCW before the home care aide may be  
36 delegated a nursing care task by a registered nurse delegator. Before  
37 administering insulin, a home care aide must also complete the

1 specialized diabetes nurse delegation training under chapter 18.88A  
2 RCW. Before commencing any specific nursing care tasks authorized  
3 under RCW 18.79.260, the home care aide must:

4 (i) Provide to the delegating nurse a transcript or certificate of  
5 successful completion of training issued by an approved instructor or  
6 approved training entity indicating the completion of basic core nurse  
7 delegation training; and

8 (ii) Meet any additional training requirements mandated by the  
9 nursing care quality assurance commission. Any exception to these  
10 training requirements is subject to RCW 18.79.260(3)(e)(vi).

11 (b) In addition to meeting the requirements of (a) of this  
12 subsection, before providing delegated nursing care tasks that involve  
13 administration of insulin by injection to individuals with diabetes,  
14 the home care aide must provide to the delegating nurse a transcript or  
15 certificate of successful completion of training issued by an approved  
16 instructor or approved training entity indicating completion of  
17 specialized diabetes nurse delegation training. The training must  
18 include, but is not limited to, instruction regarding diabetes,  
19 insulin, sliding scale insulin orders, and proper injection procedures.

20 (3) The home care aide is accountable for his or her own individual  
21 actions in the delegation process. Home care aides accurately  
22 following written delegation instructions from a registered nurse are  
23 immune from liability regarding the performance of the delegated  
24 duties.

25 (4) Home care aides are not subject to any employer reprisal or  
26 disciplinary action by the secretary for refusing to accept delegation  
27 of a nursing care task based on his or her concerns about patient  
28 safety issues. No provider of a community-based care setting as  
29 defined in RCW 18.79.260, or in-home services agency as defined in RCW  
30 70.127.010, may discriminate or retaliate in any manner against a  
31 person because the person made a complaint about the nurse delegation  
32 process or cooperated in the investigation of the complaint.

33 **Sec. 407.** RCW 18.79.260 and 2009 c 203 s 1 are each amended to  
34 read as follows:

35 (1) A registered nurse under his or her license may perform for  
36 compensation nursing care, as that term is usually understood, to  
37 individuals with illnesses, injuries, or disabilities.

1 (2) A registered nurse may, at or under the general direction of a  
2 licensed physician and surgeon, dentist, osteopathic physician and  
3 surgeon, naturopathic physician, optometrist, podiatric physician and  
4 surgeon, physician assistant, osteopathic physician assistant, or  
5 advanced registered nurse practitioner acting within the scope of his  
6 or her license, administer medications, treatments, tests, and  
7 inoculations, whether or not the severing or penetrating of tissues is  
8 involved and whether or not a degree of independent judgment and skill  
9 is required. Such direction must be for acts which are within the  
10 scope of registered nursing practice.

11 (3) A registered nurse may delegate tasks of nursing care to other  
12 individuals where the registered nurse determines that it is in the  
13 best interest of the patient.

14 (a) The delegating nurse shall:

15 (i) Determine the competency of the individual to perform the  
16 tasks;

17 (ii) Evaluate the appropriateness of the delegation;

18 (iii) Supervise the actions of the person performing the delegated  
19 task; and

20 (iv) Delegate only those tasks that are within the registered  
21 nurse's scope of practice.

22 (b) A registered nurse, working for a home health or hospice agency  
23 regulated under chapter 70.127 RCW, may delegate the application,  
24 instillation, or insertion of medications to a registered or certified  
25 nursing assistant under a plan of care.

26 (c) Except as authorized in (b) or (e) of this subsection, a  
27 registered nurse may not delegate the administration of medications.  
28 Except as authorized in (e) of this subsection, a registered nurse may  
29 not delegate acts requiring substantial skill, and may not delegate  
30 piercing or severing of tissues. Acts that require nursing judgment  
31 shall not be delegated.

32 (d) No person may coerce a nurse into compromising patient safety  
33 by requiring the nurse to delegate if the nurse determines that it is  
34 inappropriate to do so. Nurses shall not be subject to any employer  
35 reprisal or disciplinary action by the nursing care quality assurance  
36 commission for refusing to delegate tasks or refusing to provide the  
37 required training for delegation if the nurse determines delegation may  
38 compromise patient safety.

1 (e) For delegation in community-based care settings or in-home care  
2 settings, a registered nurse may delegate nursing care tasks only to  
3 registered or certified nursing assistants or home care aides certified  
4 under chapter 18.88B RCW. Simple care tasks such as blood pressure  
5 monitoring, personal care service, diabetic insulin device set up,  
6 verbal verification of insulin dosage for sight-impaired individuals,  
7 or other tasks as defined by the nursing care quality assurance  
8 commission are exempted from this requirement.

9 (i) "Community-based care settings" includes: Community  
10 residential programs for people with developmental disabilities,  
11 certified by the department of social and health services under chapter  
12 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and  
13 boarding homes licensed under chapter 18.20 RCW. Community-based care  
14 settings do not include acute care or skilled nursing facilities.

15 (ii) "In-home care settings" include an individual's place of  
16 temporary or permanent residence, but does not include acute care or  
17 skilled nursing facilities, and does not include community-based care  
18 settings as defined in (e)(i) of this subsection.

19 (iii) Delegation of nursing care tasks in community-based care  
20 settings and in-home care settings is only allowed for individuals who  
21 have a stable and predictable condition. "Stable and predictable  
22 condition" means a situation in which the individual's clinical and  
23 behavioral status is known and does not require the frequent presence  
24 and evaluation of a registered nurse.

25 (iv) The determination of the appropriateness of delegation of a  
26 nursing task is at the discretion of the registered nurse. Other than  
27 delegation of the administration of insulin by injection for the  
28 purpose of caring for individuals with diabetes, the administration of  
29 medications by injection, sterile procedures, and central line  
30 maintenance may never be delegated.

31 (v) When delegating insulin injections under this section, the  
32 registered nurse delegator must instruct the individual regarding  
33 proper injection procedures and the use of insulin, demonstrate proper  
34 injection procedures, and must supervise and evaluate the individual  
35 performing the delegated task weekly during the first four weeks of  
36 delegation of insulin injections. If the registered nurse delegator  
37 determines that the individual is competent to perform the injection

1 properly and safely, supervision and evaluation shall occur at least  
2 every ninety days thereafter.

3 (vi)(A) The registered nurse shall verify that the nursing  
4 assistant or home care aide, as the case may be, has completed the  
5 required core nurse delegation training required in chapter 18.88A RCW  
6 prior to authorizing delegation.

7 (B) Before commencing any specific nursing tasks authorized to be  
8 delegated in this section, a home care aide must be certified pursuant  
9 to chapter 18.88B RCW and must comply with section 406 of this act.

10 (vii) The nurse is accountable for his or her own individual  
11 actions in the delegation process. Nurses acting within the protocols  
12 of their delegation authority are immune from liability for any action  
13 performed in the course of their delegation duties.

14 (viii) Nursing task delegation protocols are not intended to  
15 regulate the settings in which delegation may occur, but are intended  
16 to ensure that nursing care services have a consistent standard of  
17 practice upon which the public and the profession may rely, and to  
18 safeguard the authority of the nurse to make independent professional  
19 decisions regarding the delegation of a task.

20 (f) The nursing care quality assurance commission may adopt rules  
21 to implement this section.

22 (4) Only a person licensed as a registered nurse may instruct  
23 nurses in technical subjects pertaining to nursing.

24 (5) Only a person licensed as a registered nurse may hold herself  
25 or himself out to the public or designate herself or himself as a  
26 registered nurse.

