

HB 1694 -- Redline

Substitute to Bill -- Addressing home care workforce shortages.

Deletions ~~struck~~ · Insertions underlined

~~H-1246, H-0888.1~~ SUBSTITUTE HOUSE BILL 1694 State of Washington 68th Legislature 2023 Regular Session By ~~House Health Care & Wellness (originally sponsored by~~ Representatives Alvarado, Tharinger, Berry, Lekanoff, Reed, Leavitt, Fitzgibbon, Callan, Santos, Chopp, Ortiz-Self, Senn, Taylor, Pollet, Macri, Riccelli, and ~~Simmons)~~ Simmons ~~READ~~ Read ~~FIRST~~ first ~~TIME~~ time ~~02/16/23, 01/31/23.~~

Referred to Committee on Health Care & Wellness.

amending RCW 18.88B.021, 18.88B.031, ~~74.39A.341,~~ 18.88B.041, and 74.39A.076;

~~adding new sections to chapter 18.88B RCW;~~

~~adding a new section to chapter 18.88A RCW;~~

and creating new sections;

~~and providing expiration dates.~~

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

~~((5))~~ (6) "Long-term care worker" has the same meaning as defined in RCW 74.39A.009.

1 ~~SHB~~HB 1694 ~~((5))~~ ~~((6))~~ ~~(6)~~ (7) "Long-term" Personal care worker services has the same meaning as defined in RCW 74.39A.009.

~~((6))~~ (7) "Personal care services" has the same meaning as defined in RCW 74.39A.009.

(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 p.

2 ~~SHB~~HB 1694 ~~(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.

The skills demonstration, the knowledge test, or both, may be administered ~~during~~ on or the after last day of a student's formal training.

~~p-~~(4) All examinations shall be conducted by fair and wholly impartial methods.

~~3~~The ~~SHB~~certification ~~1694~~examination ~~(4)~~ All examinations shall be ~~conducted~~ administered and evaluated by ~~fair~~ the and department wholly ~~((or)),~~ impartial by methods ~~a contractor~~ p.

~~The~~3 certification ~~HB~~ examination ~~1694~~ shall ~~to be~~ the administered ~~department and that evaluated is~~ by ~~((neither))~~ ~~((the))~~ not an employer of long-term care workers ~~((or a private contractor providing training services under this chapter.~~

~~(a)(5)),~~ The or by a high school or community college that has met department ~~((or standards by for a))~~ administering the examination.

~~(b)(5)~~ A In contractor addition to the standards under subsection (4) of this section, the department that shall examine ~~((neither))~~ and not authorize an innovative employer ways to reduce barriers to certification and testing, including allowing for remote proctoring of long-term the knowledge examination, allowing long-term care workers ~~((to assign private up contractor for providing testing training at services the under time this of chapter, hire contingent on completion of training, and expanding the number and type of testing locations.~~

~~(5)), unless the employer is a department of social and health services approved instructor and has met the department standards for administering the examination;~~

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

~~(5) In addition to the standards under subsection (4) of this section, the department shall examine and authorize innovative ways to reduce barriers to certification and testing, including allowing for remote proctoring of the knowledge examination, allowing long-term care workers to sign up for testing upon registering for training contingent on completion of training, and expanding the number and type of testing locations.~~

~~NEW SECTION.~~

~~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 5 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.~~

~~P-~~

~~4 SHB 1694 (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.~~

~~NEW SECTION-~~

~~Sec-~~

~~5-~~

~~A new section is added to chapter 18.88B RCW to read as follows:~~

~~(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.~~

~~NEW SECTION-~~

~~Sec-~~

~~6-~~

~~A new section is added to chapter 18.88A RCW to read as follows:~~

~~(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 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, p-~~

~~5 SHB 1694 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 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.~~

~~Sec-~~

~~7-~~

~~RCW 74.39A.341 and 2021 c 203 s 9 are each amended to read as follows:~~

~~(1) All long-term care workers shall complete twelve 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.~~

~~(2) 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) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;~~

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

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

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

~~or (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 p-~~

~~6 SHB 1694 certificate has been restored to active status, beginning on the date the certificate is restored to active status.~~

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

~~(6) 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) The department of health shall adopt rules to implement subsection (1) of this section.~~

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

~~Sec.~~

~~8-~~

~~(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 p-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.~~

~~7 SHB 1694 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.~~

~~and (ii) For individual providers hired after September 1, 2023, an individual provider caring only for the individual provider's sibling, p.-aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.~~

~~4 HB 1694 sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.~~

~~(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.~~

~~p-Sec.~~

~~85.-SHB 1694 Sec-~~

~~9.~~

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

Five of the fourteen 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.

5 HB 1694 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.

(d) Individual providers identified in (d)(i) or (ii) of this subsection must complete ~~thirty-five~~thirty hours of training within the first one hundred twenty days after becoming an individual provider.

