



INITIATIVE MEASURE 1029

Proposed by Initiative Petition

Official Ballot Title:

Initiative Measure No. 1029 concerns long-term care services for the elderly and persons with disabilities.

This measure would require long-term care workers to be certified as home care aides based on an examination, with exceptions; increase training and criminal background check requirements; and establish disciplinary standards and procedures.

Should this measure be enacted into law?

Yes [] No []

Note: The Official Ballot Title was written by the Attorney General as required by law. The Explanatory Statement was written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management. For more in-depth fiscal analysis, visit www.ofm.wa.gov/initiatives. The complete text of Initiative Measure 1029 begins on page 40.



Fiscal Impact Statement

Fiscal Impact Statement for Initiative 1029

Beginning January 1, 2010, 75 hours of training would be required for most long-term care workers, up from a maximum of 34 hours now required, depending on the worker's classification. New long-term care workers would have to pass state-financed state and federal background checks. Any long-term care worker hired to care for elderly or disabled persons whose care is paid for by the state would have to be state-certified as a home care aide. Approximately 20,000 new long-term care workers are hired each year. Estimated costs are \$651,000 for fiscal year 2009 and \$29.7 million for 2009–11.

Assumptions for Fiscal Analysis of Initiative 1029

The number of workers who would receive training was developed using the June 2008 Caseload Forecast Council estimate of the number of long-term care clients. Current wage information was used as the basis for wage costs, with no inflationary increases included.

The Department of Social and Health Services would be required to create the curriculum for the 75 hours of required training, with input from consumer and worker representatives. The training would include five hours of basic safety information and orientation that must be completed before the long-term care worker begins employment. The remaining 70 hours must be completed within 120 days of the worker being hired and can include 12 hours of structured peer mentoring. Workers would be paid wages for the time they attend required training classes. The cost of the new training would be \$14.8 million for 2009–11. Computer system costs would be \$251,000 in fiscal year 2009 and \$6.3 million in 2009–11.

The Department of Social and Health Services would obtain background checks, including fingerprints, at a cost of \$2 million in 2009–11. There would be no cost to the worker for background checks. The Department of Health would obtain state background checks on all applicants and federal background checks on applicants who have criminal records or are from out of state at a cost of \$700,000 in 2009–11. These background checks would duplicate the background checks done by the Department of Social and Health Services as current state and federal law prohibits agencies from sharing background check information.

There would be exceptions to the 75-hour training requirement. Parents who become individual providers to care for their developmentally disabled adult child would be required to complete 12 hours of mandatory training, and would be exempted from the annual continuing education requirement. Individual providers who provide less than 20 hours of care per month and those who care for their own parent or adult child with long-term care needs other than developmental disabilities would be required to complete 35 hours of training. These individual providers would be exempted from the annual continuing education requirement until June 30, 2014.





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Fiscal Impact Statement (continued)

The Department of Health would certify workers who complete the required training and pass a background check within the first 150 days of employment. This analysis assumes that the Department of Health would set certification fees to cover its program costs. Fees would be paid by workers applying for certification or renewing their certification. Workers would not be paid for the time spent taking the certification exam. The costs of preparing and administering the new certification program would be \$71,000 in fiscal year 2009 and \$3.2 million in 2009–11.

The analysis reflects exceptions to the certification requirement for individuals caring for their parent or adult child and those hired as an individual provider who works less than 20 hours per month. To maintain certification and employment, a home care worker would be required to complete 12 hours of continuing education courses each year.

The combined costs for rule making, contract administration and curriculum development for the Department of Health and the Department of Social and Health Services would be \$329,000 in fiscal year 2009 and \$2.6 million in 2009-11. The fiscal analysis of Initiative 1029 does not include any expenses associated with implementation of Chapter 361 of the Laws of 2007, which expanded training offered to long-term care workers beginning January 1, 2010.

Explanatory Statement

The law as it presently exists:

Long-term care workers assist the elderly and persons with disabilities in the homes of the people they assist or through assisted living facilities, adult family homes, or state-licensed boarding homes. Long-term care workers also include respite care providers, community residential service providers, and any other worker who directly provides home or community-based services to the elderly or persons with functional or developmental disabilities. Long-term care workers do not include employees of nursing homes, hospitals or other acute care facilities, adult day care centers, or adult day health care providers. Assistance by long-term care workers may include help with eating, dressing, bathing, meal preparation, household chores and other assistance with daily life. Long-term care workers might provide this assistance under a direct contract with the State as an individual provider, or they might be employees of home care agencies or other facilities.

