

SHB 1548 - H AMD 819

By Representative Cody

ADOPTED AS AMENDED 05/24/2011

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

3 "Sec. 1. RCW 18.88B.020 and 2009 c 580 s 18 are each amended to
4 read as follows:

5 (1) Effective January 1, (~~2011~~) 2014, except as provided in RCW
6 18.88B.040, the department of health shall require that any person
7 hired as a long-term care worker for the elderly or persons with
8 disabilities must be certified as a home care aide within one hundred
9 fifty days from the date of being hired.

10 (2) Except as provided in RCW 18.88B.040, certification as a home
11 care aide requires both completion of seventy-five hours of training
12 and successful completion of a certification examination pursuant to
13 RCW 74.39A.073 and 18.88B.030.

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

17 (4) The department of health shall adopt rules by August 1,
18 (~~2010~~) 2013, to implement this section.

19 **Sec. 2.** RCW 18.88B.030 and 2009 c 580 s 4 are each amended to read
20 as follows:

21 (1) Effective January 1, (~~2011~~) 2014, except as provided in RCW
22 18.88B.040, the department of health shall require that all long-term
23 care workers successfully complete a certification examination. Any
24 long-term care worker failing to make the required grade for the
25 examination will not be certified as a home care aide.

26 (2) The department of health, in consultation with consumer and
27 worker representatives, shall develop a home care aide certification
28 examination to evaluate whether an applicant possesses the skills and
29 knowledge necessary to practice competently. Unless excluded by RCW

1 18.88B.040 (1) and (2), only those who have completed the training
2 requirements in RCW 74.39A.073 shall be eligible to sit for this
3 examination.

4 (3) The examination shall include both a skills demonstration and
5 a written or oral knowledge test. The examination papers, all grading
6 of the papers, and records related to the grading of skills
7 demonstration shall be preserved for a period of not less than one
8 year. The department of health shall establish rules governing the
9 number of times and under what circumstances individuals who have
10 failed the examination may sit for the examination, including whether
11 any intermediate remedial steps should be required.

12 (4) All examinations shall be conducted by fair and wholly
13 impartial methods. The certification examination shall be administered
14 and evaluated by the department of health or by a contractor to the
15 department of health that is neither an employer of long-term care
16 workers or private contractors providing training services under this
17 chapter.

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

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

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

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

25 (d) Maintain the official record of all applicants and persons with
26 certificates;

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

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

31 (6) The department of health shall adopt rules by August 1,
32 ((2010)) 2013, that establish the procedures, including criteria for
33 reviewing an applicant's state and federal background checks, and
34 examinations necessary to carry this section into effect.

35 **Sec. 3.** RCW 18.88B.040 and 2010 c 169 s 11 are each amended to
36 read as follows:

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

3 (1) Registered nurses, licensed practical nurses, certified nursing
4 assistants or persons who are in an approved training program for
5 certified nursing assistants under chapter 18.88A RCW, medicare-
6 certified home health aides, or other persons who hold a similar health
7 credential, as determined by the secretary of health, or persons with
8 special education training and an endorsement granted by the
9 superintendent of public instruction, as described in RCW 28A.300.010,
10 if the secretary of health determines that the circumstances do not
11 require certification. After December 31, 2013, individuals exempted
12 by this subsection may obtain certification as a home care aide from
13 the department of health without fulfilling the training requirements
14 in RCW 74.39A.073 but must successfully complete a certification
15 examination pursuant to RCW 18.88B.030.

16 (2) A person already employed as a long-term care worker prior to
17 January 1, ~~((2011))~~ 2014, who completes all of his or her training
18 requirements in effect as of the date he or she was hired, is not
19 required to obtain certification. After December 31, 2013, individuals
20 exempted by this subsection may obtain certification as a home care
21 aide from the department of health without fulfilling the training
22 requirements in RCW 74.39A.073 but must successfully complete a
23 certification examination pursuant to RCW 18.88B.030.

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

26 (4) An individual provider caring only for his or her biological,
27 step, or adoptive child or parent is not required to obtain
28 certification under this chapter.

