

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 2314

Chapter 164, Laws of 2012

62nd Legislature
2012 Regular Session

LONG-TERM CARE WORKERS

EFFECTIVE DATE: 03/29/12

Passed by the House March 3, 2012
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 29, 2012
Yeas 45 Nays 2

BRAD OWEN

President of the Senate

Approved March 29, 2012, 6:30 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2314** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 29, 2012

**Secretary of State
State of Washington**

1 years have resulted in duplicated provisions, ambiguities, and other
2 technical errors. The legislature intends to make corrections and
3 clarify provisions governing services by long-term care workers.

4 **II. DEFINITIONS**

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

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

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

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

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

13 (4) "Individual provider" has the same meaning as defined in RCW
14 74.39A.009.

15 (5) "Personal care services" has the same meaning as defined in RCW
16 74.39A.009.

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

18 (7) "Long-term care worker" has the same meaning as defined in RCW
19 74.39A.009.

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

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

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

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

30 (3) "Assisted living services" means services provided by a
31 boarding home that has a contract with the department under RCW
32 74.39A.010 to provide personal care services, intermittent nursing
33 services, and medication administration services, and the resident is
34 housed in a private apartment-like unit.

1 (4) "Boarding home" means a facility licensed under chapter 18.20
2 RCW.

3 (5) "Community residential service business" means a business that:
4 (a) Is certified by the department of social and health services to
5 provide to individuals who have a developmental disability as defined
6 in RCW 71A.10.020(4):
7 (i) Group home services;
8 (ii) Group training home services;
9 (iii) Supported living services; or
10 (iv) Voluntary placement services provided in a licensed staff
11 residential facility for children;
12 (b) Has a contract with the division of developmental disabilities
13 to provide the services identified in (a) of this subsection; and
14 (c) All of the business's long-term care workers are subject to
15 statutory or regulatory training requirements that are required to
16 provide the services identified in (a) of this subsection.

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

23 ((+6)) (7) "Cost-effective care" means care provided in a setting
24 of an individual's choice that is necessary to promote the most
25 appropriate level of physical, mental, and psychosocial well-being
26 consistent with client choice, in an environment that is appropriate to
27 the care and safety needs of the individual, and such care cannot be
28 provided at a lower cost in any other setting. But this in no way
29 precludes an individual from choosing a different residential setting
30 to achieve his or her desired quality of life.

31 ((+7)) (8) "Department" means the department of social and health
32 services.

33 ((+8)) (9) "Developmental disability" has the same meaning as
34 defined in RCW 71A.10.020.

35 ((+9)) (10) "Direct care worker" means a paid caregiver who
36 provides direct, hands-on personal care services to persons with
37 disabilities or the elderly requiring long-term care.

1 (~~(10)~~) (11) "Enhanced adult residential care" means services
2 provided by a boarding home that is licensed under chapter 18.20 RCW
3 and that has a contract with the department under RCW 74.39A.010 to
4 provide personal care services, intermittent nursing services, and
5 medication administration services.

6 (~~(11)~~) (12) "Functionally disabled person" or "person who is
7 functionally disabled" is synonymous with chronic functionally disabled
8 and means a person who because of a recognized chronic physical or
9 mental condition or disease, or developmental disability, including
10 chemical dependency, is impaired to the extent of being dependent upon
11 others for direct care, support, supervision, or monitoring to perform
12 activities of daily living. "Activities of daily living", in this
13 context, means self-care abilities related to personal care such as
14 bathing, eating, using the toilet, dressing, and transfer.
15 Instrumental activities of daily living may also be used to assess a
16 person's functional abilities as they are related to the mental
17 capacity to perform activities in the home and the community such as
18 cooking, shopping, house cleaning, doing laundry, working, and managing
19 personal finances.

20 (~~(12)~~) (13) "Home and community-based services" means adult
21 family homes, in-home services, and other services administered or
22 provided by contract by the department directly or through contract
23 with area agencies on aging or similar services provided by facilities
24 and agencies licensed by the department.

25 (~~(13)~~) (14) "Home care aide" means a long-term care worker who
26 has obtained certification as a home care aide by the department of
27 health.

28 (~~(14)~~) (15) "Individual provider" is defined according to RCW
29 74.39A.240.

30 (~~(15)~~) (16) "Long-term care" is synonymous with chronic care and
31 means care and supports delivered indefinitely, intermittently, or over
32 a sustained time to persons of any age disabled by chronic mental or
33 physical illness, disease, chemical dependency, or a medical condition
34 that is permanent, not reversible or curable, or is long-lasting and
35 severely limits their mental or physical capacity for self-care. The
36 use of this definition is not intended to expand the scope of services,
37 care, or assistance by any individuals, groups, residential care
38 settings, or professions unless otherwise expressed by law.

1 ~~((+16+))~~ (17)(a) "Long-term care workers ~~((for the elderly or~~
2 ~~persons with disabilities" or "long term care workers))~~" include~~((s))~~
3 all persons who ~~((are long term care workers))~~ provide paid, hands-on
4 personal care services for the elderly or persons with disabilities,
5 including but not limited to individual providers of home care
6 services, direct care ~~((employees of))~~ workers employed by home care
7 agencies, providers of home care services to persons with developmental
8 disabilities under Title 71A RCW, all direct care workers in
9 state-licensed boarding homes, assisted living facilities, and adult
10 family homes, respite care providers, direct care workers employed by
11 community residential service ~~((providers))~~ businesses, and any other
12 direct care worker providing home or community-based services to the
13 elderly or persons with functional disabilities or developmental
14 disabilities.

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

23 ~~((+17+))~~ (18) "Nursing home" means a facility licensed under
24 chapter 18.51 RCW.

25 ~~((+18+))~~ (19) "Personal care services" means physical or verbal
26 assistance with activities of daily living and instrumental activities
27 of daily living provided because of a person's functional disability.

28 ~~((+19+))~~ (20) "Population specific competencies" means basic
29 training topics unique to the care needs of the population the long-
30 term care worker is serving, including but not limited to, mental
31 health, dementia, developmental disabilities, young adults with
32 physical disabilities, and older adults.

33 ~~((+20+))~~ (21) "Qualified instructor" means a registered nurse or
34 other person with specific knowledge, training, and work experience in
35 the provision of direct, hands-on personal care and other assistance
36 services to the elderly or persons with disabilities requiring
37 long-term care.

1 ~~((+21+))~~ (22) "Secretary" means the secretary of social and health
2 services.

3 ~~((+22+))~~ (23) "Secretary of health" means the secretary of health
4 or the secretary's designee.

5 ~~((+23+))~~ (24) "Training partnership" means a joint partnership or
6 trust that includes the office of the governor and the exclusive
7 bargaining representative of individual providers under RCW 74.39A.270
8 with the capacity to provide training, peer mentoring, and workforce
9 development, or other services to individual providers.

10 ~~((+24+))~~ (25) "Tribally licensed boarding home" means a boarding
11 home licensed by a federally recognized Indian tribe which home
12 provides services similar to boarding homes licensed under chapter
13 18.20 RCW.