Long-term care workers are currently required to receive two types of training through the Department of Social and Health Services. These training programs are referred to as “orientation” and “basic training,” and together comprise approximately 34 hours of training. Orientation must be completed before working with elderly or disabled people, and provides introductory information about providing care. No test is required after completing orientation. Basic training includes core knowledge and skills that long-term care workers need to provide personal care services effectively and safely, and must be completed within 120 days after being authorized to provide services. Certain health care workers can instead take a modified form of basic training. A competency test is required after completing basic training. Long-term care workers are also required to receive training in first aid and cardio-pulmonary resuscitation. Each year they are also required to fulfill at least ten hours of continuing education. Parents who receive financial assistance from the State to provide care for their developmentally disabled child are not subject to those requirements, but must complete a separate six-hour training program.

Under recently enacted laws, some of these training requirements will increase in 2010. These include increasing the requirement for continuing education from ten to twelve hours each year, and adding a requirement for on-the-job training or peer mentorship and the opportunity to voluntarily take up to 65 hours of advanced training.

Long-term care workers must also be screened, through a criminal background check, to determine whether they have a criminal history that would disqualify them from working with vulnerable persons. These checks are performed against Washington State Patrol records in order to search for criminal convictions in Washington. If the worker has lived in Washington for less than three years, then a fingerprint-based check is conducted through the Federal Bureau of Investigation (FBI).

State law does not require that long-term care workers be licensed or certified by the State.





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Explanatory Statement (continued)

The effect of the proposed measure, if approved:

This measure would require that all long-term care workers for the elderly or disabled hired after January 1, 2010, be certified by the state Department of Health as a “home care aide” within 150 days of being hired. In order to receive this certification, the worker would be required to complete 75 hours of training as a home care aide and pass a certification examination.

Long-term care workers would be required to satisfy the minimum training requirements proposed in the measure within 120 days of employment. All training curriculum would be approved by the state Department of Social and Health Services. The first five hours of the training would be completed before being eligible to provide care, including two hours of orientation to the role of the caregiver and three hours of safety training, including basic safety precautions, emergency procedures, and infection control. The remaining 70 hours would relate to basic training topics, including communication skills, worker self-care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, long-term care worker roles and boundaries, supporting activities of daily living, and food preparation and handling. The training must also address matters relating to specific populations, such as mental health, dementia, developmental disabilities, young adults with physical disabilities, and older adults. Individual providers must be paid for time spent in training.

After completing training, the long-term care worker must pass an examination in order to be certified as a home care aide. The examination must include both a skills demonstration and a written or oral knowledge test.

The measure would provide exceptions to the certification and training requirement. Certain nurses and nursing assistants and medicare-certified home health aides may receive certification by passing the examination without taking the training and, to the extent permitted by federal law, certain reciprocity would be required between home care aide certification and nursing assistant certification. People employed as long-term care workers prior to January 1, 2010, who have completed all current training requirements, would also be excused from obtaining certification. Also, individuals caring only for their own parent or child, and long-term care workers employed by supported living providers, need not be certified. Long-term care workers covered by the certification and training requirements do include only people paid by the State or by a private agency or facility licensed by the State to provide personal care services.

All long-term care workers would be required to receive at least 12 hours of continuing education training each year in order to retain a certification. This annual continuing education requirement would not apply to a person caring only for his or her own child.

The measure would affect part-time workers differently than full-time workers. Before January 1, 2014, a person working 20 hours or less providing care for one person in a calendar month would be required to receive 35 hours of training. Five of those hours must be completed before providing care, including two hours of orientation training and three hours of safety training. Part-time workers would also be excused from the annual continuing education requirement until January 1, 2014. The full training requirements of the measure would apply to these part-time long-term care workers as of January 1, 2014, and the certification requirement would apply as of July 1, 2014.

The requirement that long-term care workers be screened through criminal background checks would be broadened for all workers hired after January 1, 2010. The background checks must include checking against FBI fingerprint identification records and against the national sex offender registry. The State would be required to pay the costs of these background checks.

The measure also includes training requirements for people who receive payments from the State to provide care for certain family members. Those providing care for their own child or parent, other than to a developmentally-disabled child, must receive 35 hours of training. Five of those hours must be completed before providing any state-paid care, including two hours of orientation training and three hours of safety training. Parents who contract through the State to provide care for their developmentally disabled child would be required to receive 12 hours of training within the first 120 days of so contracting.

