CERTIFICATION OF ENROLLMENT

**SENATE BILL 5811**

68th Legislature

2024 Regular Session

|  |  |
| --- | --- |
| Passed by the Senate March 7, 2024  Yeas 30 Nays 17  **President of the Senate**  Passed by the House March 6, 2024  Yeas 58 Nays 38  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5811** as passed by the Senate and the House of Representatives on the dates hereon set forth.  Secretary |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5811**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Kauffman, C. Wilson, Cleveland, Dhingra, Frame, Hasegawa, Keiser, Liias, Lovelett, Nguyen, Nobles, Shewmake, Trudeau, and Wellman; by request of Department of Social and Health Services

AN ACT Relating to expanding the definition of family member for individual providers; amending RCW 18.88B.041, 74.39A.076, 74.39A.341, and 74.39A.341; adding a new section to chapter 74.39A RCW; providing effective dates; and providing an expiration date.

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

**Sec.**  RCW 18.88B.041 and 2023 c 424 s 7 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)(i) An individual provider caring only for the individual provider's ((~~biological, step, or adoptive~~)) child or parent, including when related by marriage or domestic partnership; and

(ii) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(d) A person working as an individual provider who provides ((~~twenty~~)) 20 hours or less of nonrespite 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~~)) 300 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.

(g) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

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

**Sec.**  RCW 74.39A.076 and 2023 c 424 s 8 are each amended to read as follows:

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

(a) A ((~~biological, step, or adoptive~~)) parent who is the individual provider only for the person's developmentally disabled ((~~son or daughter~~)) child, including when related by marriage or domestic partnership, must receive ((~~twelve~~)) 12 hours of training relevant to the needs of individuals with developmental disabilities within the first ((~~one hundred twenty~~)) 120 days after becoming an individual provider.

(b) A spouse or registered domestic partner who is a long-term care worker only for a spouse or domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW, must receive ((~~fifteen~~)) 15 hours of basic training, and at least six hours of additional focused training based on the care-receiving spouse's or partner's needs, within the first ((~~one hundred twenty~~)) 120 days after becoming a long-term care worker.

(c) A person working as an individual provider who (i) provides respite care services only for individuals with developmental disabilities receiving services under Title 71A RCW or only for individuals who receive services under this chapter, and (ii) works ((~~three hundred~~)) 300 hours or less in any calendar year, must complete ((~~fourteen~~)) 14 hours of training within the first ((~~one hundred twenty~~)) 120 days after becoming an individual provider. Five of the ((~~fourteen~~)) 14 hours must be completed before becoming eligible to provide care, including two hours of orientation training regarding the caregiving role and terms of employment and three hours of safety training. The training partnership identified in RCW 74.39A.360 must offer at least ((~~twelve~~)) 12 of the ((~~fourteen~~)) 14 hours online, and five of those online hours must be individually selected from elective courses.

(d) Individual providers identified in (d)(i) or (ii) of this subsection must complete ((~~thirty-five~~)) 35 hours of training within the first ((~~one hundred twenty~~)) 120 days after becoming an individual provider. Five of the ((~~thirty-five~~)) 35 hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(i)(A) ((~~An~~)) Unless covered by (a) of this subsection, an individual provider caring only for the individual provider's ((~~biological, step, or adoptive~~)) child or parent ((~~unless covered by (a) of this subsection~~)), including when related by marriage or domestic partnership; ((~~and~~))

(B) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(ii) A person working as an individual provider who provides ((~~twenty~~)) 20 hours or less of care for one person in any calendar month; and

(iii) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) In computing the time periods in this section, the first day is the date of hire.

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

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

(b) Requires comprehensive instruction by qualified instructors.

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

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) 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 training compliance with subsection (1) of this section and provide the legislature with a report.

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

**Sec.**  RCW 74.39A.341 and 2023 c 424 s 6 are each amended to read as follows:

(1) All long-term care workers shall complete ((~~twelve~~)) 12 hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

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

(b) An individual provider caring only for the individual provider's parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(c) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

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

(e) A person working as an individual provider who provides ((~~twenty~~)) 20 hours or less of care for one person in any calendar month;

(f) A person working as an individual provider who only provides respite services and works less than ((~~three hundred~~)) 300 hours in any calendar year; or

(g) A person whose certificate has been expired for less than five years who seeks to restore the certificate to active status. The person does not need to complete continuing education requirements in order for their certificate to be restored to active status. Subsection (1) of this section applies to persons once the certificate has been restored to active status, beginning on the date the certificate is restored to active status.