14 III. CREDENTIAL REQUIREMENT

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

17 (1) ~~((Effective—January—1,—2011,))~~ Beginning January 7, 2012,
18 ~~except as provided in RCW ((18.88B.040, the department of health shall~~
19 ~~require that))~~ 18.88B.041, any person hired as a long-term care worker
20 ~~((for the elderly or persons with disabilities))~~ must be certified as
21 a home care aide as provided in this chapter within one hundred fifty
22 calendar days ~~((from))~~ after the date of being hired or within one
23 hundred fifty calendar days after the effective date of this section,
24 whichever is later. In computing the time periods in this subsection,
25 the first day is the date of hire or the effective date of this
26 section, whichever is applicable.

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

31 ~~(+3+))~~ (a) No person may practice or, by use of any title or
32 description, represent himself or herself as a certified home care aide
33 without being certified ~~((pursuant to))~~ as provided in this chapter.

34 ~~((+4+))~~ (b) This section does not prohibit a person: (i) From
35 practicing a profession for which the person has been issued a license

1 or which is specifically authorized under this state's laws; or (ii)
2 who is exempt from certification under RCW 18.88B.041 from providing
3 services as a long-term care worker.

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

9 ~~(3) The department ((of health)) shall adopt rules ((by August 1,~~
10 ~~2010,)) to implement this section.~~

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

13 (1) The following long-term care workers are not required to become
14 a certified home care aide pursuant to this chapter((
15 +1))):

16 (a)(i)(A) Registered nurses, licensed practical nurses, certified
17 nursing assistants or persons who are in an approved training program
18 for certified nursing assistants under chapter 18.88A RCW, medicare-
19 certified home health aides, or other persons who hold a similar health
20 credential, as determined by the secretary ((of health)), or persons
21 with special education training and an endorsement granted by the
22 superintendent of public instruction, as described in RCW 28A.300.010,
23 if the secretary ((of health)) determines that the circumstances do not
24 require certification. ((Individuals exempted by this subsection may
25 obtain certification as a home care aide from the department of health
26 without fulfilling the training requirements in RCW 74.39A.073 but must
27 successfully complete a certification examination pursuant to RCW
28 18.88B.030.

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

33 (ii) Individuals exempted by (a)(i) of this subsection may obtain
34 certification as a home care aide ((from the department of health))
35 without fulfilling the training requirements in RCW ((74.39A.073))
36 74.39A.074(1)(d)(ii) but must successfully complete a certification
37 examination pursuant to RCW ((18.88B.030)) 18.88B.031.

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

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

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

11 ~~((6))~~ (2) A long-term care worker exempted by this section from
12 the training requirements contained in RCW ~~((74.39A.073))~~ 74.39A.074
13 may not be prohibited from enrolling in training pursuant to that
14 section.

15 ~~((7))~~ (3) The department ~~((of health))~~ shall adopt rules ~~((by~~
16 ~~August 1, 2010,))~~ to implement this section.

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

19 (1) The department has the authority to:

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

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

24 (c) Issue certification as a home care aide to any applicant who
25 has successfully completed the home care aide examination, and renew
26 such certificates;

27 (d) Maintain the official record of all applicants and persons with
28 certificates;

29 (e) Exercise disciplinary authority as authorized in chapter 18.130
30 RCW; and

31 (f) Deny certification to applicants who do not meet training,
32 competency examination, and conduct requirements, including background
33 checks, for certification.

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

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

3 (1) (~~Effective January 1, 2011,~~) Except as provided in RCW
4 (~~18.88B.040~~) 18.88B.041 and subject to the other requirements of this
5 chapter, (the department of health shall require that all) to be
6 certified as a home care aide, a long-term care worker(~~s~~) must
7 successfully complete the training required under RCW 74.39A.074(1) and
8 a certification examination. Any long-term care worker failing to make
9 the required grade for the examination (~~will~~) may not be certified as
10 a home care aide.

11 (2) The department (~~of health~~), in consultation with consumer and
12 worker representatives, shall develop a home care aide certification
13 examination to evaluate whether an applicant possesses the skills and
14 knowledge necessary to practice competently. (~~Unless excluded~~)
15 Except as provided by RCW (~~18.88B.040 — (1) — and — (2)~~)
16 18.88B.041(1)(a)(ii), only those who have completed the training
17 requirements in RCW (~~74.39A.073~~) 74.39A.074(1) shall be eligible to
18 sit for this examination.

19 (3) The examination shall include both a skills demonstration and
20 a written or oral knowledge test. The examination papers, all grading
21 of the papers, and records related to the grading of skills
22 demonstration shall be preserved for a period of not less than one
23 year. The department (~~of health~~) shall establish rules governing the
24 number of times and under what circumstances individuals who have
25 failed the examination may sit for the examination, including whether
26 any intermediate remedial steps should be required.

27 (4) All examinations shall be conducted by fair and wholly
28 impartial methods. The certification examination shall be administered
29 and evaluated by the department (~~of health~~) or by a contractor to the
30 department (~~of health~~) that is neither an employer of long-term care
31 workers or a private contractor(~~s~~) providing training services under
32 this chapter.

33 (5) (~~The department of health has the authority to:~~
34 ~~(a) Establish forms, procedures, and examinations necessary to~~
35 ~~certify home care aides pursuant to this chapter;~~
36 ~~(b) Hire clerical, administrative, and investigative staff as~~
37 ~~needed to implement this section;~~

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

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 for certification.~~

9 ~~(6)) The department ((of health)) shall adopt rules ((by August 1,~~
10 ~~2010, that establish the procedures, including criteria for reviewing~~
11 ~~an applicant's state and federal background checks, and examinations~~
12 ~~necessary to carry this section into effect)) to implement this~~
13 ~~section.~~

14 IV. TRAINING PROVISIONS

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

17 (1) ~~((Effective January 1, 2011,))~~ (a) Beginning January 7, 2012,
18 ~~except ((as provided in RCW 18.88B.040))~~ for long-term care workers
19 exempt from certification under RCW 18.88B.041(1)(a) and, until January
20 1, 2016, those exempt under RCW 18.88B.041(1)(b), all persons
21 ~~((employed))~~ hired as long-term care workers ~~((for the elderly or~~
22 ~~persons with disabilities))~~ must meet the minimum training requirements
23 in this section within one hundred twenty calendar days ~~((of~~
24 ~~employment))~~ after the date of being hired or within one hundred twenty
25 calendar days after the effective date of this section, whichever is
26 later. In computing the time periods in this subsection, the first day
27 is the date of hire or the effective date of this section, whichever is
28 applicable.

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

35 ~~((3))~~ (c) Training required by (d) of this subsection ((4)(c) of
36 ~~this section will be applied))~~ applies toward~~((s))~~ the training

1 required under RCW 18.20.270 or 70.128.230 (~~as well as~~) or any
2 statutory or regulatory training requirements for long-term care
3 workers employed by (~~supportive living providers~~) community
4 residential service businesses.