## 27 V. BACKGROUND CHECK REQUIREMENT

28 NEW SECTION. Sec. 501. A new section is added to chapter 18.88B  
29 RCW to read as follows:

30 A long-term care worker disqualified from working with vulnerable  
31 persons under chapter 74.39A RCW may not be certified as a home care  
32 aide under this chapter. To allow the department to satisfy its  
33 certification responsibilities under this chapter, the department of  
34 social and health services shall share the results of state and federal  
35 background checks conducted pursuant to RCW 74.39A.056 with the

1 department. Neither department may share the federal background check  
2 results with any other state agency or person.

3 **Sec. 502.** RCW 74.39A.261 and 2012 c 1 s 102 (Initiative Measure  
4 No. 1163) are each amended to read as follows:

5 The department must perform criminal background checks for  
6 individual providers and prospective individual providers (~~(and ensure~~  
7 ~~that the authority has ready access to any long term care abuse and~~  
8 ~~neglect registry used by the department. Individual providers who are~~  
9 ~~hired after January 1, 2012, are subject to background checks)) under  
10 RCW (~~(74.39A.055))~~ 74.39A.056.~~

11 **Sec. 503.** RCW 74.39A.056 and 2012 c 1 s 101 (Initiative Measure  
12 No. 1163) are each amended to read as follows:

13 (1)(a) All long-term care workers (~~(for the elderly or persons with~~  
14 ~~disabilities hired after January 1, 2012,))~~ shall be screened through  
15 state and federal background checks in a uniform and timely manner to  
16 (~~(ensure))~~ verify that they do not have a criminal history that would  
17 disqualify them from working with vulnerable persons. (~~(These))~~ The  
18 department must perform criminal background checks for individual  
19 providers and prospective individual providers and make the information  
20 available as provided by law.

21 (b) For long-term care workers hired after January 7, 2012, the  
22 background checks required under this section shall include checking  
23 against the federal bureau of investigation fingerprint identification  
24 records system and against the national sex offenders registry or their  
25 successor programs. The department shall require these long-term care  
26 workers to submit fingerprints for the purpose of investigating  
27 conviction records through both the Washington state patrol and the  
28 federal bureau of investigation. The department shall not pass on the  
29 cost of these criminal background checks to the workers or their  
30 employers.

31 (~~(2) To allow the department of health to satisfy its~~  
32 ~~certification responsibilities under chapter 18.88B RCW,))~~ (c) The  
33 department shall share state and federal background check results with  
34 the department of health(~~(. Neither department may share the federal~~  
35 ~~background check results with any other state agency or person))~~ in  
36 accordance with section 501 of this act.

1        ~~((3) The department shall not pass on the cost of these criminal~~  
2 ~~background checks to the workers or their employers.))~~ (2) No provider,  
3 or its staff, or long-term care worker, or prospective provider or  
4 long-term care worker, with a stipulated finding of fact, conclusion of  
5 law, an agreed order, or finding of fact, conclusion of law, or final  
6 order issued by a disciplining authority or a court of law or entered  
7 into a state registry with a final substantiated finding of abuse,  
8 neglect, exploitation, or abandonment of a minor or a vulnerable adult  
9 as defined in chapter 74.34 RCW shall be employed in the care of and  
10 have unsupervised access to vulnerable adults.

11        (3) The department shall establish, by rule, a state registry which  
12 contains identifying information about long-term care workers  
13 identified under this chapter who have final substantiated findings of  
14 abuse, neglect, financial exploitation, or abandonment of a vulnerable  
15 adult as defined in RCW 74.34.020. The rule must include disclosure,  
16 disposition of findings, notification, findings of fact, appeal rights,  
17 and fair hearing requirements. The department shall disclose, upon  
18 request, final substantiated findings of abuse, neglect, financial  
19 exploitation, or abandonment to any person so requesting this  
20 information. This information must also be shared with the department  
21 of health to advance the purposes of chapter 18.88B RCW.

22        (4) The department shall adopt rules to implement ~~((the provisions~~  
23 ~~of))~~ this section ~~((by August 1, 2010))~~.

24        **Sec. 504.** RCW 18.20.125 and 2011 1st sp.s. c 31 s 15 are each  
25 amended to read as follows:

26        (1) Inspections must be outcome based and responsive to resident  
27 complaints and based on a clear set of health, quality of care, and  
28 safety standards that are easily understandable and have been made  
29 available to facilities, residents, and other interested parties. This  
30 includes that when conducting licensing inspections, the department  
31 shall interview an appropriate percentage of residents, family members,  
32 and advocates in addition to interviewing appropriate staff.

33        (2) Prompt and specific enforcement remedies shall also be  
34 implemented without delay, consistent with RCW 18.20.190, for  
35 facilities found to have delivered care or failed to deliver care  
36 resulting in problems that are serious, recurring, or uncorrected, or  
37 that create a hazard that is causing or likely to cause death or

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

5 (3)(a) To the extent funding is available, the licensee,  
6 administrator, and their staff should 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 adults. Employees may be provisionally hired pending the  
10 results of the background check if they have been given three positive  
11 references.

12 (b) Long-term care workers, as defined in RCW 74.39A.009, who are  
13 hired after January (~~(1, 2014)~~) 7, 2012, are subject to background  
14 checks under RCW (~~(74.39A.055)~~) 74.39A.056.

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

23 **Sec. 505.** RCW 43.20A.710 and 2011 1st sp.s. c 31 s 16 are each  
24 amended to read as follows:

25 (1) The secretary shall investigate the conviction records, pending  
26 charges and disciplinary board final decisions of:

27 (a) Any current employee or applicant seeking or being considered  
28 for any position with the department who will or may have unsupervised  
29 access to children, vulnerable adults, or individuals with mental  
30 illness or developmental disabilities. This includes, but is not  
31 limited to, positions conducting comprehensive assessments, financial  
32 eligibility determinations, licensing and certification activities,  
33 investigations, surveys, or case management; or for state positions  
34 otherwise required by federal law to meet employment standards;

35 (b) Individual providers who are paid by the state and providers  
36 who are paid by home care agencies to provide in-home services  
37 involving unsupervised access to persons with physical, mental, or

1 developmental disabilities or mental illness, or to vulnerable adults  
2 as defined in chapter 74.34 RCW, including but not limited to services  
3 provided under chapter 74.39 or 74.39A RCW; and

4 (c) Individuals or businesses or organizations for the care,  
5 supervision, case management, or treatment of children, persons with  
6 developmental disabilities, or vulnerable adults, including but not  
7 limited to services contracted for under chapter 18.20, 70.127, 70.128,  
8 72.36, or 74.39A RCW or Title 71A RCW.

9 (2) The secretary shall require a fingerprint-based background  
10 check through both the Washington state patrol and the federal bureau  
11 of investigation as provided in RCW 43.43.837. Unless otherwise  
12 authorized by law, the secretary shall use the information solely for  
13 the purpose of determining the character, suitability, and competence  
14 of the applicant.

15 (3) Except as provided in subsection (4) of this section, an  
16 individual provider or home care agency provider who has resided in the  
17 state less than three years before applying for employment involving  
18 unsupervised access to a vulnerable adult as defined in chapter 74.34  
19 RCW must be fingerprinted for the purpose of investigating conviction  
20 records through both the Washington state patrol and the federal bureau  
21 of investigation. This subsection applies only with respect to the  
22 provision of in-home services funded by medicaid personal care under  
23 RCW 74.09.520, community options program entry system waiver services  
24 under RCW 74.39A.030, or chore services under RCW 74.39A.110. However,  
25 this subsection does not supersede RCW 74.15.030(2)(b).

26 (4) Long-term care workers, as defined in RCW 74.39A.009, who are  
27 hired after January (~~(1, 2014)~~) 7, 2012, are subject to background  
28 checks under RCW (~~(74.39A.055)~~) 74.39A.056, except that the department  
29 may require a background check at any time under RCW 43.43.837. For  
30 the purposes of this subsection, "background check" includes, but is  
31 not limited to, a fingerprint check submitted for the purpose of  
32 investigating conviction records through both the Washington state  
33 patrol and the federal bureau of investigation.