29 ~~((Prior to June 30, 2014, a person hired as an individual
30 provider who provides twenty hours or less of care for one person in
31 any calendar month is not required to obtain certification under this
32 chapter.~~

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

36 ~~((7))~~ (6) The department of health shall adopt rules by August 1,
37 ~~((2010))~~ 2013, to implement this section.

1 **Sec. 4.** RCW 18.88B.050 and 2009 c 580 s 17 are each amended to
2 read as follows:

3 (1) The uniform disciplinary act, chapter 18.130 RCW, governs
4 uncertified practice, issuance of certificates, and the discipline of
5 persons with certificates under this chapter. The secretary of health
6 shall be the disciplinary authority under this chapter.

7 (2) The secretary of health may take action to immediately suspend
8 the certification of a long-term care worker upon finding that conduct
9 of the long-term care worker has caused or presents an imminent threat
10 of harm to a functionally disabled person in his or her care.

11 (3) If the secretary of health imposes suspension or conditions for
12 continuation of certification, the suspension or conditions for
13 continuation are effective immediately upon notice and shall continue
14 in effect pending the outcome of any hearing.

15 (4) The department of health shall take appropriate enforcement
16 action related to the licensure of a private agency or facility
17 licensed by the state, to provide personal care services, other than an
18 individual provider, who knowingly employs a long-term care worker who
19 is not a certified home care aide as required under this chapter or, if
20 exempted from certification by RCW 18.88B.040, has not completed his or
21 her required training pursuant to this chapter.

22 (5) Chapter 34.05 RCW shall govern actions by the department of
23 health under this section.

24 (6) The department of health shall adopt rules by August 1,
25 (~~2010~~) 2013, to implement this section.

26 **Sec. 5.** RCW 74.39A.050 and 2009 c 580 s 7 are each amended to read
27 as follows:

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

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

34 (2) The goal of the system is continuous quality improvement with
35 the focus on consumer satisfaction and outcomes for consumers. This
36 includes that when conducting licensing or contract inspections, the

1 department shall interview an appropriate percentage of residents,
2 family members, resident case managers, and advocates in addition to
3 interviewing providers and staff.

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

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

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

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

23 (7) All long-term care workers shall be screened through background
24 checks in a uniform and timely manner to ensure that they do not have
25 a criminal history that would disqualify them from working with
26 vulnerable persons. Long-term care workers who are hired after January
27 1, (~~2012~~) 2014, are subject to background checks under RCW
28 74.39A.055. This information will be shared with the department of
29 health in accordance with RCW 74.39A.055 to advance the purposes of
30 chapter 2, Laws of 2009.

31 (8) No provider, or its staff, or long-term care worker, or
32 prospective provider or long-term care worker, with a stipulated
33 finding of fact, conclusion of law, an agreed order, or finding of
34 fact, conclusion of law, or final order issued by a disciplining
35 authority, a court of law, or entered into a state registry finding him
36 or her guilty of abuse, neglect, exploitation, or abandonment of a
37 minor or a vulnerable adult as defined in chapter 74.34 RCW shall be

1 employed in the care of and have unsupervised access to vulnerable
2 adults.

3 (9) The department shall establish, by rule, a state registry which
4 contains identifying information about long-term care workers
5 identified under this chapter who have substantiated findings of abuse,
6 neglect, financial exploitation, or abandonment of a vulnerable adult
7 as defined in RCW 74.34.020. The rule must include disclosure,
8 disposition of findings, notification, findings of fact, appeal rights,
9 and fair hearing requirements. The department shall disclose, upon
10 request, substantiated findings of abuse, neglect, financial
11 exploitation, or abandonment to any person so requesting this
12 information. This information will also be shared with the department
13 of health to advance the purposes of chapter 2, Laws of 2009.

14 (10) Until December 31, (~~(2010)~~) 2013, individual providers and
15 home care agency providers must satisfactorily complete department-
16 approved orientation, basic training, and continuing education within
17 the time period specified by the department in rule. The department
18 shall adopt rules by March 1, 2002, for the implementation of this
19 section. The department shall deny payment to an individual provider
20 or a home care provider who does not complete the training requirements
21 within the time limit specified by the department by rule.

