

RCW 74.39A.009 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult family home" means a home licensed under chapter 70.128 RCW.

(2) "Adult residential care" means services provided by an assisted living facility that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.020 to provide personal care services.

(3) "Assisted living facility" means a facility licensed under chapter 18.20 RCW.

(4) "Assisted living services" means services provided by an assisted living facility that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services; and the facility provides these services to residents who are living in private apartment-like units.

(5) "Community residential service business" means a business that:

(a) Is certified by the department of social and health services to provide to individuals who have a developmental disability as defined in *RCW 71A.10.020(5):

- (i) Group home services;
- (ii) Group training home services;
- (iii) Supported living services; or

(iv) Voluntary placement services provided in a licensed staff residential facility for children;

(b) Has a contract with the developmental disabilities administration to provide the services identified in (a) of this subsection; and

(c) All of the business's long-term care workers are subject to statutory or regulatory training requirements that are required to provide the services identified in (a) of this subsection.

(6) "Consumer" or "client" means a person who is receiving or has applied for services under this chapter, including a person who is receiving services from an individual provider.

(7) "Consumer directed employer" is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout this chapter and include: (a) Coordination with the consumer, who is the individual provider's managing employer; (b) withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers; (c) verifying an individual provider's qualifications; and (d) providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

(8) "Core competencies" means basic training topics, including but not limited to, communication skills, worker self-care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, long-term care worker roles and boundaries, supporting activities of daily living, and food preparation and handling.

(9) "Cost-effective care" means care provided in a setting of an individual's choice that is necessary to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice, in an environment that is appropriate to the care and safety needs of the individual, and such care cannot be provided at a lower cost in any other setting. But this in no way precludes an individual from choosing a different residential setting to achieve his or her desired quality of life.

(10) "Department" means the department of social and health services.

(11) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(12) "Direct care worker" means a paid caregiver who provides direct, hands-on personal care services to persons with disabilities or the elderly requiring long-term care.

(13) "Enhanced adult residential care" means services provided by an assisted living facility that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services.

(14) "Facility" means an adult family home, an assisted living facility, a nursing home, an enhanced services facility licensed under chapter 70.97 RCW, or a facility certified to provide medicare or medicaid services in nursing facilities or intermediate care facilities for individuals with intellectual disabilities under 42 C.F.R. Part 483.

(15) "Home and community-based services" means services provided in adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or federally recognized Indian tribes, or similar services provided by facilities and agencies licensed or certified by the department.

(16) "Home care aide" means a long-term care worker who is certified as a home care aide by the department of health under chapter 18.88B RCW.

(17) "Individual provider" is defined according to RCW 74.39A.240.

(18) "Legal employer" means the consumer directed employer, which along with the consumer, coemploys individual providers. The legal employer is responsible for setting wages and benefits for individual providers and must comply with applicable laws including, but not limited to, workers compensation and unemployment insurance laws.

(19) "Long-term care" means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age who are functionally disabled due to chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not curable, or is long-lasting and severely limits their mental or physical capacity for self-care. The use of this definition is not intended to expand the scope of services, care, or assistance provided by any individuals, groups, residential care settings, or professions unless otherwise required by law.

(20) (a) "Long-term care workers" include all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies or a consumer directed employer, providers of home care services to persons with developmental disabilities under Title 71A RCW, all

direct care workers in state-licensed assisted living facilities, enhanced services facilities, and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) "Long-term care workers" do not include: (i) Persons employed by the following facilities or agencies: Nursing homes licensed under chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or (ii) persons who are not paid by the state or by a private agency or facility licensed or certified by the state to provide personal care services.

(21) "Managing employer" means a consumer who coemploys one or more individual providers and whose responsibilities include (a) choosing potential individual providers and referring them to the consumer directed employer; (b) overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care; and (c) dismissing the individual provider when desired.

(22) "Nursing home" or "nursing facility" means a facility licensed under chapter 18.51 RCW or certified as a medicaid nursing facility under 42 C.F.R. Part 483, or both.

(23) "Person who is functionally disabled" means a person who because of a recognized chronic physical or mental condition or disease, including chemical dependency or developmental disability, is dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living," in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances may also be considered when assessing a person's functional ability to perform activities in the home and the community.

(24) "Personal care services" means physical or verbal assistance with activities of daily living and instrumental activities of daily living provided because of a person's functional disability.

(25) "Population specific competencies" means basic training topics unique to the care needs of the population the long-term care worker is serving, including but not limited to, mental health, dementia, developmental disabilities, young adults with physical disabilities, and older adults.

(26) "Qualified instructor" means a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands-on personal care and other assistance services to the elderly or persons with disabilities requiring long-term care.

(27) "Secretary" means the secretary of social and health services.

(28) "Training partnership" means a joint partnership or trust that includes the office of the governor and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(29) "Tribally licensed assisted living facility" means an assisted living facility licensed by a federally recognized Indian tribe in which a facility provides services similar to services provided by assisted living facilities licensed under chapter 18.20 RCW. [2022 c 255 § 5; 2018 c 278 § 2. Prior: 2012 c 164 § 202; 2012 c 10 § 63; 2009 c 580 § 1; 2009 c 2 § 2 (Initiative Measure No. 1029, approved November 4, 2008); 2007 c 361 § 2; 2004 c 142 § 14; 1997 c 392 § 103.]

***Reviser's note:** RCW 71A.10.020 was amended by 2022 c 277 § 2, changing subsection (5) to subsection (6).

Findings—Intent—2018 c 278: See note following RCW 74.39A.500.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Application—2012 c 10: See note following RCW 18.20.010.

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

Construction—2007 c 361: "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2007 c 361 § 11.]

Severability—2007 c 361: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 361 § 12.]

Captions not law—2007 c 361: "Captions used in this act are not any part of the law." [2007 c 361 § 15.]

Short title—2007 c 361: "This act may be known and cited as the establishing quality in long-term care services act." [2007 c 361 § 16.]

Effective dates—2004 c 142: See note following RCW 18.20.020.

Short title—1997 c 392: "This act shall be known and may be cited as the Clara act." [1997 c 392 § 101.]

Findings—1997 c 392: "The legislature finds and declares that the state's current fragmented categorical system for administering services to persons with disabilities and the elderly is not client and family-centered and has created significant organizational barriers to providing high quality, safe, and effective care and support. The present fragmented system results in uncoordinated enforcement of regulations designed to protect the health and safety of disabled persons, lacks accountability due to the absence of management information systems' client tracking data, and perpetuates difficulty in matching client needs and services to multiple categorical funding sources.

The legislature further finds that Washington's chronically functionally disabled population of all ages is growing at a rapid

pace due to a population of the very old and increased incidence of disability due in large measure to technological improvements in acute care causing people to live longer. Further, to meet the significant and growing long-term care needs into the near future, rapid, fundamental changes must take place in the way we finance, organize, and provide long-term care services to the chronically functionally disabled.

The legislature further finds that the public demands that long-term care services be safe, client and family-centered, and designed to encourage individual dignity, autonomy, and development of the fullest human potential at home or in other residential settings, whenever practicable." [1997 c 392 § 102.]

Construction—Conflict with federal requirements—1997 c 392: "Any section or provision of this act that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department of health or the department of social and health services. If any section of this act is found to be in conflict with federal requirements that are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, the conflicting part is declared to be inoperative solely to the extent of the conflict. The rules issued under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1997 c 392 § 504.]

Part headings and captions not law—1997 c 392: "Part headings and captions used in this act are not part of the law." [1997 c 392 § 531.]