

INITIATIVE 1029

To the People

Chapter 2, Laws of 2009

LONG-TERM CARE SERVICES--ELDERLY--PERSONS WITH DISABILITIES ACT

EFFECTIVE DATE: 03/04/09 - Except section 11, which becomes effective 09/01/09; Contingent - sections 15 and 16 may take effect 04/06/09.

Approved by the
People of the State of Washington
in the General Election on
November 4, 2008

ORIGINALLY FILED

March 28, 2008

Secretary of State

1 AN ACT Relating to long-term care services for the elderly and
2 persons with disabilities; amending RCW 74.39A.009, 74.39A.340,
3 74.39A.350, 74.39A.050, and 18.130.040; reenacting and amending RCW
4 18.130.040; adding new sections to chapter 74.39A RCW; adding a new
5 section to chapter 18.88A RCW; adding a new chapter to Title 18 RCW;
6 creating new sections; providing an effective date; and providing a
7 contingent effective date.

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

9 NEW SECTION. **Sec. 1.** It is the intent of the people through this
10 initiative to protect the safety of and improve the quality of care to
11 the vulnerable elderly and persons with disabilities.

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

1 The people find that the quality of long-term care services for the
2 elderly and persons with disabilities is dependent upon the competency
3 of the workers who provide those services. To assure and enhance the
4 quality of long-term care services for the elderly and persons with
5 disabilities, the people recognize the need for federal criminal
6 background checks and increased training requirements. Their
7 establishment should protect the vulnerable elderly and persons with
8 disabilities, bring about a more stabilized workforce, improve the
9 quality of long-term care services, and provide a valuable resource for
10 recruitment into long-term care services for the elderly and persons
11 with disabilities.

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

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

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

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

22 (3) "Assisted living services" means services provided by a
23 boarding home that has a contract with the department under RCW
24 74.39A.010 to provide personal care services, intermittent nursing
25 services, and medication administration services, and the resident is
26 housed in a private apartment-like unit.

27 (4) "Boarding home" means a facility licensed under chapter 18.20
28 RCW.

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

35 (6) "Cost-effective care" means care provided in a setting of an
36 individual's choice that is necessary to promote the most appropriate
37 level of physical, mental, and psychosocial well-being consistent with

1 client choice, in an environment that is appropriate to the care and
2 safety needs of the individual, and such care cannot be provided at a
3 lower cost in any other setting. But this in no way precludes an
4 individual from choosing a different residential setting to achieve his
5 or her desired quality of life.

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

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

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

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

18 ~~((+8))~~ (11) "Functionally disabled person" or "person who is
19 functionally disabled" is synonymous with chronic functionally disabled
20 and means a person who because of a recognized chronic physical or
21 mental condition or disease, or developmental disability, including
22 chemical dependency, is impaired to the extent of being dependent upon
23 others for direct care, support, supervision, or monitoring to perform
24 activities of daily living. "Activities of daily living", in this
25 context, means self-care abilities related to personal care such as
26 bathing, eating, using the toilet, dressing, and transfer.
27 Instrumental activities of daily living may also be used to assess a
28 person's functional abilities as they are related to the mental
29 capacity to perform activities in the home and the community such as
30 cooking, shopping, house cleaning, doing laundry, working, and managing
31 personal finances.

32 ~~((+9))~~ (12) "Home and community services" means adult family
33 homes, in-home services, and other services administered or provided by
34 contract by the department directly or through contract with area
35 agencies on aging or similar services provided by facilities and
36 agencies licensed by the department.

37 ~~((+10))~~ (13) "Home care aide" means a long-term care worker who

1 has obtained certification as a home care aide by the department of
2 health.

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

4 (15) "Long-term care" is synonymous with chronic care and means
5 care and supports delivered indefinitely, intermittently, or over a
6 sustained time to persons of any age disabled by chronic mental or
7 physical illness, disease, chemical dependency, or a medical condition
8 that is permanent, not reversible or curable, or is long-lasting and
9 severely limits their mental or physical capacity for self-care. The
10 use of this definition is not intended to expand the scope of services,
11 care, or assistance by any individuals, groups, residential care
12 settings, or professions unless otherwise expressed by law.