22 (11) Until December 31, (~~(2010)~~) 2013, in an effort to improve
23 access to training and education and reduce costs, especially for rural
24 communities, the coordinated system of long-term care training and
25 education must include the use of innovative types of learning
26 strategies such as internet resources, videotapes, and distance
27 learning using satellite technology coordinated through community
28 colleges or other entities, as defined by the department.

29 (12) The department shall create an approval system by March 1,
30 2002, for those seeking to conduct department-approved training.

31 (13) The department shall establish, by rule, background checks and
32 other quality assurance requirements for long-term care workers who
33 provide in-home services funded by medicaid personal care as described
34 in RCW 74.09.520, community options program entry system waiver
35 services as described in RCW 74.39A.030, or chore services as described
36 in RCW 74.39A.110 that are equivalent to requirements for individual
37 providers. Long-term care workers who are hired after January 1,
38 (~~(2012)~~) 2014, are subject to background checks under RCW 74.39A.055.

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

4 (15) Within existing funds, the department shall design, develop,
5 and implement a long-term care training program that is flexible,
6 relevant, and qualifies towards the requirements for a nursing
7 assistant certificate as established under chapter 18.88A RCW. This
8 subsection does not require completion of the nursing assistant
9 certificate training program by providers or their staff. The long-
10 term care teaching curriculum must consist of a fundamental module, or
11 modules, and a range of other available relevant training modules that
12 provide the caregiver with appropriate options that assist in meeting
13 the resident's care needs. Some of the training modules may include,
14 but are not limited to, specific training on the special care needs of
15 persons with developmental disabilities, dementia, mental illness, and
16 the care needs of the elderly. No less than one training module must
17 be dedicated to workplace violence prevention. The nursing care
18 quality assurance commission shall work together with the department to
19 develop the curriculum modules. The nursing care quality assurance
20 commission shall direct the nursing assistant training programs to
21 accept some or all of the skills and competencies from the curriculum
22 modules towards meeting the requirements for a nursing assistant
23 certificate as defined in chapter 18.88A RCW. A process may be
24 developed to test persons completing modules from a caregiver's class
25 to verify that they have the transferable skills and competencies for
26 entry into a nursing assistant training program. The department may
27 review whether facilities can develop their own related long-term care
28 training programs. The department may develop a review process for
29 determining what previous experience and training may be used to waive
30 some or all of the mandatory training. The department of social and
31 health services and the nursing care quality assurance commission shall
32 work together to develop an implementation plan by December 12, 1998.

33 **Sec. 6.** RCW 74.39A.055 and 2009 c 580 s 2 are each amended to read
34 as follows:

35 (1) All long-term care workers for the elderly or persons with
36 disabilities hired after January 1, (~~2012~~) 2014, shall be screened
37 through state and federal background checks in a uniform and timely

1 manner to ensure that they do not have a criminal history that would
2 disqualify them from working with vulnerable persons. These background
3 checks shall include checking against the federal bureau of
4 investigation fingerprint identification records system and against the
5 national sex offenders registry or their successor programs. The
6 department shall require these long-term care workers to submit
7 fingerprints for the purpose of investigating conviction records
8 through both the Washington state patrol and the federal bureau of
9 investigation.

10 (2) To allow the department of health to satisfy its certification
11 responsibilities under chapter 18.88B RCW, the department shall share
12 state and federal background check results with the department of
13 health. Neither department may share the federal background check
14 results with any other state agency or person.

15 (3) The department shall not pass on the cost of these criminal
16 background checks to the workers or their employers.

17 (4) The department shall adopt rules to implement the provisions of
18 this section by August 1, (~~2010~~) 2013.

19 **Sec. 7.** RCW 74.39A.073 and 2009 c 580 s 10 are each amended to
20 read as follows:

21 (1) Effective January 1, (~~2011~~) 2014, except as provided in RCW
22 18.88B.040, all persons employed as long-term care workers for the
23 elderly or persons with disabilities must meet the minimum training
24 requirements in this section within one hundred twenty calendar days of
25 employment.

