

**ESHB 2314** - S COMM AMD

By Committee on Health & Long-Term Care

ADOPTED 02/29/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "I. INTENT

4 NEW SECTION. **Sec. 101.** The legislature finds that numerous  
5 enactments and amendments to long-term care services statutes over many  
6 years have resulted in duplicated provisions, ambiguities, and other  
7 technical errors. The legislature intends to make corrections and  
8 clarify provisions governing services by long-term care workers.

9 II. DEFINITIONS

10 **Sec. 201.** RCW 18.88B.010 and 2009 c 2 s 17 are each amended to  
11 read as follows:

12 The definitions in (~~RCW 74.39A.009~~) this section apply throughout  
13 this chapter unless the context clearly requires otherwise.

14 (1) "Community residential service business" has the same meaning  
15 as defined in RCW 74.39A.009.

16 (2) "Department" means the department of health.

17 (3) "Home care aide" means a person certified under this chapter.

18 (4) "Individual provider" has the same meaning as defined in RCW  
19 74.39A.009.

20 (5) "Personal care services" has the same meaning as defined in RCW  
21 74.39A.009.

22 (6) "Secretary" means the secretary of the department of health.

23 (7) "Long-term care worker" has the same meaning as defined in RCW  
24 74.39A.009.

25 **Sec. 202.** RCW 74.39A.009 and 2009 c 580 s 1 are each amended to  
26 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

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

5 (2) "Adult residential care" means services provided by a boarding  
6 home that is licensed under chapter 18.20 RCW and that has a contract  
7 with the department under RCW 74.39A.020 to provide personal care  
8 services.

9 (3) "Assisted living services" means services provided by a  
10 boarding home that has a contract with the department under RCW  
11 74.39A.010 to provide personal care services, intermittent nursing  
12 services, and medication administration services, and the resident is  
13 housed in a private apartment-like unit.

14 (4) "Boarding home" means a facility licensed under chapter 18.20  
15 RCW.

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

17 (a) Is certified by the department of social and health services to  
18 provide to individuals who have a developmental disability as defined  
19 in RCW 71A.10.020(4):

20 (i) Group home services;

21 (ii) Group training home services;

22 (iii) Supported living services; or

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

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

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

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

36 ((+6+)) (7) "Cost-effective care" means care provided in a setting  
37 of an individual's choice that is necessary to promote the most  
38 appropriate level of physical, mental, and psychosocial well-being

1 consistent with client choice, in an environment that is appropriate to  
2 the care and safety needs of the individual, and such care cannot be  
3 provided at a lower cost in any other setting. But this in no way  
4 precludes an individual from choosing a different residential setting  
5 to achieve his or her desired quality of life.

6 ~~((+7))~~ (8) "Department" means the department of social and health  
7 services.

8 ~~((+8))~~ (9) "Developmental disability" has the same meaning as  
9 defined in RCW 71A.10.020.

10 ~~((+9))~~ (10) "Direct care worker" means a paid caregiver who  
11 provides direct, hands-on personal care services to persons with  
12 disabilities or the elderly requiring long-term care.

13 ~~((+10))~~ (11) "Enhanced adult residential care" means services  
14 provided by a boarding home that is licensed under chapter 18.20 RCW  
15 and that has a contract with the department under RCW 74.39A.010 to  
16 provide personal care services, intermittent nursing services, and  
17 medication administration services.

18 ~~((+11))~~ (12) "Functionally disabled person" or "person who is  
19 functionally disabled" is synonymous with chronic functionally disabled  
20 and means a person who because of a recognized chronic physical or  
21 mental condition or disease, or developmental disability, including  
22 chemical dependency, is impaired to the extent of being dependent upon  
23 others for direct care, support, supervision, or monitoring to perform  
24 activities of daily living. "Activities of daily living", in this  
25 context, means self-care abilities related to personal care such as  
26 bathing, eating, using the toilet, dressing, and transfer.  
27 Instrumental activities of daily living may also be used to assess a  
28 person's functional abilities as they are related to the mental  
29 capacity to perform activities in the home and the community such as  
30 cooking, shopping, house cleaning, doing laundry, working, and managing  
31 personal finances.

32 ~~((+12))~~ (13) "Home and community-based services" means adult  
33 family homes, in-home services, and other services administered or  
34 provided by contract by the department directly or through contract  
35 with area agencies on aging or similar services provided by facilities  
36 and agencies licensed by the department.

37 ~~((+13))~~ (14) "Home care aide" means a long-term care worker who

1 has obtained certification as a home care aide by the department of  
2 health.

3 ~~((+14))~~ (15) "Individual provider" is defined according to RCW  
4 74.39A.240.

5 ~~((+15))~~ (16) "Long-term care" is synonymous with chronic care and  
6 means care and supports delivered indefinitely, intermittently, or over  
7 a sustained time to persons of any age disabled by chronic mental or  
8 physical illness, disease, chemical dependency, or a medical condition  
9 that is permanent, not reversible or curable, or is long-lasting and  
10 severely limits their mental or physical capacity for self-care. The  
11 use of this definition is not intended to expand the scope of services,  
12 care, or assistance by any individuals, groups, residential care  
13 settings, or professions unless otherwise expressed by law.

14 ~~((+16))~~ (17)(a) "Long-term care workers ~~((for the elderly or  
15 persons with disabilities" or "long-term care workers))~~" include~~((s))~~  
16 all persons who ~~((are long-term care workers))~~ provide paid, hands-on  
17 personal care services for the elderly or persons with disabilities,  
18 including but not limited to individual providers of home care  
19 services, direct care ~~((employees of))~~ workers employed by home care  
20 agencies, providers of home care services to persons with developmental  
21 disabilities under Title 71A RCW, all direct care workers in  
22 state-licensed boarding homes, assisted living facilities, and adult  
23 family homes, respite care providers, direct care workers employed by  
24 community residential service ~~((providers))~~ businesses, and any other  
25 direct care worker providing home or community-based services to the  
26 elderly or persons with functional disabilities or developmental  
27 disabilities.

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

36 ~~((+17))~~ (18) "Nursing home" means a facility licensed under  
37 chapter 18.51 RCW.

1 ((+18)) (19) "Personal care services" means physical or verbal  
2 assistance with activities of daily living and instrumental activities  
3 of daily living provided because of a person's functional disability.

4 ((+19)) (20) "Population specific competencies" means basic  
5 training topics unique to the care needs of the population the long-  
6 term care worker is serving, including but not limited to, mental  
7 health, dementia, developmental disabilities, young adults with  
8 physical disabilities, and older adults.

9 ((+20)) (21) "Qualified instructor" means a registered nurse or  
10 other person with specific knowledge, training, and work experience in  
11 the provision of direct, hands-on personal care and other assistance  
12 services to the elderly or persons with disabilities requiring  
13 long-term care.

14 ((+21)) (22) "Secretary" means the secretary of social and health  
15 services.

16 ((+22)) (23) "Secretary of health" means the secretary of health  
17 or the secretary's designee.

18 ((+23)) (24) "Training partnership" means a joint partnership or  
19 trust that includes the office of the governor and the exclusive  
20 bargaining representative of individual providers under RCW 74.39A.270  
21 with the capacity to provide training, peer mentoring, and workforce  
22 development, or other services to individual providers.

23 ((+24)) (25) "Tribally licensed boarding home" means a boarding  
24 home licensed by a federally recognized Indian tribe which home  
25 provides services similar to boarding homes licensed under chapter  
26 18.20 RCW.

### 27 III. CREDENTIAL REQUIREMENT

28 **Sec. 301.** RCW 18.88B.021 and 2012 c 1 s 103 (Initiative Measure  
29 No. 1163) are each amended to read as follows:

30 (1) (~~Effective January 1, 2011,~~) Beginning January 7, 2012,  
31 except as provided in RCW (~~18.88B.040, the department of health shall~~  
32 ~~require that~~) 18.88B.041, any person hired as a long-term care worker  
33 (~~for the elderly or persons with disabilities~~) must be certified as  
34 a home care aide as provided in this chapter within one hundred fifty  
35 calendar days (~~from~~) after the date of being hired or within one  
36 hundred fifty calendar days after the effective date of this section,

1 whichever is later. In computing the time periods in this subsection,  
2 the first day is the date of hire or the effective date of this  
3 section, whichever is applicable.

4 ~~(2) ((Except as provided in RCW 18.88B.040, certification as a home~~  
5 ~~care aide requires both completion of seventy five hours of training~~  
6 ~~and successful completion of a certification examination pursuant to~~  
7 ~~RCW 74.39A.073 and 18.88B.030.~~

8 ~~(3))~~ (a) No person may practice or, by use of any title or  
9 description, represent himself or herself as a certified home care aide  
10 without being certified ~~((pursuant to))~~ as provided in this chapter.

11 ~~((4))~~ (b) This section does not prohibit a person: (i) From  
12 practicing a profession for which the person has been issued a license  
13 or which is specifically authorized under this state's laws; or (ii)  
14 who is exempt from certification under RCW 18.88B.041 from providing  
15 services as a long-term care worker.

16 (c) In consultation with consumer and worker representatives, the  
17 department shall, by January 1, 2013, establish by rule a single scope  
18 of practice that encompasses both long-term care workers who are  
19 certified home care aides and long-term care workers who are exempted  
20 from certification under RCW 18.88B.041.

21 (3) The department ((of health)) shall adopt rules ((by August 1,  
22 2010,)) to implement this section.

23 **Sec. 302.** RCW 18.88B.041 and 2012 c 1 s 105 (Initiative Measure  
24 No. 1163) are each amended to read as follows:

25 (1) The following long-term care workers are not required to become  
26 a certified home care aide pursuant to this chapter((  
27 (1))):

28 (a)(i)(A) Registered nurses, licensed practical nurses, certified  
29 nursing assistants or persons who are in an approved training program  
30 for certified nursing assistants under chapter 18.88A RCW, medicare-  
31 certified home health aides, or other persons who hold a similar health  
32 credential, as determined by the secretary ((of health)), or persons  
33 with special education training and an endorsement granted by the  
34 superintendent of public instruction, as described in RCW 28A.300.010,  
35 if the secretary ((of health)) determines that the circumstances do not  
36 require certification. ((Individuals exempted by this subsection may  
37 obtain certification as a home care aide from the department of health

1 ~~without fulfilling the training requirements in RCW 74.39A.073 but must~~  
2 ~~successfully complete a certification examination pursuant to RCW~~  
3 ~~18.88B.030.~~

4 ~~(2))~~ (B) A person ~~((already employed))~~ who was initially hired as  
5 a long-term care worker prior to January ~~((1, 2011))~~ 7, 2012, and who  
6 completes all of his or her training requirements in effect as of the  
7 date he or she was hired ~~((, is not required to obtain certification))~~.

8 (ii) Individuals exempted by (a)(i) of this subsection may obtain  
9 certification as a home care aide ~~((from the department of health))~~  
10 without fulfilling the training requirements in RCW ~~((74.39A.073))~~  
11 74.39A.074(1)(d)(ii) but must successfully complete a certification  
12 examination pursuant to RCW ~~((18.88B.030))~~ 18.88B.031.

13 ~~((3))~~ (b) All long-term care workers employed by ~~((supported~~  
14 ~~living providers are not required to obtain certification under this~~  
15 ~~chapter))~~ community residential service businesses.

16 ~~((4))~~ (c) An individual provider caring only for his or her  
17 biological, step, or adoptive child or parent ~~((is not required to~~  
18 ~~obtain certification under this chapter))~~.

