

# HOUSE BILL REPORT

## E2SHB 2284

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### As Passed House:

April 20, 2007

**Title:** An act relating to the training of and collective bargaining over the training of care providers.

**Brief Description:** Addressing the training of and collective bargaining over the training of care providers.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Green, Ericksen, Sells, Strow, Seaquist, Hinkle, Wallace, Priest, Hasegawa, Fromhold, P. Sullivan, Conway, Miloscia, Linville, Kenney, O'Brien, Simpson and Hunt).

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/20/07, 2/27/07 [DPS];  
Appropriations: 3/3/07, 3/5/07 [DP2S(w/o sub CL)].

#### Floor Activity:

Passed House: 4/20/07, 93-4.

### Brief Summary of Engrossed Second Substitute Bill

- Establishes a 15-member workgroup to evaluate current training requirements for long-term care workers, and requires the workgroup to report its findings and recommendations by December 1, 2007.
- Requires that long-term care workers be offered peer mentoring and complete increased continuing education, and that the Department of Social and Health Services offer opportunities for advanced training.
- Specifies that a training partnership provide training and certain other services to individual providers, and that employer contributions to the training partnership be a mandatory subject of collective bargaining.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

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

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

**Staff:** Jill Reinmuth (786-7134).

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## 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 Commerce & Labor. Signed by 26 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Haler, Assistant Ranking Minority Member; Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Hinkle, Kretz and McDonald.

**Staff:** Bernard Dean (786-7130).

### **Background:**

#### Task Force

The 2005 Legislature established an eight-member Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management (Task Force) to make recommendations related to: the composition of a long term care system adequate to meet needs; efficient models that will effectively sustain the funding of long-term care; laws and regulations that should be revised and/or eliminated to reduce or contain costs; the feasibility of private options that will enable individuals to pay for long-term care; options that support the needs of rural communities; and disability prevention interventions and chronic care management strategies that can reduce the need for long-term care. The Task Force issued recommendations January 1, 2007, and is required to issue a final report no later than June 30, 2007.

#### Training

Individual providers and agency home care workers provide long-term care services to elderly and disabled clients who are eligible for publicly-funded services through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. These workers provide the DSHS' clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. Individual providers and agency home care workers must meet certain training

requirements set forth in statute and in rules adopted by the DSHS. These training requirements include the following:

- an orientation which provides basic introductory information appropriate to the in-home setting and the population served;
- basic training as to the core knowledge and skills needed to provide personal care services effectively and safely; and
- continuing education designed to increase and keep current a person's knowledge and skills.

### Collective Bargaining

Wages, benefits, and working conditions for individual providers are determined solely through collective bargaining. The Governor must submit, as part of the proposed biennial or supplemental operating budget submitted to the Legislature, a request for funds necessary to implement the compensation and fringe benefits provisions of a collective bargaining agreement or binding interest arbitration award. The Legislature must approve or reject the submission of the request for funds as a whole.

Vendor payment rates for agency home care workers are established in the biennial operating budget. A formula established by the DSHS converts the cost of compensation increases negotiated and funded for individual providers into an hourly amount that is added to vendor rates for agency home care providers.

### **Summary of Engrossed Second Substitute Bill:**

#### Task Force and Workgroup

The Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management (Task Force) is required to establish a fifteen-member Home and Community Long-Term Care Workforce Development Workgroup (Workgroup). The Workgroup is co-chaired by the Chair of the Task Force and the Executive Director of the Home Care Quality Authority.

The Workgroup is required to evaluate current training requirements for long-term care workers. It is also required to make recommendations related to: the appropriate number of basic training hours; the content of basic training curricula; and the development of criteria associated with certification of new long-term care workers.

The Workgroup is required to report its findings and recommendations to the Task Force, the Governor, and appropriate legislative committees by December 1, 2007. The Task Force is required to include the Workgroup's findings and recommendations in the Task Force's final report. The Task Force's reporting deadline is extended from June 30, 2007, to December 30, 2007.

#### Training

Long-term care workers must be offered on-the-job training or peer mentorship for at least one hour per week in the first 90 days of work from a long-term care worker who has completed 12 hours of mentor training and is mentoring no more than 10 other workers. This requirement applies to long-term care workers who begin work on or after January 1, 2010.

Long-term care workers must complete 12 hours of continuing education training in advanced training topics each year. This requirement applies beginning January 1, 2010.

The Department of Social and Health Services (DSHS) must offer sufficient opportunities for long-term care workers to accumulate 65 hours of training within a reasonable time period. The DSHS may not require long-term care workers to obtain such training. This requirement to offer advanced training applies beginning January 1, 2010.

For individual providers represented by an exclusive bargaining representative, certain training and peer mentoring must be provided by a training partnership beginning January 1, 2010. The exclusive bargaining representative designates the training partnership. "Training partnership" is defined as a partnership or trust established and maintained jointly by the Office of the Governor and the exclusive bargaining representative of the individual providers to provide training and certain other services to individual providers.

#### Collective Bargaining

At the request of the exclusive bargaining representative of individual providers, the Governor must engage in collective bargaining with the bargaining representative over employer contributions to the training partnership. The employer contributions are for the costs of certain training and peer mentoring and other training intended to promote career development.

Other provisions address the formula used to establish parity for individual providers and adult family home care providers, and certification as a nursing assistant.