34 (5) An individual provider or home care agency provider hired to  
35 provide in-home care for and having unsupervised access to a vulnerable  
36 adult as defined in chapter 74.34 RCW must have no conviction for a  
37 disqualifying crime under RCW 43.43.830 and 43.43.842. An individual  
38 or home care agency provider must also have no conviction for a crime

1 relating to drugs as defined in RCW 43.43.830. This subsection applies  
2 only with respect to the provision of in-home services funded by  
3 medicaid personal care under RCW 74.09.520, community options program  
4 entry system waiver services under RCW 74.39A.030, or chore services  
5 under RCW 74.39A.110.

6 (6) The secretary shall provide the results of the state background  
7 check on long-term care workers, including individual providers, to the  
8 persons hiring them or to their legal guardians, if any, for their  
9 determination of the character, suitability, and competence of the  
10 applicants. If the person elects to hire or retain an individual  
11 provider after receiving notice from the department that the applicant  
12 has a conviction for an offense that would disqualify the applicant  
13 from having unsupervised access to persons with physical, mental, or  
14 developmental disabilities or mental illness, or to vulnerable adults  
15 as defined in chapter 74.34 RCW, then the secretary shall deny payment  
16 for any subsequent services rendered by the disqualified individual  
17 provider.

18 (7) Criminal justice agencies shall provide the secretary such  
19 information as they may have and that the secretary may require for  
20 such purpose.

21 **Sec. 506.** RCW 43.43.837 and 2011 1st sp.s. c 31 s 17 are each  
22 amended to read as follows:

23 (1) Except as provided in subsection (2) of this section, in order  
24 to determine the character, competence, and suitability of any  
25 applicant or service provider to have unsupervised access, the  
26 secretary may require a fingerprint-based background check through both  
27 the Washington state patrol and the federal bureau of investigation at  
28 any time, but shall require a fingerprint-based background check when  
29 the applicant or service provider has resided in the state less than  
30 three consecutive years before application, and:

31 (a) Is an applicant or service provider providing services to  
32 children or people with developmental disabilities under RCW 74.15.030;

33 (b) Is an individual residing in an applicant or service provider's  
34 home, facility, entity, agency, or business or who is authorized by the  
35 department to provide services to children or people with developmental  
36 disabilities under RCW 74.15.030; or

1 (c) Is an applicant or service provider providing in-home services  
2 funded by:

3 (i) Medicaid personal care under RCW 74.09.520;

4 (ii) Community options program entry system waiver services under  
5 RCW 74.39A.030;

6 (iii) Chore services under RCW 74.39A.110; or

7 (iv) Other home and community long-term care programs, established  
8 pursuant to chapters 74.39 and 74.39A RCW, administered by the  
9 department.

10 (2) Long-term care workers, as defined in RCW 74.39A.009, who are  
11 hired after January (~~(1, 2014)~~) 7, 2012, are subject to background  
12 checks under RCW (~~(74.39A.055)~~) 74.39A.056.

13 (3) To satisfy the shared background check requirements provided  
14 for in RCW 43.215.215 and 43.20A.710, the department of early learning  
15 and the department of social and health services shall share federal  
16 fingerprint-based background check results as permitted under the law.  
17 The purpose of this provision is to allow both departments to fulfill  
18 their joint background check responsibility of checking any individual  
19 who may have unsupervised access to vulnerable adults, children, or  
20 juveniles. Neither department may share the federal background check  
21 results with any other state agency or person.

22 (4) The secretary shall require a fingerprint-based background  
23 check through the Washington state patrol identification and criminal  
24 history section and the federal bureau of investigation when the  
25 department seeks to approve an applicant or service provider for a  
26 foster or adoptive placement of children in accordance with federal and  
27 state law.

28 (5) Any secure facility operated by the department under chapter  
29 71.09 RCW shall require applicants and service providers to undergo a  
30 fingerprint-based background check through the Washington state patrol  
31 identification and criminal history section and the federal bureau of  
32 investigation.

33 (6) Service providers and service provider applicants who are  
34 required to complete a fingerprint-based background check may be hired  
35 for a one hundred twenty-day provisional period as allowed under law or  
36 program rules when:

37 (a) A fingerprint-based background check is pending; and

1 (b) The applicant or service provider is not disqualified based on  
2 the immediate result of the background check.

3 (7) Fees charged by the Washington state patrol and the federal  
4 bureau of investigation for fingerprint-based background checks shall  
5 be paid by the department for applicants or service providers  
6 providing:

7 (a) Services to people with a developmental disability under RCW  
8 74.15.030;

9 (b) In-home services funded by medicaid personal care under RCW  
10 74.09.520;

11 (c) Community options program entry system waiver services under  
12 RCW 74.39A.030;

13 (d) Chore services under RCW 74.39A.110;

14 (e) Services under other home and community long-term care  
15 programs, established pursuant to chapters 74.39 and 74.39A RCW,  
16 administered by the department;

17 (f) Services in, or to residents of, a secure facility under RCW  
18 71.09.115; and

19 (g) Foster care as required under RCW 74.15.030.

20 (8) Service providers licensed under RCW 74.15.030 must pay fees  
21 charged by the Washington state patrol and the federal bureau of  
22 investigation for conducting fingerprint-based background checks.

23 (9) Children's administration service providers licensed under RCW  
24 74.15.030 may not pass on the cost of the background check fees to  
25 their applicants unless the individual is determined to be disqualified  
26 due to the background information.

27 (10) The department shall develop rules identifying the financial  
28 responsibility of service providers, applicants, and the department for  
29 paying the fees charged by law enforcement to roll, print, or scan  
30 fingerprints-based for the purpose of a Washington state patrol or  
31 federal bureau of investigation fingerprint-based background check.

32 (11) For purposes of this section, unless the context plainly  
33 indicates otherwise:

34 (a) "Applicant" means a current or prospective department or  
35 service provider employee, volunteer, student, intern, researcher,  
36 contractor, or any other individual who will or may have unsupervised  
37 access because of the nature of the work or services he or she

1 provides. "Applicant" includes but is not limited to any individual  
2 who will or may have unsupervised access and is:

3 (i) Applying for a license or certification from the department;  
4 (ii) Seeking a contract with the department or a service provider;  
5 (iii) Applying for employment, promotion, reallocation, or  
6 transfer;

7 (iv) An individual that a department client or guardian of a  
8 department client chooses to hire or engage to provide services to  
9 himself or herself or another vulnerable adult, juvenile, or child and  
10 who might be eligible to receive payment from the department for  
11 services rendered; or

12 (v) A department applicant who will or may work in a department-  
13 covered position.

14 (b) "Authorized" means the department grants an applicant, home, or  
15 facility permission to:

16 (i) Conduct licensing, certification, or contracting activities;

17 (ii) Have unsupervised access to vulnerable adults, juveniles, and  
18 children;

19 (iii) Receive payments from a department program; or

20 (iv) Work or serve in a department-covered position.

21 (c) "Department" means the department of social and health  
22 services.

23 (d) "Secretary" means the secretary of the department of social and  
24 health services.

25 (e) "Secure facility" has the meaning provided in RCW 71.09.020.

26 (f) "Service provider" means entities, facilities, agencies,  
27 businesses, or individuals who are licensed, certified, authorized, or  
28 regulated by, receive payment from, or have contracts or agreements  
29 with the department to provide services to vulnerable adults,  
30 juveniles, or children. "Service provider" includes individuals whom  
31 a department client or guardian of a department client may choose to  
32 hire or engage to provide services to himself or herself or another  
33 vulnerable adult, juvenile, or child and who might be eligible to  
34 receive payment from the department for services rendered. "Service  
35 provider" does not include those certified under chapter 70.96A RCW.

