

HOUSE BILL REPORT

ESHB 1568

As Passed House:

March 7, 2023

Title: An act relating to the credentialing of certified health care professionals providing long-term care services.

Brief Description: Concerning the credentialing of certified health care professionals providing long-term care services.

Sponsors: House Committee on Postsecondary Education & Workforce (originally sponsored by Representatives Chambers, Tharinger, Schmick, Leavitt, Harris, Klicker, Schmidt, Caldier, Bateman, Christian, Doglio, Lekanoff, Pollet and Macri).

Brief History:

Committee Activity:

Postsecondary Education & Workforce: 2/8/23, 2/15/23 [DPS].

Floor Activity:

Passed House: 3/7/23, 95-0.

Brief Summary of Engrossed Substitute Bill

- Exempts certain home care aides and nursing assistants whose credentials have expired from late fees or renewal fees.
- Extends the period of time allowed for long-term care workers to become home care aides or nursing assistants.
- Changes licensing requirements for home care aides and nursing assistants.

HOUSE COMMITTEE ON POSTSECONDARY EDUCATION & WORKFORCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Slatter, Chair; Entenman, Vice Chair; Reed, Vice

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

Chair; Ybarra, Ranking Minority Member; Waters, Assistant Ranking Minority Member; Chandler, Hansen, Jacobsen, Klicker, Leavitt, McEntire, Paul, Pollet, Schmidt and Timmons.

Staff: Jim Morishima (786-7191).

Background:

I. Long-Term Care Workers.

A long-term care worker is any person who provides paid, hands-on personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to people with developmental disabilities, direct care workers in assisted-living facilities and adult family homes, and respite care providers.

A. Training Requirements.

Most long-term care workers must meet minimum training requirements within 120 days of their hiring date. The training must be at least 75 hours in length, at least five of which must be completed before the worker may provide care.

B. Home Care Aide Certification.

Most long-term care workers must become certified as home care aides within 200 days of being hired. To become certified as a home care aide, a long-term care worker must complete 75 hours of training, pass a certification examination, and pass state and federal background checks. The examination must include a skills demonstration component.

Certain long-term care workers are not required to become certified home care aides. For example, a certified nursing assistant or a person in an approved training program for nursing assistants does not need to become certified as a home care aide. Under rules adopted by the Department of Health, such a long-term care worker has 200 days to complete the nursing assistant training.

II. Nursing Assistants.

A nursing assistant is a person who assists in the delivery of nursing and nursing-related activities to patients in a health care facility. Nursing assistants work under the direction and supervision of registered nurses or licensed practical nurses. To be certified as a nursing assistant, a person must complete a training program and a competency evaluation.

A nursing assistant may receive a medication assistant endorsement to administer, under registered nurse supervision, certain medications and treatments in a nursing home.

III. License Renewal and Reissuance of Expired Credentials.

Most health professional's licenses are subject to renewal on the licensee's birthday either every year or every two years. The renewal cycle for certified home care aides, nursing assistants, and medication assistant endorsements is one year.

Certain uniform requirements apply whenever a health practitioner allows his or her credential to expire, including the payment of late renewal penalty fees, the payment of renewal fees, and the provision of certain declarations. The requirements become more extensive the longer the credential has been expired. For example, a person whose credential has expired for over three years must:

- complete an abbreviated application form;
- pay the late renewal penalty fee;
- pay the current renewal fee;
- pay the current substance abuse monitoring surcharge, if required for the profession;
- pay the expired credential reissuance fee;
- satisfy other required competency requirements;
- provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital, which would prevent or restrict the practitioner's practice of the profession;
- provide a written declaration that the person has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of formal action;
- provide a written declaration that continuing education or competency requirements for the two most recent years have been met, if required;
- provide other written declarations or documentation, if required; and
- provide proof of AIDS education if required and not previously provided.