The measure would also increase the requirement that the State offer advanced voluntary training for long-term care workers from 65 to 70 hours of voluntary advanced training, by January 1, 2011.

The measure would prohibit the State from paying for long-term care services by providers who do not comply with the requirements of this measure. It would permit the State to terminate any contracts with providers, or take enforcement actions against providers, who fail to comply with the measure. The measure would also make certified long-term care workers, and the licensed agencies or facilities that employ them, subject to State oversight and discipline, including the potential suspension or revocation of certificates for misconduct.



Statement For Initiative Measure 1029

All of us want safe, quality care for friends and family who are elderly, sick, disabled, and vulnerable to injury or abuse. Yet currently, manicurists and hairdressers have stricter training and certification requirements than caregivers for elderly relatives and those with disabilities.

Initiative 1029 will improve long-term care by increasing training standards, requiring state certification, and mandating FBI criminal background checks.

I-1029 exempts unpaid providers and those caring for their parents and children.

YES ON I-1029: IMPROVED TRAINING WILL MEAN MORE DEPENDABLE CARE FOR WASHINGTON SENIORS.

Thousands of Washington residents with Alzheimer's, dementia, and developmental disabilities receive care in their own homes. I-1029 will increase training requirements to 75 hours and require state certification for caregivers — equal to federal standards for nursing homes.

YES ON I-1029: PROTECT VULNERABLE SENIORS WITH EXPANDED FBI CRIMINAL BACKGROUND CHECKS.

Most caregivers are compassionate, loving professionals but we've all seen headlines about tragic cases of abuse and neglect. For example, in July caregivers at an Everett adult family home were arrested for identity theft. They stole thousands from an 83-year old man with dementia. I-1029 will protect vulnerable seniors by requiring nationwide FBI background checks.

YES ON I-1029: A SMART INVESTMENT THAT HELPS SENIORS STAY AT HOME.

Home and community-based care is more cost effective than expensive institutions, and saves taxpayers' money. I-1029 is a responsible investment to ensure that seniors can find trained caregivers they need to live independently in their own homes.

YES ON I-1029: BACKED BY SENIORS, NURSES, HOME CARE WORKERS, FIREFIGHTERS, POLICE, PROSECUTORS, AND SHERIFFS.

I-1029 is based on a bi-partisan compromise worked out to improve care while controlling costs. It is backed by senior advocates, thousands of nurses and home care workers, Democratic and Republican legislators, State Council of Firefighters, Fraternal Order of Police, and sheriffs and prosecutors across Washington State.

For more information, visit www.yeson1029.org or call 1 (888) 224-3851.

Rebuttal of Statement Against

Senior advocates, nurses and home care workers endorse I-1029. Improved training equals improved care. I-1029 applies to professional caregivers; 85% of family and intermittent caregivers are exempt.

Police, prosecutors and sheriffs endorse I-1029. It protects seniors by closing loopholes and requiring nationwide FBI background checks.

The Governor and legislators including House Republican leader DeBolt and Senate Democratic Leader Brown endorse I-1029. It reflects the 85 hour training recommendation of the "Governor's Task Force." <http://www.governor.wa.gov/ltctf/default.htm>

Voters' Pamphlet Argument Prepared by:

LOUISE RYAN, Washington State Long-Term Care Ombudsman; NANCY DAPPER, executive director, Alzheimer's Association of Western/Central Washington; MARTY LEVINE, MD, Geriatrician, Medical Chief, Group Health Burien; KAREN KEISER, State Senator, Chair, Senate Health Care Committee; BLANCHE RAZO, 73, home care client with lung disease, emphysema; KATHY GOLD, RN, nurse who inspects long-term care facilities, Everett.

Statement Against Initiative Measure 1029

I-1029 SHOULD BE REJECTED – IT HURTS FAMILIES, CAREGIVERS AND TAXPAYERS.

I-1029 makes it harder for families to provide care for loved ones. It forces many families to undergo 75 hours of training, fingerprinting and intensive background checks with FBI and national sex offender data bases – all before receiving state support to care for their own children or parents! Training may be difficult to get, especially in rural areas.

Neighbors and community members providing part-time care would face the same unnecessary requirements. Many will stop providing care. There are already shortages of in-home and community caregivers – we cannot afford to lose more. Non-career caregivers help keep families together. *I-1029 makes it harder to keep loved ones at home* and out of expensive institutional care.