~~p.~~(i)(A) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent unless covered by (a) of this subsection;

~~9 SHB 1694 (i)(A) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent unless covered by (a) of this subsection;~~

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

~~(a)p.~~ 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.

6 HB 1694 (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.

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

~~10 SHB 1694 (5) The department shall adopt rules to implement this section.~~

~~10-6.~~

(1) ~~Subject~~By to June the 1, availability 2025, of the amounts department appropriated shall for establish this a specific workforce purpose, data beginning collection June and 1, public 2025, reporting the monitoring department system shall to annually accurately report determine on the status of:

(b) ~~The Long-term average wages of long-term care workers worker compared shortages; to entry-level positions in other industries;~~

(c) ~~Projections Delays of in service the demands;~~ ability for long-term care workers to receive required training, testing, and certification;

(d) ~~Geographic Unmet disparities service in demands; the supply of long-term care workers;~~

and (e) ~~Any Geographic race, areas gender, and or populations other for worker which demographic there data are available~~ disparities through in preexisting long-term administrative care data workers sources, and services.

~~11-7.~~

The department of social and health services shall design a pilot project to allow the spouse ~~or domestic partner~~ of a person with complex medical needs who is eligible for long-term services and supports through the department of social and health services to receive payment for providing home care services to the ~~spouse spouse, or domestic partner.~~

The design shall consider the appropriate acuity level of the ~~care-receiving care- spouse receiving or spouse, domestic partner,~~ the training needs of the care-providing ~~spouse spouse, or domestic partner,~~ payment parameters, fiscal considerations and use of medicaid matching funds, geographic locations for implementing the pilot project, ways to design the project to aid in future statewide ~~implementation, p.~~ cost estimates for implementing the pilot project, cost estimates for implementing a pilot project expansion, projected number of individuals to be served, a proposed timeline for implementation of the pilot project, and a proposed timeline for implementation of an expanded pilot project.

~~The 7 department HB of 1694 social implementation, and cost health estimates services for and implementing the health pilot care project, authority projected shall number prepare of and individuals submit a waiver to the be federal served, centers for medicare and medicaid proposed service timeline to for allow implementation. the state to receive federal matching funds to support the pilot project.~~

The department of social and health services shall submit the pilot project design to the office of ~~p.~~ financial management and the appropriate fiscal committees of the legislature by November 1, 2023.

~~11 SHB 1694 financial management and the appropriate fiscal committees of the legislature by December~~

~~31, 2023.~~

~~12-8.~~

~~(1) The department of social and health services shall study the feasibility and cost of paying the parents of children under 18 years old who are eligible for services through the department of social and health services developmental disabilities administration and are medically complex, complex or have complex support needs related to their behaviors, behaviors. or have an intellectual or developmental disability.~~

~~(2) The From January 1, 2024, until October 1, 2025, the department of social and health services shall must conduct submit a pilot report project to allow the parents office of children financial described management in and subsection the (1) appropriate of fiscal this committees section, who have a household income no greater than 300 percent of the federal legislature poverty by level, December adjusted 31, for 2023. family size, to receive payment for providing home care services to those children. The pilot report project shall must address any statutory or regulatory changes needed to authorize the payments, necessary information technology changes for the agency and associated costs, elements needed to prepare a federal waiver or state plan amendments to allow for the use of federal matching funds for the payments to parents, estimates of the number of children expected to be conducted served, in the one anticipated urban annual county cost to the state both if federal matching funds are available and one if rural they county, are not available, recommendations on the types of training needed for parents to support their children's care needs, and a proposed timeline for implementation which may be phased, if necessary.~~

~~The pilot project must be designed to inform the statewide adoption of a policy to reimburse the parents of children under 18 years old described in subsection (1) of this section and to assist in the development of a federal waiver or state plan amendment to allow for the use of federal matching funds for the payments.~~

~~(3) The department of social and health services must submit:~~

~~(a) An initial report to the office of financial management and the appropriate fiscal committees of the legislature by December 31, 2023.~~

~~The initial report shall address any statutory or regulatory changes needed to authorize the payments, necessary information technology changes for the agency and associated costs, elements needed to prepare a federal waiver or state plan amendments to allow for the use of federal matching funds for the payments to parents, estimates of the number of children expected to be served, the anticipated annual cost to the state both if federal matching funds are available and if they are not available, recommendations on the types of training needed for parents to support their children's care needs, and a proposed timeline for implementation which may be phased, if necessary;~~

~~and (b) A final report to the office of financial management and the appropriate fiscal committees of the legislature by December 1, 2025.~~

~~The final report must describe the design and results of the pilot p-~~

~~12 SHB 1694 project and assess options to expand the payment policy statewide and to persons with higher income levels.~~

~~(4) Nothing in this section prevents the department of social and health services from expanding the pilot project in subsection (2) of this section or from pursuing a federal waiver or state plan amendment to allow for the use of federal matching funds for a statewide payment policy while the pilot project is in process if authority has been provided by the legislature.~~

~~138 SHB HB 1694~~