19 ~~((5))~~ (d) Prior to ~~((June 30))~~ July 1, 2014, a person hired as an  
20 individual provider who provides twenty hours or less of care for one  
21 person in any calendar month ~~((is not required to obtain certification~~  
22 ~~under this chapter))~~.

23 ~~((6))~~ (2) A long-term care worker exempted by this section from  
24 the training requirements contained in RCW ~~((74.39A.073))~~ 74.39A.074  
25 may not be prohibited from enrolling in training pursuant to that  
26 section.

27 ~~((7))~~ (3) The department ~~((of health))~~ shall adopt rules ~~((by~~  
28 ~~August 1, 2010,))~~ to implement this section.

29 NEW SECTION. Sec. 303. A new section is added to chapter 18.88B  
30 RCW to read as follows:

31 (1) The department has the authority to:

32 (a) Establish forms, procedures, and examinations necessary to  
33 certify home care aides pursuant to this chapter;

34 (b) Hire clerical, administrative, and investigative staff as  
35 needed to implement this section;

36 (c) Issue certification as a home care aide to any applicant who

1 has successfully completed the home care aide examination, and renew  
2 such certificates;

3 (d) Maintain the official record of all applicants and persons with  
4 certificates;

5 (e) Exercise disciplinary authority as authorized in chapter 18.130  
6 RCW; and

7 (f) Deny certification to applicants who do not meet training,  
8 competency examination, and conduct requirements, including background  
9 checks, for certification.

10 (2) The department shall adopt rules that establish the procedures,  
11 including criteria for reviewing an applicant's state and federal  
12 background checks, and examinations necessary to implement this  
13 section.

14 **Sec. 304.** RCW 18.88B.031 and 2012 c 1 s 104 (Initiative Measure  
15 No. 1163) are each amended to read as follows:

16 (1) (~~Effective January 1, 2011,~~) Except as provided in RCW  
17 (~~18.88B.040~~) 18.88B.041 and subject to the other requirements of this  
18 chapter, (the department of health shall require that all) to be  
19 certified as a home care aide, a long-term care worker(~~s~~) must  
20 successfully complete the training required under RCW 74.39A.074(1) and  
21 a certification examination. Any long-term care worker failing to make  
22 the required grade for the examination (~~will~~) may not be certified as  
23 a home care aide.

24 (2) The department (~~of health~~), in consultation with consumer and  
25 worker representatives, shall develop a home care aide certification  
26 examination to evaluate whether an applicant possesses the skills and  
27 knowledge necessary to practice competently. (~~Unless excluded~~)  
28 Except as provided by RCW (18.88B.040 (1) and (2))  
29 18.88B.041(1)(a)(ii), only those who have completed the training  
30 requirements in RCW (~~74.39A.073~~) 74.39A.074(1) shall be eligible to  
31 sit for this examination.

32 (3) The examination shall include both a skills demonstration and  
33 a written or oral knowledge test. The examination papers, all grading  
34 of the papers, and records related to the grading of skills  
35 demonstration shall be preserved for a period of not less than one  
36 year. The department (~~of health~~) shall establish rules governing the



1 number of times and under what circumstances individuals who have  
2 failed the examination may sit for the examination, including whether  
3 any intermediate remedial steps should be required.

4 (4) All examinations shall be conducted by fair and wholly  
5 impartial methods. The certification examination shall be administered  
6 and evaluated by the department ((of health)) or by a contractor to the  
7 department ((of health)) that is neither an employer of long-term care  
8 workers or a private contractor((s)) providing training services under  
9 this chapter.

10 (5) ((The department of health has the authority to:

11 (a) ~~Establish forms, procedures, and examinations necessary to~~  
12 ~~certify home care aides pursuant to this chapter;~~

13 (b) ~~Hire clerical, administrative, and investigative staff as~~  
14 ~~needed to implement this section;~~

15 (c) ~~Issue certification as a home care aide to any applicant who~~  
16 ~~has successfully completed the home care aide examination;~~

17 (d) ~~Maintain the official record of all applicants and persons with~~  
18 ~~certificates;~~

19 (e) ~~Exercise disciplinary authority as authorized in chapter 18.130~~  
20 ~~RCW; and~~

21 (f) ~~Deny certification to applicants who do not meet training,~~  
22 ~~competency examination, and conduct requirements for certification.~~

23 (6)) The department ((of health)) shall adopt rules ((by August 1,  
24 2010, that establish the procedures, including criteria for reviewing  
25 an applicant's state and federal background checks, and examinations  
26 necessary to carry this section into effect)) to implement this  
27 section.

28 **IV. TRAINING PROVISIONS**

29 **Sec. 401.** RCW 74.39A.074 and 2012 c 1 s 107 (Initiative Measure  
30 No. 1163) are each amended to read as follows:

31 (1) ((Effective January 1, 2011,)) (a) Beginning January 7, 2012,  
32 except ((as provided in RCW 18.88B.040)) for long-term care workers  
33 exempt from certification under RCW 18.88B.041(1)(a) and, until January  
34 1, 2016, those exempt under RCW 18.88B.041(1)(b), all persons  
35 ((employed)) hired as long-term care workers ((for the elderly or  
36 persons with disabilities)) must meet the minimum training requirements

1 in this section within one hundred twenty calendar days (~~of~~  
2 ~~employment~~) after the date of being hired or within one hundred twenty  
3 calendar days after the effective date of this section, whichever is  
4 later. In computing the time periods in this subsection, the first day  
5 is the date of hire or the effective date of this section, whichever is  
6 applicable.

7 ~~((2) All persons employed as long-term care workers must obtain)~~  
8 (b) Except as provided in RCW 74.39A.076, the minimum training  
9 requirement is seventy-five hours of entry-level training approved by  
10 the department. A long-term care worker must (~~accomplish~~)  
11 successfully complete five of these seventy-five hours before  
12 ~~((becoming))~~ being eligible to provide care.

13 ~~((3)) (c) Training required by (d) of this subsection (~~(4)(e) of~~~~  
14 ~~this section will be applied)~~ applies toward~~((s))~~ the training  
15 required under RCW 18.20.270 or 70.128.230 ~~((as well as))~~ or any  
16 statutory or regulatory training requirements for long-term care  
17 workers employed by ~~((supportive living providers))~~ community  
18 residential service businesses.

19 ~~((4) Only training curriculum approved by the department may be~~  
20 ~~used to fulfill the training requirements specified in this section.)~~  
21 (d) The seventy-five hours of entry-level training required shall be  
22 as follows:

23 ~~((a)) (i) Before a long-term care worker is eligible to provide~~  
24 care, he or she must complete:

25 (A) Two hours of orientation training regarding his or her role as  
26 caregiver and the applicable terms of employment; and

27 ~~((b) Before a long-term care worker is eligible to provide care,~~  
28 ~~he or she must complete)~~ (B) Three hours of safety training, including  
29 basic safety precautions, emergency procedures, and infection control;  
30 and

31 ~~((c) All long-term care workers must complete)~~ (ii) Seventy hours  
32 of long-term care basic training, including training related to core  
33 competencies and population specific competencies.

34 ~~((5)) (2) Only training curriculum approved by the department may~~  
35 be used to fulfill the training requirements specified in this section.

36 The department shall only approve training curriculum that:

37 (a) Has been developed with input from consumer and worker  
38 representatives; and

1 (b) Requires comprehensive instruction by qualified instructors on  
2 the competencies and training topics in this section.

3 ~~((+6))~~ (3) Individual providers under RCW 74.39A.270 shall be  
4 compensated for training time required by this section.

5 ~~((+7) The department of health shall adopt rules by August 1, 2010,~~  
6 ~~to implement subsections (1), (2), and (3) of this section.~~

7 ~~(+8))~~ (4) The department shall adopt rules ~~((by August 1, 2010,))~~  
8 to implement ~~((subsections (4) and (5) of))~~ this section.

9 **Sec. 402.** RCW 74.39A.076 and 2012 c 1 s 108 (Initiative Measure  
10 No. 1163) are each amended to read as follows:

11 ~~((Effective January 1, 2011,))~~ Beginning January 7, 2012,  
12 except for long-term care workers exempt from certification under RCW  
13 18.88B.041(1)(a):

14 (a) A biological, step, or adoptive parent who is the individual  
15 provider only for his or her developmentally disabled son or daughter  
16 must receive twelve hours of training relevant to the needs of adults  
17 with developmental disabilities within the first one hundred twenty  
18 days ~~((of))~~ after becoming an individual provider or within one hundred  
19 twenty calendar days after the effective date of this section,  
20 whichever is later.

21 ~~((+2) Effective January 1, 2011,))~~ (b) Individual providers  
22 identified in ~~((+a) and))~~ (b)(i) and (ii) of this subsection must  
23 complete thirty-five hours of training within the first one hundred  
24 twenty days ~~((of))~~ after becoming an individual provider or within one  
25 hundred twenty calendar days after the effective date of this section,  
26 whichever is later. Five of the thirty-five hours must be completed  
27 before becoming eligible to provide care. Two of these five hours  
28 shall be devoted to an orientation training regarding an individual  
29 provider's role as caregiver and the applicable terms of employment,  
30 and three hours shall be devoted to safety training, including basic  
31 safety precautions, emergency procedures, and infection control.  
32 Individual providers subject to this requirement include:

33 ~~((+a))~~ (i) An individual provider caring only for his or her  
34 biological, step, or adoptive child or parent unless covered by (a) of  
35 this subsection ~~((+1) of this section))~~; and

36 ~~((+b) Before))~~ (ii) Until January 1, 2014, a person hired as an

1 individual provider who provides twenty hours or less of care for one  
2 person in any calendar month.

3 (2) In computing the time periods in this section, the first day is  
4 the date of hire or the effective date of this section, whichever is  
5 applicable.

6 (3) Only training curriculum approved by the department may be used  
7 to fulfill the training requirements specified in this section. The  
8 department shall only approve training curriculum that:

9 (a) Has been developed with input from consumer and worker  
10 representatives; and

11 (b) Requires comprehensive instruction by qualified instructors.

12 (4) The department shall adopt rules (~~(by August 1, 2010,)~~) to  
13 implement this section.

14 **Sec. 403.** RCW 74.39A.331 and 2012 c 1 s 111 (Initiative Measure  
15 No. 1163) are each amended to read as follows:

16 Long-term care workers shall be offered on-the-job training or peer  
17 mentorship for at least one hour per week in the first ninety days of  
18 work from a long-term care worker who has completed at least twelve  
19 hours of mentor training and is mentoring no more than ten other  
20 workers at any given time. This requirement applies to long-term care  
21 workers who begin work on or after July 1, (~~(2011)~~) 2012, except that  
22 it does not apply to long-term care workers employed by community  
23 residential service businesses until January 1, 2016.

24 **Sec. 404.** RCW 74.39A.351 and 2012 c 1 s 113 (Initiative Measure  
25 No. 1163) are each amended to read as follows:

26 (1) The department shall offer, directly or through contract,  
27 training opportunities sufficient for a long-term care worker to  
28 accumulate seventy hours of training within a reasonable time period.  
29 For individual providers represented by an exclusive bargaining  
30 representative under RCW 74.39A.270, the training opportunities shall  
31 be offered through the training partnership established under RCW  
32 74.39A.360.

33 (2) Training topics offered under this section shall include, but  
34 are not limited to: Client rights; personal care; mental illness;  
35 dementia; developmental disabilities; depression; medication  
36 assistance; advanced communication skills; positive client behavior

1 support; developing or improving client-centered activities; dealing  
2 with wandering or aggressive client behaviors; medical conditions;  
3 nurse delegation core training; peer mentor training; and advocacy for  
4 quality care training.