13 ((+11)) (16)(a) "Long-term care workers for the elderly or persons
14 with disabilities" or "long-term care workers" includes all persons who
15 are long-term care workers for the elderly or persons with
16 disabilities, including but not limited to individual providers of home
17 care services, direct care employees of home care agencies, providers
18 of home care services to persons with developmental disabilities under
19 Title 71 RCW, all direct care workers in state-licensed boarding homes,
20 assisted living facilities, and adult family homes, respite care
21 providers, community residential service providers, and any other
22 direct care worker providing home or community-based services to the
23 elderly or persons with functional disabilities or developmental
24 disabilities.

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

31 ((+12)) (17) "Nursing home" means a facility licensed under
32 chapter 18.51 RCW.

33 ((+13)) (18) "Personal care services" means physical or verbal
34 assistance with activities of daily living and instrumental activities
35 of daily living provided because of a person's functional disability.

36 (19) "Population specific competencies" means basic training topics
37 unique to the care needs of the population the long-term care worker is

1 serving, including but not limited to, mental health, dementia,
2 developmental disabilities, young adults with physical disabilities,
3 and older adults.

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

9 (21) "Secretary" means the secretary of social and health services.

10 ~~((14))~~ (22) "Secretary of health" means the secretary of health
11 or the secretary's designee.

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

19 ~~((15))~~ (24) "Tribally licensed boarding home" means a boarding
20 home licensed by a federally recognized Indian tribe which home
21 provides services similar to boarding homes licensed under chapter
22 18.20 RCW.

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

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

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

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

10 (3) No person may practice or, by use of any title or description,
11 represent himself or herself as a certified home care aide without
12 being certified pursuant to this chapter.

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

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

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

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

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

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

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

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

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

7 (5) The department shall only approve training curriculum that:

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

10 (b) Requires comprehensive instruction by qualified instructors on
11 the competencies and training topics in this section.

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

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

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

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

24 (2) The department of health, in consultation with consumer and
25 worker representatives, shall develop a home care aide certification
26 examination to evaluate whether an applicant possesses the skills and
27 knowledge necessary to practice competently. Unless excluded by
28 section 7 (1) and (2) of this act, only those who have completed the
29 training requirements in section 5 of this act shall be eligible to sit
30 for this examination.

31 (3) The examination shall include both a skills demonstration and
32 a written or oral knowledge test. The examination papers, all grading
33 of the papers, and records related to the grading of skills
34 demonstration shall be preserved for a period of not less than one
35 year. The department of health shall establish rules governing the
36 number of times and under what circumstances individuals who have

1 failed the examination may sit for the examination, including whether
2 any intermediate remedial steps should be required.

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

9 (5) The department of health has the authority to:

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

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

14 (c) Issue certification as a home care aide to any applicant who
15 has successfully completed the home care aide examination;

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

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

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

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

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

27 (1) Registered nurses, licensed practical nurses, certified nursing
28 assistants, medicare-certified home health aides, or other persons who
29 hold a similar health credential, as determined by the secretary of
30 health, or persons with special education training and an endorsement
31 granted by the superintendent of public instruction, as described in
32 RCW 28A.300.010, if the secretary of health determines that the
33 circumstances do not require certification. Individuals exempted by
34 this subsection may obtain certification as a home care aide from the
35 department of health without fulfilling the training requirements in
36 section 5 of this act but must successfully complete a certification
37 examination pursuant to section 6 of this act.

1 (2) A person already employed as a long-term care worker prior to
2 January 1, 2010, who completes all of his or her training requirements
3 in effect as of the date he or she was hired, is not required to obtain
4 certification. Individuals exempted by this subsection may obtain
5 certification as a home care aide from the department of health without
6 fulfilling the training requirements in section 5 of this act but must
7 successfully complete a certification examination pursuant to section
8 6 of this act.

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

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

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

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

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

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

25 (1) Effective January 1, 2010, a biological, step, or adoptive
26 parent who is the individual provider only for his or her
27 developmentally disabled son or daughter must receive twelve hours of
28 training relevant to the needs of adults with developmental
29 disabilities within the first one hundred twenty days of becoming an
30 individual provider.

