

HOUSE BILL REPORT

E2SHB 1694

As Amended by the Senate

Title: An act relating to addressing home care workforce shortages.

Brief Description: Addressing home care workforce shortages.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Alvarado, Tharinger, Berry, Lekanoff, Reed, Leavitt, Fitzgibbon, Callan, Santos, Chopp, Ortiz-Self, Senn, Taylor, Pollet, Macri, Riccelli and Simmons).

Brief History:

Committee Activity:

Health Care & Wellness: 2/10/23, 2/14/23 [DPS];
Appropriations: 2/21/23, 2/23/23 [DP2S(w/o sub HCW)].

Floor Activity:

Passed House: 3/2/23, 96-0.
Senate Amended.
Passed Senate: 4/6/23, 47-0.

Brief Summary of Engrossed Second Substitute Bill

- Expands timelines and testing opportunities for long-term care workers seeking certification as a home care aide.
- Expands the list of family members who are exempt from having to become home care aides and reduces the training requirements for these caregivers.
- Exempts certain home care aides and nursing assistants whose licensing credentials have expired from paying late fees or renewal fees.
- Directs the Department of Social and Health Services (DSHS) to study the feasibility and cost of paying the parents of medically complex children under 18 years old and the spouses or registered domestic partners of a person with complex medical needs.

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.

- Directs the DSHS to report annually on long-term care workforce data trends.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Staff: Christopher Blake (786-7392).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Bryan Way (786-7311).

Background:

A long-term care worker is any person who provides paid, hands-on personal care services for older persons or persons with disabilities. The term includes 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. The term excludes employees of several types of health care and residential care facilities, as well as care providers not paid by the state or a private agency or facility licensed by the state.

Long-term care workers must become certified as home care aides by the Department of Health (DOH) unless an exemption applies. To become certified, a long-term care worker must complete 75 hours of training, pass a certification examination, and pass state and federal background checks. The long-term care worker must be certified within 200 calendar days of the date of hire. The DOH defines the date of hire as either the date of service authorization for individual providers hired by the Department of Social and Health

Services (DSHS) or the date the long-term care worker provides direct care for pay from any employer other than the DSHS. The date of hire is specific to the long-term care worker and does not change if the long-term care worker changes employers.

Among the exemptions from home care aide certification are long-term care workers caring for their biological, step, or adoptive child or parent. In addition, long-term care workers who are being paid to care for their child or parent, must only complete 35 of the 75 hours of required training. Long-term care workers who are providing care to a family member who is eligible for services through the DSHS may receive payment for those services, unless the caregiver is the spouse of the care recipient or the parent of a care recipients who is under 18 years old.

Certain uniform requirements apply when health practitioners allow their credentials 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 Second Substitute Bill:

Home Care Aide Certification Standards.

The authority for the Department of Health (DOH) to adopt rules both to define a long-term care worker's date of hire and to determine when a long-term care worker may have more than one date of hire are eliminated. The term "date of hire" is defined as the first day that the long-term care worker is employed by any employer. Long-term care workers who are not currently certified or eligible to reactivate an expired credential may receive a new date of hire when either beginning work with a new employer or returning to work for a former employer.

The requirement that long-term care workers complete their long-term care worker training before being deemed eligible to sit for the certification examination is eliminated. The skill demonstration and the knowledge test portions of the home care aide certification examination may be administered during or after a long-term care worker's formal training. Private contractors of the DOH that administer home care aide examinations may provide training services. A private contractor may not be an employer of long-term care workers unless it is a Department of Social and Health Services (DSHS) approved instructor and has met standards for administering an examination. High schools and community colleges that meet DOH standards may administer home care aide examinations.

The DOH must examine and authorize innovative ways to reduce barriers to home care aide certification and testing which may include remote proctoring of the knowledge examination, allowing long-term care workers to sign up for testing upon registering for training, and expanding the number and type of testing locations.

