
HOUSE BILL 1120

State of Washington

67th Legislature

2021 Regular Session

By Representatives Tharinger and Harris; by request of Department of Social and Health Services

Prefiled 01/08/21.

1 AN ACT Relating to state of emergency operations impacting long-
2 term services and supports; amending RCW 43.43.832, 43.43.837,
3 74.39A.056, 18.51.091, 18.51.230, 74.42.360, 74.39A.074, 74.39A.076,
4 74.39A.341, 18.88B.021, 70.128.230, 18.20.270, 70.128.070, 70.97.160,
5 18.20.110, 18.79.260, 18.88A.030, and 18.88A.087; reenacting and
6 amending RCW 18.79.260; creating a new section; providing an
7 effective date; providing an expiration date; and declaring an
8 emergency.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 **Sec. 1.** RCW 43.43.832 and 2020 c 270 s 7 are each amended to
11 read as follows:

12 (1) The Washington state patrol identification and criminal
13 history section shall disclose conviction records as follows:

14 (a) An applicant's conviction record, upon the request of a
15 business or organization as defined in RCW 43.43.830, a
16 developmentally disabled person, or a vulnerable adult as defined in
17 RCW 43.43.830 or his or her guardian;

18 (b) The conviction record of an applicant for certification, upon
19 the request of the Washington professional educator standards board;

20 (c) Any conviction record to aid in the investigation and
21 prosecution of child, developmentally disabled person, and vulnerable

1 adult abuse cases and to protect children and adults from further
2 incidents of abuse, upon the request of a law enforcement agency, the
3 office of the attorney general, prosecuting authority, or the
4 department of social and health services; and

5 (d) A prospective client's or resident's conviction record, upon
6 the request of a business or organization that qualifies for
7 exemption under section 501(c)(3) of the internal revenue code of
8 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter
9 or transitional housing for children, persons with developmental
10 disabilities, or vulnerable adults.

11 (2) The secretary of the department of social and health services
12 and the secretary of children, youth, and families must establish
13 rules and set standards to require specific action when considering
14 the information received pursuant to subsection (1) of this section,
15 and when considering additional information including but not limited
16 to civil adjudication proceedings as defined in RCW 43.43.830 and any
17 out-of-state equivalent, in the following circumstances:

18 (a) When considering persons for state employment in positions
19 directly responsible for the supervision, care, or treatment of
20 children, vulnerable adults, or individuals with mental illness or
21 developmental disabilities provided that: For persons residing in a
22 home that will be utilized to provide foster care for dependent
23 youth, a criminal background check will be required for all persons
24 aged sixteen and older and the department of social and health
25 services may require a criminal background check for persons who are
26 younger than sixteen in situations where it may be warranted to
27 ensure the safety of youth in foster care;

28 (b) When considering persons for state positions involving
29 unsupervised access to vulnerable adults to conduct comprehensive
30 assessments, financial eligibility determinations, licensing and
31 certification activities, investigations, surveys, or case
32 management; or for state positions otherwise required by federal law
33 to meet employment standards;

34 (c) When licensing agencies or facilities with individuals in
35 positions directly responsible for the care, supervision, or
36 treatment of children, developmentally disabled persons, or
37 vulnerable adults, including but not limited to agencies or
38 facilities licensed under chapter 74.15 or 18.51 RCW;

39 (d) When contracting with individuals or businesses or
40 organizations for the care, supervision, case management, or

1 treatment, including peer counseling, of children, developmentally
2 disabled persons, or vulnerable adults, including but not limited to
3 services contracted for under chapter 18.20, 70.127, 70.128, 72.36,
4 or 74.39A RCW or Title 71A RCW;

5 (e) When individual providers as defined in RCW 74.39A.240 or
6 providers paid by home care agencies provide in-home services
7 involving unsupervised access to persons with physical, mental, or
8 developmental disabilities or mental illness, or to vulnerable adults
9 as defined in chapter 74.34 RCW, including but not limited to
10 services provided under chapter 74.39 or 74.39A RCW.

11 (3) The secretary of the department of children, youth, and
12 families shall investigate the conviction records, pending charges,
13 and other information including civil adjudication proceeding records
14 of current employees and of any person actively being considered for
15 any position with the department who will or may have unsupervised
16 access to children, or for state positions otherwise required by
17 federal law to meet employment standards. "Considered for any
18 position" includes decisions about (a) initial hiring, layoffs,
19 reallocations, transfers, promotions, or demotions, or (b) other
20 decisions that result in an individual being in a position that will
21 or may have unsupervised access to children as an employee, an
22 intern, or a volunteer.

