

INITIATIVE MEASURE 1029

INITIATIVE 1029 FOR QUALITY LONG-TERM CARE

*Underline and ~~strikethrough~~ represent Initiative 1029 language.

*Underline and ~~strikethrough~~ in **bold** represent ESSB 6180 language.

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.

((40)) (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.

~~((14))~~ (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)~~ by the following facilities or agencies: nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 CFR, Part 483, 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.

~~((12))~~ (17) “Nursing home” means a facility licensed under chapter 18.51 RCW.

~~((13))~~ (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.

~~((14))~~ (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.

~~((15))~~ (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.

- **Cross-reference: SSB 6180, Section 1**

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))~~ 2012, 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 require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(2) To allow the department of health to satisfy its certification responsibilities under chapter 18.88B RCW, the department shall share ~~((this information))~~ state and federal background check results with the department of health. Neither department may share the federal background check results with any other state agency or person.

(3) The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(4) The department shall adopt rules to implement the provisions of this section by August 1, ~~((2009))~~ 2010.

- Cross-reference: SSB 6180, Section 2

NEW SECTION. **Sec. 4.** (1) Effective January 1, ~~((2010))~~ 2011, 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))~~ 2010, to implement this section.

- Cross-reference: SSB 6180, Section 18

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

(1) Effective January 1, ~~((2010))~~ 2011, 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))~~ 2010, to implement subsections (1), (2), and (3) of this section.

(8) The department shall adopt rules by August 1, ~~((2009))~~ 2010, to implement subsections (4) and (5) of this section.

- **Cross-reference:** [SSB 6180, Section 10](#)

NEW SECTION. Sec. 6. (1) Effective January 1, ~~((2010))~~ 2011, 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))~~ 2010, that establish the procedures, including criteria for reviewing an applicant's state and federal background checks, and examinations necessary to carry this section into effect.

- Cross-reference: SSB 6180, Section 4

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))~~ 2011, 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, ~~((2010))~~ 2011, to implement this section.

- **Cross-reference: SSB 6180, Section 15**

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

(1) Effective January 1, ~~((2010))~~ 2011, 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))~~ 2011, 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))~~ 2010, to implement this section.

- **Cross-reference: SSB 6180, Section 11**

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))~~ 2011.

(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))~~ 2010, to implement subsections (1), (2), and (3) of this section.

(7) The department shall adopt rules by August 1, ~~((2009))~~ 2010, to implement subsection (4) of this section.

- [Cross-reference: SSB 6180, Section 12](#)

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, ~~((2011))~~ 2012.

- [Cross-reference: SSB 6180, Section 13](#)

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

By August 1, ~~((2009))~~ 2010, 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.

- Cross-reference: [SSB 6180, Section 16](#)

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))~~ 2010, to implement this section.

- Cross-reference: [SSB 6180, Section 14](#)

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))~~ **2010**, to implement this section.

- **Cross-reference: SSB 6180, Section 17**

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 homelike 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. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055. This information will be shared with the department of health in accordance with RCW 74.39A.055 to advance the purposes of this act.

(8) No provider, or its staff, 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)) 2010, 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)) 2010, 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. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

(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.

- **Cross-reference:** [SSB 6180, Section 7](#)

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.

Provisions of SSB 6180 not originally included in I-1029:

Sec. 3. RCW 18.20.125 and 2004 c 140 s 4 are each amended to read as follows:

(3)(a) To the extent funding is available, the licensee, administrator, and their staff 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 adults. Employees may be provisionally hired pending the results of the background check if they have been given three positive references.

(b) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

- Cross-reference: SSB 6180, Section 3

Sec. 5. RCW 43.20A.710 and 2001 c 296 s 5 are each amended to read as follows:

(3) **Except as provided in subsection (4) of this section,** an individual provider or home care agency provider who has resided in the state less than three years before applying for employment involving unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must be fingerprinted for the purpose of investigating conviction records ~~((both))~~ through **both** the Washington state patrol and the federal bureau of investigation. This subsection applies only with respect to the provision of in-home services funded by Medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110. However, this subsection does not supersede RCW 74.15.030(2)(b).

(4) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055, except that the department may require a background check at any time under RCW 43.43.837. For the purposes of this subsection, "background check" includes, but is not limited to, a fingerprint check submitted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(6) The secretary shall provide the results of the state background check on **long-term care workers, including** individual providers, to the persons hiring them or to their legal guardians, if any, for their determination of the character, suitability, and competence of the applicants. If the person elects to hire or retain an individual provider after receiving notice from the department that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, then the secretary shall deny payment for any subsequent services rendered by the disqualified individual provider.

- Cross-reference: SSB 6180, Section 5

Sec. 6. RCW 43.43.837 and 2007 c 387 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, in order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

- (a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;
- (b) Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department to provide services to children or people with developmental disabilities under RCW 74.15.030; or
- (c) Is an applicant or service provider providing in-home services funded by:
 - (i) Medicaid personal care under RCW 74.09.520;
 - (ii) Community options program entry system waiver services under RCW 74.39A.030;
 - (iii) Chore services under RCW 74.39A.110; or
 - (iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

- Cross-reference: SSB 6180, Section 6

Sec. 8. RCW 74.39A.095 and 2004 c 141 s 1 are each amended to read as follows:

37 (1) In carrying out case management responsibilities established under RCW 74.39A.090 for consumers who are receiving services under the medicaid personal care, community options programs entry system or chore services program through an individual provider, each area agency on aging shall provide oversight of the care being provided to consumers receiving services under this section to the extent of available funding. Case management responsibilities incorporate this oversight, and include, but are not limited to:

- (a) Verification that any individual provider who has not been referred to a consumer by the authority (~~established under chapter 3, Laws of 2002~~) has met any training requirements established by the department;
- (b) Verification of a sample of worker time sheets;
- (c) Monitoring the consumer's plan of care to verify that it adequately meets the needs of the consumer, through activities such as home visits, telephone contacts, and responses to information received by the area agency on aging indicating that a consumer may be experiencing problems relating to his or her home care;
- (d) (~~Reassessment and reauthorization of~~) **Reassessing and reauthorizing** services;
- (e) Monitoring of individual provider performance. If, in the course of its case management activities, the area agency on aging identifies concerns regarding the care

being provided by an individual provider who was referred by the authority, the area agency on aging must notify the authority regarding its concerns; and
(f) Conducting criminal background checks or verifying that criminal background checks have been conducted for any individual provider who has not been referred to a consumer by the authority. **Individual providers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.**

- Cross-reference: SSB 6180, Section 8

Sec. 9. RCW 74.39A.260 and 2002 c 3 s 5 are each amended to read as follows:
The department must perform criminal background checks for individual providers and prospective individual providers and ensure that the authority has ready access to any long-term care abuse and neglect registry used by the department. **Individual providers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.**

- Cross-reference: SSB 6180, Section 9

NEW SECTION. Sec. 19. Section 16 of this act takes effect September 1, 2009.

- Cross-reference: SSB 6180, Section 19