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

7 (d) The seventy-five hours of entry-level training required shall be
8 as follows:

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

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

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

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

20 (~~(5)~~) (2) Only training curriculum approved by the department may
21 be used to fulfill the training requirements specified in this section.

22 The department shall only approve training curriculum that:

23 (a) Has been developed with input from consumer and worker
24 representatives; and

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

27 (~~(6)~~) (3) Individual providers under RCW 74.39A.270 shall be
28 compensated for training time required by this section.

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

31 (~~(8)~~) (4) The department shall adopt rules (~~by August 1, 2010,~~)
32 to implement (~~subsections (4) and (5) of~~) this section.

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

35 (1) (~~Effective January 1, 2011,~~) Beginning January 7, 2012,
36 except for long-term care workers exempt from certification under RCW
37 18.88B.041(1)(a):

1 (a) A biological, step, or adoptive parent who is the individual
2 provider only for his or her developmentally disabled son or daughter
3 must receive twelve hours of training relevant to the needs of adults
4 with developmental disabilities within the first one hundred twenty
5 days ((of)) after becoming an individual provider or within one hundred
6 twenty calendar days after the effective date of this section,
7 whichever is later.

8 ~~((2) Effective January 1, 2011,)~~ (b) Individual providers
9 identified in ((a) and) (b)(i) and (ii) of this subsection must
10 complete thirty-five hours of training within the first one hundred
11 twenty days ((of)) after becoming an individual provider or within one
12 hundred twenty calendar days after the effective date of this section,
13 whichever is later. Five of the thirty-five hours must be completed
14 before becoming eligible to provide care. Two of these five hours
15 shall be devoted to an orientation training regarding an individual
16 provider's role as caregiver and the applicable terms of employment,
17 and three hours shall be devoted to safety training, including basic
18 safety precautions, emergency procedures, and infection control.
19 Individual providers subject to this requirement include:

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

23 ~~((b) Before)~~ (ii) Until January 1, 2014, a person hired as an
24 individual provider who provides twenty hours or less of care for one
25 person in any calendar month.

26 (2) In computing the time periods in this section, the first day is
27 the date of hire or the effective date of this section, whichever is
28 applicable.

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

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

34 (b) Requires comprehensive instruction by qualified instructors.

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

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

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

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

13 (1) The department shall offer, directly or through contract,
14 training opportunities sufficient for a long-term care worker to
15 accumulate seventy hours of training within a reasonable time period.
16 For individual providers represented by an exclusive bargaining
17 representative under RCW 74.39A.270, the training opportunities shall
18 be offered through the training partnership established under RCW
19 74.39A.360.

20 (2) Training topics offered under this section shall include, but
21 are not limited to: Client rights; personal care; mental illness;
22 dementia; developmental disabilities; depression; medication
23 assistance; advanced communication skills; positive client behavior
24 support; developing or improving client-centered activities; dealing
25 with wandering or aggressive client behaviors; medical conditions;
26 nurse delegation core training; peer mentor training; and advocacy for
27 quality care training.

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

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

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

36 (1) ~~((The department of health shall ensure that))~~ All long-term

1 care workers shall complete twelve hours of continuing education
2 training in advanced training topics each year. This requirement
3 applies beginning ~~((on))~~ July 1, ~~((2011))~~ 2012.

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

7 (3) Unless voluntarily certified as a home care aide under chapter
8 ~~((2, Laws of 2009))~~ 18.88B RCW, subsection (1) of this section does not
9 apply to:

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

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

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

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

20 (a) Has been developed with input from consumer and worker
21 representatives; and

22 (b) Requires comprehensive instruction by qualified instructors.

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

25 (6) The department of health shall adopt rules ~~((by August 1,~~
26 ~~2010,))~~ to implement subsection ~~((s))~~ (1) ~~((1, 2, and 3))~~ of this
27 section.

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

30 NEW SECTION. Sec. 406. A new section is added to chapter 18.88B
31 RCW to read as follows:

32 (1) The legislature recognizes that nurses have been successfully
33 delegating nursing care tasks to family members and others for many
34 years. The opportunity for a nurse to delegate nursing care tasks to
35 home care aides certified under this chapter may enhance the viability
36 and quality of health care services in community-based care settings

1 and in-home care settings to allow individuals to live as independently
2 as possible with maximum safeguards.

3 (2)(a) A certified home care aide who wishes to perform a nurse
4 delegated task pursuant to RCW 18.79.260 must complete nurse delegation
5 core training under chapter 18.88A RCW before the home care aide may be
6 delegated a nursing care task by a registered nurse delegator. Before
7 administering insulin, a home care aide must also complete the
8 specialized diabetes nurse delegation training under chapter 18.88A
9 RCW. Before commencing any specific nursing care tasks authorized
10 under RCW 18.79.260, the home care aide must:

11 (i) Provide to the delegating nurse a transcript or certificate of
12 successful completion of training issued by an approved instructor or
13 approved training entity indicating the completion of basic core nurse
14 delegation training; and

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

18 (b) In addition to meeting the requirements of (a) of this
19 subsection, before providing delegated nursing care tasks that involve
20 administration of insulin by injection to individuals with diabetes,
21 the home care aide must provide to the delegating nurse a transcript or
22 certificate of successful completion of training issued by an approved
23 instructor or approved training entity indicating completion of
24 specialized diabetes nurse delegation training. The training must
25 include, but is not limited to, instruction regarding diabetes,
26 insulin, sliding scale insulin orders, and proper injection procedures.

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

32 (4) Home care aides are not subject to any employer reprisal or
33 disciplinary action by the secretary for refusing to accept delegation
34 of a nursing care task based on his or her concerns about patient
35 safety issues. No provider of a community-based care setting as
36 defined in RCW 18.79.260, or in-home services agency as defined in RCW
37 70.127.010, may discriminate or retaliate in any manner against a

1 person because the person made a complaint about the nurse delegation
2 process or cooperated in the investigation of the complaint.

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

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

8 (2) A registered nurse may, at or under the general direction of a
9 licensed physician and surgeon, dentist, osteopathic physician and
10 surgeon, naturopathic physician, optometrist, podiatric physician and
11 surgeon, physician assistant, osteopathic physician assistant, or
12 advanced registered nurse practitioner acting within the scope of his
13 or her license, administer medications, treatments, tests, and
14 inoculations, whether or not the severing or penetrating of tissues is
15 involved and whether or not a degree of independent judgment and skill
16 is required. Such direction must be for acts which are within the
17 scope of registered nursing practice.

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

21 (a) The delegating nurse shall:

22 (i) Determine the competency of the individual to perform the
23 tasks;

24 (ii) Evaluate the appropriateness of the delegation;

25 (iii) Supervise the actions of the person performing the delegated
26 task; and

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

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

33 (c) Except as authorized in (b) or (e) of this subsection, a
34 registered nurse may not delegate the administration of medications.
35 Except as authorized in (e) of this subsection, a registered nurse may
36 not delegate acts requiring substantial skill, and may not delegate

1 piercing or severing of tissues. Acts that require nursing judgment
2 shall not be delegated.