31 (2) Effective January 1, 2010, individual providers identified in
32 (a) and (b) of this subsection must complete thirty-five hours of
33 training within the first one hundred twenty days of becoming an
34 individual provider. Five of the thirty-five hours must be completed
35 before becoming eligible to provide care. Two of these five hours
36 shall be devoted to an orientation training regarding an individual
37 provider's role as caregiver and the applicable terms of employment,

1 and three hours shall be devoted to safety training, including basic
2 safety precautions, emergency procedures, and infection control.

3 Individual providers subject to this requirement include:

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

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

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

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

15 (b) Requires comprehensive instruction by qualified instructors.

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

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

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

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

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

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

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

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

- 1 (a) Has been developed with input from consumer and worker
2 representatives; and
3 (b) Requires comprehensive instruction by qualified instructors.
4 (5) Individual providers under RCW 74.39A.270 shall be compensated
5 for training time required by this section.
6 (6) The department of health shall adopt rules by August 1, 2009,
7 to implement subsections (1), (2), and (3) of this section.
8 (7) The department shall adopt rules by August 1, 2009, to
9 implement subsection (4) of this section.

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

12 The department shall offer, directly or through contract, training
13 opportunities sufficient for a long-term care worker to accumulate
14 ~~((sixty-five))~~ seventy hours of training within a reasonable time
15 period. For individual providers represented by an exclusive
16 bargaining representative under RCW 74.39A.270, the training
17 opportunities shall be offered through ~~((a contract with))~~ the training
18 partnership established under RCW 74.39A.360. Training topics shall
19 include, but are not limited to: Client rights; personal care; mental
20 illness; dementia; developmental disabilities; depression; medication
21 assistance; advanced communication skills; positive client behavior
22 support; developing or improving client-centered activities; dealing
23 with wandering or aggressive client behaviors; medical conditions;
24 nurse delegation core training; peer mentor training; and advocacy for
25 quality care training. The department may not require long-term care
26 workers to obtain the training described in this section. This
27 requirement to offer advanced training applies beginning January 1,
28 ~~((2010))~~ 2011.

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

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

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

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

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

14 (3) The department shall take appropriate enforcement action
15 related to the contract of a private agency or facility licensed by the
16 state, to provide personal care services, other than an individual
17 provider, who knowingly employs a long-term care worker who is not a
18 certified home care aide as required under this act or, if exempted
19 from certification by section 7 of this act, has not completed his or
20 her required training pursuant to this act.

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

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

25 NEW SECTION. **Sec. 13.** (1) The uniform disciplinary act, chapter
26 18.130 RCW, governs uncertified practice, issuance of certificates, and
27 the discipline of persons with certificates under this chapter. The
28 secretary of health shall be the disciplinary authority under this
29 chapter.

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

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

1 (4) The department of health shall take appropriate enforcement
2 action related to the licensure of a private agency or facility
3 licensed by the state, to provide personal care services, other than an
4 individual provider, who knowingly employs a long-term care worker who
5 is not a certified home care aide as required under this chapter or, if
6 exempted from certification by section 7 of this act, has not completed
7 his or her required training pursuant to this chapter.

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

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

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

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

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

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

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

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

31 (5) Monitoring should be outcome based and responsive to consumer
32 complaints and based on a clear set of health, quality of care, and
33 safety standards that are easily understandable and have been made
34 available to providers, residents, and other interested parties.

35 (6) Prompt and specific enforcement remedies shall also be
36 implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160,
37 chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have

1 delivered care or failed to deliver care resulting in problems that are
2 serious, recurring, or uncorrected, or that create a hazard that is
3 causing or likely to cause death or serious harm to one or more
4 residents. These enforcement remedies may also include, when
5 appropriate, reasonable conditions on a contract or license. In the
6 selection of remedies, the safety, health, and well-being of residents
7 shall be of paramount importance.

