

ESHB 2693 - S AMD
By Senator

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Department" means the department of health.

6 (2) "Secretary" means the secretary of health.

7 (3) "Long-term care worker" has the same meaning as in RCW
8 74.39A.009.

9 (4) "Certified long-term care worker" means a long-term care worker
10 certified under this chapter.

11 (5) "Registered long-term care worker" means a long-term care
12 worker registered under this chapter.

13 (6) "Individual provider" has the same meaning as in RCW
14 74.39A.240.

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

17 (8) "Certification examination" means the measurement of an
18 individual's knowledge and skills as related to safe, competent
19 performance as a long-term care worker.

20 NEW SECTION. **Sec. 2.** (1)(a) Beginning January 1, 2010, and except
21 as provided in section 11 of this act:

22 (i) Any person contracted or hired as a long-term care worker must
23 be certified within one hundred twenty days after his or her date of
24 contracting or hire.

25 (ii) Any person contracted or hired as a long-term care worker not
26 subject to certification under this chapter must be registered within
27 one hundred twenty days after his or her date of contracting or hire.
28 However, such a person contracted or hired before January 1, 2010, must
29 be registered within one hundred twenty days after January 1, 2010.

1 (b) The department, for good cause, may extend the one hundred
2 twenty day time periods in this subsection by up to sixty days.

3 (2) A registered or certified long-term care worker may provide
4 direct, hands-on personal care services to persons with functional
5 disabilities requiring long-term care services.

6 (3) No person may practice or, by use of any title or description,
7 represent himself or herself as:

8 (a) A registered long-term care worker without being registered
9 pursuant to this chapter; or

10 (b) A certified long-term care worker without being certified
11 pursuant to this chapter.

12 NEW SECTION. **Sec. 3.** In addition to any other authority provided
13 by law, the secretary has the authority to:

14 (1) Set all initial registration, certification, and renewal fees
15 in accordance with RCW 43.70.250 and to collect and deposit all such
16 fees in the health professions account established under RCW 43.70.320;

17 (2) Establish forms, procedures, and examinations necessary to
18 administer this chapter;

19 (3) Hire clerical, administrative, and investigative staff as
20 needed to implement this chapter;

21 (4) Issue a registration to any applicant who has met the
22 requirements for registration;

23 (5) Issue a certificate to any applicant who has met the
24 requirements for certification;

25 (6) Maintain the official record for the department of all
26 applicants and persons with registrations and certificates;

27 (7) Exercise disciplinary authority as authorized in chapter 18.130
28 RCW;

29 (8) Deny registration to any applicant who fails to meet
30 requirement for registration; and

31 (9) Deny certification to applicants who do not meet the
32 requirements for certification.

33 NEW SECTION. **Sec. 4.** Beginning January 1, 2010, the secretary
34 shall issue a registration to any applicant who:

35 (1) Pays any applicable fees;

1 (2) Submits, on forms provided by the secretary, the applicant's
2 name, address, and other information as determined by the secretary;
3 and

4 (3) Establishes, to the secretary's satisfaction, that:

5 (a) The applicant has completed any required background check; and

6 (b) There are no grounds for denial of registration or issuance of
7 a conditional registration under this chapter or chapter 18.130 RCW.

8 NEW SECTION. **Sec. 5.** (1) Beginning January 1, 2010, the secretary
9 shall issue a certificate to any applicant who:

10 (a) Pays any applicable fees;

11 (b) Submits, on forms provided by the secretary, his or her name,
12 address, and other information as determined by the secretary;

13 (c) Establishes to the secretary's satisfaction that:

14 (i)(A) He or she has completed training approved by the department
15 covering the skills and knowledge necessary to practice competently as
16 a long-term care worker, as follows:

17 (I) Until January 1, 2012, at least sixty hours of training; and

18 (II) On and after January 1, 2012, at least seventy-five hours of
19 training.

20 (B) The training program approved by the department under this
21 subsection must include hours that long-term care workers spend with
22 their peer mentors under RCW 74.39A.330 and specialty training required
23 under RCW 18.20.270(5) and 70.128.230(5).

24 (C) The department may approve a training curriculum developed by
25 an adult family home licensed under chapter 70.128 RCW, a boarding home
26 licensed under chapter 18.20 RCW, a home care agency licensed under
27 chapter 70.127 RCW that does not participate in the medicare or
28 medicaid program, or the training partnership established under RCW
29 74.39A.360 upon finding that the curriculum is substantially equivalent
30 to the training developed by the department under this subsection;

31 (ii) He or she has passed a certification examination;

32 (iii) He or she has completed any required background check; and

33 (iv) There exist no grounds for denial of certification under
34 chapter 18.130 RCW.

35 (2) The date and location of examinations shall be established by
36 the secretary. Applicants who have been found by the secretary to meet

1 the requirements for certification shall be scheduled for the next
2 examination following the filing of the application. The secretary
3 shall establish by rule the examination application deadline.

4 (3) The examination must include both a skills demonstration and a
5 written or oral knowledge test. Examinations shall be limited to the
6 purpose of determining whether the applicant possesses the minimum
7 skill and knowledge necessary to practice competently as a long-term
8 care worker.

9 (4) The examination papers, all grading of the papers, and the
10 grading of skills demonstration shall be preserved for a period of not
11 less than one year after the secretary has made and published the
12 decisions. All examinations shall be conducted under fair and wholly
13 impartial methods.