3 (d) No person may coerce a nurse into compromising patient safety
4 by requiring the nurse to delegate if the nurse determines that it is
5 inappropriate to do so. Nurses shall not be subject to any employer
6 reprisal or disciplinary action by the nursing care quality assurance
7 commission for refusing to delegate tasks or refusing to provide the
8 required training for delegation if the nurse determines delegation may
9 compromise patient safety.

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

18 (i) "Community-based care settings" includes: Community
19 residential programs for people with developmental disabilities,
20 certified by the department of social and health services under chapter
21 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and
22 boarding homes licensed under chapter 18.20 RCW. Community-based care
23 settings do not include acute care or skilled nursing facilities.

24 (ii) "In-home care settings" include an individual's place of
25 temporary or permanent residence, but does not include acute care or
26 skilled nursing facilities, and does not include community-based care
27 settings as defined in (e)(i) of this subsection.

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

34 (iv) The determination of the appropriateness of delegation of a
35 nursing task is at the discretion of the registered nurse. Other than
36 delegation of the administration of insulin by injection for the
37 purpose of caring for individuals with diabetes, the administration of

1 medications by injection, sterile procedures, and central line
2 maintenance may never be delegated.

3 (v) When delegating insulin injections under this section, the
4 registered nurse delegator must instruct the individual regarding
5 proper injection procedures and the use of insulin, demonstrate proper
6 injection procedures, and must supervise and evaluate the individual
7 performing the delegated task weekly during the first four weeks of
8 delegation of insulin injections. If the registered nurse delegator
9 determines that the individual is competent to perform the injection
10 properly and safely, supervision and evaluation shall occur at least
11 every ninety days thereafter.

12 (vi)(A) The registered nurse shall verify that the nursing
13 assistant or home care aide, as the case may be, has completed the
14 required core nurse delegation training required in chapter 18.88A or
15 18.88B RCW prior to authorizing delegation.

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

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

23 (viii) Nursing task delegation protocols are not intended to
24 regulate the settings in which delegation may occur, but are intended
25 to ensure that nursing care services have a consistent standard of
26 practice upon which the public and the profession may rely, and to
27 safeguard the authority of the nurse to make independent professional
28 decisions regarding the delegation of a task.

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

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

33 (5) Only a person licensed as a registered nurse may hold herself
34 or himself out to the public or designate herself or himself as a
35 registered nurse.

36 NEW SECTION. Sec. 408. By September 1, 2012, the department of
37 social and health services shall adopt rules that reflect all statutory

1 and regulatory training requirements for long-term care workers, as
2 defined in RCW 74.39A.009, to provide the services identified in RCW
3 74.39A.009(5)(a).

4 **V. BACKGROUND CHECK REQUIREMENT**

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

7 A long-term care worker disqualified from working with vulnerable
8 persons under chapter 74.39A RCW may not be certified or maintain
9 certification as a home care aide under this chapter. To allow the
10 department to satisfy its certification responsibilities under this
11 chapter, the department of social and health services shall share the
12 results of state and federal background checks conducted pursuant to
13 RCW 74.39A.056 with the department. Neither department may share the
14 federal background check results with any other state agency or person.

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

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

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

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

33 (b)(i) Except as provided in (b)(ii) of this subsection, for long-
34 term care workers hired after January 7, 2012, the background checks

1 required under this section shall include checking against the federal
2 bureau of investigation fingerprint identification records system and
3 against the national sex offenders registry or their successor
4 programs. The department shall require these long-term care workers to
5 submit fingerprints for the purpose of investigating conviction records
6 through both the Washington state patrol and the federal bureau of
7 investigation. The department shall not pass on the cost of these
8 criminal background checks to the workers or their employers.

9 (ii) This subsection does not apply to long-term care workers
10 employed by community residential service businesses until January 1,
11 2016.

12 ~~((2) — To — allow — the — department — of — health — to — satisfy — its~~
13 ~~certification — responsibilities — under — chapter — 18.88B — RCW,~~) (c) The
14 department shall share state and federal background check results with
15 the department of health(~~(. — Neither department may share the federal~~
16 ~~background check results with any other state agency or person)) in~~
17 accordance with section 501 of this act.

18 ~~((3) The department shall not pass on the cost of these criminal~~
19 ~~background checks to the workers or their employers.)~~) (2) No provider,
20 or its staff, or long-term care worker, or prospective provider or
21 long-term care worker, with a stipulated finding of fact, conclusion of
22 law, an agreed order, or finding of fact, conclusion of law, or final
23 order issued by a disciplining authority or a court of law or entered
24 into a state registry with a final substantiated finding of abuse,
25 neglect, exploitation, or abandonment of a minor or a vulnerable adult
26 as defined in chapter 74.34 RCW shall be employed in the care of and
27 have unsupervised access to vulnerable adults.

28 (3) The department shall establish, by rule, a state registry which
29 contains identifying information about long-term care workers
30 identified under this chapter who have final substantiated findings of
31 abuse, neglect, financial exploitation, or abandonment of a vulnerable
32 adult as defined in RCW 74.34.020. The rule must include disclosure,
33 disposition of findings, notification, findings of fact, appeal rights,
34 and fair hearing requirements. The department shall disclose, upon
35 request, final substantiated findings of abuse, neglect, financial
36 exploitation, or abandonment to any person so requesting this
37 information. This information must also be shared with the department
38 of health to advance the purposes of chapter 18.88B RCW.

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

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

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

12 (2) Prompt and specific enforcement remedies shall also be
13 implemented without delay, consistent with RCW 18.20.190, for
14 facilities found to have delivered care or failed to deliver care
15 resulting in problems that are serious, recurring, or uncorrected, or
16 that create a hazard that is causing or likely to cause death or
17 serious harm to one or more residents. These enforcement remedies may
18 also include, when appropriate, reasonable conditions on a license. In
19 the selection of remedies, the safety, health, and well-being of
20 residents shall be of paramount importance.

21 (3)(a) To the extent funding is available, the licensee,
22 administrator, and their staff should be screened through background
23 checks in a uniform and timely manner to ensure that they do not have
24 a criminal history that would disqualify them from working with
25 vulnerable adults. Employees may be provisionally hired pending the
26 results of the background check if they have been given three positive
27 references.

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

31 (4) No licensee, administrator, or staff, or prospective licensee,
32 administrator, or staff, with a stipulated finding of fact, conclusion
33 of law, and agreed order, or finding of fact, conclusion of law, or
34 final order issued by a disciplining authority, a court of law, or
35 entered into the state registry finding him or her guilty of abuse,
36 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 **Sec. 505.** RCW 43.20A.710 and 2011 1st sp.s. c 31 s 16 are each
4 amended to read as follows:

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

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

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

21 (c) Individuals or businesses or organizations for the care,
22 supervision, case management, or treatment of children, persons with
23 developmental disabilities, or vulnerable adults, including but not
24 limited to services contracted for under chapter 18.20, 70.127, 70.128,
25 72.36, or 74.39A RCW or Title 71A RCW.