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

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

29 (9) The department shall establish, by rule, a state registry which
30 contains identifying information about ((personal care aides))
31 long-term care workers identified under this chapter who have
32 substantiated findings of abuse, neglect, financial exploitation, or
33 abandonment of a vulnerable adult as defined in RCW 74.34.020. The
34 rule must include disclosure, disposition of findings, notification,
35 findings of fact, appeal rights, and fair hearing requirements. The
36 department shall disclose, upon request, substantiated findings of
37 abuse, neglect, financial exploitation, or abandonment to any person so

1 requesting this information. This information will also be shared with
2 the department of health to advance the purposes of this act.

3 ~~(10) ((The department shall by rule develop training requirements~~
4 ~~for individual providers and home care agency providers. Effective~~
5 ~~March 1, 2002,)) Until December 31, 2009, individual providers and home~~
6 ~~care agency providers must satisfactorily complete department-approved~~
7 ~~orientation, basic training, and continuing education within the time~~
8 ~~period specified by the department in rule. The department shall adopt~~
9 ~~rules by March 1, 2002, for the implementation of this section ((based~~
10 ~~on the recommendations of the community long-term care training and~~
11 ~~education steering committee established in RCW 74.39A.190)).~~ The
12 department shall deny payment to an individual provider or a home care
13 provider who does not complete the training requirements within the
14 time limit specified by the department by rule.

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

22 (12) The department shall create an approval system by March 1,
23 2002, for those seeking to conduct department-approved training. ~~((In~~
24 ~~the rule-making process, the department shall adopt rules based on the~~
25 ~~recommendations of the community long-term care training and education~~
26 ~~steering committee established in RCW 74.39A.190.))~~

27 (13) The department shall establish, by rule, ~~((training,))~~
28 background checks~~((7))~~ and other quality assurance requirements for
29 ~~((personal aides))~~ long-term care workers who provide in-home services
30 funded by medicaid personal care as described in RCW 74.09.520,
31 community options program entry system waiver services as described in
32 RCW 74.39A.030, or chore services as described in RCW 74.39A.110 that
33 are equivalent to requirements for individual providers.

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

37 (15) Within existing funds, the department shall design, develop,
38 and implement a long-term care training program that is flexible,

1 relevant, and qualifies towards the requirements for a nursing
2 assistant certificate as established under chapter 18.88A RCW. This
3 subsection does not require completion of the nursing assistant
4 certificate training program by providers or their staff. The long-
5 term care teaching curriculum must consist of a fundamental module, or
6 modules, and a range of other available relevant training modules that
7 provide the caregiver with appropriate options that assist in meeting
8 the resident's care needs. Some of the training modules may include,
9 but are not limited to, specific training on the special care needs of
10 persons with developmental disabilities, dementia, mental illness, and
11 the care needs of the elderly. No less than one training module must
12 be dedicated to workplace violence prevention. The nursing care
13 quality assurance commission shall work together with the department to
14 develop the curriculum modules. The nursing care quality assurance
15 commission shall direct the nursing assistant training programs to
16 accept some or all of the skills and competencies from the curriculum
17 modules towards meeting the requirements for a nursing assistant
18 certificate as defined in chapter 18.88A RCW. A process may be
19 developed to test persons completing modules from a caregiver's class
20 to verify that they have the transferable skills and competencies for
21 entry into a nursing assistant training program. The department may
22 review whether facilities can develop their own related long-term care
23 training programs. The department may develop a review process for
24 determining what previous experience and training may be used to waive
25 some or all of the mandatory training. The department of social and
26 health services and the nursing care quality assurance commission shall
27 work together to develop an implementation plan by December 12, 1998.

28 **Sec. 15.** RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and
29 2007 c 70 s 11 are each reenacted and amended to read as follows:

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

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

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

3 (ii) Naturopaths licensed under chapter 18.36A RCW;

4 (iii) Midwives licensed under chapter 18.50 RCW;

5 (iv) Ocularists licensed under chapter 18.55 RCW;

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

8 (vi) Dental hygienists licensed under chapter 18.29 RCW;

9 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

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

14 (x) Persons registered under chapter 18.19 RCW;

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

17 (xii) Persons registered as nursing pool operators under chapter
18 18.52C RCW;

19 (xiii) Nursing assistants registered or certified under chapter
20 18.88A RCW;

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

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

24 (xvi) Chemical dependency professionals certified under chapter
25 18.205 RCW;

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

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

30 (xix) Denturists licensed under chapter 18.30 RCW;

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

32 (xxi) Surgical technologists registered under chapter 18.215 RCW;

33 (xxii) Recreational therapists;

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

36 (xxiv) Athletic trainers licensed under chapter 18.250 RCW; and
37 (xxv) Home care aides certified under chapter 18.-- RCW (the new
38 chapter created in section 18 of this act).