26 (2) All persons employed as long-term care workers must obtain
27 seventy-five hours of entry-level training approved by the department.
28 A long-term care worker must accomplish five of these seventy-five
29 hours before becoming eligible to provide care.

30 (3) Training required by subsection (4)(c) of this section will be
31 applied towards training required under RCW 18.20.270 or 70.128.230 as
32 well as any statutory or regulatory training requirements for long-term
33 care workers employed by supportive living providers.

34 (4) Only training curriculum approved by the department may be used
35 to fulfill the training requirements specified in this section. The
36 seventy-five hours of entry-level training required shall be as
37 follows:

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

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

7 (c) All long-term care workers must complete seventy hours of
8 long-term care basic training, including training related to core
9 competencies and population specific competencies.

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

11 (a) Has been developed with input from consumer and worker
12 representatives; and

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

15 (6) Individual providers under RCW 74.39A.270 shall be compensated
16 for training time required by this section.

17 (7) The department of health shall adopt rules by August 1,
18 ~~((2010))~~ 2013, to implement subsections (1), (2), and (3) of this
19 section.

20 (8) The department shall adopt rules by August 1, ~~((2010))~~ 2013, to
21 implement subsections (4) and (5) of this section.

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

24 (1) Effective January 1, ~~((2011))~~ 2014, a biological, step, or
25 adoptive parent who is the individual provider only for his or her
26 developmentally disabled son or daughter must receive twelve hours of
27 training relevant to the needs of adults with developmental
28 disabilities within the first one hundred twenty days of becoming an
29 individual provider.

30 (2) Effective January 1, ~~((2011))~~ 2014, individual providers
31 identified in ~~((a) and (b) of)~~ this subsection must complete
32 thirty-five hours of training within the first one hundred twenty days
33 of becoming an individual provider. Five of the thirty-five hours must
34 be completed before becoming eligible to provide care. Two of these
35 five hours shall be devoted to an orientation training regarding an
36 individual provider's role as caregiver and the applicable terms of

1 employment, and three hours shall be devoted to safety training,
2 including basic safety precautions, emergency procedures, and infection
3 control. Individual providers subject to this requirement include(~~(+~~

4 ~~(a))~~ an individual provider caring only for his or her biological,
5 step, or adoptive child or parent unless covered by subsection (1) of
6 this section(~~(+and~~

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

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

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

15 (b) Requires comprehensive instruction by qualified instructors.

16 (4) The department shall adopt rules by August 1, (~~(2010))~~ 2013, to
17 implement this section.

18 **Sec. 9.** RCW 74.39A.085 and 2009 c 580 s 14 are each amended to
19 read as follows:

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

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

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

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

3 (5) The department shall adopt rules by August 1, (~~(2010)~~) 2013, to
4 implement this section.

5 **Sec. 10.** RCW 74.39A.260 and 2009 c 580 s 9 are each amended to
6 read as follows:

7 The department must perform criminal background checks for
8 individual providers and prospective individual providers and ensure
9 that the authority has ready access to any long-term care abuse and
10 neglect registry used by the department. Individual providers who are
11 hired after January 1, (~~(2012)~~) 2014, are subject to background checks
12 under RCW 74.39A.055.

13 **Sec. 11.** RCW 74.39A.330 and 2009 c 478 s 1 are each amended to
14 read as follows:

15 Long-term care workers shall be offered on-the-job training or peer
16 mentorship for at least one hour per week in the first ninety days of
17 work from a long-term care worker who has completed at least twelve
18 hours of mentor training and is mentoring no more than ten other
19 workers at any given time. This requirement applies to long-term care
20 workers who begin work on or after (~~(July 1, 2011)~~) January 1, 2014.

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

23 (1) The department of health shall ensure that all long-term care
24 workers shall complete twelve hours of continuing education training in
25 advanced training topics each year. This requirement applies beginning
26 on July 1, (~~(2011)~~) 2014.