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

32 (3) Except as provided in subsection (4) of this section, an
33 individual provider or home care agency provider who has resided in the
34 state less than three years before applying for employment involving
35 unsupervised access to a vulnerable adult as defined in chapter 74.34
36 RCW must be fingerprinted for the purpose of investigating conviction
37 records through both the Washington state patrol and the federal bureau

1 of investigation. This subsection applies only with respect to the
2 provision of in-home services funded by medicaid personal care under
3 RCW 74.09.520, community options program entry system waiver services
4 under RCW 74.39A.030, or chore services under RCW 74.39A.110. However,
5 this subsection does not supersede RCW 74.15.030(2)(b).

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

14 (5) An individual provider or home care agency provider hired to
15 provide in-home care for and having unsupervised access to a vulnerable
16 adult as defined in chapter 74.34 RCW must have no conviction for a
17 disqualifying crime under RCW 43.43.830 and 43.43.842. An individual
18 or home care agency provider must also have no conviction for a crime
19 relating to drugs as defined in RCW 43.43.830. This subsection applies
20 only with respect to the provision of in-home services funded by
21 medicaid personal care under RCW 74.09.520, community options program
22 entry system waiver services under RCW 74.39A.030, or chore services
23 under RCW 74.39A.110.

24 (6) The secretary shall provide the results of the state background
25 check on long-term care workers, including individual providers, to the
26 persons hiring them or to their legal guardians, if any, for their
27 determination of the character, suitability, and competence of the
28 applicants. If the person elects to hire or retain an individual
29 provider after receiving notice from the department that the applicant
30 has a conviction for an offense that would disqualify the applicant
31 from having unsupervised access to persons with physical, mental, or
32 developmental disabilities or mental illness, or to vulnerable adults
33 as defined in chapter 74.34 RCW, then the secretary shall deny payment
34 for any subsequent services rendered by the disqualified individual
35 provider.

36 (7) Criminal justice agencies shall provide the secretary such
37 information as they may have and that the secretary may require for
38 such purpose.

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

3 (1) Except as provided in subsection (2) of this section, in order
4 to determine the character, competence, and suitability of any
5 applicant or service provider to have unsupervised access, the
6 secretary may require a fingerprint-based background check through both
7 the Washington state patrol and the federal bureau of investigation at
8 any time, but shall require a fingerprint-based background check when
9 the applicant or service provider has resided in the state less than
10 three consecutive years before application, and:

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

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

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

19 (i) Medicaid personal care under RCW 74.09.520;

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

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

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

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

29 (3) To satisfy the shared background check requirements provided
30 for in RCW 43.215.215 and 43.20A.710, the department of early learning
31 and the department of social and health services shall share federal
32 fingerprint-based background check results as permitted under the law.
33 The purpose of this provision is to allow both departments to fulfill
34 their joint background check responsibility of checking any individual
35 who may have unsupervised access to vulnerable adults, children, or
36 juveniles. Neither department may share the federal background check
37 results with any other state agency or person.

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

7 (5) Any secure facility operated by the department under chapter
8 71.09 RCW shall require applicants and service providers to undergo a
9 fingerprint-based background check through the Washington state patrol
10 identification and criminal history section and the federal bureau of
11 investigation.

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

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

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

19 (7) Fees charged by the Washington state patrol and the federal
20 bureau of investigation for fingerprint-based background checks shall
21 be paid by the department for applicants or service providers
22 providing:

23 (a) Services to people with a developmental disability under RCW
24 74.15.030;

25 (b) In-home services funded by medicaid personal care under RCW
26 74.09.520;

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

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

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

33 (f) Services in, or to residents of, a secure facility under RCW
34 71.09.115; and

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

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

1 (9) Children's administration service providers licensed under RCW
2 74.15.030 may not pass on the cost of the background check fees to
3 their applicants unless the individual is determined to be disqualified
4 due to the background information.

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

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

12 (a) "Applicant" means a current or prospective department or
13 service provider employee, volunteer, student, intern, researcher,
14 contractor, or any other individual who will or may have unsupervised
15 access because of the nature of the work or services he or she
16 provides. "Applicant" includes but is not limited to any individual
17 who will or may have unsupervised access and is:

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

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

20 (iii) Applying for employment, promotion, reallocation, or
21 transfer;

22 (iv) An individual that a department client or guardian of a
23 department client chooses to hire or engage to provide services to
24 himself or herself or another vulnerable adult, juvenile, or child and
25 who might be eligible to receive payment from the department for
26 services rendered; or

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

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

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

32 (ii) Have unsupervised access to vulnerable adults, juveniles, and
33 children;

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

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

36 (c) "Department" means the department of social and health
37 services.

1 (d) "Secretary" means the secretary of the department of social and
2 health services.

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

4 (f) "Service provider" means entities, facilities, agencies,
5 businesses, or individuals who are licensed, certified, authorized, or
6 regulated by, receive payment from, or have contracts or agreements
7 with the department to provide services to vulnerable adults,
8 juveniles, or children. "Service provider" includes individuals whom
9 a department client or guardian of a department client may choose to
10 hire or engage to provide services to himself or herself or another
11 vulnerable adult, juvenile, or child and who might be eligible to
12 receive payment from the department for services rendered. "Service
13 provider" does not include those certified under chapter 70.96A RCW.

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

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

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

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

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

32 (d) Reassessing and reauthorizing services;

33 (e) Monitoring of individual provider performance; and

34 (f) Conducting criminal background checks or verifying that
35 criminal background checks have been conducted for any individual
36 provider. Individual providers who are hired after January (~~1, 2014~~)

1 7, 2012, are subject to background checks under RCW (~~74.39A.055~~)
2 74.39A.056.

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

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

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

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

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

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

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

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

29 (h)(i) Except as provided in (h)(ii) of this subsection, a clear
30 statement indicating that a consumer receiving services under this
31 section has the right to waive any of the case management services
32 offered by the area agency on aging under this section, and a clear
33 indication of whether the consumer has, in fact, waived any of these
34 services.

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

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

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

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

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

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

27 (8) The department or area agency on aging may reject a request by
28 a consumer receiving services under this section to have a family
29 member or other person serve as his or her individual provider if the
30 case manager has a reasonable, good faith belief that the family member
31 or other person will be unable to appropriately meet the care needs of
32 the consumer. The consumer may request a fair hearing to contest the
33 decision of the case manager, as provided in chapter 34.05 RCW. The
34 department may by rule adopt guidelines for implementing this
35 subsection.

36 **VI. ENFORCEMENT**

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

3 (1) The uniform disciplinary act, chapter 18.130 RCW, governs
4 uncertified practice, issuance and renewal of certificates, and the
5 discipline of persons with certificates under this chapter. The
6 secretary (~~(of health)~~) shall be the disciplinary authority under this
7 chapter.

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

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

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

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

27 (6) The department (~~(of health)~~) shall adopt rules (~~(by August 1,~~
28 ~~2013,)~~) to implement this section.