36 **Sec. 507.** RCW 74.39A.095 and 2011 1st sp.s. c 31 s 14 and 2011 1st  
37 sp.s. c 21 s 5 are each reenacted and amended to read as follows:

1 (1) In carrying out case management responsibilities established  
2 under RCW 74.39A.090 for consumers who are receiving services under the  
3 medicaid personal care, community options programs entry system or  
4 chore services program through an individual provider, each area agency  
5 on aging shall provide oversight of the care being provided to  
6 consumers receiving services under this section to the extent of  
7 available funding. Case management responsibilities incorporate this  
8 oversight, and include, but are not limited to:

9 (a) Verification that any individual provider has met any training  
10 requirements established by the department;

11 (b) Verification of a sample of worker time sheets;

12 (c) Monitoring the consumer's plan of care to verify that it  
13 adequately meets the needs of the consumer, through activities such as  
14 home visits, telephone contacts, and responses to information received  
15 by the area agency on aging indicating that a consumer may be  
16 experiencing problems relating to his or her home care;

17 (d) Reassessing and reauthorizing services;

18 (e) Monitoring of individual provider performance; and

19 (f) Conducting criminal background checks or verifying that  
20 criminal background checks have been conducted for any individual  
21 provider. Individual providers who are hired after January (~~1, 2014~~)  
22 7, 2012, are subject to background checks under RCW (~~74.39A.055~~)  
23 74.39A.056.

24 (2) The area agency on aging case manager shall work with each  
25 consumer to develop a plan of care under this section that identifies  
26 and ensures coordination of health and long-term care services that  
27 meet the consumer's needs. In developing the plan, they shall utilize,  
28 and modify as needed, any comprehensive community service plan  
29 developed by the department as provided in RCW 74.39A.040. The plan of  
30 care shall include, at a minimum:

31 (a) The name and telephone number of the consumer's area agency on  
32 aging case manager, and a statement as to how the case manager can be  
33 contacted about any concerns related to the consumer's well-being or  
34 the adequacy of care provided;

35 (b) The name and telephone numbers of the consumer's primary health  
36 care provider, and other health or long-term care providers with whom  
37 the consumer has frequent contacts;

1 (c) A clear description of the roles and responsibilities of the  
2 area agency on aging case manager and the consumer receiving services  
3 under this section;

4 (d) The duties and tasks to be performed by the area agency on  
5 aging case manager and the consumer receiving services under this  
6 section;

7 (e) The type of in-home services authorized, and the number of  
8 hours of services to be provided;

9 (f) The terms of compensation of the individual provider;

10 (g) A statement by the individual provider that he or she has the  
11 ability and willingness to carry out his or her responsibilities  
12 relative to the plan of care; and

13 (h)(i) Except as provided in (h)(ii) of this subsection, a clear  
14 statement indicating that a consumer receiving services under this  
15 section has the right to waive any of the case management services  
16 offered by the area agency on aging under this section, and a clear  
17 indication of whether the consumer has, in fact, waived any of these  
18 services.

19 (ii) The consumer's right to waive case management services does  
20 not include the right to waive reassessment or reauthorization of  
21 services, or verification that services are being provided in  
22 accordance with the plan of care.

23 (3) Each area agency on aging shall retain a record of each waiver  
24 of services included in a plan of care under this section.

25 (4) Each consumer has the right to direct and participate in the  
26 development of their plan of care to the maximum practicable extent of  
27 their abilities and desires, and to be provided with the time and  
28 support necessary to facilitate that participation.

29 (5) A copy of the plan of care must be distributed to the  
30 consumer's primary care provider, individual provider, and other  
31 relevant providers with whom the consumer has frequent contact, as  
32 authorized by the consumer.

33 (6) The consumer's plan of care shall be an attachment to the  
34 contract between the department, or their designee, and the individual  
35 provider.

36 (7) If the department or area agency on aging case manager finds  
37 that an individual provider's inadequate performance or inability to  
38 deliver quality care is jeopardizing the health, safety, or well-being

1 of a consumer receiving service under this section, the department or  
2 the area agency on aging may take action to terminate the contract  
3 between the department and the individual provider. If the department  
4 or the area agency on aging has a reasonable, good faith belief that  
5 the health, safety, or well-being of a consumer is in imminent  
6 jeopardy, the department or area agency on aging may summarily suspend  
7 the contract pending a fair hearing. The consumer may request a fair  
8 hearing to contest the planned action of the case manager, as provided  
9 in chapter 34.05 RCW. The department may by rule adopt guidelines for  
10 implementing this subsection.

11 (8) The department or area agency on aging may reject a request by  
12 a consumer receiving services under this section to have a family  
13 member or other person serve as his or her individual provider if the  
14 case manager has a reasonable, good faith belief that the family member  
15 or other person will be unable to appropriately meet the care needs of  
16 the consumer. The consumer may request a fair hearing to contest the  
17 decision of the case manager, as provided in chapter 34.05 RCW. The  
18 department may by rule adopt guidelines for implementing this  
19 subsection.

20 **VI. ENFORCEMENT**

21 **Sec. 601.** RCW 18.88B.050 and 2011 1st sp.s. c 31 s 4 are each  
22 amended to read as follows:

23 (1) The uniform disciplinary act, chapter 18.130 RCW, governs  
24 uncertified practice, issuance and renewal of certificates, and the  
25 discipline of persons with certificates under this chapter. The  
26 secretary (~~(of health)~~) shall be the disciplinary authority under this  
27 chapter.

28 (2) The secretary (~~(of health)~~) may take action to immediately  
29 suspend the certification of a (~~(long-term care worker)~~) home care aide  
30 upon finding that conduct of the (~~(long-term care worker)~~) home care  
31 aide has caused or presents an imminent threat of harm to a  
32 functionally disabled person in his or her care.

33 (3) If the secretary (~~(of health)~~) imposes suspension or conditions  
34 for continuation or renewal of certification, the suspension or  
35 conditions for continuation or renewal are effective immediately upon  
36 notice and shall continue in effect pending the outcome of any hearing.

1 (4) The department (~~(of health)~~) shall take appropriate enforcement  
2 action related to the licensure of a private agency or facility  
3 licensed by the state, to provide personal care services, other than an  
4 individual provider, who knowingly employs a long-term care worker who  
5 is not a certified home care aide as required under this chapter or  
6 whose certification is revoked or, if exempted from certification by  
7 RCW (~~(18.88B.040)~~) 18.88B.041, who has not completed his or her  
8 required training pursuant to (~~(this chapter)~~) RCW 74.39A.074.

9 (5) Chapter 34.05 RCW shall govern actions by the department (~~(of~~  
10 ~~health)~~) under this section.

11 (6) The department (~~(of health)~~) shall adopt rules (~~(by August 1,~~  
12 ~~2013,)~~) to implement this section.

13 **Sec. 602.** RCW 74.39A.086 and 2012 c 1 s 109 (Initiative Measure  
14 No. 1163) are each amended to read as follows:

15 (1) The department:

16 (a) Shall deny payment to any individual provider of home care  
17 services who has not been certified ((by the department of health)) as  
18 a home care aide as required under chapter ((2, Laws of 2009 or, if  
19 exempted from certification by RCW 18.88B.040,)) 18.88B RCW or whose  
20 certification is revoked or, if exempted from certification under RCW  
21 18.88B.041, who has not completed his or her required training pursuant  
22 to (~~(chapter 2, Laws of 2009)~~) RCW 74.39A.074.