23 (4) The secretary of the department of children, youth, and
24 families shall adopt rules and investigate conviction records,
25 pending charges, and other information including civil adjudication
26 proceeding records, in the following circumstances:

27 (a) When licensing or certifying agencies with individuals in
28 positions that will or may have unsupervised access to children who
29 are in child day care, in early learning programs, or receiving early
30 childhood education services, including but not limited to licensees,
31 agency staff, interns, volunteers, contracted providers, and persons
32 living on the premises who are sixteen years of age or older;

33 (b) When authorizing individuals who will or may have
34 unsupervised access to children who are in child day care, in early
35 learning programs, or receiving early childhood learning education
36 services in licensed or certified agencies, including but not limited
37 to licensees, agency staff, interns, volunteers, contracted
38 providers, and persons living on the premises who are sixteen years
39 of age or older;

1 (c) When contracting with any business or organization for
2 activities that will or may have unsupervised access to children who
3 are in child day care, in early learning programs, or receiving early
4 childhood learning education services;

5 (d) When establishing the eligibility criteria for individual
6 providers to receive state paid subsidies to provide child day care
7 or early learning services that will or may involve unsupervised
8 access to children; and

9 (e) When responding to a request from an individual for a
10 certificate of parental improvement under chapter 74.13 RCW.

11 (5) Whenever a state conviction record check is required by state
12 law, persons may be employed or engaged as volunteers or independent
13 contractors on a conditional basis pending completion of the state
14 background investigation. Whenever a national criminal record check
15 through the federal bureau of investigation is required by state law,
16 a person may be employed or engaged as a volunteer or independent
17 contractor on a conditional basis pending completion of the national
18 check. The office of financial management shall adopt rules to
19 accomplish the purposes of this subsection as it applies to state
20 employees. The department of social and health services shall adopt
21 rules to accomplish the purpose of this subsection as it applies to
22 long-term care workers subject to RCW 74.39A.056.

23 (6) (a) For purposes of facilitating timely access to criminal
24 background information and to reasonably minimize the number of
25 requests made under this section, recognizing that certain health
26 care providers change employment frequently, health care facilities
27 may, upon request from another health care facility, share copies of
28 completed criminal background inquiry information.

29 (b) Completed criminal background inquiry information may be
30 shared by a willing health care facility only if the following
31 conditions are satisfied: The licensed health care facility sharing
32 the criminal background inquiry information is reasonably known to be
33 the person's most recent employer, no more than twelve months has
34 elapsed from the date the person was last employed at a licensed
35 health care facility to the date of their current employment
36 application, and the criminal background information is no more than
37 two years old.

38 (c) If criminal background inquiry information is shared, the
39 health care facility employing the subject of the inquiry must
40 require the applicant to sign a disclosure statement indicating that

1 there has been no conviction or finding as described in RCW 43.43.842
2 since the completion date of the most recent criminal background
3 inquiry.

4 (d) Any health care facility that knows or has reason to believe
5 that an applicant has or may have a disqualifying conviction or
6 finding as described in RCW 43.43.842, subsequent to the completion
7 date of their most recent criminal background inquiry, shall be
8 prohibited from relying on the applicant's previous employer's
9 criminal background inquiry information. A new criminal background
10 inquiry shall be requested pursuant to RCW 43.43.830 through
11 43.43.842.

12 (e) Health care facilities that share criminal background inquiry
13 information shall be immune from any claim of defamation, invasion of
14 privacy, negligence, or any other claim in connection with any
15 dissemination of this information in accordance with this subsection.

16 (f) Health care facilities shall transmit and receive the
17 criminal background inquiry information in a manner that reasonably
18 protects the subject's rights to privacy and confidentiality.

19 (7) The department of social and health services may not consider
20 any final founded finding of physical abuse or negligent treatment or
21 maltreatment of a child made pursuant to chapter 26.44 RCW that is
22 accompanied by a certificate of parental improvement or dependency as
23 a result of a finding of abuse or neglect pursuant to chapter 13.34
24 RCW that is accompanied by a certificate of parental improvement when
25 evaluating an applicant or employee's character, competency, and
26 suitability pursuant to any background check authorized or required
27 by this chapter, RCW 43.20A.710 or 74.39A.056, or any of the rules
28 adopted thereunder.