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

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

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

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

10 (iv) The board of hearing and speech as established in chapter
11 18.35 RCW;

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

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

16 (vii) The board of osteopathic medicine and surgery as established
17 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
18 18.57A RCW;

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

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

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

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

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

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

33 (xiv) The veterinary board of governors as established in chapter
34 18.92 RCW.

35 (3) In addition to the authority to discipline license holders, the
36 disciplining authority has the authority to grant or deny licenses
37 based on the conditions and criteria established in this chapter and
38 the chapters specified in subsection (2) of this section. This chapter

1 also governs any investigation, hearing, or proceeding relating to
2 denial of licensure or issuance of a license conditioned on the
3 applicant's compliance with an order entered pursuant to RCW 18.130.160
4 by the disciplining authority.

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

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

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

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

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

20 (ii) Naturopaths licensed under chapter 18.36A RCW;

21 (iii) Midwives licensed under chapter 18.50 RCW;

22 (iv) Ocularists licensed under chapter 18.55 RCW;

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

25 (vi) Dental hygienists licensed under chapter 18.29 RCW;

26 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

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

31 (x) Persons registered under chapter 18.19 RCW;

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

34 (xii) Persons registered as nursing pool operators under chapter
35 18.52C RCW;

36 (xiii) Nursing assistants registered or certified under chapter
37 18.88A RCW;

1 (xiv) Health care assistants certified under chapter 18.135 RCW;
2 (xv) Dietitians and nutritionists certified under chapter 18.138
3 RCW;
4 (xvi) Chemical dependency professionals certified under chapter
5 18.205 RCW;
6 (xvii) Sex offender treatment providers and certified affiliate sex
7 offender treatment providers certified under chapter 18.155 RCW;
8 (xviii) Persons licensed and certified under chapter 18.73 RCW or
9 RCW 18.71.205;
10 (xix) Denturists licensed under chapter 18.30 RCW;
11 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;
12 (xxi) Surgical technologists registered under chapter 18.215 RCW;
13 (xxii) Recreational therapists;
14 (xxiii) Animal massage practitioners certified under chapter 18.240
15 RCW; (~~and~~)
16 (xxiv) Athletic trainers licensed under chapter 18.250 RCW; and
17 (xxv) Home care aides certified under chapter 18.-- RCW (the new
18 chapter created in section 18 of this act).
19 (b) The boards and commissions having authority under this chapter
20 are as follows:
21 (i) The podiatric medical board as established in chapter 18.22
22 RCW;
23 (ii) The chiropractic quality assurance commission as established
24 in chapter 18.25 RCW;
25 (iii) The dental quality assurance commission as established in
26 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
27 licenses and registrations issued under chapter 18.260 RCW;
28 (iv) The board of hearing and speech as established in chapter
29 18.35 RCW;
30 (v) The board of examiners for nursing home administrators as
31 established in chapter 18.52 RCW;
32 (vi) The optometry board as established in chapter 18.54 RCW
33 governing licenses issued under chapter 18.53 RCW;
34 (vii) The board of osteopathic medicine and surgery as established
35 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
36 18.57A RCW;
37 (viii) The board of pharmacy as established in chapter 18.64 RCW
38 governing licenses issued under chapters 18.64 and 18.64A RCW;

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

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

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

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

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

13 (xiv) The veterinary board of governors as established in chapter
14 18.92 RCW.

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

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

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

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

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

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

1 NEW SECTION. **Sec. 21.** This act may be known and cited as the
2 better background checks and improved training for long-term care
3 workers for the elderly and persons with disabilities initiative of
4 2008.

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

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

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

Originally filed in Office of Secretary of State March 28, 2008.
Approved by the People of the State of Washington in the General
Election on November 4, 2008.