29 **Sec. 602.** RCW 74.39A.086 and 2012 c 1 s 109 (Initiative Measure
30 No. 1163) are each amended to read as follows:

31 (1) The department:

32 (a) Shall deny payment to any individual provider of home care
33 services who has not been certified ((by the department of health)) as
34 a home care aide as required under chapter ((2, Laws of 2009 or, if
35 exempted from certification by RCW 18.88B.040,)) 18.88B RCW or whose
36 certification is revoked or, if exempted from certification under RCW

1 18.88B.041, who has not completed his or her required training pursuant
2 to (~~chapter 2, Laws of 2009~~) RCW 74.39A.074.

3 (~~(2) The department~~) (b) May terminate the contract of any
4 individual provider of home care services, or take any other
5 enforcement measure deemed appropriate by the department if the
6 individual provider has not been certified or the individual provider's
7 certification is revoked under chapter (~~2, Laws of 2009~~) 18.88B RCW
8 or, if exempted from certification by RCW (~~18.88B.040~~) 18.88B.041,
9 the individual provider has not completed his or her required training
10 pursuant to (~~chapter 2, Laws of 2009~~) RCW 74.39A.074.

11 (~~(3)~~) (2) The department shall take appropriate enforcement
12 action related to the contract of a private agency or facility licensed
13 by the state(~~(7)~~) to provide personal care services, other than an
14 individual provider, who knowingly employs a long-term care worker who
15 is not a certified home care aide as required under chapter (~~2, Laws~~
16 ~~of 2009 or, if exempted from certification by RCW 18.88B.040,~~) 18.88B
17 RCW or whose certification is revoked or, if exempted from
18 certification under RCW 18.88B.041, who has not completed his or her
19 required training pursuant to (~~chapter 2, Laws of 2009~~) RCW
20 74.39A.074.

21 (~~(4)~~) (3) Chapter 34.05 RCW shall govern actions by the
22 department under this section.

23 (~~(5)~~) (4) The department shall adopt rules (~~by August 1, 2010,~~)
24 to implement this section.

25 VII. MISCELLANEOUS

26 **Sec. 701.** RCW 74.39A.051 and 2012 c 1 s 106 (Initiative Measure
27 No. 1163) are each amended to read as follows:

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

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

34 (2) The goal of the system is continuous quality improvement with
35 the focus on consumer satisfaction and outcomes for consumers. This
36 includes that when conducting licensing or contract inspections, the

1 department shall interview an appropriate percentage of residents,
2 family members, resident case managers, and advocates in addition to
3 interviewing providers and staff.

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

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

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

13 (6) Prompt and specific enforcement remedies shall also be
14 implemented without delay, pursuant to RCW 74.39A.080(~~(7-RCW)~~) or
15 70.128.160, or chapter 18.51 (~~(RCW7)~~) or (~~(chapter)~~) 74.42 RCW, for
16 providers found to have delivered care or failed to deliver care
17 resulting in problems that are serious, recurring, or uncorrected, or
18 that create a hazard that is causing or likely to cause death or
19 serious harm to one or more residents. These enforcement remedies may
20 also include, when appropriate, reasonable conditions on a contract or
21 license. In the selection of remedies, the safety, health, and well-
22 being of residents shall be of paramount importance.

23 ~~((All-long-term-care-workers-shall-be-screened-through~~
24 ~~background-checks-in-a-uniform-and-timely-manner-to-ensure-that-they-do~~
25 ~~not-have-a-criminal-history-that-would-disqualify-them-from-working~~
26 ~~with-vulnerable-persons.-Long-term-care-workers-who-are-hired-after~~
27 ~~January-1,-2012,-are-subject-to-background-checks-under-RCW-74.39A.055.~~
28 ~~This-information-will-be-shared-with-the-department-of-health-in~~
29 ~~accordance-with-RCW-74.39A.055-to-advance-the-purposes-of-chapter-2,~~
30 ~~Laws-of-2009.-~~

31 ~~(8)-No-provider,-or-its-staff,-or-long-term-care-worker,-or~~
32 ~~prospective-provider-or-long-term-care-worker,-with-a-stipulated~~
33 ~~finding-of-fact,-conclusion-of-law,-an-agreed-order,-or-finding-of~~
34 ~~fact,-conclusion-of-law,-or-final-order-issued-by-a-disciplining~~
35 ~~authority,-a-court-of-law,-or-entered-into-a-state-registry-finding-him~~
36 ~~or-her-guilty-of-abuse,-neglect,-exploitation,-or-abandonment-of-a~~
37 ~~minor-or-a-vulnerable-adult-as-defined-in-chapter-74.34-RCW-shall-be~~

1 employed in the care of and have unsupervised access to vulnerable
2 adults.

3 ~~(9) 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 substantiated findings of abuse,~~
6 ~~neglect, financial exploitation, or abandonment of a vulnerable adult~~
7 ~~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, substantiated findings of abuse, neglect, financial~~
11 ~~exploitation, or abandonment to any person so requesting this~~
12 ~~information. This information will also be shared with the department~~
13 ~~of health to advance the purposes of chapter 2, Laws of 2009.~~

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

16 (8) Except as provided in RCW 74.39A.074 and 74.39A.076, individual
17 providers and home care agency providers must satisfactorily complete
18 department-approved orientation, basic training, and continuing
19 education within the time period specified by the department in rule.
20 The department shall adopt rules ~~((by March 1, 2002,))~~ for the
21 implementation of this section. The department shall deny payment to
22 an individual provider or a home care provider who does not complete
23 the training requirements within the time limit specified by the
24 department by rule.

25 ~~((11) Until December 31, 2010, in an effort to improve access to~~
26 ~~training and education and reduce costs, especially for rural~~
27 ~~communities, the coordinated system of long-term care training and~~
28 ~~education must include the use of innovative types of learning~~
29 ~~strategies such as internet resources, videotapes, and distance~~
30 ~~learning using satellite technology coordinated through community~~
31 ~~colleges or other entities, as defined by the department.~~

32 ~~(12) The department shall create an approval system by March 1,~~
33 ~~2002, for those seeking to conduct department-approved training.~~

34 ~~(13) The department shall establish, by rule, background checks and~~
35 ~~other quality assurance requirements for long-term care workers who~~
36 ~~provide in-home services funded by medicaid personal care as described~~
37 ~~in RCW 74.09.520, community options program entry system waiver~~
38 ~~services as described in RCW 74.39A.030, or chore services as described~~

1 in RCW 74.39A.110 that are equivalent to requirements for individual
2 providers. Long term care workers who are hired after January 1, 2012,
3 are subject to background checks under RCW 74.39A.055.

4 (14)) (9) Under existing funds the department shall establish
5 internally a quality improvement standards committee to monitor the
6 development of standards and to suggest modifications.

