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**ENGROSSED SUBSTITUTE HOUSE BILL 1568**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Postsecondary Education & Workforce (originally sponsored by Representatives Chambers, Tharinger, Schmick, Leavitt, Harris, Klicker, Schmidt, Caldier, Bateman, Christian, Doglio, Lekanoff, Pollet, and Macri)

AN ACT Relating to the credentialing of certified health care professionals providing long-term care services; amending RCW 18.88B.021, 18.88B.031, 18.88B.041, 18.88A.130, and 18.88B.035; adding a new section to chapter 18.88B RCW; creating new sections; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) Beginning September 1, 2023, a person whose nursing assistant certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee, and is exempt from any continuing education requirement imposed as a precondition for returning to active status, if the person complies with all other certification requirements determined necessary by the department of health to return to active status.

(2) The department of health shall send a notification to the last known address of each person who held a certificate under chapter18.88A RCW and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department of health must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) This section expires July 1, 2025.

NEW SECTION. **Sec.**  (1) Beginning September 1, 2023, a person whose home care aide certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee, and is exempt from any continuing education requirement imposed as a precondition for returning to active status, if the person complies with all other certification requirements determined necessary by the department of health to return to active status.

(2) The department of health shall send a notification to the last known address of each person who held a certificate under chapter 18.88B RCW and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department of health must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) This section expires July 1, 2025.

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

(1) A certificate that has been expired for five years or less may be reinstated if the person holding the expired certificate:

(a) Completes an abbreviated application form;

(b) Pays any necessary fees, including the current certification fee, late renewal fees, and expired credential reissuance fees, unless exempt pursuant to section 2 of this act;

(c) Provides a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the person holding the expired certificate from practicing as a home care aide;

(d) Provides a written declaration that the person holding the expired certificate has not voluntarily given up any credential or privilege or has not been restricted from practicing as a home care aide in lieu of or to avoid formal action; and

(e) Submits to a state and federal background check as required by RCW 74.39A.056, if the certificate has been expired for more than one year.

(2) In addition to meeting the requirements of subsection (1) of this section, a certificate that has been expired for more than five years may be reinstated if the person holding the expired certificate demonstrates competence to the standards established by the secretary and meets other requirements established by the secretary.

**Sec.**  RCW 18.88B.021 and 2021 c 203 s 10 are each amended to read as follows:

(1) ((~~Beginning January 7, 2012, except~~)) (a) Except as provided in RCW 18.88B.041, any person hired as a long-term care worker must be certified as a home care aide as provided in this chapter within ((~~two hundred~~)) 200 calendar days after the date of hire, as defined by the department, unless the long-term care worker meets the requirements of (b) of this subsection.

(b) Notwithstanding (a) of this subsection, if the long-term care worker is not certified as a home care aide within 200 days after the date of hire, the long-term care worker may continue to work for an additional 100 days if the long-term care worker has proof of completion of the 75 hours of training required under RCW 74.39A.074(1). The long-term care worker must be certified as a home care aide by the expiration of the additional 100 days. This subsection (1)(b) does not apply to a long-term care worker hired on or after July 1, 2026.

(c) The department may adopt rules determining under which circumstances a long-term care worker may have more than one date of hire, restarting the person's 200-day period to obtain certification as a home care aide.

(2)(a) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified as provided in this chapter.

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

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

(3) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete certification as required by this section, the department may adopt rules to allow long-term care workers additional time to become certified.

(a) Rules adopted under this subsection (3) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that additional time for long-term care workers to become certified is no longer necessary, whichever is later. Once the department determines a rule adopted under this subsection (3) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of certification compliance with subsection (1) of this section and rules adopted under this subsection (3) and provide the legislature with a report.

(4) The department shall adopt rules to implement this section.

**Sec.**  RCW 18.88B.031 and 2012 c 164 s 304 are each amended to read as follows:

(1) Except as provided in RCW 18.88B.041 and subject to the other requirements of this chapter, to be certified as a home care aide, a long-term care worker must successfully complete the training required under RCW 74.39A.074(1) and a certification examination. A certification as a home care aide must be renewed every two years. Any long-term care worker failing to make the required grade for the examination may not be certified as a home care aide.

(2) The department, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. Except as provided by RCW 18.88B.041(1)(a)(ii), only those who have completed the training requirements in RCW 74.39A.074(1) shall be eligible to sit for this examination.

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

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

(b) The individual administering the examination may be a registered nurse, licensed practical nurse, nursing assistant, community instructor, or any other individual deemed qualified to administer the examination by the department.

(5) The department or contractor to the department administering the examination must offer the examination on different times and days of the week in order to accommodate the variable work schedules of long-term care workers seeking to complete the examination. The department or contractor shall offer a qualified long-term worker seeking to complete the examination at least three options for test dates and times, which must all be at different times and on different days of the week.

(6) The department shall adopt rules to implement this section.

**Sec.**  RCW 18.88B.041 and 2019 c 363 s 20 are each amended to read as follows:

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

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long‑term care worker prior to January 7, 2012, and who completes all of the training requirements in effect as of the date the person was hired.

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

(b) All long-term care workers employed by community residential service businesses.

(c) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent.

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(f) A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW.

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

(3)(a) Except as provided in (b) of this subsection, for long-term care workers under subsection (1) of this section who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, the exemption from becoming certified as a home care aide under subsection (1) of this section no longer applies if the long-term care worker has not been certified as a nursing assistant within 200 calendar days after the date of hire, as defined by the department.

(b) If a long-term care worker has completed all requirements for certification as a nursing assistant under chapter 18.88A RCW except for the competency evaluation, the exemption from becoming certified as a home care aide continues to apply for an additional 100 calendar days. This subsection (3)(b) does not apply to a long-term care worker hired on or after July 1, 2026.

(4) The department shall adopt rules to implement this section.

**Sec.**  RCW 18.88A.130 and 2012 c 208 s 8 are each amended to read as follows:

Registrations, certifications, and medication assistant endorsements shall be renewed every two years according to administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280.

**Sec.**  RCW 18.88B.035 and 2015 c 152 s 4 are each amended to read as follows:

(1) The department may issue a provisional certification to a long‑term care worker who is limited English proficient to allow the person additional time to comply with the requirement that a long‑term care worker become certified as a home care aide within ((~~two hundred~~)) the number of calendar days after the date of hire as ((~~provided~~)) required in RCW 18.88B.021, if the long‑term care worker:

(a) Is limited English proficient; and

(b) Complies with other requirements established by the department in rule.

(2) The department shall issue a provisional certification to a long‑term care worker who has met the requirements of subsection (1) of this section. The provisional certification may only be issued once and is valid for no more than ((~~sixty~~)) 60 days after the expiration of the ((~~two hundred~~)) calendar day requirement for becoming certified.

(3) The department shall adopt rules to implement this section.

(4) For the purposes of this section, "limited English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

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