



August 14, 2008

SUMMARY OF INITIATIVE 1029
Concerning Long-Term Care Services for the Elderly
and Persons with Disabilities

*This summary has been prepared in response to specific questions about the provisions and effects of Initiative 1029 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to the 2008-09 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how comment on ballot measures is appropriate.*

BRIEF SUMMARY

Beginning January 1, 2010, long-term care workers who care for the elderly and people with disabilities must be certified by the State. The certification requires both an increased amount of training and a broader background check screening through the federal fingerprint background check system. The initiative requires the state to pay for the training and background checks for many of the long-term care workers who provide care for Medicaid clients, subject to collective bargaining.

BACKGROUND

Long-Term Care Services

Long-term care services, in addition to medical and nursing care, include personal care services such as assistance with dressing, bathing, meals, household tasks, toileting, and moving around.

Long-Term Care Workers

Under the current statute the term “long-term care workers” excludes nurses, nursing assistants, and individuals working in nursing homes, hospitals, hospice, or adult day care. The term “long-term care workers” includes caregivers who provide personal care services in a person’s home, or in a licensed boarding home or adult family home, or who provide respite care. Caregivers who provide personal care services in a person’s home may work for a home care agency or may work as “individual providers” who contract to work for a specific individual or individuals, including parents of adult children with developmental disabilities and individuals caring for parents, aunts, grandparents, etc.

Background Check Requirements

Background checks conducted by the Washington State Patrol are currently required for all long-term care workers, including individual providers who serve people in their own homes. Parents who care for their adult children with developmental disabilities are not required to have background checks. For workers employed by state licensed home care agencies, their

background check also includes an Federal Bureau of Investigation (FBI) fingerprint background check for convictions in other states, if the worker has lived in Washington for less than three years. The employer, facility, or individual provider pays a fee for the background check.

Training Requirements

The state Department of Health (DOH) regulates the licensure and certification of physicians, nurses, nursing assistants, and other medical professionals. Long-term care workers are not currently required to be registered, but are required to complete basic training and continuing education requirements monitored by the state Department of Social and Health Services (DSHS). These requirements include 34 hours of training completed within the first 120 days of employment, and five hours of orientation prior to providing care. Training for individual providers is done by a variety of contractors, and for other caregivers that is provided generally at their place of employment. Competency testing is required.

Parents who care for adult children with developmental disabilities are exempt from competency tests and must complete six hours of training within 180 days of becoming a paid caregiver.

Disciplinary Actions

Professions licensed or certified by DOH are regulated under the state's Uniform Disciplinary Act. Other long-term care workers are not subject to this Act, but are regulated under licensure standards set up for the agencies they work for, or the contracts they work under.

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Beginning January 1, 2010, long-term care workers who care for individuals who are elderly or have disabilities must be certified as "home care aides" within 150 days of being hired. Home care aides must also pass state and federal background checks, and be checked against national sex offender registries. To be certified, long-term care workers must complete 75 hours of training, and pass an exam. Continuing education is required for maintaining certification as a home care aide.

Background Checks

All long-term care workers hired after January 1, 2010, including those exempt from certification such as individual providers caring for their child or parent, must pass state and federal criminal background checks including the FBI fingerprint identification records system and the national sex offenders registry. The state will conduct the background checks and may not pass the cost onto workers or their employers.

Training Requirements

Expanded training requirements for long term care workers go into effect January 1, 2010.

Long-term care workers must complete the 75 hours of training required for certification within 120 days of being hired. As under current law, before workers can provide any care, they must complete five hours of basic safety training including safety precautions, emergency procedures, and infection control. The remaining 70 hours include "core competencies" such as skin and body care, food preparation, fall prevention, and "population specific competencies" such as dementia and mental health topics relevant to the clients they may be serving.

Specific health professionals and others are exempt from the 75 hour training requirement. These professionals include registered nurses, licensed practical nurses, certified nursing assistants, Medicare-certified home health aides, and people already employed as long-term care workers by January 1, 2010.

Parents who care for a developmentally disabled son or daughter must have 12 hours of training within 120 days of becoming a paid caregiver for that child. Individual providers caring for a biological, step, or adoptive child or parent must receive 35 hours of training within 120 hours of becoming a paid provider. Until January 1, 2014, individual providers giving intermittent respite for one person up to 20 hours per month are also required to have 35 hours of training within 120 days; after that time, the 75-hour training requirement applies.

DOH will develop the training curriculum with input from consumer and worker representatives. The training curriculum must include comprehensive instruction by qualified instructors on the required competencies and training topics. Qualified instructors may be registered nurses or others with specific knowledge, training and work experience in providing direct, hands-on personal care and other assistance to the elderly and disabled. The state must compensate individual providers for time spent receiving required training. The initiative does not state who will pay for the actual training.

Long-Term Care Worker Certification & Continuing Education

Long-term care workers employed after January 1, 2010, as individual providers or as employees of home care agencies, adult family homes, or boarding homes must be certified as home care aides within 150 days from the date of hire. Certification as a home care aide requires completion of the training requirements described above and successful completion of an exam that includes a demonstration of skills and written or oral knowledge. DOH will develop the certification exam in consultation with consumer and worker representatives. Only those long-term care workers who have completed the training may sit for the exam, unless they are specifically exempt from training requirements. The initiative does not state who will pay for the actual certification.

Registered nurses, licensed practical nurses, certified nursing assistants, Medicare-certified home health aides, certain special education professionals, supported living providers, individual providers caring for a family member who is either a child or a parent, and anyone hired as a long-term care worker before 2010 are exempt from certification. Individual providers providing respite care for one individual for less than 20 hours per month are also exempt from certification until June 30, 2014. Individuals exempt from certification may choose to become certified without fulfilling the training requirements, but they must successfully complete the exam.

A home care aide must annually complete 12 hours of continuing education per year to maintain certification. Those exempt from this requirement include individual providers who only care for their biological or adoptive child. Until June 2014, anyone providing intermittent respite care to an individual for fewer than 20 hours per month is also exempt from continuing education requirements.

DOH must adopt rules establishing procedures to carry out the requirements of home care aide certification by August 1, 2009.

Disciplinary Actions

The state's Uniform Disciplinary Act, which governs the state's health professions, will also govern disciplinary activity related to certified home care aides.

The state must deny payment or terminate the contract of any long-term care worker who works as an individual provider and is not certified as a home care aide. Any state licensed agency or facility that knowingly hires a long-term care worker who is not certified is subject to enforcement action by the state.

Reciprocity

DOH will develop rules by August 1, 2009, addressing reciprocity between home care aide and nursing assistant certification.

Fiscal Impact

As required under RCW 29A.72.025, the Office of Financial Management (OFM) has provided an estimate for the cost of the initiative as follows:

Fiscal year 2009: Approximately \$300,000 each in General Fund-State and federal funds.
\$100,000 in Health Professions Account (supported by user fees).

2009-11 biennium: \$12.9 million General Fund-State, and \$13.5 million federal funds.
\$3.3 million Health Professions Account (supported by user fees).

Costs are ongoing and are estimated to increase somewhat in subsequent biennia.

For information on assumptions, see the OFM statement of fiscal impacts (given in total dollars only) at the following website: <http://www.ofm.wa.gov/initiatives/1029.asp>

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This summary should not be considered legislative history for purposes of interpreting Initiative 1029