5 (3) The department may not require long-term care workers to obtain  
6 the training described in this section. ~~((This))~~

7 (4) The requirement to offer advanced training applies beginning  
8 January 1, ~~((2012)) 2013, except that it does not apply to long-term~~  
9 care workers employed by community residential service businesses until  
10 January 1, 2016.

11 **Sec. 405.** RCW 74.39A.341 and 2012 c 1 s 112 (Initiative Measure  
12 No. 1163) are each amended to read as follows:

13 (1) ~~((The department of health shall ensure that))~~ All long-term  
14 care workers shall complete twelve hours of continuing education  
15 training in advanced training topics each year. This requirement  
16 applies beginning ~~((on))~~ July 1, ~~((2011))~~ 2012.

17 (2) Completion of continuing education as required in this section  
18 is a prerequisite to maintaining home care aide certification under  
19 chapter ~~((2, Laws of 2009))~~ 18.88B RCW.

20 (3) Unless voluntarily certified as a home care aide under chapter  
21 ~~((2, Laws of 2009))~~ 18.88B RCW, subsection (1) of this section does not  
22 apply to:

23 (a) An individual provider caring only for his or her biological,  
24 step, or adoptive child; ~~((and))~~

25 (b) Before January 1, 2016, a long-term care worker employed by a  
26 community residential service business; or

27 (c) Before ~~((June 30))~~ July 1, 2014, a person hired as an  
28 individual provider who provides twenty hours or less of care for one  
29 person in any calendar month.

30 (4) Only training curriculum approved by the department may be used  
31 to fulfill the training requirements specified in this section. The  
32 department shall only approve training curriculum that:

33 (a) Has been developed with input from consumer and worker  
34 representatives; and

35 (b) Requires comprehensive instruction by qualified instructors.

36 (5) Individual providers under RCW 74.39A.270 shall be compensated  
37 for training time required by this section.

1 (6) The department of health shall adopt rules (~~(by August 1,~~  
2 ~~2010,)~~) to implement subsection(~~(s)~~) (1)(~~(, (2), and (3))~~) of this  
3 section.

4 (7) The department shall adopt rules (~~(by August 1, 2010,)~~) to  
5 implement subsection (~~((4))~~) (2) of this section.

6 NEW SECTION. **Sec. 406.** A new section is added to chapter 18.88B  
7 RCW to read as follows:

8 (1) The legislature recognizes that nurses have been successfully  
9 delegating nursing care tasks to family members and others for many  
10 years. The opportunity for a nurse to delegate nursing care tasks to  
11 home care aides certified under this chapter may enhance the viability  
12 and quality of health care services in community-based care settings  
13 and in-home care settings to allow individuals to live as independently  
14 as possible with maximum safeguards.

15 (2)(a) A certified home care aide who wishes to perform a nurse  
16 delegated task pursuant to RCW 18.79.260 must complete nurse delegation  
17 core training under chapter 18.88A RCW before the home care aide may be  
18 delegated a nursing care task by a registered nurse delegator. Before  
19 administering insulin, a home care aide must also complete the  
20 specialized diabetes nurse delegation training under chapter 18.88A  
21 RCW. Before commencing any specific nursing care tasks authorized  
22 under RCW 18.79.260, the home care aide must:

23 (i) Provide to the delegating nurse a transcript or certificate of  
24 successful completion of training issued by an approved instructor or  
25 approved training entity indicating the completion of basic core nurse  
26 delegation training; and

27 (ii) Meet any additional training requirements mandated by the  
28 nursing care quality assurance commission. Any exception to these  
29 training requirements is subject to RCW 18.79.260(3)(e)(vi).

30 (b) In addition to meeting the requirements of (a) of this  
31 subsection, before providing delegated nursing care tasks that involve  
32 administration of insulin by injection to individuals with diabetes,  
33 the home care aide must provide to the delegating nurse a transcript or  
34 certificate of successful completion of training issued by an approved  
35 instructor or approved training entity indicating completion of  
36 specialized diabetes nurse delegation training. The training must

1 include, but is not limited to, instruction regarding diabetes,  
2 insulin, sliding scale insulin orders, and proper injection procedures.

3 (3) The home care aide is accountable for his or her own individual  
4 actions in the delegation process. Home care aides accurately  
5 following written delegation instructions from a registered nurse are  
6 immune from liability regarding the performance of the delegated  
7 duties.

8 (4) Home care aides are not subject to any employer reprisal or  
9 disciplinary action by the secretary for refusing to accept delegation  
10 of a nursing care task based on his or her concerns about patient  
11 safety issues. No provider of a community-based care setting as  
12 defined in RCW 18.79.260, or in-home services agency as defined in RCW  
13 70.127.010, may discriminate or retaliate in any manner against a  
14 person because the person made a complaint about the nurse delegation  
15 process or cooperated in the investigation of the complaint.

16 **Sec. 407.** RCW 18.79.260 and 2009 c 203 s 1 are each amended to  
17 read as follows:

18 (1) A registered nurse under his or her license may perform for  
19 compensation nursing care, as that term is usually understood, to  
20 individuals with illnesses, injuries, or disabilities.

21 (2) A registered nurse may, at or under the general direction of a  
22 licensed physician and surgeon, dentist, osteopathic physician and  
23 surgeon, naturopathic physician, optometrist, podiatric physician and  
24 surgeon, physician assistant, osteopathic physician assistant, or  
25 advanced registered nurse practitioner acting within the scope of his  
26 or her license, administer medications, treatments, tests, and  
27 inoculations, whether or not the severing or penetrating of tissues is  
28 involved and whether or not a degree of independent judgment and skill  
29 is required. Such direction must be for acts which are within the  
30 scope of registered nursing practice.

31 (3) A registered nurse may delegate tasks of nursing care to other  
32 individuals where the registered nurse determines that it is in the  
33 best interest of the patient.

34 (a) The delegating nurse shall:

35 (i) Determine the competency of the individual to perform the  
36 tasks;

37 (ii) Evaluate the appropriateness of the delegation;

1 (iii) Supervise the actions of the person performing the delegated  
2 task; and

3 (iv) Delegate only those tasks that are within the registered  
4 nurse's scope of practice.

5 (b) A registered nurse, working for a home health or hospice agency  
6 regulated under chapter 70.127 RCW, may delegate the application,  
7 instillation, or insertion of medications to a registered or certified  
8 nursing assistant under a plan of care.

9 (c) Except as authorized in (b) or (e) of this subsection, a  
10 registered nurse may not delegate the administration of medications.  
11 Except as authorized in (e) of this subsection, a registered nurse may  
12 not delegate acts requiring substantial skill, and may not delegate  
13 piercing or severing of tissues. Acts that require nursing judgment  
14 shall not be delegated.

15 (d) No person may coerce a nurse into compromising patient safety  
16 by requiring the nurse to delegate if the nurse determines that it is  
17 inappropriate to do so. Nurses shall not be subject to any employer  
18 reprisal or disciplinary action by the nursing care quality assurance  
19 commission for refusing to delegate tasks or refusing to provide the  
20 required training for delegation if the nurse determines delegation may  
21 compromise patient safety.

22 (e) For delegation in community-based care settings or in-home care  
23 settings, a registered nurse may delegate nursing care tasks only to  
24 registered or certified nursing assistants or home care aides certified  
25 under chapter 18.88B RCW. Simple care tasks such as blood pressure  
26 monitoring, personal care service, diabetic insulin device set up,  
27 verbal verification of insulin dosage for sight-impaired individuals,  
28 or other tasks as defined by the nursing care quality assurance  
29 commission are exempted from this requirement.

30 (i) "Community-based care settings" includes: Community  
31 residential programs for people with developmental disabilities,  
32 certified by the department of social and health services under chapter  
33 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and  
34 boarding homes licensed under chapter 18.20 RCW. Community-based care  
35 settings do not include acute care or skilled nursing facilities.

36 (ii) "In-home care settings" include an individual's place of  
37 temporary or permanent residence, but does not include acute care or



1 skilled nursing facilities, and does not include community-based care  
2 settings as defined in (e)(i) of this subsection.

3 (iii) Delegation of nursing care tasks in community-based care  
4 settings and in-home care settings is only allowed for individuals who  
5 have a stable and predictable condition. "Stable and predictable  
6 condition" means a situation in which the individual's clinical and  
7 behavioral status is known and does not require the frequent presence  
8 and evaluation of a registered nurse.

9 (iv) The determination of the appropriateness of delegation of a  
10 nursing task is at the discretion of the registered nurse. Other than  
11 delegation of the administration of insulin by injection for the  
12 purpose of caring for individuals with diabetes, the administration of  
13 medications by injection, sterile procedures, and central line  
14 maintenance may never be delegated.

15 (v) When delegating insulin injections under this section, the  
16 registered nurse delegator must instruct the individual regarding  
17 proper injection procedures and the use of insulin, demonstrate proper  
18 injection procedures, and must supervise and evaluate the individual  
19 performing the delegated task weekly during the first four weeks of  
20 delegation of insulin injections. If the registered nurse delegator  
21 determines that the individual is competent to perform the injection  
22 properly and safely, supervision and evaluation shall occur at least  
23 every ninety days thereafter.

24 (vi)(A) The registered nurse shall verify that the nursing  
25 assistant or home care aide, as the case may be, has completed the  
26 required core nurse delegation training required in chapter 18.88A or  
27 18.88B RCW prior to authorizing delegation.

28 (B) Before commencing any specific nursing tasks authorized to be  
29 delegated in this section, a home care aide must be certified pursuant  
30 to chapter 18.88B RCW and must comply with section 406 of this act.

31 (vii) The nurse is accountable for his or her own individual  
32 actions in the delegation process. Nurses acting within the protocols  
33 of their delegation authority are immune from liability for any action  
34 performed in the course of their delegation duties.

35 (viii) Nursing task delegation protocols are not intended to  
36 regulate the settings in which delegation may occur, but are intended  
37 to ensure that nursing care services have a consistent standard of

1 practice upon which the public and the profession may rely, and to  
2 safeguard the authority of the nurse to make independent professional  
3 decisions regarding the delegation of a task.

4 (f) The nursing care quality assurance commission may adopt rules  
5 to implement this section.

6 (4) Only a person licensed as a registered nurse may instruct  
7 nurses in technical subjects pertaining to nursing.

8 (5) Only a person licensed as a registered nurse may hold herself  
9 or himself out to the public or designate herself or himself as a  
10 registered nurse.

11 NEW SECTION. **Sec. 408.** By September 1, 2012, the department of  
12 social and health services shall adopt rules that reflect all statutory  
13 and regulatory training requirements for long-term care workers, as  
14 defined in RCW 74.39A.009, to provide the services identified in RCW  
15 74.39A.009(5)(a).

#### 16 **V. BACKGROUND CHECK REQUIREMENT**

17 NEW SECTION. **Sec. 501.** A new section is added to chapter 18.88B  
18 RCW to read as follows:

19 A long-term care worker disqualified from working with vulnerable  
20 persons under chapter 74.39A RCW may not be certified or maintain  
21 certification as a home care aide under this chapter. To allow the  
22 department to satisfy its certification responsibilities under this  
23 chapter, the department of social and health services shall share the  
24 results of state and federal background checks conducted pursuant to  
25 RCW 74.39A.056 with the department. Neither department may share the  
26 federal background check results with any other state agency or person.

27 **Sec. 502.** RCW 74.39A.261 and 2012 c 1 s 102 (Initiative Measure  
28 No. 1163) are each amended to read as follows:

29 The department must perform criminal background checks for  
30 individual providers and prospective individual providers (~~and ensure  
31 that the authority has ready access to any long term care abuse and  
32 neglect registry used by the department. Individual providers who are  
33 hired after January 1, 2012, are subject to background checks~~) under  
34 RCW (~~(74.39A.055)~~) 74.39A.056.