14 (5) Any applicant failing to make the required grade in the first
15 examination may take up to three subsequent examinations as the
16 applicant desires upon prepaying a fee determined by the secretary
17 under RCW 43.70.250 for each subsequent examination. Upon failing four
18 examinations, the secretary may invalidate the original application and
19 require remedial training before the person may take future
20 examinations.

21 (6) The certification examination may not be administered or graded
22 by any employer of long-term care workers, any private contractor
23 providing training programs offered to assist persons in passing the
24 examination, or the training partnership defined in RCW 74.39A.009.

25 NEW SECTION. **Sec. 6.** (1) A certified long-term care worker may
26 apply for a specialty endorsement in the specialty areas identified by
27 the secretary in consultation with the department of social and health
28 services. The secretary shall issue an endorsement to an applicant
29 who:

30 (a) Completes the hours of training and practical experience
31 required in rules adopted by the secretary for the relevant specialty
32 endorsement;

33 (b) Pays any applicable fee; and

34 (c) Submits any other information as determined by the secretary.

35 (2) A certified long-term care worker who has been granted a
36 specialty endorsement under this section may include the specialty in
37 his or her title, as permitted under rules adopted by the secretary.

1 NEW SECTION. **Sec. 7.** An applicant holding a credential in another
2 state may be certified in this state without training or examination if
3 the secretary determines that the other state's credentialing standards
4 for long-term care workers are substantially equivalent to the
5 standards in this state.

6 NEW SECTION. **Sec. 8.** (1) Registrations and certifications shall
7 be renewed according to administrative procedures, administrative
8 requirements, and fees determined by the secretary under RCW 43.70.250
9 and 43.70.280.

10 (2) Completion of continuing education as required in RCW
11 74.39A.340 is a prerequisite to renewing a registration or
12 certification under this chapter.

13 NEW SECTION. **Sec. 9.** (1) The uniform disciplinary act, chapter
14 18.130 RCW, governs unregistered or uncertified practice, issuance of
15 certificates and registrations, and the discipline of persons
16 registered or with certificates under this chapter. The secretary
17 shall be the disciplinary authority under this chapter.

18 (2)(a) The secretary may take action to immediately suspend the
19 registration or certification of a long-term care worker upon finding
20 that conduct of the long-term care worker has caused or presents an
21 imminent threat of harm to a functionally disabled person in his or her
22 care.

23 (b) If the secretary imposes suspension or conditions for
24 continuation of registration or certification, the suspension or
25 conditions for continuation are effective immediately upon notice and
26 shall continue in effect pending the outcome of any hearing.

27 NEW SECTION. **Sec. 10.** (1) By September 1, 2009, the department
28 shall adopt rules necessary to implement this chapter. In developing
29 rules, the department shall consult with the department of social and
30 health services, the nursing care quality assurance commission, adult
31 family home providers, boarding home providers, in-home personal care
32 providers, the training partnership defined in RCW 74.39A.009, affected
33 labor organizations, community and technical colleges, and long-term
34 care consumers and other interested organizations.

1 (2) The department shall implement this chapter in a cost-effective
2 manner with the intent that the certification program, while offering
3 training in the skills and knowledge necessary to practice competently
4 as a long-term care worker, will also be a platform from which long-
5 term care workers can begin, if desired, a career ladder into other
6 health and allied health professions. The department shall work
7 creatively with the organizations and entities described in this
8 section to design an innovative certification program consistent with
9 the intent expressed in this section. The department shall submit a
10 report on the preliminary design of the program to the appropriate
11 committees of the legislature by December 1, 2008.

12 NEW SECTION. **Sec. 11.** (1) This chapter does not apply to:

13 (a) A registered nurse, licensed practical nurse, certified nursing
14 assistant, medicare certified home health aide, or other person who
15 holds a similar health credential, as determined by the secretary, or
16 person with special education training and an endorsement granted by
17 the superintendent of public instruction that is recognized by the
18 secretary as appropriate to specified personal care services
19 circumstances; and

20 (b) A long-term care worker employed by supportive living providers
21 regulated under chapter 388-101 WAC.

22 (2) Section 2(1)(a)(i) of this act does not apply to:

23 (a) A person first contracted or hired as a long-term care worker
24 prior to January 1, 2010;

25 (b) A person who is the individual provider for only his or her
26 biological, step, or adoptive father, mother, son, or daughter.
27 However, until January 1, 2014, the department may grant additional
28 exemptions on a case-by-case basis to persons caring for only an
29 extended family member. The department shall adopt rules that define
30 criteria for such exemptions; and

31 (c) Prior to January 1, 2014, a person contracted or hired as an
32 individual provider for only one person for twenty hours or less in any
33 calendar month.

34 (3) Section 2(1)(a)(ii) of this act does not apply to a biological,
35 step, or adoptive parent who is the individual provider for only his or
36 her son or daughter who is developmentally or functionally disabled.