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

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

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

34 ~~(b) Before June 30, 2014, a person hired as an individual provider~~

1 who provides twenty hours or less of care for one person in any
2 calendar month)).

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

6 (a) Has been developed with input from consumer and worker
7 representatives; and

8 (b) Requires comprehensive instruction by qualified instructors.

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

11 (6) The department of health shall adopt rules by August 1,
12 ((2010)) 2013, to implement subsections (1), (2), and (3) of this
13 section.

14 (7) The department shall adopt rules by August 1, ((2010)) 2013, to
15 implement subsection (4) of this section.

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

18 The department shall offer, directly or through contract, training
19 opportunities sufficient for a long-term care worker to accumulate
20 seventy hours of training within a reasonable time period. For
21 individual providers represented by an exclusive bargaining
22 representative under RCW 74.39A.270, the training opportunities shall
23 be offered through the training partnership established under RCW
24 74.39A.360. Training topics shall include, but are not limited to:
25 Client rights; personal care; mental illness; dementia; developmental
26 disabilities; depression; medication assistance; advanced communication
27 skills; positive client behavior support; developing or improving
28 client-centered activities; dealing with wandering or aggressive client
29 behaviors; medical conditions; nurse delegation core training; peer
30 mentor training; and advocacy for quality care training. The
31 department may not require long-term care workers to obtain the
32 training described in this section. This requirement to offer advanced
33 training applies beginning January 1, ((2012)) 2014.

34 **Sec. 14.** RCW 74.39A.095 and 2009 c 580 s 8 are each amended to
35 read as follows:

36 (1) In carrying out case management responsibilities established

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

8 (a) Verification that any individual provider who has not been
9 referred to a consumer by the authority 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. If, in the
19 course of its case management activities, the area agency on aging
20 identifies concerns regarding the care being provided by an individual
21 provider who was referred by the authority, the area agency on aging
22 must notify the authority regarding its concerns; and

23 (f) Conducting criminal background checks or verifying that
24 criminal background checks have been conducted for any individual
25 provider who has not been referred to a consumer by the authority.
26 Individual providers who are hired after January 1, (~~2012~~) 2014, are
27 subject to background checks under RCW 74.39A.055.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (7) If the department or area agency on aging case manager finds
2 that an individual provider's inadequate performance or inability to
3 deliver quality care is jeopardizing the health, safety, or well-being
4 of a consumer receiving service under this section, the department or
5 the area agency on aging may take action to terminate the contract
6 between the department and the individual provider. If the department
7 or the area agency on aging has a reasonable, good faith belief that
8 the health, safety, or well-being of a consumer is in imminent
9 jeopardy, the department or area agency on aging may summarily suspend
10 the contract pending a fair hearing. The consumer may request a fair
11 hearing to contest the planned action of the case manager, as provided
12 in chapter 34.05 RCW. When the department or area agency on aging
13 terminates or summarily suspends a contract under this subsection, it
14 must provide oral and written notice of the action taken to the
15 authority. The department may by rule adopt guidelines for
16 implementing this subsection.

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

26 **Sec. 15.** RCW 18.20.125 and 2009 c 580 s 3 are each amended to read
27 as follows:

28 (1) Inspections must be outcome based and responsive to resident
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 facilities, residents, and other interested parties. This
32 includes that when conducting licensing inspections, the department
33 shall interview an appropriate percentage of residents, family members,
34 and advocates in addition to interviewing appropriate staff.

35 (2) Prompt and specific enforcement remedies shall also be
36 implemented without delay, consistent with RCW 18.20.190, for
37 facilities found to have delivered care or failed to deliver care

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

7 (3)(a) To the extent funding is available, the licensee,
8 administrator, and their staff should be screened through background
9 checks in a uniform and timely manner to ensure that they do not have
10 a criminal history that would disqualify them from working with
11 vulnerable adults. Employees may be provisionally hired pending the
12 results of the background check if they have been given three positive
13 references.