1           **Sec. 503.** RCW 74.39A.056 and 2012 c 1 s 101 (Initiative Measure  
2 No. 1163) are each amended to read as follows:

3           (1)(a) ~~All long-term care workers ((for the elderly or persons with~~  
4 ~~disabilities hired after January 1, 2012,))~~ shall be screened through  
5 state and federal background checks in a uniform and timely manner to  
6 ~~((ensure))~~ verify that they do not have a criminal history that would  
7 disqualify them from working with vulnerable persons. ~~((These))~~ The  
8 department must perform criminal background checks for individual  
9 providers and prospective individual providers and make the information  
10 available as provided by law.

11           (b)(i) Except as provided in (b)(ii) of this subsection, for long-  
12 term care workers hired after January 7, 2012, the background checks  
13 required under this section shall include checking against the federal  
14 bureau of investigation fingerprint identification records system and  
15 against the national sex offenders registry or their successor  
16 programs. The department shall require these long-term care workers to  
17 submit fingerprints for the purpose of investigating conviction records  
18 through both the Washington state patrol and the federal bureau of  
19 investigation. The department shall not pass on the cost of these  
20 criminal background checks to the workers or their employers.

21           (ii) This subsection does not apply to long-term care workers  
22 employed by community residential service businesses until January 1,  
23 2016.

24           ~~((2) To allow the department of health to satisfy its~~  
25 ~~certification responsibilities under chapter 18.88B RCW,))~~ (c) The  
26 department shall share state and federal background check results with  
27 the department of health((. Neither department may share the federal  
28 background check results with any other state agency or person)) in  
29 accordance with section 501 of this act.

30           ~~((3) The department shall not pass on the cost of these criminal~~  
31 ~~background checks to the workers or their employers.))~~ (2) No provider,  
32 or its staff, or long-term care worker, or prospective provider or  
33 long-term care worker, with a stipulated finding of fact, conclusion of  
34 law, an agreed order, or finding of fact, conclusion of law, or final  
35 order issued by a disciplining authority or a court of law or entered  
36 into a state registry with a final substantiated finding of abuse,  
37 neglect, exploitation, or abandonment of a minor or a vulnerable adult

1 as defined in chapter 74.34 RCW shall be employed in the care of and  
2 have unsupervised access to vulnerable adults.

3 (3) The department shall establish, by rule, a state registry which  
4 contains identifying information about long-term care workers  
5 identified under this chapter who have final substantiated findings of  
6 abuse, neglect, financial exploitation, or abandonment of a vulnerable  
7 adult as defined in RCW 74.34.020. The rule must include disclosure,  
8 disposition of findings, notification, findings of fact, appeal rights,  
9 and fair hearing requirements. The department shall disclose, upon  
10 request, final substantiated findings of abuse, neglect, financial  
11 exploitation, or abandonment to any person so requesting this  
12 information. This information must also be shared with the department  
13 of health to advance the purposes of chapter 18.88B RCW.

14 (4) The department shall adopt rules to implement (~~the provisions~~  
15 ~~of~~) this section (~~by August 1, 2010~~).

16 **Sec. 504.** RCW 18.20.125 and 2011 1st sp.s. c 31 s 15 are each  
17 amended to read as follows:

18 (1) Inspections must be outcome based and responsive to resident  
19 complaints and based on a clear set of health, quality of care, and  
20 safety standards that are easily understandable and have been made  
21 available to facilities, residents, and other interested parties. This  
22 includes that when conducting licensing inspections, the department  
23 shall interview an appropriate percentage of residents, family members,  
24 and advocates in addition to interviewing appropriate staff.

25 (2) Prompt and specific enforcement remedies shall also be  
26 implemented without delay, consistent with RCW 18.20.190, for  
27 facilities found to have delivered care or failed to deliver care  
28 resulting in problems that are serious, recurring, or uncorrected, or  
29 that create a hazard that is causing or likely to cause death or  
30 serious harm to one or more residents. These enforcement remedies may  
31 also include, when appropriate, reasonable conditions on a license. In  
32 the selection of remedies, the safety, health, and well-being of  
33 residents shall be of paramount importance.

34 (3)(a) To the extent funding is available, the licensee,  
35 administrator, and their staff should be screened through background  
36 checks in a uniform and timely manner to ensure that they do not have  
37 a criminal history that would disqualify them from working with

1 vulnerable adults. Employees may be provisionally hired pending the  
2 results of the background check if they have been given three positive  
3 references.

4 (b) Long-term care workers, as defined in RCW 74.39A.009, who are  
5 hired after January (~~(1, 2014)~~) 7, 2012, are subject to background  
6 checks under RCW (~~(74.39A.055)~~) 74.39A.056.

7 (4) No licensee, administrator, or staff, or prospective licensee,  
8 administrator, or staff, with a stipulated finding of fact, conclusion  
9 of law, and agreed order, or finding of fact, conclusion of law, or  
10 final order issued by a disciplining authority, a court of law, or  
11 entered into the state registry finding him or her guilty of abuse,  
12 neglect, exploitation, or abandonment of a minor or a vulnerable adult  
13 as defined in chapter 74.34 RCW shall be employed in the care of and  
14 have unsupervised access to vulnerable adults.

15 **Sec. 505.** RCW 43.20A.710 and 2011 1st sp.s. c 31 s 16 are each  
16 amended to read as follows:

17 (1) The secretary shall investigate the conviction records, pending  
18 charges and disciplinary board final decisions of:

19 (a) Any current employee or applicant seeking or being considered  
20 for any position with the department who will or may have unsupervised  
21 access to children, vulnerable adults, or individuals with mental  
22 illness or developmental disabilities. This includes, but is not  
23 limited to, positions conducting comprehensive assessments, financial  
24 eligibility determinations, licensing and certification activities,  
25 investigations, surveys, or case management; or for state positions  
26 otherwise required by federal law to meet employment standards;

27 (b) Individual providers who are paid by the state and providers  
28 who are paid by home care agencies to provide in-home services  
29 involving unsupervised access to persons with physical, mental, or  
30 developmental disabilities or mental illness, or to vulnerable adults  
31 as defined in chapter 74.34 RCW, including but not limited to services  
32 provided under chapter 74.39 or 74.39A RCW; and

33 (c) Individuals or businesses or organizations for the care,  
34 supervision, case management, or treatment of children, persons with  
35 developmental disabilities, or vulnerable adults, including but not  
36 limited to services contracted for under chapter 18.20, 70.127, 70.128,  
37 72.36, or 74.39A RCW or Title 71A RCW.

1 (2) The secretary shall require a fingerprint-based background  
2 check through both the Washington state patrol and the federal bureau  
3 of investigation as provided in RCW 43.43.837. Unless otherwise  
4 authorized by law, the secretary shall use the information solely for  
5 the purpose of determining the character, suitability, and competence  
6 of the applicant.

7 (3) Except as provided in subsection (4) of this section, an  
8 individual provider or home care agency provider who has resided in the  
9 state less than three years before applying for employment involving  
10 unsupervised access to a vulnerable adult as defined in chapter 74.34  
11 RCW must be fingerprinted for the purpose of investigating conviction  
12 records through both the Washington state patrol and the federal bureau  
13 of investigation. This subsection applies only with respect to the  
14 provision of in-home services funded by medicaid personal care under  
15 RCW 74.09.520, community options program entry system waiver services  
16 under RCW 74.39A.030, or chore services under RCW 74.39A.110. However,  
17 this subsection does not supersede RCW 74.15.030(2)(b).

18 (4) Long-term care workers, as defined in RCW 74.39A.009, who are  
19 hired after January (~~(1, 2014)~~) 7, 2012, are subject to background  
20 checks under RCW (~~(74.39A.055)~~) 74.39A.056, except that the department  
21 may require a background check at any time under RCW 43.43.837. For  
22 the purposes of this subsection, "background check" includes, but is  
23 not limited to, a fingerprint check submitted for the purpose of  
24 investigating conviction records through both the Washington state  
25 patrol and the federal bureau of investigation.

26 (5) An individual provider or home care agency provider hired to  
27 provide in-home care for and having unsupervised access to a vulnerable  
28 adult as defined in chapter 74.34 RCW must have no conviction for a  
29 disqualifying crime under RCW 43.43.830 and 43.43.842. An individual  
30 or home care agency provider must also have no conviction for a crime  
31 relating to drugs as defined in RCW 43.43.830. This subsection applies  
32 only with respect to the provision of in-home services funded by  
33 medicaid personal care under RCW 74.09.520, community options program  
34 entry system waiver services under RCW 74.39A.030, or chore services  
35 under RCW 74.39A.110.

36 (6) The secretary shall provide the results of the state background  
37 check on long-term care workers, including individual providers, to the  
38 persons hiring them or to their legal guardians, if any, for their

1 determination of the character, suitability, and competence of the  
2 applicants. If the person elects to hire or retain an individual  
3 provider after receiving notice from the department that the applicant  
4 has a conviction for an offense that would disqualify the applicant  
5 from having unsupervised access to persons with physical, mental, or  
6 developmental disabilities or mental illness, or to vulnerable adults  
7 as defined in chapter 74.34 RCW, then the secretary shall deny payment  
8 for any subsequent services rendered by the disqualified individual  
9 provider.

10 (7) Criminal justice agencies shall provide the secretary such  
11 information as they may have and that the secretary may require for  
12 such purpose.

13 **Sec. 506.** RCW 43.43.837 and 2011 1st sp.s. c 31 s 17 are each  
14 amended to read as follows:

15 (1) Except as provided in subsection (2) of this section, in order  
16 to determine the character, competence, and suitability of any  
17 applicant or service provider to have unsupervised access, the  
18 secretary may require a fingerprint-based background check through both  
19 the Washington state patrol and the federal bureau of investigation at  
20 any time, but shall require a fingerprint-based background check when  
21 the applicant or service provider has resided in the state less than  
22 three consecutive years before application, and:

23 (a) Is an applicant or service provider providing services to  
24 children or people with developmental disabilities under RCW 74.15.030;

25 (b) Is an individual residing in an applicant or service provider's  
26 home, facility, entity, agency, or business or who is authorized by the  
27 department to provide services to children or people with developmental  
28 disabilities under RCW 74.15.030; or

29 (c) Is an applicant or service provider providing in-home services  
30 funded by:

31 (i) Medicaid personal care under RCW 74.09.520;

32 (ii) Community options program entry system waiver services under  
33 RCW 74.39A.030;

34 (iii) Chore services under RCW 74.39A.110; or

35 (iv) Other home and community long-term care programs, established  
36 pursuant to chapters 74.39 and 74.39A RCW, administered by the  
37 department.

1 (2) Long-term care workers, as defined in RCW 74.39A.009, who are  
2 hired after January (~~(1, 2014)~~) 7, 2012, are subject to background  
3 checks under RCW (~~(74.39A.055)~~) 74.39A.056.

4 (3) To satisfy the shared background check requirements provided  
5 for in RCW 43.215.215 and 43.20A.710, the department of early learning  
6 and the department of social and health services shall share federal  
7 fingerprint-based background check results as permitted under the law.  
8 The purpose of this provision is to allow both departments to fulfill  
9 their joint background check responsibility of checking any individual  
10 who may have unsupervised access to vulnerable adults, children, or  
11 juveniles. Neither department may share the federal background check  
12 results with any other state agency or person.

13 (4) The secretary shall require a fingerprint-based background  
14 check through the Washington state patrol identification and criminal  
15 history section and the federal bureau of investigation when the  
16 department seeks to approve an applicant or service provider for a  
17 foster or adoptive placement of children in accordance with federal and  
18 state law.