1 (4) Nothing in this chapter may be construed to prohibit or
2 restrict:

3 (a) The practice by an individual licensed, certified, or
4 registered under the laws of this state and performing services within
5 his or her authorized scope of practice;

6 (b) The practice by an individual employed by the government of the
7 United States while engaged in the performance of duties prescribed by
8 the laws of the United States;

9 (c) The practice by a person who is a regular student in an
10 educational program approved by the secretary, and whose performance of
11 services is pursuant to a regular course of instruction or assignments
12 from an instructor and under the general supervision of the instructor;

13 (d) A certified long-term care worker from accepting direction from
14 a person who is self-directing his or her care; or

15 (e) A long-term care worker exempt under subsection (1), (2), or
16 (3) of this section from applying for registration or certification,
17 subject to meeting the requirements for such application.

18 **Sec. 12.** RCW 18.130.040 and 2007 c 269 s 17 and 2007 c 70 s 11 are
19 each reenacted and amended to read as follows:

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

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

27 (i) Dispensing opticians licensed and designated apprentices under
28 chapter 18.34 RCW;

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

30 (iii) Midwives licensed under chapter 18.50 RCW;

31 (iv) Ocularists licensed under chapter 18.55 RCW;

32 (v) Massage operators and businesses licensed under chapter 18.108
33 RCW;

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

35 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

1 (ix) Respiratory care practitioners licensed under chapter 18.89
2 RCW;

3 (x) Persons registered under chapter 18.19 RCW;

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

6 (xii) Persons registered as nursing pool operators under chapter
7 18.52C RCW;

8 (xiii) Nursing assistants registered or certified under chapter
9 18.88A RCW;

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

11 (xv) Dietitians and nutritionists certified under chapter 18.138
12 RCW;

13 (xvi) Chemical dependency professionals certified under chapter
14 18.205 RCW;

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

17 (xviii) Persons licensed and certified under chapter 18.73 RCW or
18 RCW 18.71.205;

19 (xix) Denturists licensed under chapter 18.30 RCW;

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

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

22 (xxii) Recreational therapists; (~~and~~)

23 (xxiii) Animal massage practitioners certified under chapter 18.240
24 RCW; and

25 (xxiv) Long-term care workers registered or certified under chapter
26 18.-- RCW (the new chapter created in section 29 of this act).

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

29 (i) The podiatric medical board as established in chapter 18.22
30 RCW;

31 (ii) The chiropractic quality assurance commission as established
32 in chapter 18.25 RCW;

33 (iii) The dental quality assurance commission as established in
34 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
35 licenses and registrations issued under chapter 18.260 RCW;

36 (iv) The board of hearing and speech as established in chapter
37 18.35 RCW;

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

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

5 (vii) The board of osteopathic medicine and surgery as established
6 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
7 18.57A RCW;

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

10 (ix) The medical quality assurance commission as established in
11 chapter 18.71 RCW governing licenses and registrations issued under
12 chapters 18.71 and 18.71A RCW;

13 (x) The board of physical therapy as established in chapter 18.74
14 RCW;

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

17 (xii) The nursing care quality assurance commission as established
18 in chapter 18.79 RCW governing licenses and registrations issued under
19 that chapter;

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

22 (xiv) The veterinary board of governors as established in chapter
23 18.92 RCW.

24 (3) In addition to the authority to discipline license holders, the
25 disciplining authority has the authority to grant or deny licenses
26 based on the conditions and criteria established in this chapter and
27 the chapters specified in subsection (2) of this section. This chapter
28 also governs any investigation, hearing, or proceeding relating to
29 denial of licensure or issuance of a license conditioned on the
30 applicant's compliance with an order entered pursuant to RCW 18.130.160
31 by the disciplining authority.

32 (4) All disciplining authorities shall adopt procedures to ensure
33 substantially consistent application of this chapter, the Uniform
34 Disciplinary Act, among the disciplining authorities listed in
35 subsection (2) of this section.

36 **Sec. 13.** RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and
37 2007 c 70 s 11 are each reenacted and amended to read as follows:

1 (1) This chapter applies only to the secretary and the boards and
2 commissions having jurisdiction in relation to the professions licensed
3 under the chapters specified in this section. This chapter does not
4 apply to any business or profession not licensed under the chapters
5 specified in this section.

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

8 (i) Dispensing opticians licensed and designated apprentices under
9 chapter 18.34 RCW;

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

11 (iii) Midwives licensed under chapter 18.50 RCW;

12 (iv) Ocularists licensed under chapter 18.55 RCW;

13 (v) Massage operators and businesses licensed under chapter 18.108
14 RCW;

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

16 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

19 (ix) Respiratory care practitioners licensed under chapter 18.89
20 RCW;

21 (x) Persons registered under chapter 18.19 RCW;

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

24 (xii) Persons registered as nursing pool operators under chapter
25 18.52C RCW;

26 (xiii) Nursing assistants registered or certified under chapter
27 18.88A RCW;

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

29 (xv) Dietitians and nutritionists certified under chapter 18.138
30 RCW;

31 (xvi) Chemical dependency professionals certified under chapter
32 18.205 RCW;

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

35 (xviii) Persons licensed and certified under chapter 18.73 RCW or
36 RCW 18.71.205;

37 (xix) Denturists licensed under chapter 18.30 RCW;