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

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

25 **Sec. 16.** RCW 43.20A.710 and 2011 c 253 s 1 are each amended to
26 read as follows:

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

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

1 (b) Individual providers who are paid by the state and providers
2 who are paid by home care agencies to provide in-home services
3 involving unsupervised access to persons with physical, mental, or
4 developmental disabilities or mental illness, or to vulnerable adults
5 as defined in chapter 74.34 RCW, including but not limited to services
6 provided under chapter 74.39 or 74.39A RCW; and

7 (c) Individuals or businesses or organizations for the care,
8 supervision, case management, or treatment of children, persons with
9 developmental disabilities, or vulnerable adults, including but not
10 limited to services contracted for under chapter 18.20, 70.127, 70.128,
11 72.36, or 74.39A RCW or Title 71A RCW.

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

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

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

37 (5) An individual provider or home care agency provider hired to
38 provide in-home care for and having unsupervised access to a vulnerable

1 adult as defined in chapter 74.34 RCW must have no conviction for a
2 disqualifying crime under RCW 43.43.830 and 43.43.842. An individual
3 or home care agency provider must also have no conviction for a crime
4 relating to drugs as defined in RCW 43.43.830. This subsection applies
5 only with respect to the provision of in-home services funded by
6 medicaid personal care under RCW 74.09.520, community options program
7 entry system waiver services under RCW 74.39A.030, or chore services
8 under RCW 74.39A.110.

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

21 (7) Criminal justice agencies shall provide the secretary such
22 information as they may have and that the secretary may require for
23 such purpose.

24 **Sec. 17.** RCW 43.43.837 and 2011 c 253 s 2 are each amended to read
25 as follows:

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

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

36 (b) Is an individual residing in an applicant or service provider's

1 home, facility, entity, agency, or business or who is authorized by the
2 department to provide services to children or people with developmental
3 disabilities under RCW 74.15.030; or

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

6 (i) Medicaid personal care under RCW 74.09.520;

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

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

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

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

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

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

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

36 (6) Service providers and service provider applicants who are
37 required to complete a fingerprint-based background check may be hired

1 for a one hundred twenty-day provisional period as allowed under law or
2 program rules when:

- 3 (a) A fingerprint-based background check is pending; and
- 4 (b) The applicant or service provider is not disqualified based on
5 the immediate result of the background check.

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

10 (a) Services to people with a developmental disability under RCW
11 74.15.030;

12 (b) In-home services funded by medicaid personal care under RCW
13 74.09.520;

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

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

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

20 (f) Services in, or to residents of, a secure facility under RCW
21 71.09.115; and

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

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

26 (9) Children's administration service providers licensed under RCW
27 74.15.030 may not pass on the cost of the background check fees to
28 their applicants unless the individual is determined to be disqualified
29 due to the background information.

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

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

37 (a) "Applicant" means a current or prospective department or
38 service provider employee, volunteer, student, intern, researcher,

1 contractor, or any other individual who will or may have unsupervised
2 access because of the nature of the work or services he or she
3 provides. "Applicant" includes but is not limited to any individual
4 who will or may have unsupervised access and is:

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

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

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

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

18 (i) Conduct licensing, certification, or contracting activities;
19 (ii) Have unsupervised access to vulnerable adults, juveniles, and
20 children;

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

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

23 (c) "Department" means the department of social and health
24 services.

25 (d) "Secretary" means the secretary of the department of social and
26 health services.

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

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

1 NEW SECTION. **Sec. 18.** Except for sections 6, 10, and 14 through
2 17 of this act, this act is necessary for the immediate preservation of
3 the public peace, health, or safety, or support of the state government
4 and its existing public institutions, and takes effect immediately."

5 Correct the title.

EFFECT: The amendment strikes the underlying bill and provides for: (1) Delaying the implementation dates for long-term care worker home care aide certification and revised training requirements to January 1, 2014, and additional continuing education requirements to July 1, 2014; (2) delaying implementation of fingerprint-based background checks to January 1, 2014, and making a technical correction to add additional sections of law that address this delay; and (3) making the sections relating to background checks take effect 90 days after enactment to account for amendments enacted in the 2011 Regular Legislative Session.

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