

# SENATE BILL REPORT

## SB 5278

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As Reported by Senate Committee On:  
Health & Long Term Care, February 10, 2023

**Title:** An act relating to implementing audit recommendations to reduce barriers to home care aide certification.

**Brief Description:** Implementing audit recommendations to reduce barriers to home care aide certification.

**Sponsors:** Senators Wilson, L., Fortunato, Lovick, Muzzall, Robinson, Shewmake, Torres, Warnick and Wilson, C..

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/26/23, 2/10/23 [DPS-WM].

**Brief Summary of First Substitute Bill**

- Allows the Department of Health more discretion for grading and administering the home care aide certification examination.
- Requires the departments of Health and Social and Health Services to address delays between training and testing, the lack of test sites, and performance and contract management processes, by completing specific requirements and submitting a preliminary report to the Governor and Legislature no later than June 30, 2024.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5278 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Muzzall, Assistant Ranking Member; Conway, Dhingra, Randall and Van De Wege.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Julie Tran (786-7283)

**Background:** Home Care Aide Certification. A long-term care worker is a person who provides paid, hands-on personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to people with developmental disabilities, direct care workers in assisted-living facilities and adult family homes, and respite care providers. The term excludes employees of several types of health care and residential care facilities, as well as care providers not paid by the state or a private agency or facility licensed by the state.

Most long-term care workers must become certified as home care aides within 200 days of being hired by Department of Health (DOH) unless an exemption applies. To become certified as a home care aide, a long-term care worker must complete 75 hours of training, pass a certification examination, and pass state and federal background checks.

Certified Nursing Assistant Certification. DOH issues credentials to nursing assistants at two levels—registered nursing assistants and certified nursing assistants (CNAs). A person may become a registered nursing assistant by submitting an information form to DOH and paying a fee. To become a CNA, a person must complete an approved training program or alternative training program that meets the Nursing Care Quality Assurance Commission's criteria and complete a competency evaluation. The curriculum for CNA training programs, other than an alternative training program, must be competency based and include a minimum of 85 hours total, with at least 35 hours of classroom training and at least 50 hours of clinical training.

State Auditor's Office. The Office of the Washington State Auditor (SAO) holds state and local governments accountable for the use of public resources. The state auditor has the power to examine the financial affairs of all governments in the state, including local governments, schools, state agencies, and institutions of higher education. SAO carries out special investigations and performance audits of state agencies and local governments, and may contract with certified public accountants to audit state agencies and local governments.

Performance Audits of Long-Term In-home Care. The state auditor is required under Initiative 1163, approved by the voters in November 2011, to conduct performance audits of the long-term in-home care program on a biennial basis. In September 2022, SAO published a performance audit report on addressing testing barriers for home care aides. The audit found that prospective home care aides still face a number of barriers to becoming certified including long delays between completing training and taking the test, as well as the number of regional test sites dropped 20 percent since the previous SAO performance audit in 2016.

The audit recommends the Legislature give DOH similar authority and discretion in testing

home care aides as the Nursing Commission has for testing CNAs. Other recommendations include ways to address delays between training and testing, the lack of test sites, and gaps in performance and contract management. The audit found that concrete steps such as establishing more test sites and reducing delays between the completion of training and scheduling a certification test would result in a greater number of qualified home care aides available in communities across Washington State.

**Summary of Bill (First Substitute):** DOH is required to either prepare, grade, and administer, or determine the nature of and supervise grading and administration of a home care aide certification examination to evaluate whether an applicant possess the skills and knowledge necessary to practice competently. The examination or series of examinations much include both a skills demonstration and written or oral knowledge test. The skills demonstration, the knowledge test, or both, may be administered throughout training, on the last day of training, or after a student's formal training. All examinations must be conducted by fair and wholly impartial methods.

The certification examination may not be conducted by an employer of long-term care workers unless the employer is an approved community instructor and has met DOH standards for administering the examination.

The following requirements have been removed:

- the examination papers, all grading of papers, and records related to the grading of skills demonstration must be preserved for a period of not less than one year;
- the requirement that DOH must 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; and
- the certification examination must be administered and evaluated by DOH or by a contractor to DOH that is neither an employer of long-term care workers or a private contractor providing training services.