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

1 (xxi) Surgical technologists registered under chapter 18.215 RCW;
2 (xxii) Recreational therapists;
3 (xxiii) Animal massage practitioners certified under chapter 18.240
4 RCW; (~~and~~)
5 (xxiv) Athletic trainers licensed under chapter 18.250 RCW; and
6 (xxv) Long-term care workers registered or certified under chapter
7 18.-- RCW (the new chapter created in section 29 of this act).
8 (b) The boards and commissions having authority under this chapter
9 are as follows:
10 (i) The podiatric medical board as established in chapter 18.22
11 RCW;
12 (ii) The chiropractic quality assurance commission as established
13 in chapter 18.25 RCW;
14 (iii) The dental quality assurance commission as established in
15 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
16 licenses and registrations issued under chapter 18.260 RCW;
17 (iv) The board of hearing and speech as established in chapter
18 18.35 RCW;
19 (v) The board of examiners for nursing home administrators as
20 established in chapter 18.52 RCW;
21 (vi) The optometry board as established in chapter 18.54 RCW
22 governing licenses issued under chapter 18.53 RCW;
23 (vii) The board of osteopathic medicine and surgery as established
24 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
25 18.57A RCW;
26 (viii) The board of pharmacy as established in chapter 18.64 RCW
27 governing licenses issued under chapters 18.64 and 18.64A RCW;
28 (ix) The medical quality assurance commission as established in
29 chapter 18.71 RCW governing licenses and registrations issued under
30 chapters 18.71 and 18.71A RCW;
31 (x) The board of physical therapy as established in chapter 18.74
32 RCW;
33 (xi) The board of occupational therapy practice as established in
34 chapter 18.59 RCW;
35 (xii) The nursing care quality assurance commission as established
36 in chapter 18.79 RCW governing licenses and registrations issued under
37 that chapter;

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

3 (xiv) The veterinary board of governors as established in chapter
4 18.92 RCW.

5 (3) In addition to the authority to discipline license holders, the
6 disciplining authority has the authority to grant or deny licenses
7 based on the conditions and criteria established in this chapter and
8 the chapters specified in subsection (2) of this section. This chapter
9 also governs any investigation, hearing, or proceeding relating to
10 denial of licensure or issuance of a license conditioned on the
11 applicant's compliance with an order entered pursuant to RCW 18.130.160
12 by the disciplining authority.

13 (4) All disciplining authorities shall adopt procedures to ensure
14 substantially consistent application of this chapter, the Uniform
15 Disciplinary Act, among the disciplining authorities listed in
16 subsection (2) of this section.

17 **Sec. 14.** RCW 74.39A.009 and 2007 c 361 s 2 are each amended to
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

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

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

27 (3) "Assisted living services" means services provided by a
28 boarding home that has a contract with the department under RCW
29 74.39A.010 to provide personal care services, intermittent nursing
30 services, and medication administration services, and the resident is
31 housed in a private apartment-like unit.

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

34 (5) "Cost-effective care" means care provided in a setting of an
35 individual's choice that is necessary to promote the most appropriate
36 level of physical, mental, and psychosocial well-being consistent with
37 client choice, in an environment that is appropriate to the care and

1 safety needs of the individual, and such care cannot be provided at a
2 lower cost in any other setting. But this in no way precludes an
3 individual from choosing a different residential setting to achieve his
4 or her desired quality of life.

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

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

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

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

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

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

13 (b) "Long-term care workers" do not include persons employed in
14 nursing homes subject to chapter 18.51 RCW, hospitals or other acute
15 care settings, hospice agencies subject to chapter 70.127 RCW, adult
16 day care centers, and adult day health care centers.

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

19 (13) "Personal care services" means physical or verbal assistance
20 with activities of daily living and instrumental activities of daily
21 living provided because of a person's functional limitations.

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

23 (~~(14)~~) (15) "Training partnership" means a joint partnership or
24 trust (~~established and maintained jointly by~~) that includes the
25 office of the governor and the exclusive bargaining representative of
26 individual providers under RCW 74.39A.270 with the capacity to provide
27 training(~~(7)~~) and peer mentoring(~~(7 and examinations)~~) required under
28 this chapter, and educational, career development, or other related
29 services to individual providers.

30 (~~(15)~~) (16) "Tribally licensed boarding home" means a boarding
31 home licensed by a federally recognized Indian tribe which home
32 provides services similar to boarding homes licensed under chapter
33 18.20 RCW.

34 **Sec. 15.** RCW 74.39A.240 and 2002 c 3 s 3 are each amended to read
35 as follows:

36 The definitions in this section apply throughout RCW 74.39A.030 and

1 74.39A.095 and 74.39A.220 through 74.39A.300, section 16 of this act,
2 41.56.026, 70.127.041, and 74.09.740 unless the context clearly
3 requires otherwise.

4 (1) "Authority" means the home care quality authority.

5 (2) "Board" means the board created under RCW 74.39A.230.

6 (3) "Consumer" means a person to whom an individual provider
7 provides any such services.

8 (4) "Individual provider" means a person, including a personal
9 aide, who has contracted with the department to provide personal care
10 or respite care services to (~~(functionally disabled persons)~~) persons
11 with functional disabilities under the medicaid personal care,
12 community options program entry system, chore services program, or
13 respite care program, or to provide respite care or residential
14 services and support to persons with developmental disabilities under
15 chapter 71A.12 RCW, or to provide respite care as defined in RCW
16 74.13.270.

