

# HOUSE BILL REPORT

## ESSB 5700

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### As Reported by House Committee On: Health Care & Wellness

**Title:** An act relating to training long-term care providers on the needs of the LGBTQ population.

**Brief Description:** Requiring training for long-term care providers on the needs of the LGBTQ population.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Ranker, Rivers, Lias, Pedersen, Darneille, Chase and Kuderer).

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 2/20/18, 2/23/18 [DPA].

#### **Brief Summary of Engrossed Substitute Bill (As Amended by Committee)**

- Requires that long-term care workers, as well as licensees, providers, administrators, and resident managers of adult family homes, assisted living facilities, and nursing homes complete inclusiveness and cultural competency training on issues related to the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) population.
- Requires adult family homes, assisted living facilities, and nursing homes to have written inclusiveness and cultural competency policies related to the LGBTQ population.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 10 members: Representatives Cody, Chair; Macri, Vice Chair; Caldier, Clibborn, Jinkins, Riccelli, Robinson, Slatter, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; DeBolt, Harris, MacEwen, Maycumber and Rodne.

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

**Staff:** Chris Blake (786-7392).

**Background:**

Long-Term Care Worker Continuing Education.

Long-term care workers are individuals who provide paid personal care services for older persons or persons with developmental disabilities. The term includes individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities, direct care workers in assisted living facilities and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care workers providing home or community-based services to older persons or persons with functional or developmental disabilities.

The amount of entry-level training that a long-term care worker must complete depends on the amount and type of care that the long-term care worker is providing and who is the client receiving the care. Long-term care workers must complete 12 hours of continuing education every year. Unless voluntarily certified as home care aids, continuing education requirements do not apply to long-term care workers who are individual providers caring for a biological, step, or adoptive child; registered or licensed practical nurses; persons working as individual providers who provide no more than 20 hours of care for one person per month; or persons working as individual providers who only provide respite services and do not provide more than 300 hours of services per year. Continuing education topics may relate to several subjects such as client rights, personal care services, mental illness, dementia, developmental disabilities, depression, medication assistance, communication skills, positive client behavior support, and client-centered activities.

Adult Family Home and Assisted Living Facility Continuing Education.

Adult family home and assisted living facility caregivers, entity representatives, resident managers, and assisted living facility administrators must meet long-term care worker training requirements. The requirements include 12 hours of continuing education every year. Continuing education topics may relate to several subjects such as bloodborne pathogens and infection control, cardio-pulmonary resuscitation (commonly referred to as CPR) training, first aid training, food handling training, aging sensitivity, resident safety, personal care services, mental illness, dementia, developmental disabilities, depression, communication skills, positive resident behavior support, and resident-centered activities.

Nursing Home Administrator Continuing Education.

Nursing home administrators are licensed by the Department of Health. To become licensed, a person must have a Bachelor's degree, successfully complete an approved nursing home administrator examination, and satisfy training requirements. To renew a license, nursing home administrators must complete 36 hours of continuing education every two years. If the continuing education course is not approved by the National Continuing Education Review Service, the course must relate to specific subjects, including resident centered care, human resources, finance, environment, leadership and management, suicide prevention, cultural competency training, or Washington nursing home laws.

### **Summary of Amended Bill:**

Long-term care workers must complete inclusiveness and cultural competency training on issues relating to the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) population. Beginning December 31, 2020, nursing assistants seeking initial certification and long-term care workers completing long-term care basic training requirements must complete inclusiveness and cultural competency training on issues related to the LGBTQ population. Long-term care workers, including certified nursing assistants who meet the definition of a long-term care worker, who have completed their certification or training requirements prior to December 31, 2020, must complete inclusiveness and cultural competency training as part of their 12 hours of continuing education requirements. The training must be taken once and be completed by the long-term care worker's next continuing education due date after December 31, 2020. Long-term care workers who have completed the training do not need to take the training again until the Department of Social and Health Services (Department) approves changes to the curriculum based upon revised competencies. Following a change in curriculum, all long-term care workers must take the revised course according to Department rules. The Department may only approve training that contributes to an evidence- and outcome-based approach and meets the training's learning objectives.

Licenseses, providers, administrators, and resident managers of adult family homes, assisted living facilities, and nursing homes (facilities) must complete inclusiveness and cultural competency training related to the LGBTQ population. The Department must approve the training curriculum, program, and instructors. A licensee, provider, administrator, or resident manager of a currently licensed facility must complete the training by the facility's next license renewal following December 31, 2020. A licensee, provider, administrator, or resident manager of a facility that becomes licensed after the effective date of the bill must complete the training by the facility's first license renewal. Adult family home providers who work on-site at the facility for less than two days per license year are exempt from the training. Licensees, administrators, and resident managers of facilities who have completed the training do not need to take the training again until the Department approves changes to the learning objectives by rule.