A home care aide whose certification has expired is subject to the following additional requirements:

- If the certification has been expired for less than three years, the home care aide must submit proof of 12 hours of continuing education for each year the certification has been expired.
- If the certification has been expired for three years or more, the practitioner must successfully repeat the training and examination requirements.

Summary of Engrossed Substitute Bill:

I. Long-Term Care Workers.

A. Home Care Aide Certification.

A long-term care worker who is not certified as a home care aide within 200 days of being

hired is allowed an additional 100 days to become certified. To qualify for the additional 100 days, the long-term care worker must have proof of completing all 75 hours of training. The 100-day extension does not apply to workers hired on or after July 1, 2026.

The Department of Health (DOH) rules requiring an exempt nursing assistant student to become certified within 200 days of being hired are codified. In addition, a nursing assistant student may have an additional 100 days to become certified if the student has completed all certification requirements other than the competency evaluation. The 100-day extension does not apply to a long-term care worker hired on or after July 1, 2026.

B. Home Care Aide Examinations.

The DOH or contractor must offer the home care aide examination on different times and days of the week in order to accommodate the variable work schedules of long-term care workers seeking to complete the examination. A qualified long-term care worker seeking to complete the examination must be offered at least three options for test dates and times, which must all be at different times and on different days of the week.

The individual administering the examination may be a registered nurse, licensed practical nurse, nursing assistant, community instructor, or any other individual the DOH deems qualified to administer the examination.

II. License Renewal and Reissuance of Expired Credentials.

The renewal cycle for home care aides, nursing assistants, and medication assistant endorsements is extended from one year to two years.

Beginning September 1, 2023, a person whose home care aide or nursing assistant credential has expired for more than six months but less than two years is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements necessary to return to active status. The person is also exempt from any continuing education requirement imposed as a precondition for returning to active status. The DOH must notify all home care aides and nursing assistants who failed to renew after January 1, 2020, to inform them that their credential may be restored without financial penalty or renewal fee. For persons whose credentials expired since January 1, 2023, the DOH must allow six months to pass before sending the notification.

A person whose certification as a home care aide has been expired for five years or less may reinstate the person's credential if the person:

- completes an abbreviated application form;
- pays any necessary fees and expired credential reissuance fees, unless exempt;
- provides a written declaration that no action has been taken by a state or federal jurisdiction that would prevent or restrict the person from practicing as a home care aide;

- provides a written declaration that the person 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
- submits to a state and federal background check if the certification has been expired for more than one year.

If the certification has been expired for more than five years, the person must demonstrate competence and other requirements required by the Secretary of Health.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is currently a long-term care worker shortage of both nursing assistants and home care aides. This shortage was exacerbated by COVID-19 as people changed jobs and exited the field. As the population ages, the need grows. The age wave is here. This bill addresses worker shortages in both the near and long terms and will bring workers back to the field. The bill does this by reducing fees, encouraging the reactivation of expired licenses, and bringing back retirees and people who have moved on to other industries. In long-term care, a person may start working before they are licensed. However, the 200-day limit sometimes forces employers to terminate employees. Sometimes workers exceed the 200-day limit for reasons beyond their control, such as the testing bottleneck. This bill lowers barriers by developing new timelines.

Washington is a leader in long-term care. To stay there, bold action needs to be taken to improve the workforce. There are lots of ways to address this problem. The background check portion of the bill should be revisited.

(Opposed) None.

(Other) The long-term care workforce is the backbone of our system and this bill removes critical protections. The skills portion of the examination should not be removed. Removing the skills portion is like giving someone a driver's license without the driving test. A 200-day extension allows people to work for a long time with only minimal training. The process for signing up for a test should be easier. There are other solutions than the ones offered in this bill.

Persons Testifying: (In support) Representative Kelly Chambers, prime sponsor; John Ficker, Adult Family Home Council; and Leslie Emerick, Home Care Association of

America Washington Chapter.

(Other) Madeleine Foutch, Service Employees International Union 775.

Persons Signed In To Testify But Not Testifying: None.