I-1029 DRIVES UP COSTS FOR EVERYONE.

Health care costs are already skyrocketing. It *wastes tens of millions of taxpayer dollars* that could provide other vital services.

Don't be misled – *I-1029 won't improve care.* Background checks are already required for most caregivers. A governor's task force found no evidence that an arbitrary, 75-hour classroom training standard improves quality. Today, training and supervision is tailored to the diverse needs of those in our care. I-1029's rigid requirements won't allow that.

DEMOCRATIC AND REPUBLICAN LEGISLATORS OVERWHELMINGLY REJECTED THESE PROPOSALS AS UNNECESSARY, INEFFECTIVE AND TOO EXPENSIVE.

Washington has a quality care system – the National Conference of State Legislatures named it one of the top three models for other states to follow.

KEEP FAMILIES TOGETHER! KEEP COSTS LOW! REJECT I-1029!

For more information, visit www.communitycarecoalitionwa.org or call 1 (877) 488-8565.

Rebuttal of Statement For

I-1029 isn't about improving care. Background checks are already performed. Training comparisons between jobs are misleading campaign tactics. Independent studies confirm caregivers are well trained.

I-1029 improves one special interest's finances. They're trying to write the rules and then get paid by taxpayers to deliver training. We can't afford I-1029. By wasting millions on unnecessary training, I-1029 means less money for solving real problems.

Legislators said no. Reject this self-serving end-run around our elected officials!

Voters' Pamphlet Argument Prepared by:

DARLENE STORTI, Board Chair, Aging Services of Washington; JOE MAYO, President, Home Care of Washington, Spokane; HELEN SOMMERS, State House of Representatives Appropriations Chair, Seattle; RON RALPH, member, Advocates for Developmental Disabilities Choices, parent, Seattle; MARY MARGARET CORNISH, Chair, Community Residential Services Association, Yakima; CRAIG FREDRICKSON, member, Governor's Caregiver Training Workgroup.



**INITIATIVE 1029
FOR QUALITY LONG-TERM CARE**

AN ACT Relating to long-term care services for the elderly and persons with disabilities; amending RCW 74.39A.009, 74.39A.340, 74.39A.350, 74.39A.050, and 18.130.040; reenacting and amending RCW 18.130.040; adding new sections to chapter 74.39A RCW; adding a new section to chapter 18.88A RCW; adding a new chapter to Title 18 RCW; creating new sections; providing an effective date; and providing a contingent effective date.

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

NEW SECTION. Sec. 1. 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.

Sec. 2. RCW 74.39A.009 and 2007 c 361 s 2 are each amended to read as follows:

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

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

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

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

(4) "Boarding home" means a facility licensed under chapter

18.20 RCW.

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

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

~~((6))~~ (7) "Department" means the department of social and health services.

~~((7))~~ (8) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

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

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

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

~~((9))~~ (12) "Home and community services" means adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or similar services provided by facilities and agencies licensed by the department.

~~((10))~~ (13) "Home care aide" means a long-term care worker who has obtained certification as a home care aide by the department of health.

(14) "Individual provider" is defined according to RCW 74.39A.240.

(15) "Long-term care" is synonymous with chronic care and means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age disabled by chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long-lasting and severely limits their mental or physical capacity



for self-care. The use of this definition is not intended to expand the scope of services, care, or assistance by any individuals, groups, residential care settings, or professions unless otherwise expressed by law.

~~((H1))~~ (16)(a) “Long-term care workers for the elderly or persons with disabilities” or “long-term care workers” includes all persons who are long-term care workers for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title 71 RCW, all direct care workers in state licensed boarding homes, assisted living facilities, and adult family homes, respite care providers, community residential service providers, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) “Long-term care workers” do not include: (i) Persons employed in nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or (ii) persons who are not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

~~((H2))~~ (17) “Nursing home” means a facility licensed under chapter 18.51 RCW.

~~((H3))~~ (18) “Personal care services” means physical or verbal assistance with activities of daily living and instrumental activities of daily living provided because of a person’s functional disability.

(19) “Population specific competencies” means basic training topics unique to the care needs of the population the long-term care worker is serving, including but not limited to, mental health, dementia, developmental disabilities, young adults with physical disabilities, and older adults.

(20) “Qualified instructor” means a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands on personal care and other assistance services to the elderly or persons with disabilities requiring long-term care.