19 (5) Any secure facility operated by the department under chapter  
20 71.09 RCW shall require applicants and service providers to undergo a  
21 fingerprint-based background check through the Washington state patrol  
22 identification and criminal history section and the federal bureau of  
23 investigation.

24 (6) Service providers and service provider applicants who are  
25 required to complete a fingerprint-based background check may be hired  
26 for a one hundred twenty-day provisional period as allowed under law or  
27 program rules when:

28 (a) A fingerprint-based background check is pending; and

29 (b) The applicant or service provider is not disqualified based on  
30 the immediate result of the background check.

31 (7) Fees charged by the Washington state patrol and the federal  
32 bureau of investigation for fingerprint-based background checks shall  
33 be paid by the department for applicants or service providers  
34 providing:

35 (a) Services to people with a developmental disability under RCW  
36 74.15.030;

37 (b) In-home services funded by medicaid personal care under RCW  
38 74.09.520;



1 (c) Community options program entry system waiver services under  
2 RCW 74.39A.030;

3 (d) Chore services under RCW 74.39A.110;

4 (e) Services under other home and community long-term care  
5 programs, established pursuant to chapters 74.39 and 74.39A RCW,  
6 administered by the department;

7 (f) Services in, or to residents of, a secure facility under RCW  
8 71.09.115; and

9 (g) Foster care as required under RCW 74.15.030.

10 (8) Service providers licensed under RCW 74.15.030 must pay fees  
11 charged by the Washington state patrol and the federal bureau of  
12 investigation for conducting fingerprint-based background checks.

13 (9) Children's administration service providers licensed under RCW  
14 74.15.030 may not pass on the cost of the background check fees to  
15 their applicants unless the individual is determined to be disqualified  
16 due to the background information.

17 (10) The department shall develop rules identifying the financial  
18 responsibility of service providers, applicants, and the department for  
19 paying the fees charged by law enforcement to roll, print, or scan  
20 fingerprints-based for the purpose of a Washington state patrol or  
21 federal bureau of investigation fingerprint-based background check.

22 (11) For purposes of this section, unless the context plainly  
23 indicates otherwise:

24 (a) "Applicant" means a current or prospective department or  
25 service provider employee, volunteer, student, intern, researcher,  
26 contractor, or any other individual who will or may have unsupervised  
27 access because of the nature of the work or services he or she  
28 provides. "Applicant" includes but is not limited to any individual  
29 who will or may have unsupervised access and is:

30 (i) Applying for a license or certification from the department;

31 (ii) Seeking a contract with the department or a service provider;

32 (iii) Applying for employment, promotion, reallocation, or  
33 transfer;

34 (iv) An individual that a department client or guardian of a  
35 department client chooses to hire or engage to provide services to  
36 himself or herself or another vulnerable adult, juvenile, or child and  
37 who might be eligible to receive payment from the department for  
38 services rendered; or

1 (v) A department applicant who will or may work in a department-  
2 covered position.

3 (b) "Authorized" means the department grants an applicant, home, or  
4 facility permission to:

5 (i) Conduct licensing, certification, or contracting activities;

6 (ii) Have unsupervised access to vulnerable adults, juveniles, and  
7 children;

8 (iii) Receive payments from a department program; or

9 (iv) Work or serve in a department-covered position.

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

12 (d) "Secretary" means the secretary of the department of social and  
13 health services.

14 (e) "Secure facility" has the meaning provided in RCW 71.09.020.

15 (f) "Service provider" means entities, facilities, agencies,  
16 businesses, or individuals who are licensed, certified, authorized, or  
17 regulated by, receive payment from, or have contracts or agreements  
18 with the department to provide services to vulnerable adults,  
19 juveniles, or children. "Service provider" includes individuals whom  
20 a department client or guardian of a department client may choose to  
21 hire or engage to provide services to himself or herself or another  
22 vulnerable adult, juvenile, or child and who might be eligible to  
23 receive payment from the department for services rendered. "Service  
24 provider" does not include those certified under chapter 70.96A RCW.

25 **Sec. 507.** RCW 74.39A.095 and 2011 1st sp.s. c 31 s 14 and 2011 1st  
26 sp.s. c 21 s 5 are each reenacted and amended to read as follows:

27 (1) In carrying out case management responsibilities established  
28 under RCW 74.39A.090 for consumers who are receiving services under the  
29 medicaid personal care, community options programs entry system or  
30 chore services program through an individual provider, each area agency  
31 on aging shall provide oversight of the care being provided to  
32 consumers receiving services under this section to the extent of  
33 available funding. Case management responsibilities incorporate this  
34 oversight, and include, but are not limited to:

35 (a) Verification that any individual provider has met any training  
36 requirements established by the department;

37 (b) Verification of a sample of worker time sheets;

1 (c) Monitoring the consumer's plan of care to verify that it  
2 adequately meets the needs of the consumer, through activities such as  
3 home visits, telephone contacts, and responses to information received  
4 by the area agency on aging indicating that a consumer may be  
5 experiencing problems relating to his or her home care;

6 (d) Reassessing and reauthorizing services;

7 (e) Monitoring of individual provider performance; and

8 (f) Conducting criminal background checks or verifying that  
9 criminal background checks have been conducted for any individual  
10 provider. Individual providers who are hired after January (~~(1, 2014)~~)  
11 7, 2012, are subject to background checks under RCW (~~(74.39A.055)~~)  
12 74.39A.056.

13 (2) The area agency on aging case manager shall work with each  
14 consumer to develop a plan of care under this section that identifies  
15 and ensures coordination of health and long-term care services that  
16 meet the consumer's needs. In developing the plan, they shall utilize,  
17 and modify as needed, any comprehensive community service plan  
18 developed by the department as provided in RCW 74.39A.040. The plan of  
19 care shall include, at a minimum:

20 (a) The name and telephone number of the consumer's area agency on  
21 aging case manager, and a statement as to how the case manager can be  
22 contacted about any concerns related to the consumer's well-being or  
23 the adequacy of care provided;

24 (b) The name and telephone numbers of the consumer's primary health  
25 care provider, and other health or long-term care providers with whom  
26 the consumer has frequent contacts;

27 (c) A clear description of the roles and responsibilities of the  
28 area agency on aging case manager and the consumer receiving services  
29 under this section;

30 (d) The duties and tasks to be performed by the area agency on  
31 aging case manager and the consumer receiving services under this  
32 section;

33 (e) The type of in-home services authorized, and the number of  
34 hours of services to be provided;

35 (f) The terms of compensation of the individual provider;

36 (g) A statement by the individual provider that he or she has the  
37 ability and willingness to carry out his or her responsibilities  
38 relative to the plan of care; and

1 (h)(i) Except as provided in (h)(ii) of this subsection, a clear  
2 statement indicating that a consumer receiving services under this  
3 section has the right to waive any of the case management services  
4 offered by the area agency on aging under this section, and a clear  
5 indication of whether the consumer has, in fact, waived any of these  
6 services.

7 (ii) The consumer's right to waive case management services does  
8 not include the right to waive reassessment or reauthorization of  
9 services, or verification that services are being provided in  
10 accordance with the plan of care.

11 (3) Each area agency on aging shall retain a record of each waiver  
12 of services included in a plan of care under this section.

13 (4) Each consumer has the right to direct and participate in the  
14 development of their plan of care to the maximum practicable extent of  
15 their abilities and desires, and to be provided with the time and  
16 support necessary to facilitate that participation.

17 (5) A copy of the plan of care must be distributed to the  
18 consumer's primary care provider, individual provider, and other  
19 relevant providers with whom the consumer has frequent contact, as  
20 authorized by the consumer.

21 (6) The consumer's plan of care shall be an attachment to the  
22 contract between the department, or their designee, and the individual  
23 provider.

24 (7) If the department or area agency on aging case manager finds  
25 that an individual provider's inadequate performance or inability to  
26 deliver quality care is jeopardizing the health, safety, or well-being  
27 of a consumer receiving service under this section, the department or  
28 the area agency on aging may take action to terminate the contract  
29 between the department and the individual provider. If the department  
30 or the area agency on aging has a reasonable, good faith belief that  
31 the health, safety, or well-being of a consumer is in imminent  
32 jeopardy, the department or area agency on aging may summarily suspend  
33 the contract pending a fair hearing. The consumer may request a fair  
34 hearing to contest the planned action of the case manager, as provided  
35 in chapter 34.05 RCW. The department may by rule adopt guidelines for  
36 implementing this subsection.

37 (8) The department or area agency on aging may reject a request by  
38 a consumer receiving services under this section to have a family

1 member or other person serve as his or her individual provider if the  
2 case manager has a reasonable, good faith belief that the family member  
3 or other person will be unable to appropriately meet the care needs of  
4 the consumer. The consumer may request a fair hearing to contest the  
5 decision of the case manager, as provided in chapter 34.05 RCW. The  
6 department may by rule adopt guidelines for implementing this  
7 subsection.

## 8 VI. ENFORCEMENT

9 **Sec. 601.** RCW 18.88B.050 and 2011 1st sp.s. c 31 s 4 are each  
10 amended to read as follows:

11 (1) The uniform disciplinary act, chapter 18.130 RCW, governs  
12 uncertified practice, issuance and renewal of certificates, and the  
13 discipline of persons with certificates under this chapter. The  
14 secretary (~~(of health)~~) shall be the disciplinary authority under this  
15 chapter.

16 (2) The secretary (~~(of health)~~) may take action to immediately  
17 suspend the certification of a (~~(long-term care worker)~~) home care aide  
18 upon finding that conduct of the (~~(long-term care worker)~~) home care  
19 aide has caused or presents an imminent threat of harm to a  
20 functionally disabled person in his or her care.

21 (3) If the secretary (~~(of health)~~) imposes suspension or conditions  
22 for continuation or renewal of certification, the suspension or  
23 conditions for continuation or renewal are effective immediately upon  
24 notice and shall continue in effect pending the outcome of any hearing.

25 (4) The department (~~(of health)~~) shall take appropriate enforcement  
26 action related to the licensure of a private agency or facility  
27 licensed by the state, to provide personal care services, other than an  
28 individual provider, who knowingly employs a long-term care worker who  
29 is not a certified home care aide as required under this chapter or  
30 whose certification is revoked or, if exempted from certification by  
31 RCW (~~(18.88B.040)~~) 18.88B.041, who has not completed his or her  
32 required training pursuant to (~~(this chapter)~~) RCW 74.39A.074.

33 (5) Chapter 34.05 RCW shall govern actions by the department (~~(of~~  
34 ~~health)~~) under this section.

35 (6) The department (~~(of health)~~) shall adopt rules (~~(by August 1,~~  
36 ~~2013,)~~) to implement this section.



1 The department's system of quality improvement for long-term care  
2 services shall use the following principles, consistent with applicable  
3 federal laws and regulations:

4 (1) The system shall be client-centered and promote privacy,  
5 independence, dignity, choice, and a home or home-like environment for  
6 consumers consistent with chapter 392, Laws of 1997.

7 (2) The goal of the system is continuous quality improvement with  
8 the focus on consumer satisfaction and outcomes for consumers. This  
9 includes that when conducting licensing or contract inspections, the  
10 department shall interview an appropriate percentage of residents,  
11 family members, resident case managers, and advocates in addition to  
12 interviewing providers and staff.

13 (3) Providers should be supported in their efforts to improve  
14 quality and address identified problems initially through training,  
15 consultation, technical assistance, and case management.

16 (4) The emphasis should be on problem prevention both in monitoring  
17 and in screening potential providers of service.