7 ((15) Within existing funds, the department shall design, develop,
8 and implement a long term care training program that is flexible,
9 relevant, and qualifies towards the requirements for a nursing
10 assistant certificate as established under chapter 18.88A RCW. This
11 subsection does not require completion of the nursing assistant
12 certificate training program by providers or their staff. The long
13 term care teaching curriculum must consist of a fundamental module, or
14 modules, and a range of other available relevant training modules that
15 provide the caregiver with appropriate options that assist in meeting
16 the resident's care needs. Some of the training modules may include,
17 but are not limited to, specific training on the special care needs of
18 persons with developmental disabilities, dementia, mental illness, and
19 the care needs of the elderly. No less than one training module must
20 be dedicated to workplace violence prevention. The nursing care
21 quality assurance commission shall work together with the department to
22 develop the curriculum modules. The nursing care quality assurance
23 commission shall direct the nursing assistant training programs to
24 accept some or all of the skills and competencies from the curriculum
25 modules towards meeting the requirements for a nursing assistant
26 certificate as defined in chapter 18.88A RCW. A process may be
27 developed to test persons completing modules from a caregiver's class
28 to verify that they have the transferable skills and competencies for
29 entry into a nursing assistant training program. The department may
30 review whether facilities can develop their own related long term care
31 training programs. The department may develop a review process for
32 determining what previous experience and training may be used to waive
33 some or all of the mandatory training. The department of social and
34 health services and the nursing care quality assurance commission shall
35 work together to develop an implementation plan by December 12, 1998.))

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

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

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

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

10 (2) Training must have the following components: Orientation,
11 basic training, specialty training as appropriate, and continuing
12 education. All boarding home employees or volunteers who routinely
13 interact with residents shall complete orientation. Boarding home
14 administrators, or their designees, and caregivers shall complete
15 orientation, basic training, specialty training as appropriate, and
16 continuing education.

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

22 (4) Basic training consists of modules on the core knowledge and
23 skills that caregivers need to learn and understand to effectively and
24 safely provide care to residents. Basic training must be outcome-
25 based, and the effectiveness of the basic training must be measured by
26 demonstrated competency in the core areas through the use of a
27 competency test. Basic training must be completed by caregivers within
28 one hundred twenty days of the date on which they begin to provide
29 hands-on care (~~(or within one hundred twenty days of September 1, 2002,~~
30 ~~whichever is later)~~). Until competency in the core areas has been
31 demonstrated, caregivers shall not provide hands-on personal care to
32 residents without direct supervision. Boarding home administrators, or
33 their designees, must complete basic training and demonstrate
34 competency within one hundred twenty days of employment (~~(or within one~~
35 ~~hundred twenty days of September 1, 2002, whichever is later)~~).

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

1 (a) Specialty training consists of modules on the core knowledge
2 and skills that caregivers need to effectively and safely provide care
3 to residents with special needs. Specialty training should be
4 integrated into basic training wherever appropriate. Specialty
5 training must be outcome-based, and the effectiveness of the specialty
6 training measured by demonstrated competency in the core specialty
7 areas through the use of a competency test.

8 (b) Specialty training must be completed by caregivers within one
9 hundred twenty days of the date on which they begin to provide hands-on
10 care to a resident having special needs (~~((or within one hundred twenty
11 days of September 1, 2002, whichever is later))~~). However, if specialty
12 training is not integrated with basic training, the specialty training
13 must be completed within ninety days of completion of basic training.
14 Until competency in the core specialty areas has been demonstrated,
15 caregivers shall not provide hands-on personal care to residents with
16 special needs without direct supervision.

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

23 (6) Continuing education consists of ongoing delivery of
24 information to caregivers on various topics relevant to the care
25 setting and care needs of residents. Competency testing is not
26 required for continuing education. Continuing education is not
27 required in the same calendar year in which basic or modified basic
28 training is successfully completed. Continuing education is required
29 in each calendar year thereafter. If specialty training is completed,
30 the specialty training applies toward any continuing education
31 requirement for up to two years following the completion of the
32 specialty training.

33 (7) Persons who successfully challenge the competency test for
34 basic training are fully exempt from the basic training requirements of
35 this section. Persons who successfully challenge the specialty
36 training competency test are fully exempt from the specialty training
37 requirements of this section.

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

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

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

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

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

30 (13) (a) Except as provided in (b) of this subsection, the
31 orientation, basic training, specialty training, and continuing
32 education requirements of this section commence September 1, 2002, or
33 one hundred twenty days from the date of employment, whichever is
34 later, and shall be applied to (~~((a))~~) (i) employees hired subsequent
35 to September 1, 2002; and (~~((b))~~) (ii) existing employees that on
36 September 1, 2002, have not successfully completed the training
37 requirements under RCW 74.39A.010 or 74.39A.020 and this section.
38 Existing employees who have not successfully completed the training

1 requirements under RCW 74.39A.010 or 74.39A.020 shall be subject to all
2 applicable requirements of this section. (~~However, prior to September~~
3 ~~1, 2002, nothing in this section affects the current training~~
4 ~~requirements under RCW 74.39A.010.~~)

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

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

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

- 14 (1) Twenty-one years of age or older;
- 15 (2) For those applying after September 1, 2001, to be licensed as
16 providers, and for resident managers whose employment begins after
17 September 1, 2001, a United States high school diploma or general
18 educational development (GED) certificate or any English or translated
19 government documentation of the following:

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

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

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

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

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

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

- 35 (3) Good moral and responsible character and reputation;

- 36 (4) Literacy and the ability to communicate in the English
37 language;

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

3 (6) Satisfactory completion of department-approved basic training
4 and continuing education training as required by RCW (~~(74.39A.073)~~)
5 74.39A.074, and in rules adopted by the department;

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

9 (8) Not been convicted of any crime that is disqualifying under RCW
10 43.43.830 or 43.43.842, or department rules adopted under this chapter,
11 or been found to have abused, neglected, exploited, or abandoned a
12 minor or vulnerable adult as specified in RCW (~~(74.39A.050(8))~~)
13 74.39A.056(2);

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

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

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

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

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

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

5 (3) Adult family homes shall be maintained internally and
6 externally in good repair and condition. Such homes shall have safe
7 and functioning systems for heating, cooling, hot and cold water,
8 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
9 artificial and natural light, ventilation, and any other feature of the
10 home.

11 (4) In order to preserve and promote the residential home-like
12 nature of adult family homes, adult family homes licensed after August
13 24, 2011, shall:

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

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

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

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

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

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

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

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

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

1 (11) Adult family homes shall establish health care procedures for
2 the care of residents including medication administration and emergency
3 medical care.

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

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

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

13 (13) A provider will ensure that any volunteer, student, employee,
14 or person residing within the adult family home who will have
15 unsupervised access to any resident shall not have been convicted of a
16 crime listed under RCW 43.43.830 or 43.43.842, or been found to have
17 abused, neglected, exploited, or abandoned a minor or vulnerable adult
18 as specified in RCW (~~(74.39A.050(8))~~) 74.39A.056(2). A provider may
19 conditionally employ a person pending the completion of a criminal
20 conviction background inquiry, but may not allow the person to have
21 unsupervised access to any resident.

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

24 (15) An adult family home must be financially solvent, and upon
25 request for good cause, shall provide the department with detailed
26 information about the home's finances. Financial records of the adult
27 family home may be examined when the department has good cause to
28 believe that a financial obligation related to resident care or
29 services will not be met.