(21) “Secretary” means the secretary of social and health services.

~~((H4))~~ (22) “Secretary of health” means the secretary of health or the secretary’s designee.

(23) “Training partnership” means a joint partnership or trust ((established and maintained jointly by)) that includes the office of the governor and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and ((examinations required under this chapter, and educational, career)) workforce development, or other services to individual providers.

~~((H5))~~ (24) “Tribally licensed boarding home” means a boarding home licensed by a federally recognized Indian tribe which home

provides services similar to boarding homes licensed under chapter 18.20 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 74.39A RCW to read as follows:

All long-term care workers for the elderly or persons with disabilities hired after January 1, 2010, shall be screened through state and federal background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. These background checks shall include checking against the federal bureau of investigation fingerprint identification records system and against the national sex offenders registry or their successor programs. The department shall share this information with the department of health. The department shall not pass on the cost of these criminal background checks to the workers or their employers. The department shall adopt rules to implement the provisions of this section by August 1, 2009.

NEW SECTION. Sec. 4. (1) Effective January 1, 2010, except as provided in section 7 of this act, the department of health shall require that any person hired as a long-term care worker for the elderly or persons with disabilities must be certified as a home care aide within one hundred fifty days from the date of being hired.

(2) Except as provided in section 7 of this act, certification as a home care aide requires both completion of seventy-five hours of training and successful completion of a certification examination pursuant to sections 5 and 6 of this act.

(3) 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 pursuant to this chapter.

(4) The department of health shall adopt rules by August 1, 2009, to implement this section.

NEW SECTION. Sec. 5. A new section is added to chapter 74.39A RCW to read as follows:

(1) Effective January 1, 2010, except as provided in section 7 of this act, all persons employed as long-term care workers for the elderly or persons with disabilities must meet the minimum training requirements in this section within one hundred twenty calendar days of employment.

(2) All persons employed as long-term care workers must obtain seventy-five hours of entry level training approved by the department. A long-term care worker must accomplish five of these seventy-five hours before becoming eligible to provide care.

(3) Training required by subsection (4)(c) of this section will be applied towards training required under RCW 18.20.270 or 70.128.230 as well as any statutory or regulatory training requirements for long-term care workers employed by supportive living providers.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The seventy-five hours of entry-level training required shall be as follows:

(a) Before a long-term care worker is eligible to provide care, he or she must complete two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment;



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

(c) All long-term care workers must complete seventy hours of long-term care basic training, including training related to core competencies and population specific competencies.

(5) 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 on the competencies and training topics in this section.

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

(7) The department of health shall adopt rules by August 1, 2009, to implement subsections (1), (2), and (3) of this section.

(8) The department shall adopt rules by August 1, 2009, to implement subsections (4) and (5) of this section.

NEW SECTION. Sec. 6. (1) Effective January 1, 2010, except as provided in section 7 of this act, the department of health shall require that all long-term care workers successfully complete a certification examination. Any long-term care worker failing to make the required grade for the examination will not be certified as a home care aide.

(2) The department of health, 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. Unless excluded by section 7 (1) and (2) of this act, only those who have completed the training requirements in section 5 of this act 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 of health 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) All examinations shall be conducted by fair and wholly impartial methods. The certification examination shall be administered and evaluated by the department of health or by a contractor to the department of health that is neither an employer of long-term care workers or private contractors providing training services under this chapter.

(5) The department of health 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;

(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 for certification.

(6) The department of health shall adopt rules by August 1, 2009, that establish the procedures and examinations necessary to carry this section into effect.

NEW SECTION. Sec. 7. The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) Registered nurses, licensed practical nurses, certified nursing assistants, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary of health, 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 of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in section 5 of this act but must successfully complete a certification examination pursuant to section 6 of this act.

(2) A person already employed as a long-term care worker prior to January 1, 2010, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in section 5 of this act but must successfully complete a certification examination pursuant to section 6 of this act.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

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

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

(6) A long-term care worker exempted by this section from the training requirements contained in section 5 of this act may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2009, to implement this section.

NEW SECTION. Sec. 8. A new section is added to chapter 74.39A RCW to read as follows:

(1) Effective January 1, 2010, a biological, step, or adoptive parent who is the individual provider only for his or her developmentally disabled son or daughter must receive twelve hours of training



relevant to the needs of adults with developmental disabilities within the first one hundred twenty days of becoming an individual provider.