29 **Sec. 2.** RCW 43.43.837 and 2019 c 470 s 12 are each amended to
30 read as follows:

31 (1) Except as provided in subsection (2) of this section, in
32 order to determine the character, competence, and suitability of any
33 applicant or service provider to have unsupervised access, the
34 secretary of the department of social and health services and the
35 secretary of the department of children, youth, and families may
36 require a fingerprint-based background check through both the
37 Washington state patrol and the federal bureau of investigation at
38 any time, but shall require a fingerprint-based background check when

1 the applicant or service provider has resided in the state less than
2 three consecutive years before application, and:

3 (a) Is an applicant or service provider providing services to
4 children or people with developmental disabilities under RCW
5 74.15.030;

6 (b) Is an individual sixteen years of age or older who: (i) Is
7 not under the placement and care authority of the department of
8 children, youth, and families; and (ii) resides in an applicant or
9 service provider's home, facility, entity, agency, or business or who
10 is authorized by the department of children, youth, and families to
11 provide services to children under RCW 74.15.030;

12 (c) Is an individual who is authorized by the department of
13 social and health services to provide services to people with
14 developmental disabilities under RCW 74.15.030; or

15 (d) Is an applicant or service provider providing in-home
16 services funded by:

17 (i) Medicaid personal care under RCW 74.09.520;

18 (ii) Community options program entry system waiver services under
19 RCW 74.39A.030;

20 (iii) Chore services under RCW 74.39A.110; or

21 (iv) Other home and community long-term care programs,
22 established pursuant to chapters 74.39 and 74.39A RCW, administered
23 by the department of social and health services.

24 (2) Long-term care workers, as defined in RCW 74.39A.009, who are
25 hired after January 7, 2012, are subject to background checks under
26 RCW 74.39A.056.

27 (3) To satisfy the shared background check requirements provided
28 for in RCW 43.216.270 and 43.20A.710, the department of children,
29 youth, and families and the department of social and health services
30 shall share federal fingerprint-based background check results as
31 permitted under the law. The purpose of this provision is to allow
32 both departments to fulfill their joint background check
33 responsibility of checking any individual who may have unsupervised
34 access to vulnerable adults, children, or juveniles. Neither
35 department may share the federal background check results with any
36 other state agency or person.

37 (4) The secretary of the department of children, youth, and
38 families shall require a fingerprint-based background check through
39 the Washington state patrol identification and criminal history
40 section and the federal bureau of investigation when the department

1 seeks to approve an applicant or service provider for a foster or
2 adoptive placement of children in accordance with federal and state
3 law. Fees charged by the Washington state patrol and the federal
4 bureau of investigation for fingerprint-based background checks shall
5 be paid by the department of children, youth, and families for
6 applicant and service providers providing foster care as required in
7 RCW 74.15.030.

8 (5) Any secure facility operated by the department of social and
9 health services or the department of children, youth, and families
10 under chapter 71.09 RCW shall require applicants and service
11 providers to undergo a fingerprint-based background check through the
12 Washington state patrol identification and criminal history section
13 and the federal bureau of investigation.

14 (6) Service providers and service provider applicants, except for
15 those long-term care workers exempted in subsection (2) of this
16 section, who are required to complete a fingerprint-based background
17 check may be hired for a one hundred twenty-day provisional period as
18 allowed under law or program rules when:

19 (a) A fingerprint-based background check is pending; and

20 (b) The applicant or service provider is not disqualified based
21 on the immediate result of the background check.

22 (7) Fees charged by the Washington state patrol and the federal
23 bureau of investigation for fingerprint-based background checks shall
24 be paid by the applicable department for applicants or service
25 providers providing:

26 (a) Services to people with a developmental disability under RCW
27 74.15.030;

28 (b) In-home services funded by medicaid personal care under RCW
29 74.09.520;

30 (c) Community options program entry system waiver services under
31 RCW 74.39A.030;

32 (d) Chore services under RCW 74.39A.110;

33 (e) Services under other home and community long-term care
34 programs, established pursuant to chapters 74.39 and 74.39A RCW,
35 administered by the department of social and health services or the
36 department of children, youth, and families; and

37 (f) Services in, or to residents of, a secure facility under RCW
38 71.09.115.

1 (8) Service providers licensed under RCW 74.15.030 must pay fees
2 charged by the Washington state patrol and the federal bureau of
3 investigation for conducting fingerprint-based background checks.