30 (16) An adult family home provider must ensure that staff are
31 competent and receive necessary training to perform assigned tasks.
32 Staff must satisfactorily complete department-approved staff
33 orientation, basic training, and continuing education as specified by
34 the department by rule. The provider shall ensure that a qualified
35 caregiver is on-site whenever a resident is at the adult family home;
36 any exceptions will be specified by the department in rule.
37 Notwithstanding RCW 70.128.230, until orientation and basic training
38 are successfully completed, a caregiver may not provide hands-on

1 personal care to a resident without on-site supervision by a person who
2 has successfully completed basic training or been exempted from the
3 training pursuant to statute.

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

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

9 (b) Staff on-site at all times capable of understanding and
10 speaking English well enough to be able to respond appropriately to
11 emergency situations and be able to read and understand resident care
12 plans.

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

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

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

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

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

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

35 (4) Basic training consists of modules on the core knowledge and
36 skills that caregivers need to learn and understand to effectively and
37 safely provide care to residents. Basic training must be outcome-

1 based, and the effectiveness of the basic training must be measured by
2 demonstrated competency in the core areas through the use of a
3 competency test. Basic training must be completed by caregivers within
4 one hundred twenty days of the date on which they begin to provide
5 hands-on care (~~(or within one hundred twenty days of September 1, 2002,~~
6 ~~whichever is later)~~). Until competency in the core areas has been
7 demonstrated, caregivers shall not provide hands-on personal care to
8 residents without indirect supervision.

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

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

19 (b) Specialty training must be completed by providers and resident
20 managers before admitting and serving residents who have been
21 determined to have special needs related to mental illness, dementia,
22 or a developmental disability. Should a resident develop special needs
23 while living in a home without specialty designation, the provider and
24 resident manager have one hundred twenty days to complete specialty
25 training.

26 (6) Continuing education consists of ongoing delivery of
27 information to caregivers on various topics relevant to the care
28 setting and care needs of residents. Competency testing is not
29 required for continuing education. Continuing education is not
30 required in the same calendar year in which basic or modified basic
31 training is successfully completed. Continuing education is required
32 in each calendar year thereafter. If specialty training is completed,
33 the specialty training applies toward any continuing education
34 requirement for up to two years following the completion of the
35 specialty training.

36 (7) Persons who successfully challenge the competency test for
37 basic training are fully exempt from the basic training requirements of

1 this section. Persons who successfully challenge the specialty
2 training competency test are fully exempt from the specialty training
3 requirements of this section.

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

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

14 (10) Adult family homes that desire to deliver facility-based
15 training with facility designated trainers, or adult family homes that
16 desire to pool their resources to create shared training systems, must
17 be encouraged by the department in their efforts. The department shall
18 develop criteria for reviewing and approving trainers and training
19 materials. The department may approve a curriculum based upon
20 attestation by an adult family home administrator that the adult family
21 home's training curriculum addresses basic and specialty training
22 competencies identified by the department, and shall review a
23 curriculum to verify that it meets these requirements. The department
24 may conduct the review as part of the next regularly scheduled
25 inspection authorized under RCW 70.128.070. The department shall
26 rescind approval of any curriculum if it determines that the curriculum
27 does not meet these requirements.

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

30 (12) (a) Except as provided in (b) of this subsection, the
31 orientation, basic training, specialty training, and continuing
32 education requirements of this section commence September 1, 2002, and
33 shall be applied to ~~((a))~~ (i) employees hired subsequent to September
34 1, 2002; or ~~((b))~~ (ii) existing employees that on September 1, 2002,
35 have not successfully completed the training requirements under RCW
36 70.128.120 or 70.128.130 and this section. Existing employees who have
37 not successfully completed the training requirements under RCW
38 70.128.120 or 70.128.130 shall be subject to all applicable

1 requirements of this section. (~~However, until September 1, 2002,~~
2 ~~nothing in this section affects the current training requirements under~~
3 ~~RCW 70.128.120 and 70.128.130.~~)

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

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

9 (1) To the extent of available funding, the department of social
10 and health services may contract with licensed boarding homes under
11 chapter 18.20 RCW and tribally licensed boarding homes for assisted
12 living services and enhanced adult residential care. The department
13 shall develop rules for facilities that contract with the department
14 for assisted living services or enhanced adult residential care to
15 establish:

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

18 (b) Standards for resident living areas consistent with RCW
19 74.39A.030;

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

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

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

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

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

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

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

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

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

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

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

13 (a) Facility service standards consistent with the principles in
14 RCW (~~(74.39A.050)~~) 74.39A.051 and consistent with chapter 70.129 RCW;
15 and

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

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

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

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

22 (c) Are directed first to those persons most likely, in the absence
23 of adult residential care services, to need hospital, nursing facility,
24 or other out-of-home placement; and

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

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

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

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

3 (1) The department shall provide assistance to consumers and
4 prospective consumers in finding individual providers and prospective
5 individual providers through the establishment of a referral registry
6 of individual providers and prospective individual providers. Before
7 placing an individual provider or prospective individual provider on
8 the referral registry, the department shall determine that:

9 (a) The individual provider or prospective individual provider has
10 met the minimum requirements for training set forth in RCW
11 (~~74.39A.050~~) 74.39A.051;

12 (b) The individual provider or prospective individual provider has
13 satisfactorily undergone a criminal background check conducted within
14 the prior twelve months; and

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

18 (2) The department shall remove from the referral registry any
19 individual provider or prospective individual provider that does not
20 meet the qualifications set forth in subsection (1) of this section or
21 to have committed misfeasance or malfeasance in the performance of his
22 or her duties as an individual provider. The individual provider or
23 prospective individual provider, or the consumer to which the
24 individual provider is providing services, may request a fair hearing
25 to contest the removal from the referral registry, as provided in
26 chapter 34.05 RCW.

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

31 (4) The department shall give preference in the recruiting,
32 training, referral, and employment of individual providers and
33 prospective individual providers to recipients of public assistance or
34 other low-income persons who would qualify for public assistance in the
35 absence of such employment.

36 **Sec. 709.** 2012 c 1 s 201 (uncodified) (Initiative Measure No.
37 1163) is amended to read as follows:

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

9 **Sec. 710.** 2012 c 1 s 303 (uncodified) (Initiative Measure No.
10 1163) is amended to read as follows:

11 Notwithstanding any action of the legislature during 2011, all
12 long-term care workers as defined under RCW 74.39A.009(16), as it
13 existed on April 1, 2011, are covered by sections 101 through 113 of
14 this act or by the corresponding original versions of the statutes, as
15 referenced in section 302 (1) through (13) on the schedules set forth
16 in those sections, as amended by chapter . . . , Laws of 2012 (this
17 act), except that long-term care workers employed (~~as~~) by community
18 residential service (~~providers are covered by sections 101 through 113~~
19 ~~of this act beginning January 1, 2016~~) businesses are exempt to the
20 extent provided in RCW 18.88B.041, 74.39A.056, 74.39A.074, 74.39A.331,
21 74.39A.341, and 74.39A.351.

22 NEW SECTION. **Sec. 711.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately.

Passed by the House March 3, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.