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**HOUSE BILL 1568**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Chambers, Tharinger, Schmick, Leavitt, Harris, Klicker, Schmidt, Caldier, Bateman, Christian, Doglio, Lekanoff, Pollet, and Macri

AN ACT Relating to the credentialing of certified health care professionals providing long-term care services; amending RCW 18.88B.021, 18.88B.031, 18.88B.041, 18.88A.130, 18.88B.035, 74.39A.074, and 74.39A.056; adding a new section to chapter 18.88B RCW; creating new sections; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) Beginning September 1, 2023, a person whose nursing assistant certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements determined necessary by the department of health to return to active status.

(2) The department of health shall send a notification to the last known address of each person who held a certificate under this chapter and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department of health must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) This section expires July 1, 2025.

NEW SECTION. **Sec.**  (1) Beginning September 1, 2023, a person whose home care aide certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements determined necessary by the department of health to return to active status.

(2) The department of health shall send a notification to the last known address of each person who held a certificate under this chapter and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department of health must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) This section expires July 1, 2025.

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

(1) A certificate that has been expired for five years or less may be reinstated if the person holding the expired certificate:

(a) Completes an abbreviated application form;

(b) Pays any necessary fees, including the current certification fee, late renewal fees, and expired credential reissuance fees, unless exempt pursuant to section 2 of this act;

(c) Provides a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the person holding the expired certificate from practicing as a home care aide;

(d) Provides a written declaration that the person holding the expired certificate has not voluntarily given up any credential or privilege or has not been restricted from practicing as a home care aide in lieu of or to avoid formal action; and

(e) Submits to a state and federal background check as required by RCW 74.39A.056, if the certificate has been expired for more than one year.

(2) In addition to meeting the requirements of subsection (1) of this section, a certificate that has been expired for more than five years may be reinstated if the person holding the expired certificate demonstrates competence to the standards established by the secretary and meets other requirements established by the secretary.

**Sec.**  RCW 18.88B.021 and 2021 c 203 s 10 are each amended to read as follows:

(1) ((~~Beginning January 7, 2012, except~~)) (a) Except as provided in RCW 18.88B.041, any person hired as a long-term care worker must be certified as a home care aide as provided in this chapter within ((~~two hundred~~)) 200 calendar days after the date of hire, as defined by the department, unless the long-term care worker meets the requirements of (b) of this subsection.

(b) Notwithstanding (a) of this subsection, if the long-term care worker is not certified as a home care aide within 200 days after the date of hire, the long-term care worker may continue to work for an additional 200 days if the long-term care worker has proof of completion of the five hours of initial training required under RCW 74.39A.074(1)(d)(i) and proof of having begun the 70 hours of long-term care basic training required under RCW 74.39A.074(1)(d)(ii). The long-term care worker must be certified as a home care aide by the expiration of the additional 200 days.

(c) The department may adopt rules determining under which circumstances a long-term care worker may have more than one date of hire, restarting the person's 200-day period to obtain certification as a home care aide.

(2)(a) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified as provided in this chapter.

(b) This section does not prohibit a person: (i) From practicing a profession for which the person has been issued a license or which is specifically authorized under this state's laws; or (ii) who is exempt from certification under RCW 18.88B.041 from providing services as a long-term care worker.

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

(3) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete certification as required by this section, the department may adopt rules to allow long-term care workers additional time to become certified.

(a) Rules adopted under this subsection (3) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that additional time for long-term care workers to become certified is no longer necessary, whichever is later. Once the department determines a rule adopted under this subsection (3) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of certification compliance with subsection (1) of this section and rules adopted under this subsection (3) and provide the legislature with a report.

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

**Sec.**  RCW 18.88B.031 and 2012 c 164 s 304 are each amended to read as follows:

(1) Except as provided in RCW 18.88B.041 and subject to the other requirements of this chapter, to be certified as a home care aide, a long-term care worker must successfully complete the training required under RCW 74.39A.074(1) and a certification examination. A certification as a home care aide must be renewed every two years. Any long-term care worker failing to make the required grade for the examination may not be certified as a home care aide.

(2) The department, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the ((~~skills and~~)) knowledge necessary to practice competently. Except as provided by RCW 18.88B.041(1)(a)(ii), only those who have completed the training requirements in RCW 74.39A.074(1) shall be eligible to sit for this examination.

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

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

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

**Sec.**  RCW 18.88B.041 and 2019 c 363 s 20 are each amended to read as follows:

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

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long‑term care worker prior to January 7, 2012, and who completes all of the training requirements in effect as of the date the person was hired.

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

(b) All long-term care workers employed by community residential service businesses.

(c) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent.

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(f) A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) For long-term care workers under subsection (1) of this section who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, the long-term care worker must be certified as a nursing assistant within 400 calendar days after the date of hire, as defined by the department.

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

**Sec.**  RCW 18.88A.130 and 2012 c 208 s 8 are each amended to read as follows:

Registrations, certifications, and medication assistant endorsements shall be renewed every two years according to administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280.