18 (5) Monitoring should be outcome based and responsive to consumer  
19 complaints and based on a clear set of health, quality of care, and  
20 safety standards that are easily understandable and have been made  
21 available to providers, residents, and other interested parties.

22 (6) Prompt and specific enforcement remedies shall also be  
23 implemented without delay, pursuant to RCW 74.39A.080(~~(, RCW)~~) or  
24 70.128.160, or chapter 18.51 (~~(RCW,)~~) or (~~(chapter)~~) 74.42 RCW, for  
25 providers found to have delivered care or failed to deliver care  
26 resulting in problems that are serious, recurring, or uncorrected, or  
27 that create a hazard that is causing or likely to cause death or  
28 serious harm to one or more residents. These enforcement remedies may  
29 also include, when appropriate, reasonable conditions on a contract or  
30 license. In the selection of remedies, the safety, health, and well-  
31 being of residents shall be of paramount importance.

32 (~~(All long term care workers shall be screened through~~  
33 ~~background checks in a uniform and timely manner to ensure that they do~~  
34 ~~not have a criminal history that would disqualify them from working~~  
35 ~~with vulnerable persons. Long term care workers who are hired after~~  
36 ~~January 1, 2012, are subject to background checks under RCW 74.39A.055.~~  
37 ~~This information will be shared with the department of health in~~

1 ~~accordance with RCW 74.39A.055 to advance the purposes of chapter 2,~~  
2 ~~Laws of 2009.~~

3 ~~(8) No provider, or its staff, or long term care worker, or~~  
4 ~~prospective provider or long term care worker, with a stipulated~~  
5 ~~finding of fact, conclusion of law, an agreed order, or finding of~~  
6 ~~fact, conclusion of law, or final order issued by a disciplining~~  
7 ~~authority, a court of law, or entered into a state registry finding him~~  
8 ~~or her guilty of abuse, neglect, exploitation, or abandonment of a~~  
9 ~~minor or a vulnerable adult as defined in chapter 74.34 RCW shall be~~  
10 ~~employed in the care of and have unsupervised access to vulnerable~~  
11 ~~adults.~~

12 ~~(9) The department shall establish, by rule, a state registry which~~  
13 ~~contains identifying information about long term care workers~~  
14 ~~identified under this chapter who have substantiated findings of abuse,~~  
15 ~~neglect, financial exploitation, or abandonment of a vulnerable adult~~  
16 ~~as defined in RCW 74.34.020. The rule must include disclosure,~~  
17 ~~disposition of findings, notification, findings of fact, appeal rights,~~  
18 ~~and fair hearing requirements. The department shall disclose, upon~~  
19 ~~request, substantiated findings of abuse, neglect, financial~~  
20 ~~exploitation, or abandonment to any person so requesting this~~  
21 ~~information. This information will also be shared with the department~~  
22 ~~of health to advance the purposes of chapter 2, Laws of 2009.~~

23 ~~(10) Until December 31, 2010,)) Background checks of long-term care~~  
24 ~~workers must be conducted as provided in RCW 74.39A.056.~~

25 ~~(8) Except as provided in RCW 74.39A.074 and 74.39A.076, individual~~  
26 ~~providers and home care agency providers must satisfactorily complete~~  
27 ~~department-approved orientation, basic training, and continuing~~  
28 ~~education within the time period specified by the department in rule.~~  
29 ~~The department shall adopt rules ((by March 1, 2002,)) for the~~  
30 ~~implementation of this section. The department shall deny payment to~~  
31 ~~an individual provider or a home care provider who does not complete~~  
32 ~~the training requirements within the time limit specified by the~~  
33 ~~department by rule.~~

34 ~~((11) Until December 31, 2010, in an effort to improve access to~~  
35 ~~training and education and reduce costs, especially for rural~~  
36 ~~communities, the coordinated system of long term care training and~~  
37 ~~education must include the use of innovative types of learning~~



1 strategies such as internet resources, videotapes, and distance  
2 learning using satellite technology coordinated through community  
3 colleges or other entities, as defined by the department.

4 ~~(12) The department shall create an approval system by March 1,~~  
5 ~~2002, for those seeking to conduct department approved training.~~

6 ~~(13) The department shall establish, by rule, background checks and~~  
7 ~~other quality assurance requirements for long term care workers who~~  
8 ~~provide in home services funded by medicaid personal care as described~~  
9 ~~in RCW 74.09.520, community options program entry system waiver~~  
10 ~~services as described in RCW 74.39A.030, or chore services as described~~  
11 ~~in RCW 74.39A.110 that are equivalent to requirements for individual~~  
12 ~~providers. Long term care workers who are hired after January 1, 2012,~~  
13 ~~are subject to background checks under RCW 74.39A.055.~~

14 ~~(14))~~ (9) Under existing funds the department shall establish  
15 internally a quality improvement standards committee to monitor the  
16 development of standards and to suggest modifications.

17 ~~((15) Within existing funds, the department shall design, develop,~~  
18 ~~and implement a long term care training program that is flexible,~~  
19 ~~relevant, and qualifies towards the requirements for a nursing~~  
20 ~~assistant certificate as established under chapter 18.88A RCW. This~~  
21 ~~subsection does not require completion of the nursing assistant~~  
22 ~~certificate training program by providers or their staff. The long~~  
23 ~~term care teaching curriculum must consist of a fundamental module, or~~  
24 ~~modules, and a range of other available relevant training modules that~~  
25 ~~provide the caregiver with appropriate options that assist in meeting~~  
26 ~~the resident's care needs. Some of the training modules may include,~~  
27 ~~but are not limited to, specific training on the special care needs of~~  
28 ~~persons with developmental disabilities, dementia, mental illness, and~~  
29 ~~the care needs of the elderly. No less than one training module must~~  
30 ~~be dedicated to workplace violence prevention. The nursing care~~  
31 ~~quality assurance commission shall work together with the department to~~  
32 ~~develop the curriculum modules. The nursing care quality assurance~~  
33 ~~commission shall direct the nursing assistant training programs to~~  
34 ~~accept some or all of the skills and competencies from the curriculum~~  
35 ~~modules towards meeting the requirements for a nursing assistant~~  
36 ~~certificate as defined in chapter 18.88A RCW. A process may be~~  
37 ~~developed to test persons completing modules from a caregiver's class~~  
38 ~~to verify that they have the transferable skills and competencies for~~

1 ~~entry into a nursing assistant training program. The department may~~  
2 ~~review whether facilities can develop their own related long term care~~  
3 ~~training programs. The department may develop a review process for~~  
4 ~~determining what previous experience and training may be used to waive~~  
5 ~~some or all of the mandatory training. The department of social and~~  
6 ~~health services and the nursing care quality assurance commission shall~~  
7 ~~work together to develop an implementation plan by December 12, 1998.)~~

8 **Sec. 702.** RCW 18.20.270 and 2002 c 233 s 1 are each amended to  
9 read as follows:

10 (1) The definitions in this subsection apply throughout this  
11 section unless the context clearly requires otherwise.

12 (a) "Caregiver" includes any person who provides residents with  
13 hands-on personal care on behalf of a boarding home, except volunteers  
14 who are directly supervised.

15 (b) "Direct supervision" means oversight by a person who has  
16 demonstrated competency in the core areas or has been fully exempted  
17 from the training requirements pursuant to this section, is on the  
18 premises, and is quickly and easily available to the caregiver.

19 (2) Training must have the following components: Orientation,  
20 basic training, specialty training as appropriate, and continuing  
21 education. All boarding home employees or volunteers who routinely  
22 interact with residents shall complete orientation. Boarding home  
23 administrators, or their designees, and caregivers shall complete  
24 orientation, basic training, specialty training as appropriate, and  
25 continuing education.

26 (3) Orientation consists of introductory information on residents'  
27 rights, communication skills, fire and life safety, and universal  
28 precautions. Orientation must be provided at the facility by  
29 appropriate boarding home staff to all boarding home employees before  
30 the employees have routine interaction with residents.

31 (4) Basic training consists of modules on the core knowledge and  
32 skills that caregivers need to learn and understand to effectively and  
33 safely provide care to residents. Basic training must be outcome-  
34 based, and the effectiveness of the basic training must be measured by  
35 demonstrated competency in the core areas through the use of a  
36 competency test. Basic training must be completed by caregivers within  
37 one hundred twenty days of the date on which they begin to provide

1 hands-on care (~~((or within one hundred twenty days of September 1, 2002,~~  
2 ~~whichever is later))~~). Until competency in the core areas has been  
3 demonstrated, caregivers shall not provide hands-on personal care to  
4 residents without direct supervision. Boarding home administrators, or  
5 their designees, must complete basic training and demonstrate  
6 competency within one hundred twenty days of employment (~~((or within one~~  
7 ~~hundred twenty days of September 1, 2002, whichever is later))~~).

8 (5) For boarding homes that serve residents with special needs such  
9 as dementia, developmental disabilities, or mental illness, specialty  
10 training is required of administrators, or designees, and caregivers.

11 (a) Specialty training consists of modules on the core knowledge  
12 and skills that caregivers need to effectively and safely provide care  
13 to residents with special needs. Specialty training should be  
14 integrated into basic training wherever appropriate. Specialty  
15 training must be outcome-based, and the effectiveness of the specialty  
16 training measured by demonstrated competency in the core specialty  
17 areas through the use of a competency test.

18 (b) Specialty training must be completed by caregivers within one  
19 hundred twenty days of the date on which they begin to provide hands-on  
20 care to a resident having special needs (~~((or within one hundred twenty~~  
21 ~~days of September 1, 2002, whichever is later))~~). However, if specialty  
22 training is not integrated with basic training, the specialty training  
23 must be completed within ninety days of completion of basic training.  
24 Until competency in the core specialty areas has been demonstrated,  
25 caregivers shall not provide hands-on personal care to residents with  
26 special needs without direct supervision.

27 (c) Boarding home administrators, or their designees, must complete  
28 specialty training and demonstrate competency within one hundred twenty  
29 days (~~((of September 1, 2002, or one hundred twenty days))~~) from the date  
30 on which the administrator or his or her designee is hired, (~~(whichever~~  
31 ~~is later,))~~) if the boarding home serves one or more residents with  
32 special needs.

33 (6) Continuing education consists of ongoing delivery of  
34 information to caregivers on various topics relevant to the care  
35 setting and care needs of residents. Competency testing is not  
36 required for continuing education. Continuing education is not  
37 required in the same calendar year in which basic or modified basic  
38 training is successfully completed. Continuing education is required

1 in each calendar year thereafter. If specialty training is completed,  
2 the specialty training applies toward any continuing education  
3 requirement for up to two years following the completion of the  
4 specialty training.

5 (7) Persons who successfully challenge the competency test for  
6 basic training are fully exempt from the basic training requirements of  
7 this section. Persons who successfully challenge the specialty  
8 training competency test are fully exempt from the specialty training  
9 requirements of this section.

10 (8) Licensed persons who perform the tasks for which they are  
11 licensed are fully or partially exempt from the training requirements  
12 of this section, as specified by the department in rule.

13 (9) In an effort to improve access to training and education and  
14 reduce costs, especially for rural communities, the coordinated system  
15 of long-term care training and education must include the use of  
16 innovative types of learning strategies such as internet resources,  
17 videotapes, and distance learning using satellite technology  
18 coordinated through community colleges or other entities, as defined by  
19 the department.

20 (10) The department shall develop criteria for the approval of  
21 orientation, basic training, and specialty training programs.