(4) Individual providers covered under subsection (3) of this section may voluntarily take continuing education. The consumer directed employer must pay individual providers covered in subsection (3) of this section for any continuing education that they may take, up to 12 hours of continuing education annually.

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

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

(b) Requires comprehensive instruction by qualified instructors.

((~~(5)~~)) (6) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

((~~(6)~~)) (7) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection ((~~(6)~~)) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection ((~~(6)~~)) 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 training compliance with subsection (1) of this section and provide the legislature with a report.

((~~(7)~~)) (8) The department of health shall adopt rules to implement subsection (1) of this section.

((~~(8)~~)) (9) The department shall adopt rules to implement subsection (2) of this section.

**Sec.**  RCW 74.39A.341 and 2023 c 424 s 6 are each amended to read as follows:

(1) All long-term care workers shall complete ((~~twelve~~)) 12 hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

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

(b) ((~~An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;~~

~~(c)~~)) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

((~~(d)~~)) (c) Before January 1, 2016, a long-term care worker employed by a community residential service business;

((~~(e)~~)) (d) A person working as an individual provider who provides ((~~twenty~~)) 20 hours or less of care for one person in any calendar month;

((~~(f)~~)) (e) A person working as an individual provider who only provides respite services and works less than ((~~three hundred~~)) 300 hours in any calendar year; or

((~~(g)~~)) (f) A person whose certificate has been expired for less than five years who seeks to restore the certificate to active status. The person does not need to complete continuing education requirements in order for their certificate to be restored to active status. Subsection (1) of this section applies to persons once the certificate has been restored to active status, beginning on the date the certificate is restored to active status.

(4) Individual providers covered under subsection (3) of this section may voluntarily take continuing education. The consumer directed employer must pay individual providers covered in subsection (3) of this section for any continuing education that they may take, up to 12 hours of continuing education annually.

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

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

(b) Requires comprehensive instruction by qualified instructors.

((~~(5)~~)) (6) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

((~~(6)~~)) (7) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection ((~~(6)~~)) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection ((~~(6)~~)) 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 training compliance with subsection (1) of this section and provide the legislature with a report.

((~~(7)~~)) (8) The department of health shall adopt rules to implement subsection (1) of this section.

((~~(8)~~)) (9) The department shall adopt rules to implement subsection (2) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 74.39A RCW to read as follows:

(1) The department shall convene a work group to review existing available continuing education courses offered to long-term care workers under RCW 74.39A.341 and provide input and recommendations for the inclusion of topics relevant to individual providers caring for a family member to be incorporated into the development of new continuing education courses. The work group must consist of stakeholders with an interest in the continuing education training requirements for individual providers, including individual providers who are caregivers to a family member with an intellectual or developmental disability, individual providers who are adult children who are caregivers to a parent, the contracted training entity providing continuing education to long-term care workers, and consumers receiving care from an individual provider who is a family member.

(2) The department shall convene the work group by July 1, 2024, and the work group shall provide recommendations for the development of new courses to the secretary and the contracted training entity by March 1, 2025. By July 1, 2025, the contracted training entity shall submit a continuing education training course development plan that includes a specific timeline for the incorporation of topics identified in subsection (1) of this section to the secretary and the relevant committees of the legislature. Beginning September 1, 2025, the contracted training entity shall prioritize the development of courses that address the topics identified in subsection (1) of this section and the continuing education course development plan when it conducts its next scheduled continuing education course update and development for long-term care workers. The contracted training entity shall continue the development of new courses that address the recommended topics identified in subsection (1) of this section and the continuing education course development plan in its regular continuing education course development.

NEW SECTION. **Sec.**  Section 3 of this act takes effect January 1, 2025.

NEW SECTION. **Sec.**  Section 3 of this act expires January 1, 2027.

NEW SECTION. **Sec.**  Section 4 of this act takes effect January 1, 2027.

**--- END ---**