4 (9) Department of children, youth, and families service providers
5 licensed under RCW 74.15.030 may not pass on the cost of the
6 background check fees to their applicants unless the individual is
7 determined to be disqualified due to the background information.

8 (10) The department of social and health services and the
9 department of children, youth, and families shall develop rules
10 identifying the financial responsibility of service providers,
11 applicants, and the department for paying the fees charged by law
12 enforcement to roll, print, or scan fingerprints-based for the
13 purpose of a Washington state patrol or federal bureau of
14 investigation fingerprint-based background check.

15 (11) For purposes of this section, unless the context plainly
16 indicates otherwise:

17 (a) "Applicant" means a current or prospective department of
18 social and health services, department of children, youth, and
19 families, or service provider employee, volunteer, student, intern,
20 researcher, contractor, or any other individual who will or may have
21 unsupervised access because of the nature of the work or services he
22 or she provides. "Applicant" includes but is not limited to any
23 individual who will or may have unsupervised access and is:

24 (i) Applying for a license or certification from the department
25 of social and health services or the department of children, youth,
26 and families;

27 (ii) Seeking a contract with the department of social and health
28 services, the department of children, youth, and families, or a
29 service provider;

30 (iii) Applying for employment, promotion, reallocation, or
31 transfer;

32 (iv) An individual that a department of social and health
33 services or department of children, youth, and families client or
34 guardian of a department of social and health services or department
35 of children, youth, and families client chooses to hire or engage to
36 provide services to himself or herself or another vulnerable adult,
37 juvenile, or child and who might be eligible to receive payment from
38 the department of social and health services or the department of
39 children, youth, and families for services rendered; or

1 (v) A department of social and health services or department of
2 children, youth, and families applicant who will or may work in a
3 department-covered position.

4 (b) "Authorized" means the department of social and health
5 services or the department of children, youth, and families grants an
6 applicant, home, or facility permission to:

7 (i) Conduct licensing, certification, or contracting activities;

8 (ii) Have unsupervised access to vulnerable adults, juveniles,
9 and children;

10 (iii) Receive payments from a department of social and health
11 services or department of children, youth, and families program; or

12 (iv) Work or serve in a department of social and health services
13 or department of children, youth, and families-covered position.

14 (c) "Secretary" means the secretary of the department of social
15 and health services.

16 (d) "Secure facility" has the meaning provided in RCW 71.09.020.

17 (e) "Service provider" means entities, facilities, agencies,
18 businesses, or individuals who are licensed, certified, authorized,
19 or regulated by, receive payment from, or have contracts or
20 agreements with the department of social and health services or the
21 department of children, youth, and families to provide services to
22 vulnerable adults, juveniles, or children. "Service provider"
23 includes individuals whom a department of social and health services
24 or department of children, youth, and families client or guardian of
25 a department of social and health services or department of children,
26 youth, and families client may choose to hire or engage to provide
27 services to himself or herself or another vulnerable adult, juvenile,
28 or child and who might be eligible to receive payment from the
29 department of social and health services or the department of
30 children, youth, and families for services rendered. (~~"Service
31 provider" does not include those certified under chapter 70.96A
32 RCW.~~)

33 **Sec. 3.** RCW 74.39A.056 and 2020 c 270 s 8 are each amended to
34 read as follows:

35 (1)(a) All long-term care workers shall be screened through state
36 and federal background checks in a uniform and timely manner to
37 verify that they do not have a history that would disqualify them
38 from working with vulnerable persons. The department must process
39 background checks for long-term care workers and make the information

1 available to employers, prospective employers, and others as
2 authorized by law.

3 (b) (i) Except as provided in (b) (ii) of this subsection, for
4 long-term care workers hired on or after January 7, 2012, the
5 background checks required under this section shall include checking
6 against the federal bureau of investigation fingerprint
7 identification records system (~~and against the national sex~~
8 ~~offenders registry or their successor programs~~) or its successor
9 program. The department shall require these long-term care workers to
10 submit fingerprints for the purpose of investigating conviction
11 records through both the Washington state patrol and the federal
12 bureau of investigation. The department shall not pass on the cost of
13 these criminal background checks to the workers or their employers.

14 (ii) (~~This subsection does not apply to long-term care workers~~
15 ~~employed by community residential service businesses until January 1,~~
16 ~~2016.~~) A long-term care worker who is not disqualified by the state
17 background check can work and have unsupervised access pending the
18 results of the federal bureau of investigation fingerprint check as
19 allowed by rules adopted by the department.