(2) Effective January 1, 2010, individual providers identified in (a) and (b) of this subsection must complete thirty-five hours of training within the first one hundred twenty days of becoming an individual provider. Five of the thirty-five 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:

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

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

(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) The department shall adopt rules by August 1, 2009, to implement this section.

Sec. 9. RCW 74.39A.340 and 2007 c 361 s 4 are each amended to read as follows:

(1) The department of health shall ensure that all long-term care workers shall complete twelve hours of continuing education training in advanced training topics each year. This requirement applies beginning on January 1, 2010.

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

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

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

(b) Before June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(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) The department of health shall adopt rules by August 1, 2009, to implement subsections (1), (2), and (3) of this section.

(7) The department shall adopt rules by August 1, 2009, to implement subsection (4) of this section.

Sec. 10. RCW 74.39A.350 and 2007 c 361 s 5 are each amended to read as follows:

The department shall offer, directly or through contract, training opportunities sufficient for a long-term care worker to accumulate ~~((sixty-five))~~ seventy hours of training within a reasonable time period. For individual providers represented by an exclusive bargaining representative under RCW 74.39A.270, the training opportunities shall be offered through ~~((a contract with))~~ the training partnership established under RCW 74.39A.360. Training topics shall include, but are not limited to: Client rights; personal care; mental illness; dementia; developmental disabilities; depression; medication assistance; advanced communication skills; positive client behavior support; developing or improving client-centered activities; dealing with wandering or aggressive client behaviors; medical conditions; nurse delegation core training; peer mentor training; and advocacy for quality care training. The department may not require long-term care workers to obtain the training described in this section. This requirement to offer advanced training applies beginning January 1, ~~((2010))~~ 2011.

NEW SECTION. Sec. 11. A new section is added to chapter 18.88A RCW to read as follows:

By August 1, 2009, the department of health shall develop, in consultation with the nursing care quality assurance commission and consumer and worker representatives, rules permitting reciprocity to the maximum extent possible under federal law between home care aide certification and nursing assistant certification.

NEW SECTION. Sec. 12. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department shall deny payment to any individual provider of home care services who has not been certified by the department of health as a home care aide as required under this act or, if exempted from certification by section 7 of this act, has not completed his or her required training pursuant to this act.

(2) The department may terminate the contract of any individual provider of home care services, or take any other enforcement measure deemed appropriate by the department if the individual provider's certification is revoked under this act or, if exempted from certification by section 7 of this act, has not completed his or her required training pursuant to this act.

(3) The department shall take appropriate enforcement action related to the contract 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 act or, if exempted from certification by section 7 of this act, has not completed his or her required training pursuant to this act.

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



(5) The department shall adopt rules by August 1, 2009, to implement this section.

NEW SECTION. Sec. 13. (1) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, issuance of certificates, and the discipline of persons with certificates under this chapter. The secretary of health shall be the disciplinary authority under this chapter.

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

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

(4) The department of health 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, if exempted from certification by section 7 of this act, has not completed his or her required training pursuant to this chapter.

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

(6) The department of health shall adopt rules by August 1, 2009, to implement this section.

Sec. 14. RCW 74.39A.050 and 2004 c 140 s 6 are each amended to read as follows:

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

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

(2) The goal of the system is continuous quality improvement with the focus on consumer satisfaction and outcomes for consumers. This includes that when conducting licensing or contract inspections, the department shall interview an appropriate percentage of residents, family members, resident case managers, and advocates in addition to interviewing providers and staff.

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

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

(5) Monitoring should be outcome based and responsive to consumer complaints and based on a clear set of health, quality of care, and safety standards that are easily understandable and have

been made available to providers, residents, and other interested parties.

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

(7) ~~((To the extent funding is available, all long-term care staff directly responsible for the care, supervision, or treatment of vulnerable persons should be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis according to law and rules adopted by the department.))~~ All long-term care workers shall be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. This information will be shared with the department of health to advance the purposes of this act.

(8) No provider or ~~((staff))~~ long-term care worker, or prospective provider or ~~((staff))~~ long-term care worker, with a stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults.

(9) The department shall establish, by rule, a state registry which contains identifying information about ~~((personal care aides))~~ long-term care workers identified under this chapter who have substantiated findings of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information will also be shared with the department of health to advance the purposes of this act.