By July 1, 2019, adult family homes, assisted living facilities, and nursing homes must have written inclusiveness and cultural competency policies related to the LGBTQ population. The policies must be made available to residents and prospective residents, as well as their representatives. The policies are to be posted according to Department guidelines. The Department must adopt guidance related to the elements that must be addressed in the policies and instructions for posting the policies.

Expired provisions timeframes related to long-term care workers are removed from statute.

### **Amended Bill Compared to Engrossed Substitute Bill:**

The amended bill requires that inclusiveness and cultural competency training related to the lesbian, gay, bisexual, transgender, questioning (LGBTQ) population be a part of the basic training requirements for long-term care workers and a condition of certification for nursing assistants, beginning December 31, 2020. Long-term care workers and certified nursing

assistants who complete their certification or training prior to December 31, 2020, must complete the training requirement as a one-time continuing education requirement.

The amended bill changes the application of the training requirement from assisted living facility "owners" and nursing home "owners" to "licensees" of either type of facility. The application of the training requirement from adult family home "owners" is changed to adult family home "providers."

The amended bill requires adult family homes, assisted living facilities, and nursing homes to have written inclusiveness and cultural competency policies related to the LGBTQ population by July 1, 2019. The policies must be made available to residents and prospective residents, as well as their representatives. The amended bill requires the policies to be posted according to the Department of Social and Health Services (Department) guidelines. The Department is directed to adopt guidance related to the elements that must be addressed in the policies and instructions for posting the policies.

The amended bill makes nonsubstantive changes to clarify terminology and eliminate redundant references to long-term care worker training requirements and changes phrasing related to rules.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) A 2015 report showed that some of the highest levels of discrimination against the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) population were at nursing homes. The report showed that 13 percent of the LGBTQ population had been denied care entirely or provided with inferior health care and that 21 percent do not disclose their sexual identity or gender identity to their care providers because of fear of discrimination.

People hope that their parents receive the same care, support, and equality that anybody would expect in a nursing home setting. Some members of the LGBTQ community who have intellectual disabilities have expressed feeling uncomfortable around their caregivers because they have felt discriminated against or unaccepted. Some people have had to hide the fact that they are LGBTQ from their caregivers because they are scared of retaliation or the caregivers judging them. Caregivers need to learn the importance of accepting all people with disabilities no matter their sexuality and that people with intellectual disabilities have sexual identities. This training will help caregivers understand that people with intellectual disabilities can live the life that they want and have relationships with the people that they want and not be scared to come out of the closet to the people who are giving them care.

(Opposed) Adult family homes have available trainings that are consistent with the goal of promoting understanding and acceptance for the LGBTQ community. Adult family home providers do not have a subsidy or state-sponsored training which means that a curriculum would have to be developed by private training companies and adult family homes would have to schedule their staff and pay for the time and tuition that it takes to go through the courses. This bill will be a huge expense to adult family homes. The bill should have a longer timeline for completing the training or a mechanism for supporting and delivering the training to adult family homes. There is concern that the bill will not result in more acceptance, but more citations and resentment from providers.

(Other) Parent providers generally prefer the training requirements for their family member be person-centered since they only intend to serve one client and are not holding themselves out to the general population. Putting people through training that is not person-centered and applicable to the client's situation is expensive, a waste of time, and degrades the respect that people have for these kinds of requirements. Since parent providers are exempt from continuing education requirements, it is not clear if they are exempt from this one time requirement.

Culturally competent care is already required under current law. There are already trainings offered related to the LGBTQ community. Many facility owners are limited liability corporations housed out-of-state and having this training for owners does not materially benefit the direct care provided in the facilities. There are concerns about the necessity of applying this requirement to owners and administrators. If the legislation moves forward, the requirement should be removed for owners and administrators. The term "owner" is used in the bill, but it is not defined in existing law. The Long-Term Care Ombuds could be authorized to enter settings where there have been issues raised.

**Persons Testifying:** (In support) Senator Ranker, prime sponsor; Ivanova Smith, Self Advocacy in Leadership.

(Opposed) John Flicker, Adult Family Home Council.

(Other) Loren Freeman; Emily Murphy, LeadingAge Washington; and Jeff Gombosky, Washington Health Care Association.

**Persons Signed In To Testify But Not Testifying:** None.