17 NEW SECTION. Sec. 16. A new section is added to chapter 74.39A
18 RCW to read as follows:

19 (1) The department shall deny payment to any individual provider of
20 home care services who is not a registered or certified long-term care
21 worker as required under chapter 18.-- RCW (the new chapter created in
22 section 29 of this act).

23 (2) The department may terminate the contract of any individual
24 provider of home care services, or take any other enforcement measure
25 deemed appropriate by the department if the individual provider's
26 registration or certification is revoked under chapter 18.-- RCW (the
27 new chapter created in section 29 of this act).

28 (3) The department and the department of health, as applicable,
29 shall take appropriate enforcement action related to the contract or
30 licensure of a private agency or facility licensed by the state to
31 provide personal care services, other than an individual provider, who
32 knowingly employs a long-term care worker who is not a registered or
33 certified long-term care worker as required under chapter 18.-- RCW
34 (the new chapter created in section 29 of this act).

35 (4) Chapter 34.05 RCW governs department actions under this
36 section.

1 **Sec. 17.** RCW 70.127.100 and 2000 c 175 s 9 are each amended to
2 read as follows:

3 Upon receipt of an application under RCW 70.127.080 for a license
4 and the license fee, the department shall issue a license if the
5 applicant meets the requirements established under this chapter. A
6 license issued under this chapter shall not be transferred or assigned
7 without thirty days prior notice to the department and the department's
8 approval. A license, unless suspended or revoked, is effective for a
9 period of two years, however an initial license is only effective for
10 twelve months. The department shall conduct a survey within each
11 licensure period, and may conduct a licensure survey after ownership
12 transfer, to assure compliance with this chapter and the rules adopted
13 under this chapter, and to enforce section 16(3) of this act.

14 **Sec. 18.** RCW 18.20.110 and 2004 c 144 s 3 are each amended to read
15 as follows:

16 (1) The department shall make or cause to be made, at least every
17 eighteen months with an annual average of fifteen months, an inspection
18 and investigation of all boarding homes. However, the department may
19 delay an inspection to twenty-four months if the boarding home has had
20 three consecutive inspections with no written notice of violations and
21 has received no written notice of violations resulting from complaint
22 investigation during that same time period. The department may at
23 anytime make an unannounced inspection of a licensed home to assure
24 that the licensee is in compliance with this chapter and the rules
25 adopted under this chapter, and to enforce section 16(3) of this act.

26 Every inspection shall focus primarily on actual or potential resident
27 outcomes, and may include an inspection of every part of the premises
28 and an examination of all records, methods of administration, the
29 general and special dietary, and the stores and methods of supply;
30 however, the department shall not have access to financial records or
31 to other records or reports described in RCW 18.20.390. Financial
32 records of the boarding home may be examined when the department has
33 reasonable cause to believe that a financial obligation related to
34 resident care or services will not be met, such as a complaint that
35 staff wages or utility costs have not been paid, or when necessary for
36 the department to investigate alleged financial exploitation of a
37 resident.

1 (2) Following such an inspection or inspections, written notice of
2 any violation of this law or the rules adopted hereunder shall be given
3 to the applicant or licensee and the department.

4 (3) The department may prescribe by rule that any licensee or
5 applicant desiring to make specified types of alterations or additions
6 to its facilities or to construct new facilities shall, before
7 commencing such alteration, addition, or new construction, submit plans
8 and specifications therefor to the agencies responsible for plan
9 reviews for preliminary inspection and approval or recommendations with
10 respect to compliance with the rules and standards herein authorized.

11 **Sec. 19.** RCW 70.128.090 and 2001 c 319 s 7 are each amended to
12 read as follows:

13 (1) During inspections of an adult family home, the department
14 shall have access and authority to examine areas and articles in the
15 home used to provide care or support to residents, including residents'
16 records, accounts, and the physical premises, including the buildings,
17 grounds, and equipment. The personal records of the provider are not
18 subject to department inspection nor is the separate bedroom of the
19 provider, not used in direct care of a client, subject to review. The
20 department may inspect all rooms during the initial licensing of the
21 home. However, during a complaint investigation, the department shall
22 have access to the entire premises and all pertinent records when
23 necessary to conduct official business. The department also shall have
24 the authority to interview the provider and residents of an adult
25 family home.

26 (2) Whenever an inspection is conducted, the department shall
27 prepare a written report that summarizes all information obtained
28 during the inspection, and if the home is in violation of this chapter
29 or the rules adopted under this chapter, or if the department is
30 enforcing section 16(3) of this act, serve a copy of the inspection
31 report upon the provider at the same time as a notice of violation.
32 This notice shall be mailed to the provider within ten working days of
33 the completion of the inspection process. If the home is not in
34 violation of this chapter, a copy of the inspection report shall be
35 mailed to the provider within ten calendar days of the inspection of
36 the home. All inspection reports shall be made available to the public
37 at the department during business hours.

1 (3) The provider shall develop corrective measures for any
2 violations found by the department's inspection. The department shall
3 upon request provide consultation and technical assistance to assist
4 the provider in developing effective corrective measures. The
5 department shall include a statement of the provider's corrective
6 measures in the department's inspection report.

7 **Sec. 20.** RCW 74.39A.050 and 2004 c 140 s 6 are each amended to
8 read as follows:

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

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

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

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

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

26 (5) Monitoring should be outcome based and responsive to consumer
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 providers, residents, and other interested parties.