(10) ~~((The department shall by rule develop training requirements for individual providers and home care agency providers. Effective March 1, 2002,))~~ Until December 31, 2009, individual providers and home care agency providers must satisfactorily complete department-approved orientation, basic training, and continuing education within the time period specified by the department in rule. The department shall adopt rules by March 1, 2002, for the implementation of this section ((based on the recommendations of the community long-term care training and education steering committee established in RCW 74.39A.190)). The department shall



deny payment to an individual provider or a home care provider who does not complete the training requirements within the time limit specified by the department by rule.

(11) ~~Until December 31, 2009,~~ in an effort to improve access to training and education and reduce costs, especially for rural communities, the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.

(12) The department shall create an approval system by March 1, 2002, for those seeking to conduct department-approved training. ~~((In the rule-making process, the department shall adopt rules based on the recommendations of the community long-term care training and education steering committee established in RCW 74.39A.190.))~~

(13) The department shall establish, by rule, ~~((training;)) background checks((-))~~ and other quality assurance requirements for ~~((personal aides)) long-term care workers~~ who provide in-home services funded by medicaid personal care as described in RCW 74.09.520, community options program entry system waiver services as described in RCW 74.39A.030, or chore services as described in RCW 74.39A.110 that are equivalent to requirements for individual providers.

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

(15) Within existing funds, the department shall design, develop, and implement a long-term care training program that is flexible, relevant, and qualifies towards the requirements for a nursing assistant certificate as established under chapter 18.88A RCW. This subsection does not require completion of the nursing assistant certificate training program by providers or their staff. The long-term care teaching curriculum must consist of a fundamental module, or modules, and a range of other available relevant training modules that provide the caregiver with appropriate options that assist in meeting the resident's care needs. Some of the training modules may include, but are not limited to, specific training on the special care needs of persons with developmental disabilities, dementia, mental illness, and the care needs of the elderly. No less than one training module must be dedicated to workplace violence prevention. The nursing care quality assurance commission shall work together with the department to develop the curriculum modules. The nursing care quality assurance commission shall direct the nursing assistant training programs to accept some or all of the skills and competencies from the curriculum modules towards meeting the requirements for a nursing assistant certificate as defined in chapter 18.88A RCW. A process may be developed to test persons completing modules from a caregiver's class to verify that they have the transferable skills and competencies for entry into a nursing assistant training program. The department may review whether facilities can develop their own related long-term care

training programs. The department may develop a review process for determining what previous experience and training may be used to waive some or all of the mandatory training. The department of social and health services and the nursing care quality assurance commission shall work together to develop an implementation plan by December 12, 1998.

Sec. 15. RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and 2007 c 70 s 11 are each reenacted and amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Persons registered under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals certified under chapter 18.205 RCW;

(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW;

(xxii) Recreational therapists;

(xxiii) Animal massage practitioners certified under chapter 18.240 RCW; ((and))



(xxiv) Athletic trainers licensed under chapter 18.250 RCW; and

(xxv) Home care aides certified under chapter 18. -- RCW (the new chapter created in section 18 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 16. RCW 18.130.040 and 2008 c ... (Fourth Substitute House Bill No. 1103) s 18 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Persons registered under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals certified under chapter 18.205 RCW;

(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW;

(xxii) Recreational therapists;

(xxiii) Animal massage practitioners certified under chapter 18.240 RCW; ~~((and))~~

(xxiv) Athletic trainers licensed under chapter 18.250 RCW; and

(xxv) Home care aides certified under chapter 18. -- RCW (the new chapter created in section 18 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22



RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. Sec. 17. The definitions in RCW 74.39A.009 apply throughout [chapter 18. RCW (the new chapter created in section 18 of this act)] unless the context clearly requires otherwise.

NEW SECTION. Sec. 18. Sections 4, 6, 7, 13, and 17 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 19. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes

of this act.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 21. 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.

NEW SECTION. Sec. 22. Section 11 of this act takes effect September 1, 2009.

NEW SECTION. Sec. 23. Section 15 of this act does not take effect if section 18, chapter ... (Fourth Substitute House Bill No. 1103), Laws of 2008 is signed into law by April 6, 2008.

NEW SECTION. Sec. 24. Section 16 of this act takes effect if section 18, chapter ... (Fourth Substitute House Bill No. 1103), Laws of 2008 is signed into law by April 6, 2008.

PLEASE NOTE

In the text of the measures, any language in double parentheses with a line through it is existing state law and will be taken out of the law if the measure is approved by voters. Any underlined language does not appear in current state law but will be added to the law if the measure is approved by voters.