22 (11) Boarding homes that desire to deliver facility-based training  
23 with facility designated trainers, or boarding homes that desire to  
24 pool their resources to create shared training systems, must be  
25 encouraged by the department in their efforts. The department shall  
26 develop criteria for reviewing and approving trainers and training  
27 materials that are substantially similar to or better than the  
28 materials developed by the department. The department may approve a  
29 curriculum based upon attestation by a boarding home administrator that  
30 the boarding home's training curriculum addresses basic and specialty  
31 training competencies identified by the department, and shall review a  
32 curriculum to verify that it meets these requirements. The department  
33 may conduct the review as part of the next regularly scheduled yearly  
34 inspection and investigation required under RCW 18.20.110. The  
35 department shall rescind approval of any curriculum if it determines  
36 that the curriculum does not meet these requirements.

37 (12) The department shall adopt rules (~~(by September 1, 2002,)~~) for  
38 the implementation of this section.

1       (13)(a) Except as provided in (b) of this subsection, the  
2 orientation, basic training, specialty training, and continuing  
3 education requirements of this section commence September 1, 2002, or  
4 one hundred twenty days from the date of employment, whichever is  
5 later, and shall be applied to ~~((a))~~ (i) employees hired subsequent  
6 to September 1, 2002; and ~~((b))~~ (ii) existing employees that on  
7 September 1, 2002, have not successfully completed the training  
8 requirements under RCW 74.39A.010 or 74.39A.020 and this section.  
9 Existing employees who have not successfully completed the training  
10 requirements under RCW 74.39A.010 or 74.39A.020 shall be subject to all  
11 applicable requirements of this section. ~~((However, prior to September~~  
12 ~~1, 2002, nothing in this section affects the current training~~  
13 ~~requirements under RCW 74.39A.010.))~~

14       (b) Beginning January 7, 2012, long-term care workers, as defined  
15 in RCW 74.39A.009, employed by facilities licensed under this chapter  
16 are also subject to the training requirements under RCW 74.39A.074.

17       **Sec. 703.** RCW 70.128.120 and 2011 1st sp.s. c 3 s 205 are each  
18 amended to read as follows:

19       Each adult family home provider, applicant, and each resident  
20 manager shall have the following minimum qualifications, except that  
21 only applicants are required to meet the provisions of subsections (10)  
22 and (11) of this section:

23       (1) Twenty-one years of age or older;

24       (2) For those applying after September 1, 2001, to be licensed as  
25 providers, and for resident managers whose employment begins after  
26 September 1, 2001, a United States high school diploma or general  
27 educational development (GED) certificate or any English or translated  
28 government documentation of the following:

29       (a) Successful completion of government-approved public or private  
30 school education in a foreign country that includes an annual average  
31 of one thousand hours of instruction over twelve years or no less than  
32 twelve thousand hours of instruction;

33       (b) A foreign college, foreign university, or United States  
34 community college two-year diploma;

35       (c) Admission to, or completion of coursework at, a foreign  
36 university or college for which credit was granted;

1 (d) Admission to, or completion of coursework at, a United States  
2 college or university for which credits were awarded;

3 (e) Admission to, or completion of postgraduate coursework at, a  
4 United States college or university for which credits were awarded; or

5 (f) Successful passage of the United States board examination for  
6 registered nursing, or any professional medical occupation for which  
7 college or university education preparation was required;

8 (3) Good moral and responsible character and reputation;

9 (4) Literacy and the ability to communicate in the English  
10 language;

11 (5) Management and administrative ability to carry out the  
12 requirements of this chapter;

13 (6) Satisfactory completion of department-approved basic training  
14 and continuing education training as required by RCW (~~(74.39A.073)~~)  
15 74.39A.074, and in rules adopted by the department;

16 (7) Satisfactory completion of department-approved, or equivalent,  
17 special care training before a provider may provide special care  
18 services to a resident;

19 (8) Not been convicted of any crime that is disqualifying under RCW  
20 43.43.830 or 43.43.842, or department rules adopted under this chapter,  
21 or been found to have abused, neglected, exploited, or abandoned a  
22 minor or vulnerable adult as specified in RCW (~~(74.39A.050(8))~~)  
23 74.39A.056(2);

24 (9) For those applying to be licensed as providers, and for  
25 resident managers whose employment begins after August 24, 2011, at  
26 least one thousand hours in the previous sixty months of successful,  
27 direct caregiving experience obtained after age eighteen to vulnerable  
28 adults in a licensed or contracted setting prior to operating or  
29 managing an adult family home. The applicant or resident manager must  
30 have credible evidence of the successful, direct caregiving experience  
31 or, currently hold one of the following professional licenses:  
32 Physician licensed under chapter 18.71 RCW; osteopathic physician  
33 licensed under chapter 18.57 RCW; osteopathic physician assistant  
34 licensed under chapter 18.57A RCW; physician assistant licensed under  
35 chapter 18.71A RCW; registered nurse, advanced registered nurse  
36 practitioner, or licensed practical nurse licensed under chapter 18.79  
37 RCW;

1 (10) For applicants, proof of financial solvency, as defined in  
2 rule; and

3 (11) Applicants must successfully complete an adult family home  
4 administration and business planning class, prior to being granted a  
5 license. The class must be a minimum of forty-eight hours of classroom  
6 time and approved by the department. The department shall promote and  
7 prioritize bilingual capabilities within available resources and when  
8 materials are available for this purpose.

9 **Sec. 704.** RCW 70.128.130 and 2011 1st sp.s. c 3 s 206 are each  
10 amended to read as follows:

11 (1) The provider is ultimately responsible for the day-to-day  
12 operations of each licensed adult family home.

13 (2) The provider shall promote the health, safety, and well-being  
14 of each resident residing in each licensed adult family home.

15 (3) Adult family homes shall be maintained internally and  
16 externally in good repair and condition. Such homes shall have safe  
17 and functioning systems for heating, cooling, hot and cold water,  
18 electricity, plumbing, garbage disposal, sewage, cooking, laundry,  
19 artificial and natural light, ventilation, and any other feature of the  
20 home.

21 (4) In order to preserve and promote the residential home-like  
22 nature of adult family homes, adult family homes licensed after August  
23 24, 2011, shall:

24 (a) Have sufficient space to accommodate all residents at one time  
25 in the dining and living room areas;

26 (b) Have hallways and doorways wide enough to accommodate residents  
27 who use mobility aids such as wheelchairs and walkers; and

28 (c) Have outdoor areas that are safe and accessible for residents  
29 to use.

30 (5) The adult family home must provide all residents access to  
31 resident common areas throughout the adult family home including, but  
32 not limited to, kitchens, dining and living areas, and bathrooms, to  
33 the extent that they are safe under the resident's care plan.

34 (6) Adult family homes shall be maintained in a clean and sanitary  
35 manner, including proper sewage disposal, food handling, and hygiene  
36 practices.

1 (7) Adult family homes shall develop a fire drill plan for  
2 emergency evacuation of residents, shall have working smoke detectors  
3 in each bedroom where a resident is located, shall have working fire  
4 extinguishers on each floor of the home, and shall not keep  
5 nonambulatory patients above the first floor of the home.

6 (8) The adult family home shall ensure that all residents can be  
7 safely evacuated in an emergency.

8 (9) Adult family homes shall have clean, functioning, and safe  
9 household items and furnishings.

10 (10) Adult family homes shall provide a nutritious and balanced  
11 diet and shall recognize residents' needs for special diets.

12 (11) Adult family homes shall establish health care procedures for  
13 the care of residents including medication administration and emergency  
14 medical care.

15 (a) Adult family home residents shall be permitted to self-  
16 administer medications.

17 (b) Adult family home providers may administer medications and  
18 deliver special care only to the extent authorized by law.

19 (12) Adult family home providers shall either: (a) Reside at the  
20 adult family home; or (b) employ or otherwise contract with a qualified  
21 resident manager to reside at the adult family home. The department  
22 may exempt, for good cause, a provider from the requirements of this  
23 subsection by rule.

24 (13) A provider will ensure that any volunteer, student, employee,  
25 or person residing within the adult family home who will have  
26 unsupervised access to any resident shall not have been convicted of a  
27 crime listed under RCW 43.43.830 or 43.43.842, or been found to have  
28 abused, neglected, exploited, or abandoned a minor or vulnerable adult  
29 as specified in RCW (~~(74.39A.050(8))~~) 74.39A.056(2). A provider may  
30 conditionally employ a person pending the completion of a criminal  
31 conviction background inquiry, but may not allow the person to have  
32 unsupervised access to any resident.

33 (14) A provider shall offer activities to residents under care as  
34 defined by the department in rule.

35 (15) An adult family home must be financially solvent, and upon  
36 request for good cause, shall provide the department with detailed  
37 information about the home's finances. Financial records of the adult



1 family home may be examined when the department has good cause to  
2 believe that a financial obligation related to resident care or  
3 services will not be met.

4 (16) An adult family home provider must ensure that staff are  
5 competent and receive necessary training to perform assigned tasks.  
6 Staff must satisfactorily complete department-approved staff  
7 orientation, basic training, and continuing education as specified by  
8 the department by rule. The provider shall ensure that a qualified  
9 caregiver is on-site whenever a resident is at the adult family home;  
10 any exceptions will be specified by the department in rule.  
11 Notwithstanding RCW 70.128.230, until orientation and basic training  
12 are successfully completed, a caregiver may not provide hands-on  
13 personal care to a resident without on-site supervision by a person who  
14 has successfully completed basic training or been exempted from the  
15 training pursuant to statute.

16 (17) The provider and resident manager must assure that there is:

17 (a) A mechanism to communicate with the resident in his or her  
18 primary language either through a qualified person on-site or readily  
19 available at all times, or other reasonable accommodations, such as  
20 language lines; and

21 (b) Staff on-site at all times capable of understanding and  
22 speaking English well enough to be able to respond appropriately to  
23 emergency situations and be able to read and understand resident care  
24 plans.

25 **Sec. 705.** RCW 70.128.230 and 2002 c 233 s 3 are each amended to  
26 read as follows:

27 (1) The definitions in this subsection apply throughout this  
28 section unless the context clearly requires otherwise.

29 (a) "Caregiver" includes all adult family home resident managers  
30 and any person who provides residents with hands-on personal care on  
31 behalf of an adult family home, except volunteers who are directly  
32 supervised.

33 (b) "Indirect supervision" means oversight by a person who has  
34 demonstrated competency in the core areas or has been fully exempted  
35 from the training requirements pursuant to this section and is quickly  
36 and easily available to the caregiver, but not necessarily on-site.

1 (2) Training must have three components: Orientation, basic  
2 training, and continuing education. All adult family home providers,  
3 resident managers, and employees, or volunteers who routinely interact  
4 with residents shall complete orientation. Caregivers shall complete  
5 orientation, basic training, and continuing education.

6 (3) Orientation consists of introductory information on residents'  
7 rights, communication skills, fire and life safety, and universal  
8 precautions. Orientation must be provided at the facility by  
9 appropriate adult family home staff to all adult family home employees  
10 before the employees have routine interaction with residents.

11 (4) Basic training consists of modules on the core knowledge and  
12 skills that caregivers need to learn and understand to effectively and  
13 safely provide care to residents. Basic training must be outcome-  
14 based, and the effectiveness of the basic training must be measured by  
15 demonstrated competency in the core areas through the use of a  
16 competency test. Basic training must be completed by caregivers within  
17 one hundred twenty days of the date on which they begin to provide  
18 hands-on care (~~(or within one hundred twenty days of September 1, 2002,~~  
19 ~~whichever is later)~~). Until competency in the core areas has been  
20 demonstrated, caregivers shall not provide hands-on personal care to  
21 residents without indirect supervision.