By October 1, 2023, the DOH must conduct an analysis of the number of home care aide test applications using various geographic measures, including county and zip code. By December 1, 2023, the DOH must report to the Governor and the health policy committees of the Legislature with the results of the analysis and how it may inform decisions for approving testing locations.

By October 1, 2023, the DOH must conduct a survey of home care aide testing locations with respect to their current capacity for testing compared to their potential capacity if not for the lack of proctors. By December 1, 2023, the DOH must report to the Governor and the health policy committees of the Legislature on the results of the survey, including an analysis comparing testing capacity and test applications according to various geographic measures, including county and zip code.

Beginning September 1, 2023, a person whose home care aide or nursing assistant credential has been 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 DOH must notify all home care aides and nursing assistants who failed to renew after January 1, 2020, to inform them that their credentials 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. The DOH and the DSHS, as applicable, must adopt rules to assure that continuing education requirements are not a barrier for persons reactivating their credentials.

A person whose certification as a home care aide has been expired for five years or less may reinstate their 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.

Family Caregivers.

The exemption from home care aide certification and the related reduction of training to 35 hours for long-term care workers who are the child or parent of the care recipient are applied to additional family members. The exemption and the reduced training hours are expanded to apply to long-term care workers hired after September 1, 2023, who are caring for a sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild. The exemption and reduced training also apply to a person providing approved services to a spouse or registered domestic partner under the federal Veterans Administration's home and community-based programs.

The DSHS must design a pilot project to reimburse the spouses and domestic partners of persons with complex medical needs who are eligible for long-term services and supports for providing home care services to the spouse or domestic partner. The design must consider: appropriate acuity levels for the care-receiving spouse or domestic partner; training needs for the care-providing spouse or domestic partner; payment parameters; fiscal considerations; geographic locations for the pilot project; ways that the project can aid in expanding it to statewide implementation; cost estimates for implementing the pilot project and pilot expansion; and a timeline for implementation of the pilot project and pilot expansion. The DSHS and the Health Care Authority must prepare and submit a waiver to the federal Centers for Medicare and Medicaid Services to allow for federal funding to support the pilot project. The DSHS must submit the pilot project design to the Office of Financial Management and the appropriate fiscal committees of the Legislature by November 1, 2023.

The DSHS must study the feasibility and cost of paying the parents of children under 18 years old who are medically complex, or have complex support needs related to their behaviors. The DSHS must report the results of the study to the Office of Financial Management and the appropriate fiscal committees of the Legislature by December 31, 2023. The report must address: any legal authority required to authorize the payments, information technology changes and associated costs, elements needed to prepare a federal waiver or state plan amendment to receive federal matching funds, estimates of the number of children to be served, anticipated annual costs to the state if federal matching funds are available and the cost if they are not available, recommendations on the types of training needed for the care giving parents, and a proposed timeline for implementation.

Workforce Data Collection.

Beginning June 1, 2025, the DSHS must annually report on the status of the long-term care worker supply, the average wages of long-term care workers compared to entry-level positions in other industries, projections of service demands, geographic disparities in the long-term care worker supply, and any race, gender, or other worker demographic data available through preexisting administrative data sources.

Null and Void.

The provisions of the bill are null and void if they are not specifically funded and referred to in the operating budget.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment restores the requirement that long-term care workers complete their training requirements in order to be eligible to sit for the home care aide certification examination and removes the authority to administer the skills demonstration and the knowledge test during a student's formal training. The prohibition on the administration and evaluation of examinations by private contractors that provide home care aide training services is restored. The exception that allows employers of long-term care workers to administer and evaluate examinations as long as they are instructors approved by the Department of Social and Health Services (DSHS) is removed. The authority for high schools and community colleges to administer examinations is removed. The requirement that the Department of Health (DOH) examine and authorize innovative ways to reduce barriers to certification and testing is eliminated.