30 (6) Prompt and specific enforcement remedies shall also be
31 implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160,
32 chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have
33 delivered care or failed to deliver care resulting in problems that are
34 serious, recurring, or uncorrected, or that create a hazard that is
35 causing or likely to cause death or serious harm to one or more
36 residents. These enforcement remedies may also include, when

1 appropriate, reasonable conditions on a contract or license. In the
2 selection of remedies, the safety, health, and well-being of residents
3 shall be of paramount importance.

4 (7) To the extent funding is available, all long-term care staff
5 directly responsible for the care, supervision, or treatment of
6 vulnerable persons should be screened through background checks in a
7 uniform and timely manner to ensure that they do not have a criminal
8 history that would disqualify them from working with vulnerable
9 persons. Whenever a state conviction record check is required by state
10 law, persons may be employed or engaged as volunteers or independent
11 contractors on a conditional basis according to law and rules adopted
12 by the department.

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

21 (9) The department shall establish, by rule, a state registry which
22 contains identifying information about personal care aides identified
23 under this chapter who have substantiated findings of abuse, neglect,
24 financial exploitation, or abandonment of a vulnerable adult as defined
25 in RCW 74.34.020. The rule must include disclosure, disposition of
26 findings, notification, findings of fact, appeal rights, and fair
27 hearing requirements. The department shall disclose, upon request,
28 substantiated findings of abuse, neglect, financial exploitation, or
29 abandonment to any person so requesting this information.

30 (10) The department shall by rule develop training requirements for
31 individual providers and home care agency providers. Effective March
32 1, 2002, individual providers and home care agency providers must
33 satisfactorily complete department-approved orientation, basic
34 training, and continuing education within the time period specified by
35 the department in rule. (~~The department shall adopt rules by March 1,~~
36 ~~2002, for the implementation of this section based on the~~
37 ~~recommendations of the community long term care training and education~~
38 ~~steering committee established in RCW 74.39A.190.)) The department~~

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

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

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

16 (13) The department shall establish, by rule, training, background
17 checks, and other quality assurance requirements for personal aides 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.

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

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

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

17 (16) Except for the orientation required under subsection (10) of
18 this section, a long-term care worker certified under chapter 18.-- RCW
19 (the new chapter created in section 29 of this act) is exempt from this
20 section.

21 **Sec. 21.** RCW 18.20.270 and 2002 c 233 s 1 are each amended to read
22 as follows:

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

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

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

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

1 orientation, basic training, specialty training as appropriate, and
2 continuing education.

3 (3) Orientation consists of introductory information on residents'
4 rights, communication skills, fire and life safety, and universal
5 precautions. Orientation must be provided at the facility by
6 appropriate boarding home staff to all boarding home employees before
7 the employees have routine interaction with residents.

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

22 (5) For boarding homes that serve residents with special needs such
23 as dementia, developmental disabilities, or mental illness, specialty
24 training is required of administrators, or designees, and caregivers.
25 Specialty training consists of modules on the core knowledge and skills
26 that caregivers need to effectively and safely provide care to
27 residents with special needs. Specialty training should be integrated
28 into basic training wherever appropriate. Specialty training must be
29 outcome-based, and the effectiveness of the specialty training measured
30 by demonstrated competency in the core specialty areas through the use
31 of a competency test. Specialty training must be completed by
32 caregivers within one hundred twenty days of the date on which they
33 begin to provide hands-on care to a resident having special needs or
34 within one hundred twenty days of September 1, 2002, whichever is
35 later. However, if specialty training is not integrated with basic
36 training, the specialty training must be completed within ninety days
37 of completion of basic training. Until competency in the core
38 specialty areas has been demonstrated, caregivers shall not provide

1 hands-on personal care to residents with special needs without direct
2 supervision. Boarding home administrators, or their designees, must
3 complete specialty training and demonstrate competency within one
4 hundred twenty days of September 1, 2002, or one hundred twenty days
5 from the date on which the administrator or his or her designee is
6 hired, whichever is later, if the boarding home serves one or more
7 residents with special needs.

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 or who are certified under chapter 18.-- RCW (the new
20 chapter created in section 29 of this act) are fully exempt from the
21 basic training requirements of this section. Persons who successfully
22 challenge the specialty training competency test are fully exempt from
23 the specialty training requirements of this section.

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

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

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

36 (11) Boarding homes that desire to deliver facility-based training
37 with facility designated trainers, or boarding homes that desire to
38 pool their resources to create shared training systems, must be

1 encouraged by the department in their efforts. The department shall
2 develop criteria for reviewing and approving trainers and training
3 materials that are substantially similar to or better than the
4 materials developed by the department. The department may approve a
5 curriculum based upon attestation by a boarding home administrator that
6 the boarding home's training curriculum addresses basic and specialty
7 training competencies identified by the department, and shall review a
8 curriculum to verify that it meets these requirements. The department
9 may conduct the review as part of the next regularly scheduled yearly
10 inspection and investigation required under RCW 18.20.110. The
11 department shall rescind approval of any curriculum if it determines
12 that the curriculum does not meet these requirements.

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

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

27 **Sec. 22.** RCW 70.128.230 and 2002 c 233 s 3 are each amended to
28 read as follows:

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

31 (a) "Caregiver" includes all adult family home resident managers
32 and any person who provides residents with hands-on personal care on
33 behalf of an adult family home, except volunteers who are directly
34 supervised.