23 (~~((2) The department)~~) (b) May terminate the contract of any  
24 individual provider of home care services, or take any other  
25 enforcement measure deemed appropriate by the department if the  
26 individual provider has not been certified or the individual provider's  
27 certification is revoked under chapter ((2, Laws of 2009)) 18.88B RCW  
28 or, if exempted from certification by RCW ((18.88B.040)) 18.88B.041,  
29 the individual provider has not completed his or her required training  
30 pursuant to (~~(chapter 2, Laws of 2009)~~) RCW 74.39A.074.

31 (~~((3))~~) (2) The department shall take appropriate enforcement  
32 action related to the contract of a private agency or facility licensed  
33 by the state(~~(7)~~) to provide personal care services, other than an  
34 individual provider, who knowingly employs a long-term care worker who  
35 is not a certified home care aide as required under chapter (~~(2, Laws~~  
36 ~~of 2009 or, if exempted from certification by RCW 18.88B.040,))~~) 18.88B  
37 RCW or whose certification is revoked or, if exempted from

1 certification under RCW 18.88B.041, who has not completed his or her  
2 required training pursuant to (~~chapter 2, Laws of 2009~~) RCW  
3 74.39A.074.

4 (~~(+4)~~) (3) Chapter 34.05 RCW shall govern actions by the  
5 department under this section.

6 (~~(+5)~~) (4) The department shall adopt rules (~~by August 1, 2010,~~)  
7 to implement this section.

8 **VII. MISCELLANEOUS**

9 **Sec. 701.** RCW 74.39A.051 and 2012 c 1 s 106 (Initiative Measure  
10 No. 1163) are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

34 ~~(10) Until December 31, 2010,)) Background checks of long-term care  
35 workers must be conducted as provided in RCW 74.39A.056.~~

36 (8) Except as provided in RCW 74.39A.074 and 74.39A.076, individual  
37 providers and home care agency providers must satisfactorily complete  
38 department-approved orientation, basic training, and continuing

1 education within the time period specified by the department in rule.  
2 The department shall adopt rules (~~(by March 1, 2002,)~~) for the  
3 implementation of this section. The department shall deny payment to  
4 an individual provider or a home care provider who does not complete  
5 the training requirements within the time limit specified by the  
6 department by rule.

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

14 ~~(12) The department shall create an approval system by March 1,  
15 2002, for those seeking to conduct department approved training.~~

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

24 ~~(14))~~ (9) Under existing funds the department shall establish  
25 internally a quality improvement standards committee to monitor the  
26 development of standards and to suggest modifications.

27 ~~((15) Within existing funds, the department shall design, develop,  
28 and implement a long term care training program that is flexible,  
29 relevant, and qualifies towards the requirements for a nursing  
30 assistant certificate as established under chapter 18.88A RCW. This  
31 subsection does not require completion of the nursing assistant  
32 certificate training program by providers or their staff. The long-  
33 term care teaching curriculum must consist of a fundamental module, or  
34 modules, and a range of other available relevant training modules that  
35 provide the caregiver with appropriate options that assist in meeting  
36 the resident's care needs. Some of the training modules may include,  
37 but are not limited to, specific training on the special care needs of  
38 persons with developmental disabilities, dementia, mental illness, and~~

1 ~~the care needs of the elderly. No less than one training module must~~  
2 ~~be dedicated to workplace violence prevention. The nursing care~~  
3 ~~quality assurance commission shall work together with the department to~~  
4 ~~develop the curriculum modules. The nursing care quality assurance~~  
5 ~~commission shall direct the nursing assistant training programs to~~  
6 ~~accept some or all of the skills and competencies from the curriculum~~  
7 ~~modules towards meeting the requirements for a nursing assistant~~  
8 ~~certificate as defined in chapter 18.88A RCW. A process may be~~  
9 ~~developed to test persons completing modules from a caregiver's class~~  
10 ~~to verify that they have the transferable skills and competencies for~~  
11 ~~entry into a nursing assistant training program. The department may~~  
12 ~~review whether facilities can develop their own related long term care~~  
13 ~~training programs. The department may develop a review process for~~  
14 ~~determining what previous experience and training may be used to waive~~  
15 ~~some or all of the mandatory training. The department of social and~~  
16 ~~health services and the nursing care quality assurance commission shall~~  
17 ~~work together to develop an implementation plan by December 12, 1998.)~~

18 **Sec. 702.** RCW 18.20.270 and 2002 c 233 s 1 are each amended to  
19 read as follows:

20 (1) The definitions in this subsection apply throughout this  
21 section unless the context clearly requires otherwise.

22 (a) "Caregiver" includes any person who provides residents with  
23 hands-on personal care on behalf of a boarding home, except volunteers  
24 who are directly supervised.

25 (b) "Direct supervision" means oversight by a person who has  
26 demonstrated competency in the core areas or has been fully exempted  
27 from the training requirements pursuant to this section, is on the  
28 premises, and is quickly and easily available to the caregiver.

29 (2) Training must have the following components: Orientation,  
30 basic training, specialty training as appropriate, and continuing  
31 education. All boarding home employees or volunteers who routinely  
32 interact with residents shall complete orientation. Boarding home  
33 administrators, or their designees, and caregivers shall complete  
34 orientation, basic training, specialty training as appropriate, and  
35 continuing education.

36 (3) Orientation consists of introductory information on residents'  
37 rights, communication skills, fire and life safety, and universal

1 precautions. Orientation must be provided at the facility by  
2 appropriate boarding home staff to all boarding home employees before  
3 the employees have routine interaction with residents.

4 (4) Basic training consists of modules on the core knowledge and  
5 skills that caregivers need to learn and understand to effectively and  
6 safely provide care to residents. Basic training must be outcome-  
7 based, and the effectiveness of the basic training must be measured by  
8 demonstrated competency in the core areas through the use of a  
9 competency test. Basic training must be completed by caregivers within  
10 one hundred twenty days of the date on which they begin to provide  
11 hands-on care (~~((or within one hundred twenty days of September 1, 2002,~~  
12 ~~whichever is later))~~). Until competency in the core areas has been  
13 demonstrated, caregivers shall not provide hands-on personal care to  
14 residents without direct supervision. Boarding home administrators, or  
15 their designees, must complete basic training and demonstrate  
16 competency within one hundred twenty days of employment (~~((or within one~~  
17 ~~hundred twenty days of September 1, 2002, whichever is later))~~).

18 (5) For boarding homes that serve residents with special needs such  
19 as dementia, developmental disabilities, or mental illness, specialty  
20 training is required of administrators, or designees, and caregivers.

21 (a) Specialty training consists of modules on the core knowledge  
22 and skills that caregivers need to effectively and safely provide care  
23 to residents with special needs. Specialty training should be  
24 integrated into basic training wherever appropriate. Specialty  
25 training must be outcome-based, and the effectiveness of the specialty  
26 training measured by demonstrated competency in the core specialty  
27 areas through the use of a competency test.

28 (b) Specialty training must be completed by caregivers within one  
29 hundred twenty days of the date on which they begin to provide hands-on  
30 care to a resident having special needs (~~((or within one hundred twenty~~  
31 ~~days of September 1, 2002, whichever is later))~~). However, if specialty  
32 training is not integrated with basic training, the specialty training  
33 must be completed within ninety days of completion of basic training.  
34 Until competency in the core specialty areas has been demonstrated,  
35 caregivers shall not provide hands-on personal care to residents with  
36 special needs without direct supervision.

37 (c) Boarding home administrators, or their designees, must complete  
38 specialty training and demonstrate competency within one hundred twenty

1 days (~~of September 1, 2002, or one hundred twenty days~~) from the date  
2 on which the administrator or his or her designee is hired, (~~whichever~~  
3 ~~is later,~~) if the boarding home serves one or more residents with  
4 special needs.

