

**Chapter 18.88B RCW
LONG-TERM CARE WORKERS**

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RCW 18.88B.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Date of hire" means the first day the long-term care worker is employed by any employer.

(3) "Department" means the department of health.

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

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

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

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

(8) "Secretary" means the secretary of the department of health. [2023 c 424 § 1. Prior: 2012 c 164 § 201; 2009 c 2 § 17 (Initiative Measure No. 1029, approved November 4, 2008).]

Finding—Intent—2012 c 164: "The legislature finds that numerous enactments and amendments to long-term care services statutes over many years have resulted in duplicated provisions, ambiguities, and other technical errors. The legislature intends to make corrections and clarify provisions governing services by long-term care workers." [2012 c 164 § 101.]

Rules—2012 c 164: "By September 1, 2012, the department of social and health services shall adopt rules that reflect all statutory and regulatory training requirements for long-term care workers, as defined in RCW 74.39A.009, to provide the services identified in RCW 74.39A.009(5)(a)." [2012 c 164 § 408.]

Effective date—2012 c 164: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 29, 2012]." [2012 c 164 § 711.]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

RCW 18.88B.021 Certification requirements. (1) Beginning January 7, 2012, 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 200 calendar days after the date of hire. A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(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. [2023 c 424 § 2; 2021 c 203 § 10; 2013 c 259 § 1; 2012 c 164 § 301; 2012 c 1 § 103 (Initiative Measure No. 1163, approved November 8, 2011).]

Effective date—Retroactive application—2021 c 203: See notes following RCW 43.43.832.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—Findings—Performance audits—Spending limits—Contingent effective dates—Application—Construction—Effective date—Short title

—2012 c 1 (Initiative Measure No. 1163): See notes following RCW 74.39A.056.

RCW 18.88B.031 Certification examinations. (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. 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.

(3) The examination or series of examinations shall include both a skills demonstration and a written or oral knowledge test. 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. The skills demonstration, the knowledge test, or both, may be administered throughout training, on the last day of training, or after a student's formal training. An applicant may apply to take the examination during or after training. An applicant may not sit for any part of the examination prior to completing the part of the training associated with that part of the examination. The examination or series of examinations may be conducted at local testing sites around the state. For the purpose of reducing the travel time for applicants, the department shall explore alternative testing options such as remote testing.

(4) (a) All examinations shall be conducted by fair and wholly impartial methods. All examinations shall be available to be administered in the preferred language for the applicant taking the examination. The certification examination shall be administered and evaluated by:

(i) The department;

(ii) A contractor to the department that is not an employer of long-term care workers unless the employer is a department of social and health services approved instructor and has met the department standards for administering the examination; or

(iii) A high school or community college that has met department standards for administering the examination.

(b) The department shall conduct an annual evaluation of the examination results of applicants who complete the examination in a language other than English. If the department finds that applicants taking the examination in a particular language fail at a disproportionately higher rate than other examination takers, the department shall conduct a review of the translation to ensure that it is accurate and understandable.

(5) The department shall adopt rules to implement this section. [2023 c 323 § 2; 2012 c 164 § 304; 2012 c 1 § 104 (Initiative Measure No. 1163, approved November 8, 2011).]

Finding—2023 c 323: "(1) Long-term care supports people who need help meeting their health or personal care needs due to age or

disabling conditions. Maintaining an adequate workforce of long-term care workers is critical to the system.

(2) Current law requires that home care aides complete required training and pass a test to become certified. A 2022 performance audit found that many home care aide applicants faced barriers in scheduling the test, challenges getting to the test site, and often delays of months between completing training and taking the test. Barriers and inefficiencies in this process were cited as a primary reason for many applicants dropping out prior to becoming certified.

(3) The legislature finds that improvements in this process and the reduction of barriers are necessary to ensure an adequate home care workforce." [2023 c 323 § 1.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—Findings—Performance audits—Spending limits—Contingent effective dates—Application—Construction—Effective date—Short title—2012 c 1 (Initiative Measure No. 1163): See notes following RCW 74.39A.056.