35 (b) "Indirect supervision" means oversight by a person who has
36 demonstrated competency in the core areas or has been fully exempted

1 from the training requirements pursuant to this section and is quickly
2 and easily available to the caregiver, but not necessarily on-site.

3 (2) Training must have three components: Orientation, basic
4 training, and continuing education. All adult family home providers,
5 resident managers, and employees, or volunteers who routinely interact
6 with residents shall complete orientation. Caregivers shall complete
7 orientation, basic training, and continuing education.

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

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

24 (5) For adult family homes that serve residents with special needs
25 such as dementia, developmental disabilities, or mental illness,
26 specialty training is required of providers and resident managers.
27 Specialty training consists of modules on the core knowledge and skills
28 that providers and resident managers need to effectively and safely
29 provide care to residents with special needs. Specialty training
30 should be integrated into basic training wherever appropriate.
31 Specialty training must be outcome-based, and the effectiveness of the
32 specialty training measured by demonstrated competency in the core
33 specialty areas through the use of a competency test. Specialty
34 training must be completed by providers and resident managers before
35 admitting and serving residents who have been determined to have
36 special needs related to mental illness, dementia, or a developmental
37 disability. Should a resident develop special needs while living in a

1 home without specialty designation, the provider and resident manager
2 have one hundred twenty days to complete specialty training.

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

13 (7) Persons who successfully challenge the competency test for
14 basic training or who are certified under chapter 18.-- RCW (the new
15 chapter created in section 29 of this act) are fully exempt from the
16 basic training requirements of this section. Persons who successfully
17 challenge the specialty training competency test are fully exempt from
18 the specialty training requirements of this section.

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

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

29 (10) Adult family homes that desire to deliver facility-based
30 training with facility designated trainers, or adult family homes that
31 desire to pool their resources to create shared training systems, must
32 be encouraged by the department in their efforts. The department shall
33 develop criteria for reviewing and approving trainers and training
34 materials. The department may approve a curriculum based upon
35 attestation by an adult family home administrator that the adult family
36 home's training curriculum addresses basic and specialty training
37 competencies identified by the department, and shall review a
38 curriculum to verify that it meets these requirements. The department

1 may conduct the review as part of the next regularly scheduled
2 inspection authorized under RCW 70.128.070. The department shall
3 rescind approval of any curriculum if it determines that the curriculum
4 does not meet these requirements.

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

7 (12) The orientation, basic training, specialty training, and
8 continuing education requirements of this section commence September 1,
9 2002, and shall be applied to (a) employees hired subsequent to
10 September 1, 2002; or (b) existing employees that on September 1, 2002,
11 have not successfully completed the training requirements under RCW
12 70.128.120 or 70.128.130 and this section. Existing employees who have
13 not successfully completed the training requirements under RCW
14 70.128.120 or 70.128.130 shall be subject to all applicable
15 requirements of this section. However, until September 1, 2002,
16 nothing in this section affects the current training requirements under
17 RCW 70.128.120 and 70.128.130.

18 **Sec. 23.** RCW 74.39A.340 and 2007 c 361 s 4 are each amended to
19 read as follows:

20 (1) Except as provided in subsection (2) of this section, long-term
21 care workers shall complete twelve hours of continuing education
22 training in advanced training topics each year. This requirement
23 applies beginning on January 1, 2010.

24 (2) Unless he or she is a registered or certified long-term care
25 worker, subsection (1) of this section does not apply to: (a) A
26 biological, step, or adoptive parent who is the individual provider for
27 only his or her son or daughter who is developmentally or functionally
28 disabled; or (b) a person covered by section 11(2)(c) of this act.

29 **Sec. 24.** RCW 74.39A.350 and 2007 c 361 s 5 are each amended to
30 read as follows:

31 The department shall offer, directly or through contract, training
32 opportunities sufficient for a long-term care worker to accumulate
33 sixty-five hours of training within a reasonable time period. For
34 individual providers represented by an exclusive bargaining
35 representative under RCW 74.39A.270, the training opportunities shall
36 be offered through a contract with the training partnership established

1 under RCW 74.39A.360. Training topics shall include, but are not
2 limited to: Client rights; personal care; mental illness; dementia;
3 developmental disabilities; depression; medication assistance; advanced
4 communication skills; positive client behavior support; developing or
5 improving client-centered activities; dealing with wandering or
6 aggressive client behaviors; medical conditions; nurse delegation core
7 training; peer mentor training; and advocacy for quality care training.
8 The department may not require long-term care workers to obtain the
9 training described in this section. This requirement to offer advanced
10 training applies beginning January 1, (~~2010~~) 2012.

11 **Sec. 25.** RCW 74.39A.270 and 2007 c 361 s 7 and 2007 c 278 s 3 are
12 each reenacted and amended to read as follows:

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

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

4 (a) The only unit appropriate for the purpose of collective
5 bargaining under RCW 41.56.060 is a statewide unit of all individual
6 providers;

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

10 (c) The mediation and interest arbitration provisions of RCW
11 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

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

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

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

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

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

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

37 (5) In implementing and administering this chapter, neither the
38 authority nor any of its contractors may reduce or increase the hours

1 of service for any consumer below or above the amount determined to be
2 necessary under any assessment prepared by the department or an area
3 agency on aging.