5 (6) Continuing education consists of ongoing delivery of  
6 information to caregivers on various topics relevant to the care  
7 setting and care needs of residents. Competency testing is not  
8 required for continuing education. Continuing education is not  
9 required in the same calendar year in which basic or modified basic  
10 training is successfully completed. Continuing education is required  
11 in each calendar year thereafter. If specialty training is completed,  
12 the specialty training applies toward any continuing education  
13 requirement for up to two years following the completion of the  
14 specialty training.

15 (7) Persons who successfully challenge the competency test for  
16 basic training are fully exempt from the basic training requirements of  
17 this section. Persons who successfully challenge the specialty  
18 training competency test are fully exempt from the specialty training  
19 requirements of this section.

20 (8) Licensed persons who perform the tasks for which they are  
21 licensed are fully or partially exempt from the training requirements  
22 of this section, as specified by the department in rule.

23 (9) In an effort to improve access to training and education and  
24 reduce costs, especially for rural communities, the coordinated system  
25 of long-term care training and education must include the use of  
26 innovative types of learning strategies such as internet resources,  
27 videotapes, and distance learning using satellite technology  
28 coordinated through community colleges or other entities, as defined by  
29 the department.

30 (10) The department shall develop criteria for the approval of  
31 orientation, basic training, and specialty training programs.

32 (11) Boarding homes that desire to deliver facility-based training  
33 with facility designated trainers, or boarding homes that desire to  
34 pool their resources to create shared training systems, must be  
35 encouraged by the department in their efforts. The department shall  
36 develop criteria for reviewing and approving trainers and training  
37 materials that are substantially similar to or better than the  
38 materials developed by the department. The department may approve a

1 curriculum based upon attestation by a boarding home administrator that  
2 the boarding home's training curriculum addresses basic and specialty  
3 training competencies identified by the department, and shall review a  
4 curriculum to verify that it meets these requirements. The department  
5 may conduct the review as part of the next regularly scheduled yearly  
6 inspection and investigation required under RCW 18.20.110. The  
7 department shall rescind approval of any curriculum if it determines  
8 that the curriculum does not meet these requirements.

9 (12) The department shall adopt rules (~~((by September 1, 2002,))~~) for  
10 the implementation of this section.

11 (13)(a) Except as provided in (b) of this subsection, the  
12 orientation, basic training, specialty training, and continuing  
13 education requirements of this section commence September 1, 2002, or  
14 one hundred twenty days from the date of employment, whichever is  
15 later, and shall be applied to ((+a)) (i) employees hired subsequent  
16 to September 1, 2002; and ((+b)) (ii) existing employees that on  
17 September 1, 2002, have not successfully completed the training  
18 requirements under RCW 74.39A.010 or 74.39A.020 and this section.  
19 Existing employees who have not successfully completed the training  
20 requirements under RCW 74.39A.010 or 74.39A.020 shall be subject to all  
21 applicable requirements of this section. ((However, prior to September  
22 1, 2002, nothing in this section affects the current training  
23 requirements under RCW 74.39A.010.))

24 (b) Beginning January 7, 2012, long-term care workers, as defined  
25 in RCW 74.39A.009, employed by facilities licensed under this chapter  
26 are also subject to the training requirements to the extent provided in  
27 RCW 74.39A.074.

28 **Sec. 703.** RCW 70.128.120 and 2011 1st sp.s. c 3 s 205 are each  
29 amended to read as follows:

30 Each adult family home provider, applicant, and each resident  
31 manager shall have the following minimum qualifications, except that  
32 only applicants are required to meet the provisions of subsections (10)  
33 and (11) of this section:

34 (1) Twenty-one years of age or older;

35 (2) For those applying after September 1, 2001, to be licensed as  
36 providers, and for resident managers whose employment begins after

1 September 1, 2001, a United States high school diploma or general  
2 educational development (GED) certificate or any English or translated  
3 government documentation of the following:

4 (a) Successful completion of government-approved public or private  
5 school education in a foreign country that includes an annual average  
6 of one thousand hours of instruction over twelve years or no less than  
7 twelve thousand hours of instruction;

8 (b) A foreign college, foreign university, or United States  
9 community college two-year diploma;

10 (c) Admission to, or completion of coursework at, a foreign  
11 university or college for which credit was granted;

12 (d) Admission to, or completion of coursework at, a United States  
13 college or university for which credits were awarded;

14 (e) Admission to, or completion of postgraduate coursework at, a  
15 United States college or university for which credits were awarded; or

16 (f) Successful passage of the United States board examination for  
17 registered nursing, or any professional medical occupation for which  
18 college or university education preparation was required;

19 (3) Good moral and responsible character and reputation;

20 (4) Literacy and the ability to communicate in the English  
21 language;

22 (5) Management and administrative ability to carry out the  
23 requirements of this chapter;

24 (6) Satisfactory completion of department-approved basic training  
25 and continuing education training as required by RCW ((~~74.39A.073~~))  
26 74.39A.074, and in rules adopted by the department;

27 (7) Satisfactory completion of department-approved, or equivalent,  
28 special care training before a provider may provide special care  
29 services to a resident;

30 (8) Not been convicted of any crime that is disqualifying under RCW  
31 43.43.830 or 43.43.842, or department rules adopted under this chapter,  
32 or been found to have abused, neglected, exploited, or abandoned a  
33 minor or vulnerable adult as specified in RCW ((~~74.39A.050(8)~~))  
34 74.39A.056(2);

35 (9) For those applying to be licensed as providers, and for  
36 resident managers whose employment begins after August 24, 2011, at  
37 least one thousand hours in the previous sixty months of successful,  
38 direct caregiving experience obtained after age eighteen to vulnerable

1 adults in a licensed or contracted setting prior to operating or  
2 managing an adult family home. The applicant or resident manager must  
3 have credible evidence of the successful, direct caregiving experience  
4 or, currently hold one of the following professional licenses:  
5 Physician licensed under chapter 18.71 RCW; osteopathic physician  
6 licensed under chapter 18.57 RCW; osteopathic physician assistant  
7 licensed under chapter 18.57A RCW; physician assistant licensed under  
8 chapter 18.71A RCW; registered nurse, advanced registered nurse  
9 practitioner, or licensed practical nurse licensed under chapter 18.79  
10 RCW;

11 (10) For applicants, proof of financial solvency, as defined in  
12 rule; and

13 (11) Applicants must successfully complete an adult family home  
14 administration and business planning class, prior to being granted a  
15 license. The class must be a minimum of forty-eight hours of classroom  
16 time and approved by the department. The department shall promote and  
17 prioritize bilingual capabilities within available resources and when  
18 materials are available for this purpose.

19 **Sec. 704.** RCW 70.128.130 and 2011 1st sp.s. c 3 s 206 are each  
20 amended to read as follows:

21 (1) The provider is ultimately responsible for the day-to-day  
22 operations of each licensed adult family home.

23 (2) The provider shall promote the health, safety, and well-being  
24 of each resident residing in each licensed adult family home.

25 (3) Adult family homes shall be maintained internally and  
26 externally in good repair and condition. Such homes shall have safe  
27 and functioning systems for heating, cooling, hot and cold water,  
28 electricity, plumbing, garbage disposal, sewage, cooking, laundry,  
29 artificial and natural light, ventilation, and any other feature of the  
30 home.

31 (4) In order to preserve and promote the residential home-like  
32 nature of adult family homes, adult family homes licensed after August  
33 24, 2011, shall:

34 (a) Have sufficient space to accommodate all residents at one time  
35 in the dining and living room areas;

36 (b) Have hallways and doorways wide enough to accommodate residents  
37 who use mobility aids such as wheelchairs and walkers; and

1 (c) Have outdoor areas that are safe and accessible for residents  
2 to use.

3 (5) The adult family home must provide all residents access to  
4 resident common areas throughout the adult family home including, but  
5 not limited to, kitchens, dining and living areas, and bathrooms, to  
6 the extent that they are safe under the resident's care plan.