RCW 18.88B.035 Provisional certification. (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 calendar days after the date of hire as provided 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 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. [2015 c 152 § 4; 2013 c 259 § 2.]

RCW 18.88B.041 Exemptions from training requirements. (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; 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 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.

(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. [2023 c 424 § 7; 2019 c 363 § 20; 2015 c 152 § 1; 2014 c 139 § 6; 2012 c 164 § 302; 2012 c 1 § 105 (Initiative Measure No. 1163, approved November 8, 2011).]

Finding—Intent—Program development—Implementation—Program funding—2014 c 139: See notes following RCW 71A.16.050.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—Findings—Performance audits—Spending limits—Contingent effective dates—Application—Construction—Effective date—Short title—2012 c 1 (Initiative Measure No. 1163): See notes following RCW 74.39A.056.

RCW 18.88B.050 Disciplinary action—Uncertified practice. (1) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, issuance and renewal of certificates, and the discipline of persons with certificates under this chapter. The secretary shall be the disciplinary authority under this chapter.

(2) The secretary may take action to immediately suspend the certification of a home care aide upon finding that conduct of the home care aide has caused or presents an imminent threat of harm to a functionally disabled person in his or her care.

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

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

(5) Chapter 34.05 RCW shall govern actions by the department under this section.

(6) The department shall adopt rules to implement this section. [2012 c 164 § 601; 2011 1st sp.s. c 31 § 4; 2009 c 580 § 17; 2009 c 2 § 13 (Initiative Measure No. 1029, approved November 4, 2008).]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Effective date—2011 1st sp.s. c 31: "Except for sections 6, 10, and 14 through 17 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 15, 2011]." [2011 1st sp.s. c 31 § 18.]

Intent—Findings—2009 c 2 (Initiative Measure No. 1029): "It is the intent of the people through this initiative to protect the safety of and improve the quality of care to the vulnerable elderly and persons with disabilities.

The people find and declare that current procedures to train and educate long-term care workers and to protect the elderly or persons with disabilities from caregivers with a criminal background are insufficient. The people find and declare that long-term care workers for the elderly or persons with disabilities should have a federal criminal background check and a formal system of education and experiential qualifications leading to a certification test.

The people find that the quality of long-term care services for the elderly and persons with disabilities is dependent upon the competency of the workers who provide those services. To assure and enhance the quality of long-term care services for the elderly and persons with disabilities, the people recognize the need for federal criminal background checks and increased training requirements. Their establishment should protect the vulnerable elderly and persons with disabilities, bring about a more stabilized workforce, improve the quality of long-term care services, and provide a valuable resource for recruitment into long-term care services for the elderly and persons with disabilities." [2009 c 2 § 1 (Initiative Measure No. 1029, approved November 4, 2008).]

Construction—2009 c 2 (Initiative Measure No. 1029): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2009 c 2 § 19 (Initiative Measure No. 1029, approved November 4, 2008).]

Short title—2009 c 2 (Initiative Measure No. 1029): "This act may be known and cited as the better background checks and improved training for long-term care workers for the elderly and persons with disabilities initiative of 2008." [2009 c 2 § 21 (Initiative Measure No. 1029, approved November 4, 2008).]

RCW 18.88B.060 Authority of department. (1) The department has the authority to:

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

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

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

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

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

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

(2) The department shall adopt rules that establish the procedures, including criteria for reviewing an applicant's state and federal background checks, and examinations necessary to implement this section. [2012 c 164 § 303.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

RCW 18.88B.070 Nurse delegated tasks. (1) The legislature recognizes that nurses have been successfully delegating nursing care tasks to family members and others for many years. The opportunity for a nurse to delegate nursing care tasks to home care aides certified under this chapter may enhance the viability and quality of health care services in community-based care settings and in-home care settings to allow individuals to live as independently as possible with maximum safeguards.

