

# SENATE BILL REPORT

## E2SHB 1694

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As of March 17, 2023

**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:** Passed House: 3/2/23, 96-0.

**Committee Activity:** Health & Long Term Care: 3/17/23.

### Brief Summary of Bill

- Expands timelines and testing opportunities for long-term care workers seeking a home care aide certification.
- Expands the list of family members who are exempt from having to become certified 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 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.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Julie Tran (786-7283)

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Long-Term Care Workers. 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 exam, and pass state and federal background checks. The long-term care worker must be certified within 200 calendar days of the date of hire. DOH defines the date of hire as either the date of service authorization for individual providers hired by 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 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.

Long-term care workers caring for their biological, step, or adoptive child or parent are exempt from the home care aide certification. The 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 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.

Expired Credentials. Certain uniform requirements apply when health practitioners allow their credentials to expire, including payment of late renewal penalty fees, payment of renewal fees, and 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; and
- if the certification has been expired for three years or more, the practitioner must successfully repeat the training and examination requirements.

All long-term care workers must complete 12 hours of continuing education training in advanced training topics annually.

**Summary of Bill:** The term "date of hire" is defined as the first day 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 authority for 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.

Home Care Aide Certification Examination. 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 with DOH administering home care aide examinations may provide training services. A private contractor may not be an employer of long-term care workers unless they are a DSHS-approved instructor and meet DOH standards for administering an examination. High schools and community colleges that meet DOH standards may administer home care aide examinations.

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.

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

DOH must conduct an analysis of the number of home care aide test applications using various geographic measures, including county and zip code by October 1, 2023. A report

must be submitted to the Governor and the health policy committees of the Legislature by December 1, 2023, and include the results of the analysis and how it may inform decisions for approving testing locations.

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 available proctors by October 1, 2023. DOH must submit a 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 by December 1, 2023.

Expired Home Care Aide or Nursing Assistant Credentials. 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.

DOH must notify all home care aides and nursing assistants who failed to renew after January 1, 2020, that their credentials may be restored without financial penalty or renewal fee. DOH must allow six months to pass before sending the notification for persons whose credentials have expired since January 1, 2023. DOH and DSHS, as applicable, must adopt rules to assure 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 less than five years who seeks to return to active status, does not need to complete continuing education requirements for their certificate to be restored to active status. The annual 12-hour continuing education training requirement for long-term care workers applies once the certificate has been restored to active status and begins on the date the certificate is restored to active status.

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 or hospital 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.

Home Care Aide Certification Exemption for 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.

Workforce Data Collection. Subject to the availability of amounts appropriated for this purpose, beginning June 1, 2025, DSHS must annually report on the status of:

- the long-term care worker supply;
- 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.

Pilot Project. 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 and use of Medicaid matching funds;
- geographic locations for the pilot project;
- ways the project can aid in future statewide implementation;
- cost estimates for implementing the pilot project and a pilot project expansion;
- projected number of individuals to be served; and
- a proposed timeline for implementation of the pilot project and a pilot project expansion.

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. DSHS must submit the pilot project design to the Office of Financial Management (OFM) and the appropriate fiscal committees of the Legislature by December 31, 2023.

Feasibility and Cost Study. 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 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 which may be phased, if necessary.

DSHS must report the results of the study to OFM and the appropriate fiscal committees of the Legislature by December 31, 2023.

**Appropriation:** The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act, and a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: There are barriers to entering and staying in the home care workforce. This bill removes several of those obstacles, makes improvements to the system, and has the potential to transform the home care workforce. The creation of a long-term care workforce data dashboard is important because there needs to be more deliberate forecasting and strategies into this work. This bill also makes sensible fixes to the hiring and credentialing process that helps retain those in the workforce. Rural communities are suffering from this workforce shortage and these testing challenges are creating barriers for the caregivers. There are additional burdens placed on those caregivers to have to travel to take the exam.

Supporting family caregivers is a smart solution to filling the gaps in the workforce shortage and it helps to ensure that the aging population are able to receive home care services and be able to age in place. This bill creates pay opportunities for family caregivers by expanding the family caregiver exemption for certification and directing DSHS to look into new ways to pay parents with the feasibility study and a pilot project design for certain individuals with medically complex needs. The feasibility study is important to keep people in their homes and out of the hospital. The kids are in the hospital, which can cause economic strain on the families who have to stay with their children. This bill would help with patient flow and make more hospital beds available.

OTHER: This bill addresses fundamental issues that creates barriers for the workforce. 1 in 10 caregivers would qualify under the expanded family caregiver exemption. It would allow those caregivers to be qualified without the need for testing. There needs to be more ways to bring people into the paid long-term care workforce. Also, the data dashboard would help better understand the long-term care workforce, ensure that the strategies are effective, and help increase and retain those in the workforce.

**Persons Testifying:** PRO: Representative Emily Alvarado, Prime Sponsor; Madeleine Foutch, SEIU 775; Veronica Tausili; Lynn Kimball, Washington Association of Area Agencies on Aging; Cathy MacCaul, AARP Washington State; Carma Matti-Jackson, Washington Health Care Association; Hugh Ewart, Seattle Children's; Brad Banks, Home Care Coalition; Leslie Emerick, Home Care Association of America -WA Ch (HCAOA-WA).

OTHER: Bea Rector, Dept. of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** No one.