The Senate amendment eliminates the requirement that the DOH conduct an analysis of the number of home care aide test applications using various geographic measures and report the results to the Governor and the health policy committees of the Legislature. The requirement that the DOH conduct a survey of capacity at home care aide testing locations and report the results to the Governor and the health policy committees of the Legislature is removed.

The Senate amendment exempts an individual provider from continuing education

requirements when only caring for their sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild. The home care aide certification exemption and the 35-hour training requirement that apply to individual providers caring for their sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild are applied to all such individual providers, not only those hired after September 1, 2023.

The Senate amendment removes the requirement that the DSHS and the Health Care Authority prepare and submit a waiver to the federal Centers for Medicare and Medicaid Services to receive federal matching funds for the spousal or domestic partner payment pilot project.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) The age wave is here now and the long-term care industry is feeling it through unprecedented workforce shortages. Bold actions are needed to grow the long-term care workforce to meet the challenges of the incoming demand, hospital discharge management, mental health transformation, and the WA Cares Fund. The data analysis work in this bill is important for obtaining deliberate forecasting analysis and information needed for strategic planning.

This bill identifies long-standing issues to make it easier to attract, train, test, hire, and retain a qualified workforce. This bill helps to make sure that workers who have exited the workforce are able to be rehired and expands testing opportunities and testing sites. Ensuring that workers who have not completed the certification requirements and have exited the workforce are able to be rehired is important. Reducing the barriers to testing by expanding testing opportunities and testing sites are important fixes. This bill will relieve some of the timeframes that are being experienced and that are frustrating if you are trying to get a loved one care. This bill addresses some of the key barriers that have kept adult family homes from being able to hire, such as the access and timing of testing and correcting the definition of the date of hire. This bill works to reduce current barriers encountered by rural long-term care workers in the testing process because it can be a burden to travel to a third-party testing location up to three hours away.

The bill's expanded definition of "family" will allow more family members to provide needed care without additional certification and testing requirements. Many children with complex care needs are stuck in hospitals because there is not enough capacity in the community to care for them and the study to allow parents to be paid to care for their

children could help with that. Women are disproportionately affected by having to quit jobs to provide unpaid care. This bill is an opportunity to get more patients who do not need inpatient care out of acute care hospitals and into community settings. This bill will reduce unnecessary and costly training burdens for family members and will advance a critical feasibility study that could enhance the total economy of care for disabled children in the state. It is important to open up caregiving to more family members and to allow spouses and parents to be caregivers.

(Opposed) None.

(Other) This bill has many commonsense solutions that have been discussed for several years. Removing certification requirements for family members would impact one in ten individual providers. The data dashboard was a recommendation in a legislative report and it will help with understanding the demands and the supply. Parents of young children and spouses would like to be paid for the care that they provide and this bill will provide the required analysis, evaluation, and planning for that.

Staff Summary of Public Testimony (Appropriations):

(In support) Washington is facing a shortage of caregivers, leading to long wait times for in-home care. House Bill 1694 aims to address this issue by creating pathways for people to enter and re-enter the caregiving workforce, reducing certification barriers, and expanding opportunities for family caregivers, which could be a credible next step to reduce the workforce shortage.

(Opposed) None.

Persons Testifying (Health Care & Wellness): (In support) Representative Emily Alvarado, prime sponsor; Whitney Stohr; Deb Ritter; Kathryn Scheid; Lynn Kimball, Washington Association of Area Agencies on Aging; John Ficker, Adult Family Home Council; Zosia Stanley, Washington State Hospital Association; Melissah Watts; Madeleine Foutch, Service Employees International Union 775; Jonathan Seib, Seattle Children's Hospital; Brad Banks, Home Care Coalition; and Carma Matti-Jackson, Washington Health Care Association.

(Other) Bea Rector, Department of Social and Health Services.

Persons Testifying (Appropriations): Madeleine Foutch, Service Employees International Union 775.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.