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

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

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

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

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

(4) Home care aides are not subject to any employer reprisal or disciplinary action by the secretary for refusing to accept delegation of a nursing care task based on his or her concerns about patient safety issues. No provider of a community-based care setting as defined in RCW 18.79.260, or in-home services agency as defined in RCW 70.127.010, may discriminate or retaliate in any manner against a person because the person made a complaint about the nurse delegation process or cooperated in the investigation of the complaint. [2012 c 164 § 406.]

***Reviser's note:** The reference to "nursing care quality assurance commission" was changed to "board of nursing" by 2023 c 123.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

RCW 18.88B.080 Disqualification. A long-term care worker disqualified from working with vulnerable persons under chapter 74.39A RCW may not be certified or maintain certification as a home care aide under this chapter. [2023 c 223 § 1; 2012 c 164 § 501.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

RCW 18.88B.090 Reinstatement of certification. (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 RCW 18.88B.091;
- (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. [2023 c 424 § 3.]

RCW 18.88B.091 Reinstatement of certification—Exemption from fees. (Expires July 1, 2025.) (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 if the person complies with all other certification requirements determined necessary by the department to return to active status.

(2) The department shall send a notification to the last known address of each person who held a certificate under this chapter 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 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) The department and the department of social and health services, as applicable, shall adopt rules to assure that continuing education requirements are not a barrier for persons seeking to reactivate their certificates under this chapter.

(4) This section expires July 1, 2025. [2023 c 424 § 4.]

RCW 18.88B.800 Reduction of barriers—Training and testing system—Examination of testing sites—Report. (Expires July 30, 2026.)

(1) The department of health, in consultation with the department of social and health services and other relevant participants, shall:

(a) Devise a system that reduces delays between training and testing for home care aides that includes the following:

(i) Developing and implementing a plan to integrate testing into training that allows applicants to test at the same location where they train;

(ii) Allowing remote testing within home care aide training programs immediately or shortly after completion of the program; and

(iii) Determining the benefits and costs of having home care aide training programs authorize applicants to test instead of the department of health;

(b) Examine existing challenges related to a lack of testing sites and develop a plan, including an estimation of costs, to expand testing sites, which shall include the following considerations:

(i) Applicant travel time and availability of testing for comparable professions;

(ii) How many test sites are needed, where these sites should be located, and the best way to establish appropriate partnerships that can lead to new test sites;

(iii) How often test sites should be available to applicants; and

(iv) Whether there are areas of the state where a stipend for travel expenses would be beneficial and appropriate protocols for travel stipends;

(c) Establish performance measures and data collection criteria to monitor the overall length of time between training and testing and the number of available test sites;

(d) Establish accountability mechanisms for the overall training to testing process; and

(e) Establish performance-based contracts for vendors who administer the tests that include the following:

(i) All key performance measures expected, including a definition of what sufficient access to test sites entails; and

(ii) Detailed vendor costs.

(2)(a) When completing the requirements of subsection (1) of this section, the department of health shall ensure that its decisions are informed by existing data on test completion, including passage and failure rates for both parts of the examination.

(b) When conducting the examination under subsection (1)(b) of this section, the department of health shall:

(i) Use various geographic measures, including by county and by zip code; and

(ii) Conduct a survey of all approved testing locations in Washington to determine their current capacity for offering tests and their potential capacity to offer tests if not for the lack of available proctors.

(3) The department of health, in consultation with the department of social and health services and other relevant participants, shall submit to the governor and the appropriate committees of the legislature a preliminary report no later than June 30, 2024, and a final report no later than December 31, 2024, that includes a summary of the work conducted in accordance with the requirements specified in subsection (1) of this section and any recommendations for improvement.

(4) This section expires July 30, 2026. [2023 c 323 § 3.]

Finding—2023 c 323: See note following RCW 18.88B.031.