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

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

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

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

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

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

35 (f) The legislature's right to make programmatic modifications to
36 the delivery of state services under this title, including standards of
37 eligibility of consumers and individual providers participating in the
38 programs under this title, and the nature of services provided. The

1 governor shall not enter into, extend, or renew any agreement under
2 this chapter that does not expressly reserve the legislative rights
3 described in this subsection (6)(f).

4 (7) Except as provided in subsection (8) of this section, at the
5 request of the exclusive bargaining representative, the governor or the
6 governor's designee appointed under chapter 41.80 RCW shall engage in
7 collective bargaining, as defined in RCW 41.56.030(4), with the
8 exclusive bargaining representative over employer contributions to the
9 training partnership for the costs of: (a) Meeting all training and
10 peer mentoring required under this chapter and chapter 18.-- RCW (the
11 new chapter created in section 29 of this act); and (b) other training
12 intended to promote the career development of individual providers.

13 (8) The governor or the governor's designee appointed under chapter
14 41.80 RCW shall engage in collective bargaining, as defined in RCW
15 41.56.030(4), with the exclusive bargaining representative over the
16 payment of wages by the employer to a long-term care worker for time
17 related to the receipt of training under RCW 74.39A.340 or 74.39A.350
18 only at the request of the governor or the governor's designee.

19 (9)(a) The state, the department, the authority, the area agencies
20 on aging, or their contractors under this chapter may not be held
21 vicariously or jointly liable for the action or inaction of any
22 individual provider or prospective individual provider, whether or not
23 that individual provider or prospective individual provider was
24 included on the authority's referral registry or referred to a consumer
25 or prospective consumer. The existence of a collective bargaining
26 agreement, the placement of an individual provider on the referral
27 registry, or the development or approval of a plan of care for a
28 consumer who chooses to use the services of an individual provider and
29 the provision of case management services to that consumer, by the
30 department or an area agency on aging, does not constitute a special
31 relationship with the consumer.

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

34 ~~((+9))~~ (10) Nothing in this section affects the state's
35 responsibility with respect to unemployment insurance for individual
36 providers. However, individual providers are not to be considered, as
37 a result of the state assuming this responsibility, employees of the
38 state.

1 NEW SECTION. **Sec. 26.** A new section is added to chapter 70.128
2 RCW to read as follows:

3 (1) Adult family homes may participate in a voluntary adult family
4 home certification program through the University of Washington
5 geriatric education center. In addition to the minimum qualifications
6 required under RCW 70.128.120, individuals participating in the
7 voluntary adult family home certification program must complete fifty-
8 two hours of class requirements as established by the University of
9 Washington geriatric education center. Subjects covered by the class
10 requirements must include: Specific age-related physical or mental
11 health conditions that can be prevented, postponed, or alleviated by a
12 health promotion intervention; how to establish health promotion
13 programs in residential settings and communities; preventing falls;
14 addressing health issues of aging families; and issues and health
15 concerns of ethnic older adults and those with developmental
16 disabilities.

17 (2) Individuals completing the requirements of RCW 70.128.120 and
18 the voluntary adult family home certification program shall be issued
19 a certified adult family home license by the department.

20 (3) The department shall adopt rules to implement this section.

21 NEW SECTION. **Sec. 27.** A new section is added to chapter 74.39A
22 RCW to read as follows:

23 A biological, step, or adoptive parent who is the individual
24 provider only for his or her developmentally disabled son or daughter
25 must receive twelve hours of training relevant to the needs of adults
26 with developmental disabilities within the first one hundred twenty
27 days of becoming an individual provider. This section applies only to
28 parents who become such individual providers on or after January 1,
29 2010.

30 NEW SECTION. **Sec. 28.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 18.20.230 (Training standards review--Proposed
33 enhancements) and 1999 c 372 s 3 & 1998 c 272 s 2; and

34 (2) RCW 70.128.210 (Training standards review--Delivery system--
35 Issues reviewed--Report to the legislature) and 1998 c 272 s 3.

1 NEW SECTION. **Sec. 29.** Sections 1 through 11 of this act
2 constitute a new chapter in Title 18 RCW.

3 NEW SECTION. **Sec. 30.** Section 12 of this act expires July 1,
4 2008.

5 NEW SECTION. **Sec. 31.** Section 13 of this act takes effect July 1,
6 2008.

7 NEW SECTION. **Sec. 32.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2008, in the omnibus appropriations act, this act
10 is null and void."

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By Senator

11 On page 1, line 1 of the title, after "workers;" strike the
12 remainder of the title and insert "amending RCW 74.39A.009, 74.39A.240,
13 70.127.100, 18.20.110, 70.128.090, 74.39A.050, 18.20.270, 70.128.230,
14 74.39A.340, and 74.39A.350; reenacting and amending RCW 18.130.040,
15 18.130.040, and 74.39A.270; adding a new section to chapter 74.39 RCW;
16 adding a new section to chapter 70.128 RCW; adding a new section to
17 chapter 74.39A RCW; adding a new chapter to Title 18 RCW; creating a
18 new section; repealing RCW 18.20.230 and 70.128.210; providing an
19 effective date; and providing an expiration date."

--- END ---