DOH, in consultation with Department of Social and Health Services (DSHS) and other relevant participants, must devise a system to reduce delays between training and testing for home care aides that include:

- integrating testing into training that allows applicants to test at the same location where they train;
- allowing applicants to schedule tests during training to facilitate testing shortly after completing training;
- allowing remote testing within home care aide training programs immediately or shortly after completion of the program; and
- determining the benefits and costs of having home care aide training programs authorize applicants to test instead of DOH.

DOH, in consultation with DSHS and other relevant participants, must examine existing

challenges related to a lack of testing sites and develop a plan expanding testing sites with a cost estimation included. The plan must consider:

- applicants' travel time and availability of testing for comparable professions;
- how many tests are needed, where these sites should be located, and the best way to establish appropriate partnerships that can lead to new test sites;
- how often test sites should be available to applicants; and
- whether there are areas of the state where a stipend for travel expenses would be beneficial and appropriate protocols for travel stipends.

DOH, in consultation with DSHS and other relevant participants, must establish performance-based contracts for vendors who administer the tests that include all key performance measures expected and detailed vendor costs. The key performance measures expected must include a definition of what sufficient access to test sites entail.

A preliminary report on this work from DOH, in consultation with DSHS and other relevant participants, is due to the Governor and appropriate committees of the Legislature no later than June 30, 2024, and a final report is due no later than December 31, 2024.

**EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):**

- Restores current statute language requiring all examinations to be conducted by fair and wholly impartial methods.
- Restores the requirement that both a skills demonstration and a written or oral knowledge test must be included in the examination and adds that examination may also be a series of examinations.
- States that the skills demonstration, the knowledge test, or both, may be administered throughout training, on the last day of training, or after a student's formal training.
- Specifies that the certification examination may not be conducted by an employer of long-term care workers unless the employer is an approved community instructor and has met DOH standards for administering the examination.
- Extends the reporting deadline by six months for the preliminary report and the final report that DOH must submit to the Legislature relating to the work completed to address delays between training and testing, lack of test sites, and performance and contract management processes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The lack of test sites is a big issue and in the past few years, there has been a decrease in test sites. For applicants seeking certification, there is a significant investment in time and having to incur additional expenses to travel for their test. It is discouraging. The longer wait time between when an applicant completes training and testing, can result in lower scores and decreasing chances of passing the test. There are issues trying to navigate the challenges of scheduling the test and since applicants cannot choose their test dates, they receive an email with their test date at least 2 weeks in advance. This is not enough time to change shifts or take the time off needed to travel and take the exam. It would be helpful if applicants can submit for testing when signing up for training. These are common sense recommendations. If enacted, the bill will expedite the process for home care aides to train, test, and receive their certification and also, help to turn around the declining numbers of certified home care workers. There is a concern that if training schools are allowed to test, there should be a vetting policy to assure that they have a valid testing and training process.

OTHER: Home care aides are a critical component to the health care workforce and the home care aide workforce is facing a critical shortage. Complicated testing requirements, timelines, and costs are significant barriers to workers wanting to enter and remain in this field. The bill will make an immediate impact on testing delays by removing the requirement to complete training before registering to take the test. There are critical recommendations that should be implemented such as allowing remote knowledge testing, shortening the window for when people complete training to when they can be tested, and allowing people to choose their test dates. There is a request to extend timelines by 6 months for completing the work and submitting the required reports. For any new testing or training site that is established, there needs to be regulations in place and agency oversight to ensure the sites are meeting the standards and people are receiving the types of training that they need. Also, there are changes in the bill that do not solve the problems facing the workforce and could undermine the quality of the home care system. There should be great care to not make the mistake of removing parts of the state law that provide critical protections for consumers in trying to solve the barriers to testing.

**Persons Testifying:** PRO: Senator Lynda Wilson, Prime Sponsor; Bob Le Roy, The Long-Term Care Foundation; Sarah Lane, S&H Training Center, a DSHS-approved HCA training program; Robin VanHyning, Cornerstone Healthcare Training Company; John Bright, Homecare Association of America, WA chapter.

OTHER: Madeleine Foutch, SEIU 775; Brad Banks, Home Care Coalition; Shawna Fox, Washington State Department of Health; Bea Rector, Washington State Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** PRO: Monica Duma, Loving AFH; Pavel Duma, LovingAFH; Winta Jackson, Abby Care AFH.

OTHER: Mary Mutura, Mary's Tender care.