22 (5) For adult family homes that serve residents with special needs  
23 such as dementia, developmental disabilities, or mental illness,  
24 specialty training is required of providers and resident managers.

25 (a) Specialty training consists of modules on the core knowledge  
26 and skills that providers and resident managers need to effectively and  
27 safely provide care to residents with special needs. Specialty  
28 training should be integrated into basic training wherever appropriate.  
29 Specialty training must be outcome-based, and the effectiveness of the  
30 specialty training measured by demonstrated competency in the core  
31 specialty areas through the use of a competency test.

32 (b) Specialty training must be completed by providers and resident  
33 managers before admitting and serving residents who have been  
34 determined to have special needs related to mental illness, dementia,  
35 or a developmental disability. Should a resident develop special needs  
36 while living in a home without specialty designation, the provider and  
37 resident manager have one hundred twenty days to complete specialty  
38 training.

1 (6) Continuing education consists of ongoing delivery of  
2 information to caregivers on various topics relevant to the care  
3 setting and care needs of residents. Competency testing is not  
4 required for continuing education. Continuing education is not  
5 required in the same calendar year in which basic or modified basic  
6 training is successfully completed. Continuing education is required  
7 in each calendar year thereafter. If specialty training is completed,  
8 the specialty training applies toward any continuing education  
9 requirement for up to two years following the completion of the  
10 specialty training.

11 (7) Persons who successfully challenge the competency test for  
12 basic training are fully exempt from the basic training requirements of  
13 this section. Persons who successfully challenge the specialty  
14 training competency test are fully exempt from the specialty training  
15 requirements of this section.

16 (8) Licensed persons who perform the tasks for which they are  
17 licensed are fully or partially exempt from the training requirements  
18 of this section, as specified by the department in rule.

19 (9) In an effort to improve access to training and education and  
20 reduce costs, especially for rural communities, the coordinated system  
21 of long-term care training and education must include the use of  
22 innovative types of learning strategies such as internet resources,  
23 videotapes, and distance learning using satellite technology  
24 coordinated through community colleges, private associations, or other  
25 entities, as defined by the department.

26 (10) Adult family homes that desire to deliver facility-based  
27 training with facility designated trainers, or adult family homes that  
28 desire to pool their resources to create shared training systems, must  
29 be encouraged by the department in their efforts. The department shall  
30 develop criteria for reviewing and approving trainers and training  
31 materials. The department may approve a curriculum based upon  
32 attestation by an adult family home administrator that the adult family  
33 home's training curriculum addresses basic and specialty training  
34 competencies identified by the department, and shall review a  
35 curriculum to verify that it meets these requirements. The department  
36 may conduct the review as part of the next regularly scheduled  
37 inspection authorized under RCW 70.128.070. The department shall

1 rescind approval of any curriculum if it determines that the curriculum  
2 does not meet these requirements.

3 (11) The department shall adopt rules by September 1, 2002, for the  
4 implementation of this section.

5 (12)(a) Except as provided in (b) of this subsection, the  
6 orientation, basic training, specialty training, and continuing  
7 education requirements of this section commence September 1, 2002, and  
8 shall be applied to ((+a)) (i) employees hired subsequent to September  
9 1, 2002; or ((+b)) (ii) existing employees that on September 1, 2002,  
10 have not successfully completed the training requirements under RCW  
11 70.128.120 or 70.128.130 and this section. Existing employees who have  
12 not successfully completed the training requirements under RCW  
13 70.128.120 or 70.128.130 shall be subject to all applicable  
14 requirements of this section. ((However, until September 1, 2002,  
15 nothing in this section affects the current training requirements under  
16 RCW 70.128.120 and 70.128.130.))

17 (b) Beginning January 7, 2012, long-term care workers, as defined  
18 in RCW 74.39A.009, employed by an adult family home are also subject to  
19 the training requirements under RCW 74.39A.074.

20 **Sec. 706.** RCW 74.39A.010 and 1995 1st sp.s. c 18 s 14 are each  
21 amended to read as follows:

22 (1) To the extent of available funding, the department of social  
23 and health services may contract with licensed boarding homes under  
24 chapter 18.20 RCW and tribally licensed boarding homes for assisted  
25 living services and enhanced adult residential care. The department  
26 shall develop rules for facilities that contract with the department  
27 for assisted living services or enhanced adult residential care to  
28 establish:

29 (a) Facility service standards consistent with the principles in  
30 RCW ((74.39A.050)) 74.39A.051 and consistent with chapter 70.129 RCW;

31 (b) Standards for resident living areas consistent with RCW  
32 74.39A.030;

33 (c) Training requirements for providers and their staff.

34 (2) The department's rules shall provide that services in assisted  
35 living and enhanced adult residential care:

36 (a) Recognize individual needs, privacy, and autonomy;

1 (b) Include, but not be limited to, personal care, nursing  
2 services, medication administration, and supportive services that  
3 promote independence and self-sufficiency;

4 (c) Are of sufficient scope to assure that each resident who  
5 chooses to remain in the assisted living or enhanced adult residential  
6 care may do so, to the extent that the care provided continues to be  
7 cost-effective and safe and promote the most appropriate level of  
8 physical, mental, and psychosocial well-being consistent with client  
9 choice;

10 (d) Are directed first to those persons most likely, in the absence  
11 of enhanced adult residential care or assisted living services, to need  
12 hospital, nursing facility, or other out-of-home placement; and

13 (e) Are provided in compliance with applicable facility and  
14 professional licensing laws and rules.

15 (3) When a facility contracts with the department for assisted  
16 living services or enhanced adult residential care, only services and  
17 facility standards that are provided to or in behalf of the assisted  
18 living services or enhanced adult residential care client shall be  
19 subject to the department's rules.

20 **Sec. 707.** RCW 74.39A.020 and 2004 c 142 s 15 are each amended to  
21 read as follows:

22 (1) To the extent of available funding, the department of social  
23 and health services may contract for adult residential care.

24 (2) The department shall, by rule, develop terms and conditions for  
25 facilities that contract with the department for adult residential care  
26 to establish:

27 (a) Facility service standards consistent with the principles in  
28 RCW ((~~74.39A.050~~)) 74.39A.051 and consistent with chapter 70.129 RCW;  
29 and

30 (b) Training requirements for providers and their staff.

31 (3) The department shall, by rule, provide that services in adult  
32 residential care facilities:

33 (a) Recognize individual needs, privacy, and autonomy;

34 (b) Include personal care and other services that promote  
35 independence and self-sufficiency and aging in place;

36 (c) Are directed first to those persons most likely, in the absence

1 of adult residential care services, to need hospital, nursing facility,  
2 or other out-of-home placement; and

3 (d) Are provided in compliance with applicable facility and  
4 professional licensing laws and rules.

5 (4) When a facility contracts with the department for adult  
6 residential care, only services and facility standards that are  
7 provided to or in behalf of the adult residential care client shall be  
8 subject to the adult residential care rules.

9 (5) To the extent of available funding, the department may also  
10 contract under this section with a tribally licensed boarding home for  
11 the provision of services of the same nature as the services provided  
12 by adult residential care facilities. The provisions of subsections  
13 (2)(a) and (b) and (3)(a) through (d) of this section apply to such a  
14 contract.

15 **Sec. 708.** RCW 74.39A.250 and 2011 1st sp.s. c 21 s 8 are each  
16 amended to read as follows:

17 (1) The department shall provide assistance to consumers and  
18 prospective consumers in finding individual providers and prospective  
19 individual providers through the establishment of a referral registry  
20 of individual providers and prospective individual providers. Before  
21 placing an individual provider or prospective individual provider on  
22 the referral registry, the department shall determine that:

23 (a) The individual provider or prospective individual provider has  
24 met the minimum requirements for training set forth in RCW  
25 (~~(74.39A.050)~~) 74.39A.051;

26 (b) The individual provider or prospective individual provider has  
27 satisfactorily undergone a criminal background check conducted within  
28 the prior twelve months; and

29 (c) The individual provider or prospective individual provider is  
30 not listed on any long-term care abuse and neglect registry used by the  
31 department.

32 (2) The department shall remove from the referral registry any  
33 individual provider or prospective individual provider that does not  
34 meet the qualifications set forth in subsection (1) of this section or  
35 to have committed misfeasance or malfeasance in the performance of his  
36 or her duties as an individual provider. The individual provider or  
37 prospective individual provider, or the consumer to which the

1 individual provider is providing services, may request a fair hearing  
2 to contest the removal from the referral registry, as provided in  
3 chapter 34.05 RCW.

4 (3) The department shall provide routine, emergency, and respite  
5 referrals of individual providers and prospective individual providers  
6 to consumers and prospective consumers who are authorized to receive  
7 long-term in-home care services through an individual provider.

8 (4) The department shall give preference in the recruiting,  
9 training, referral, and employment of individual providers and  
10 prospective individual providers to recipients of public assistance or  
11 other low-income persons who would qualify for public assistance in the  
12 absence of such employment.

13 **Sec. 709.** 2012 c 1 s 201 (uncodified) (Initiative Measure No.  
14 1163) is amended to read as follows:

15 The state auditor shall conduct performance audits of the long-term  
16 in-home care program. The first audit must be completed within twelve  
17 months after January 7, 2012, and must be completed on a (~~biannual~~)  
18 biennial basis thereafter. As part of this auditing process, the state  
19 shall hire five additional fraud investigators to ensure that clients  
20 receiving services at taxpayers' expense are medically and financially  
21 qualified to receive the services and are actually receiving the  
22 services.

23 **Sec. 710.** 2012 c 1 s 303 (uncodified) (Initiative Measure No.  
24 1163) is amended to read as follows:

25 Notwithstanding any action of the legislature during 2011, all  
26 long-term care workers as defined under RCW 74.39A.009(16), as it  
27 existed on April 1, 2011, are covered by sections 101 through 113 of  
28 this act or by the corresponding original versions of the statutes, as  
29 referenced in section 302 (1) through (13) on the schedules set forth  
30 in those sections, as amended by chapter . . . , Laws of 2012 (this  
31 act), except that long-term care workers employed (~~as~~) by community  
32 residential service (~~providers are covered by sections 101 through 113~~  
33 ~~of this act beginning January 1, 2016~~) businesses are exempt to the  
34 extent provided in RCW 18.88B.041, 74.39A.056, 74.39A.074, 74.39A.331,  
35 74.39A.341, and 74.39A.351.

1        NEW SECTION.    **Sec. 711.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and takes effect  
4 immediately."

**ESHB 2314** - S COMM AMD

By Committee on Health & Long-Term Care

**ADOPTED 02/29/2012**

5        On page 1, line 7 of the title, after "requirements;" strike the  
6 remainder of the title and insert "amending RCW 18.88B.010, 74.39A.009,  
7 18.88B.021, 18.88B.041, 18.88B.031, 74.39A.074, 74.39A.076, 74.39A.331,  
8 74.39A.351, 74.39A.341, 18.79.260, 74.39A.261, 74.39A.056, 18.20.125,  
9 43.20A.710, 43.43.837, 18.88B.050, 74.39A.086, 74.39A.051, 18.20.270,  
10 70.128.120, 70.128.130, 70.128.230, 74.39A.010, 74.39A.020, and  
11 74.39A.250; amending 2012 c 1 ss 201 and 303 (uncodified); reenacting  
12 and amending RCW 74.39A.095; adding new sections to chapter 18.88B RCW;  
13 creating new sections; and declaring an emergency."

EFFECT:        (1) Makes technical changes and internal reference  
clarifications.

(2) DSHS has rule-making authority to determine when qualified  
caregivers must be on-site at the adult family home.

--- END ---