**Sec.**  RCW 18.88B.035 and 2015 c 152 s 4 are each amended to read as follows:

(1) The department may issue a provisional certification to a long‑term care worker who is limited English proficient to allow the person additional time to comply with the requirement that a long‑term care worker become certified as a home care aide within ((~~two hundred~~)) 400 calendar days after the date of hire as provided in RCW 18.88B.021, if the long‑term care worker:

(a) Is limited English proficient; and

(b) Complies with other requirements established by the department in rule.

(2) The department shall issue a provisional certification to a long‑term care worker who has met the requirements of subsection (1) of this section. The provisional certification may only be issued once and is valid for no more than ((~~sixty~~)) 60 days after the expiration of the ((~~two hundred~~)) 400 calendar day requirement for becoming certified.

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

(4) For the purposes of this section, "limited English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

**Sec.**  RCW 74.39A.074 and 2021 c 203 s 7 are each amended to read as follows:

(1)(a) Except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a), all persons hired as long‑term care workers must meet the minimum training requirements in this section within ((~~one hundred twenty~~)) 400 calendar days after the date of being hired.

(b) Except as provided in RCW 74.39A.076, the minimum training requirement is ((~~seventy~~‑~~five~~)) 75 hours of entry‑level training approved by the department. A long-term care worker must successfully complete five of these ((~~seventy~~‑~~five~~)) 75 hours before being eligible to provide care.

(c) Training required by (d) of this subsection applies toward the training required under RCW 18.20.270 or 70.128.230 or any statutory or regulatory training requirements for long-term care workers employed by community residential service businesses.

(d) The ((~~seventy~~‑~~five~~)) 75 hours of entry-level training required shall be as follows:

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

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

(B) Three hours of safety training, including basic safety precautions, emergency procedures, and infection control; and

(ii) ((~~Seventy~~)) 70 hours of long‑term care basic training, including training related to:

(A) Core competencies; and

(B) Population specific competencies, including identification of individuals with potential hearing loss and how to seek assistance if hearing loss is suspected.

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

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

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

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

(4) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1)(a) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1)(a) of this section and provide the legislature with a report.

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

**Sec.**  RCW 74.39A.056 and 2021 c 203 s 3 are each amended to read as follows:

(1)(a) All long‑term care workers shall be screened through state and federal background checks in a uniform and timely manner to verify that they do not have a history that would disqualify them from working with vulnerable persons. The department must process background checks for long-term care workers and make the information available to employers, prospective employers, and others as authorized by law. Any time that a long-term care worker leaves the employment of an employer and is rehired by the same employer more than three months later after the termination of the employment, the department must conduct a new background check on the returning long-term care worker and make the information available to the employer, prospective employer, and others as authorized by law.

(b)(i) For long-term care workers hired on or after January 7, 2012, the background checks required under this section shall include checking against the federal bureau of investigation fingerprint identification records system or its successor program. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(ii) A long-term care worker who is not disqualified by the state background check can work and have unsupervised access pending the results of the federal bureau of investigation fingerprint background check as allowed by rules adopted by the department.

(c) The department shall share state and federal background check results with the department of health in accordance with RCW 18.88B.080.

(d) Background check screening required under this section and department rules is not required for an employee of a consumer directed employer if all of the following circumstances apply:

(i) The individual has an individual provider contract with the department;

(ii) The last background check on the contracted individual provider is still valid under department rules and did not disqualify the individual from providing personal care services;

(iii) Employment by the consumer directed employer is the only reason a new background check would be required; and

(iv) The department's background check results have been shared with the consumer directed employer.

(e) The department may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time.

(2) A provider may not be employed in the care of and have unsupervised access to vulnerable adults if:

(a) The provider is on the vulnerable adult abuse registry or on any other registry based upon a finding of abuse, abandonment, neglect, or financial exploitation of a vulnerable adult;

(b) On or after October 1, 1998, the department of children, youth, and families, or its predecessor agency, has made a founded finding of abuse or neglect of a child against the provider. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding, the provider is not disqualified under this section;

(c) A disciplining authority, including the department of health, has made a finding of abuse, abandonment, neglect, or financial exploitation of a minor or a vulnerable adult against the provider; or

(d) A court has issued an order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding of fact or conclusion of law, the provider is not disqualified under this section.

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

(4) For the purposes of this section, "provider" means:

(a) An individual provider as defined in RCW 74.39A.240;

(b) An employee, licensee, or contractor of any of the following: A home care agency licensed under chapter 70.127 RCW; a nursing home under chapter 18.51 RCW; an assisted living facility under chapter 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a certified resident services and supports agency licensed or certified under chapter 71A.12 RCW; an adult family home under chapter 70.128 RCW; or any long-term care facility certified to provide medicaid or medicare services; and

(c) Any contractor of the department who may have unsupervised access to vulnerable adults.

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

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