7 (6) Adult family homes shall be maintained in a clean and sanitary  
8 manner, including proper sewage disposal, food handling, and hygiene  
9 practices.

10 (7) Adult family homes shall develop a fire drill plan for  
11 emergency evacuation of residents, shall have working smoke detectors  
12 in each bedroom where a resident is located, shall have working fire  
13 extinguishers on each floor of the home, and shall not keep  
14 nonambulatory patients above the first floor of the home.

15 (8) The adult family home shall ensure that all residents can be  
16 safely evacuated in an emergency.

17 (9) Adult family homes shall have clean, functioning, and safe  
18 household items and furnishings.

19 (10) Adult family homes shall provide a nutritious and balanced  
20 diet and shall recognize residents' needs for special diets.

21 (11) Adult family homes shall establish health care procedures for  
22 the care of residents including medication administration and emergency  
23 medical care.

24 (a) Adult family home residents shall be permitted to self-  
25 administer medications.

26 (b) Adult family home providers may administer medications and  
27 deliver special care only to the extent authorized by law.

28 (12) Adult family home providers shall either: (a) Reside at the  
29 adult family home; or (b) employ or otherwise contract with a qualified  
30 resident manager to reside at the adult family home. The department  
31 may exempt, for good cause, a provider from the requirements of this  
32 subsection by rule.

33 (13) A provider will ensure that any volunteer, student, employee,  
34 or person residing within the adult family home who will have  
35 unsupervised access to any resident shall not have been convicted of a  
36 crime listed under RCW 43.43.830 or 43.43.842, or been found to have  
37 abused, neglected, exploited, or abandoned a minor or vulnerable adult  
38 as specified in RCW (~~(74.39A.050(8))~~) 74.39A.056(2). A provider may

1 conditionally employ a person pending the completion of a criminal  
2 conviction background inquiry, but may not allow the person to have  
3 unsupervised access to any resident.

4 (14) A provider shall offer activities to residents under care as  
5 defined by the department in rule.

6 (15) An adult family home must be financially solvent, and upon  
7 request for good cause, shall provide the department with detailed  
8 information about the home's finances. Financial records of the adult  
9 family home may be examined when the department has good cause to  
10 believe that a financial obligation related to resident care or  
11 services will not be met.

12 (16) An adult family home provider must ensure that staff are  
13 competent and receive necessary training to perform assigned tasks.  
14 Staff must satisfactorily complete department-approved staff  
15 orientation, basic training, and continuing education as specified by  
16 the department by rule. The provider shall ensure that a qualified  
17 caregiver is on-site whenever a resident is at the adult family home.  
18 Notwithstanding RCW 70.128.230, until orientation and basic training  
19 are successfully completed, a caregiver may not provide hands-on  
20 personal care to a resident without on-site supervision by a person who  
21 has successfully completed basic training or been exempted from the  
22 training pursuant to statute.

23 (17) The provider and resident manager must assure that there is:

24 (a) A mechanism to communicate with the resident in his or her  
25 primary language either through a qualified person on-site or readily  
26 available at all times, or other reasonable accommodations, such as  
27 language lines; and

28 (b) Staff on-site at all times capable of understanding and  
29 speaking English well enough to be able to respond appropriately to  
30 emergency situations and be able to read and understand resident care  
31 plans.

32 **Sec. 705.** RCW 70.128.230 and 2002 c 233 s 3 are each amended to  
33 read as follows:

34 (1) The definitions in this subsection apply throughout this  
35 section unless the context clearly requires otherwise.

36 (a) "Caregiver" includes all adult family home resident managers

1 and any person who provides residents with hands-on personal care on  
2 behalf of an adult family home, except volunteers who are directly  
3 supervised.

4 (b) "Indirect supervision" means oversight by a person who has  
5 demonstrated competency in the core areas or has been fully exempted  
6 from the training requirements pursuant to this section and is quickly  
7 and easily available to the caregiver, but not necessarily on-site.

8 (2) Training must have three components: Orientation, basic  
9 training, and continuing education. All adult family home providers,  
10 resident managers, and employees, or volunteers who routinely interact  
11 with residents shall complete orientation. Caregivers shall complete  
12 orientation, basic training, and continuing education.

13 (3) Orientation consists of introductory information on residents'  
14 rights, communication skills, fire and life safety, and universal  
15 precautions. Orientation must be provided at the facility by  
16 appropriate adult family home staff to all adult family home employees  
17 before the employees have routine interaction with residents.

18 (4) Basic training consists of modules on the core knowledge and  
19 skills that caregivers need to learn and understand to effectively and  
20 safely provide care to residents. Basic training must be outcome-  
21 based, and the effectiveness of the basic training must be measured by  
22 demonstrated competency in the core areas through the use of a  
23 competency test. Basic training must be completed by caregivers within  
24 one hundred twenty days of the date on which they begin to provide  
25 hands-on care (~~(or within one hundred twenty days of September 1, 2002,~~  
26 ~~whichever is later)~~). Until competency in the core areas has been  
27 demonstrated, caregivers shall not provide hands-on personal care to  
28 residents without indirect supervision.

29 (5) For adult family homes that serve residents with special needs  
30 such as dementia, developmental disabilities, or mental illness,  
31 specialty training is required of providers and resident managers.

32 (a) Specialty training consists of modules on the core knowledge  
33 and skills that providers and resident managers need to effectively and  
34 safely provide care to residents with special needs. Specialty  
35 training should be integrated into basic training wherever appropriate.  
36 Specialty training must be outcome-based, and the effectiveness of the  
37 specialty training measured by demonstrated competency in the core  
38 specialty areas through the use of a competency test.

1       **(b)** Specialty training must be completed by providers and resident  
2 managers before admitting and serving residents who have been  
3 determined to have special needs related to mental illness, dementia,  
4 or a developmental disability. Should a resident develop special needs  
5 while living in a home without specialty designation, the provider and  
6 resident manager have one hundred twenty days to complete specialty  
7 training.

8       (6) Continuing education consists of ongoing delivery of  
9 information to caregivers on various topics relevant to the care  
10 setting and care needs of residents. Competency testing is not  
11 required for continuing education. Continuing education is not  
12 required in the same calendar year in which basic or modified basic  
13 training is successfully completed. Continuing education is required  
14 in each calendar year thereafter. If specialty training is completed,  
15 the specialty training applies toward any continuing education  
16 requirement for up to two years following the completion of the  
17 specialty training.

18       (7) Persons who successfully challenge the competency test for  
19 basic training are fully exempt from the basic training requirements of  
20 this section. Persons who successfully challenge the specialty  
21 training competency test are fully exempt from the specialty training  
22 requirements of this section.

23       (8) Licensed persons who perform the tasks for which they are  
24 licensed are fully or partially exempt from the training requirements  
25 of this section, as specified by the department in rule.

26       (9) In an effort to improve access to training and education and  
27 reduce costs, especially for rural communities, the coordinated system  
28 of long-term care training and education must include the use of  
29 innovative types of learning strategies such as internet resources,  
30 videotapes, and distance learning using satellite technology  
31 coordinated through community colleges, private associations, or other  
32 entities, as defined by the department.

33       (10) Adult family homes that desire to deliver facility-based  
34 training with facility designated trainers, or adult family homes that  
35 desire to pool their resources to create shared training systems, must  
36 be encouraged by the department in their efforts. The department shall  
37 develop criteria for reviewing and approving trainers and training  
38 materials. The department may approve a curriculum based upon

1 attestation by an adult family home administrator that the adult family  
2 home's training curriculum addresses basic and specialty training  
3 competencies identified by the department, and shall review a  
4 curriculum to verify that it meets these requirements. The department  
5 may conduct the review as part of the next regularly scheduled  
6 inspection authorized under RCW 70.128.070. The department shall  
7 rescind approval of any curriculum if it determines that the curriculum  
8 does not meet these requirements.