The act is to be liberally construed.

The short title of the act is the "Establishing Quality in Long-Term Care Services Act."

**Appropriation:** None.

**Fiscal Note:** Requested on February 19, 2007.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed, except section 1, relating to the task force and the workgroup, which takes effect immediately; and sections 7 and 8, relating to compensation through collective bargaining and vendor payments, which take effect July 1, 2008.

**Staff Summary of Public Testimony:** (Commerce & Labor)

(In support) We strongly support this bill.

Current training for care givers is not sufficient. The curriculum has not kept pace with the responsibilities. Jobs that used to be limited are now multi-faceted. (For example, I did not receive any information about how to care for patients with HIV.) Our current approach doesn't prepare the state for the care gap.

As more people choose to age in their homes, training the workforce to support that choice will be the key. Our elder population is growing at a rate of 136 percent while our workforce is growing at a rate of 30 percent.

This bill would require the same level of training for individual providers as is required of those working in nursing homes. It would result in better training and would also improve quality of care.

Individual providers need training on communicating with patients, dealing with behavioral issues, and assistance with daily living. The needs of people with developmental disabilities are unique and complicated.

Better training is the key for all long-term care workers. Right now, certified nursing assistants (CNAs) have more training than home care workers, and yet CNAs have more resources available to them than individual providers.

(With concerns) Training in the fundamentals of care giving is important. Washington's training program is one of the best in the nation, but government programs are imperfect. Training individual providers is a considerable undertaking. Training needs to be at the right time, in the right location, and in the right language. More thought needs to be given to making it a seamless process. Terminating services could put clients at risk.

It is unclear whether all licensed agencies are covered or whether only those receiving funds through the Department of Social and Health Services (DSHS) are covered. It is unclear who would bear the costs. It is unclear whether family members who are caregivers want training or mentoring. It is unclear whether there is a problem that needs solving.

There are some confusing components in this bill. It is unclear whether training is established by the DSHS or through collective bargaining. It is not clear who we are trying to establish requirements for. If we are trying to establish requirements for individual providers, that has been a topic of collective bargaining. The agreement is before the Legislature now for approval, and it includes funds for training.

(Opposed) This bill should exempt boarding homes. We already have standards. We spent five years negotiating those standards, and the DSHS conducts a review every 15 months. There is no evidence that those standards are broken. We have found that classroom training is not necessarily the best training. It establishes a foundation, but on-the-job training is better. There is oversight in the boarding home industry that does not exist in other long-term care settings.

This bill takes a one-size-fits all approach, and will have unintended consequences. It makes sweeping changes. It eliminates the flexibility to meet individual family needs. Choice is the key when parents are the providers.

This bill does not work for adult family home providers. If there is no new money, there will be no new training. Adult family home providers already do training, both initial training and advanced specialty training.

The penalty is too severe. Refusing to pay for Medicaid clients would remove income from what are already underfunded operations. And if care has already been provided, payment for that care should be made.

This bill impacts hospice care. For many people, hospice work is not a career choice. Instead, the hospice team gives them training, so that family members can provide end-of-life care for their loved ones. There should be an exemption for family members.

**Staff Summary of Public Testimony:** (Appropriations)

(In support) There has been tremendous work on this bill with key stakeholders including the Department of Social and Health Services, the Home Care Quality Authority, the Governor's Office, the Long-Term Care Ombudsman Office, consumer advocates, folks with developmental disabilities, and employers. Local 775 supports continued work on this bill to more closely reflect this new stakeholder consensus. Over the past decade Washington has rebalanced its long-term care delivery system and many more seniors and people with disabilities have the choice to remain in their homes and receive care. The problem is that training for home care workers has not kept pace. We would like to see the bill moved forward.

As a home care worker I want and need better support and training opportunities. People living with developmental disabilities have unique and complicated needs. The current requirement of 10 hours of continuing education is a great idea. Unfortunately, the offerings from the state are irrelevant to the actual work that I do. There is a problem with training and space availability. I need more and better training.

(Opposed) None.

**Persons Testifying:** (Commerce & Labor) (In support) Representative Green, prime sponsor; Ingrid McDonald, Healthcare Institute; Charissa Raynor and Suzanne Wall, Service Employees International Union Local 775; Suzie Young, individual provider; Linda Lee; and Patti Weaver, Eagle Healthcare.

(With concerns) Jay Crosby, Professional Registry of Nursing; Leslie Emerick, Home Care Association; Blanche Jones, Gentiva; and Steve McLain, Office of Financial Management - Labor Relations Office; and Ann Kopsil, Washington State Hospice.

(Opposed) Vicki McNealley and Deb Johnson, Washington Health Care Association; Ron Ralph and Donna Patrick, Developmental Disabilities Council; and Terry Kohl and Dan Simeonin, Washington State Residential Care Council.

**Persons Testifying:** (Appropriations) Charissa Rayner and Linda Lee, SEIU 775.

**Persons Signed In To Testify But Not Testifying:** (Commerce & Labor) Nick Beamer, Aging & Long-Term Care of Eastern Washington; Wardell Henderson, individual provider; Julie Peterson, Washington Association of Housing & Services for the Aging; and Jim Crabbe, Washington State Board for Community and Technical Colleges.

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