9 (11) The department shall adopt rules by September 1, 2002, for the  
10 implementation of this section.

11 (12)(a) Except as provided in (b) of this subsection, the  
12 orientation, basic training, specialty training, and continuing  
13 education requirements of this section commence September 1, 2002, and  
14 shall be applied to ((+a)) (i) employees hired subsequent to September  
15 1, 2002; or ((+b)) (ii) existing employees that on September 1, 2002,  
16 have not successfully completed the training requirements under RCW  
17 70.128.120 or 70.128.130 and this section. Existing employees who have  
18 not successfully completed the training requirements under RCW  
19 70.128.120 or 70.128.130 shall be subject to all applicable  
20 requirements of this section. ((However, until September 1, 2002,  
21 nothing in this section affects the current training requirements under  
22 RCW 70.128.120 and 70.128.130.))

23 (b) Beginning January 7, 2012, long-term care workers, as defined  
24 in RCW 74.39A.009, employed by an adult family home are also subject to  
25 the training requirements to the extent provided in RCW 74.39A.074.

26 **Sec. 706.** RCW 74.39A.010 and 1995 1st sp.s. c 18 s 14 are each  
27 amended to read as follows:

28 (1) To the extent of available funding, the department of social  
29 and health services may contract with licensed boarding homes under  
30 chapter 18.20 RCW and tribally licensed boarding homes for assisted  
31 living services and enhanced adult residential care. The department  
32 shall develop rules for facilities that contract with the department  
33 for assisted living services or enhanced adult residential care to  
34 establish:

35 (a) Facility service standards consistent with the principles in  
36 RCW ~~((74.39A.050))~~ 74.39A.051 and consistent with chapter 70.129 RCW;

1 (b) Standards for resident living areas consistent with RCW  
2 74.39A.030;

3 (c) Training requirements for providers and their staff.

4 (2) The department's rules shall provide that services in assisted  
5 living and enhanced adult residential care:

6 (a) Recognize individual needs, privacy, and autonomy;

7 (b) Include, but not be limited to, personal care, nursing  
8 services, medication administration, and supportive services that  
9 promote independence and self-sufficiency;

10 (c) Are of sufficient scope to assure that each resident who  
11 chooses to remain in the assisted living or enhanced adult residential  
12 care may do so, to the extent that the care provided continues to be  
13 cost-effective and safe and promote the most appropriate level of  
14 physical, mental, and psychosocial well-being consistent with client  
15 choice;

16 (d) Are directed first to those persons most likely, in the absence  
17 of enhanced adult residential care or assisted living services, to need  
18 hospital, nursing facility, or other out-of-home placement; and

19 (e) Are provided in compliance with applicable facility and  
20 professional licensing laws and rules.

21 (3) When a facility contracts with the department for assisted  
22 living services or enhanced adult residential care, only services and  
23 facility standards that are provided to or in behalf of the assisted  
24 living services or enhanced adult residential care client shall be  
25 subject to the department's rules.

26 **Sec. 707.** RCW 74.39A.020 and 2004 c 142 s 15 are each amended to  
27 read as follows:

28 (1) To the extent of available funding, the department of social  
29 and health services may contract for adult residential care.

30 (2) The department shall, by rule, develop terms and conditions for  
31 facilities that contract with the department for adult residential care  
32 to establish:

33 (a) Facility service standards consistent with the principles in  
34 RCW ((~~74.39A.050~~)) 74.39A.051 and consistent with chapter 70.129 RCW;  
35 and

36 (b) Training requirements for providers and their staff.

1 (3) The department shall, by rule, provide that services in adult  
2 residential care facilities:

3 (a) Recognize individual needs, privacy, and autonomy;

4 (b) Include personal care and other services that promote  
5 independence and self-sufficiency and aging in place;

6 (c) Are directed first to those persons most likely, in the absence  
7 of adult residential care services, to need hospital, nursing facility,  
8 or other out-of-home placement; and

9 (d) Are provided in compliance with applicable facility and  
10 professional licensing laws and rules.

11 (4) When a facility contracts with the department for adult  
12 residential care, only services and facility standards that are  
13 provided to or in behalf of the adult residential care client shall be  
14 subject to the adult residential care rules.

15 (5) To the extent of available funding, the department may also  
16 contract under this section with a tribally licensed boarding home for  
17 the provision of services of the same nature as the services provided  
18 by adult residential care facilities. The provisions of subsections  
19 (2)(a) and (b) and (3)(a) through (d) of this section apply to such a  
20 contract.

21 **Sec. 708.** RCW 74.39A.250 and 2011 1st sp.s. c 21 s 8 are each  
22 amended to read as follows:

23 (1) The department shall provide assistance to consumers and  
24 prospective consumers in finding individual providers and prospective  
25 individual providers through the establishment of a referral registry  
26 of individual providers and prospective individual providers. Before  
27 placing an individual provider or prospective individual provider on  
28 the referral registry, the department shall determine that:

29 (a) The individual provider or prospective individual provider has  
30 met the minimum requirements for training set forth in RCW  
31 (~~(74.39A.050)~~) 74.39A.051;

32 (b) The individual provider or prospective individual provider has  
33 satisfactorily undergone a criminal background check conducted within  
34 the prior twelve months; and

35 (c) The individual provider or prospective individual provider is  
36 not listed on any long-term care abuse and neglect registry used by the  
37 department.

1 (2) The department shall remove from the referral registry any  
2 individual provider or prospective individual provider that does not  
3 meet the qualifications set forth in subsection (1) of this section or  
4 to have committed misfeasance or malfeasance in the performance of his  
5 or her duties as an individual provider. The individual provider or  
6 prospective individual provider, or the consumer to which the  
7 individual provider is providing services, may request a fair hearing  
8 to contest the removal from the referral registry, as provided in  
9 chapter 34.05 RCW.

10 (3) The department shall provide routine, emergency, and respite  
11 referrals of individual providers and prospective individual providers  
12 to consumers and prospective consumers who are authorized to receive  
13 long-term in-home care services through an individual provider.

14 (4) The department shall give preference in the recruiting,  
15 training, referral, and employment of individual providers and  
16 prospective individual providers to recipients of public assistance or  
17 other low-income persons who would qualify for public assistance in the  
18 absence of such employment.

19 **Sec. 709.** 2012 c 1 s 201 (uncodified) (Initiative Measure No.  
20 1163) is amended to read as follows:

21 The state auditor shall conduct performance audits of the long-term  
22 in-home care program. The first audit must be completed within twelve  
23 months after January 7, 2012, and must be completed on a (~~biannual~~)  
24 biennial basis thereafter. As part of this auditing process, the state  
25 shall hire five additional fraud investigators to ensure that clients  
26 receiving services at taxpayers' expense are medically and financially  
27 qualified to receive the services and are actually receiving the  
28 services.

29 **Sec. 710.** 2012 c 1 s 303 (uncodified) (Initiative Measure No.  
30 1163) is amended to read as follows:

31 Notwithstanding any action of the legislature during 2011, all  
32 long-term care workers as defined under RCW 74.39A.009(16), as it  
33 existed on April 1, 2011, are covered by sections 101 through 113 of  
34 this act or by the corresponding original versions of the statutes, as  
35 referenced in section 302 (1) through (13) on the schedules set forth  
36 in those sections, as amended by chapter . . . , Laws of 2012 (this

1 act), except that long-term care workers employed (~~(as)~~) by community  
2 residential service (~~(providers are covered by sections 101 through 113~~  
3 ~~of this act beginning January 1, 2016)~~) businesses are exempt to the  
4 extent provided in RCW 18.88B.041 and 74.39A.074.

5 NEW SECTION. **Sec. 711.** This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 immediately.

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