20 (c) The department shall share state and federal background check
21 results with the department of health in accordance with RCW
22 18.88B.080.

23 (d) Background check screening required under this section and
24 department rules is not required for an employee of a consumer
25 directed employer if all of the following circumstances apply:

26 (i) The individual has an individual provider contract with the
27 department;

28 (ii) The last background check on the contracted individual
29 provider is still valid under department rules and did not disqualify
30 the individual from providing personal care services;

31 (iii) Employment by the consumer directed employer is the only
32 reason a new background check would be required; and

33 (iv) The department's background check results have been shared
34 with the consumer directed employer.

35 (e) The department may require a fingerprint-based background
36 check through both the Washington state patrol and the federal bureau
37 of investigation at any time.

38 (2) A provider may not be employed in the care of and have
39 unsupervised access to vulnerable adults if:

1 (a) The provider is on the vulnerable adult abuse registry or on
2 any other registry based upon a finding of abuse, abandonment,
3 neglect, or financial exploitation of a vulnerable adult;

4 (b) On or after October 1, 1998, the department of children,
5 youth, and families, or its predecessor agency, has made a founded
6 finding of abuse or neglect of a child against the provider. If the
7 provider has received a certificate of parental improvement under
8 chapter 74.13 RCW pertaining to the finding, the provider is not
9 disqualified under this section;

10 (c) A disciplining authority, including the department of health,
11 has made a finding of abuse, abandonment, neglect, or financial
12 exploitation of a minor or a vulnerable adult against the provider;
13 or

14 (d) A court has issued an order that includes a finding of fact
15 or conclusion of law that the provider has committed abuse,
16 abandonment, neglect, or financial exploitation of a minor or
17 vulnerable adult. If the provider has received a certificate of
18 parental improvement under chapter 74.13 RCW pertaining to the
19 finding of fact or conclusion of law, the provider is not
20 disqualified under this section.

21 (3) The department shall establish, by rule, a state registry
22 which contains identifying information about long-term care workers
23 identified under this chapter who have final substantiated findings
24 of abuse, neglect, financial exploitation, or abandonment of a
25 vulnerable adult as defined in RCW 74.34.020. The rule must include
26 disclosure, disposition of findings, notification, findings of fact,
27 appeal rights, and fair hearing requirements. The department shall
28 disclose, upon request, final substantiated findings of abuse,
29 neglect, financial exploitation, or abandonment to any person so
30 requesting this information. This information must also be shared
31 with the department of health to advance the purposes of chapter
32 18.88B RCW.

33 (4) For the purposes of this section, "provider" means:

34 (a) An individual provider as defined in RCW 74.39A.240;

35 (b) An employee, licensee, or contractor of any of the following:
36 A home care agency licensed under chapter 70.127 RCW; a nursing home
37 under chapter 18.51 RCW; an assisted living facility under chapter
38 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a
39 certified resident services and supports agency licensed or certified
40 under chapter 71A.12 RCW; an adult family home under chapter 70.128

1 RCW; or any long-term care facility certified to provide medicaid or
2 medicare services; and

3 (c) Any contractor of the department who may have unsupervised
4 access to vulnerable adults.

5 (5) The department shall adopt rules to implement this section.

6 **Sec. 4.** RCW 18.51.091 and 2020 c 263 s 1 are each amended to
7 read as follows:

8 (1) The department shall inspect each nursing home periodically
9 in accordance with federal standards under 42 C.F.R. Part 488,
10 Subpart E. The inspection shall be made without providing advance
11 notice of it. Every inspection may include an inspection of every
12 part of the premises and an examination of all records, methods of
13 administration, the general and special dietary and the stores and
14 methods of supply. Those nursing homes that provide community-based
15 care shall establish and maintain separate and distinct accounting
16 and other essential records for the purpose of appropriately
17 allocating costs of the providing of such care: PROVIDED, That such
18 costs shall not be considered allowable costs for reimbursement
19 purposes under chapter 74.46 RCW. Following such inspection or
20 inspections, written notice of any violation of this law or the rules
21 and regulations promulgated hereunder, shall be given to the
22 applicant or licensee and the department. The notice shall describe
23 the reasons for the facility's noncompliance. The department may
24 prescribe by regulations that any licensee or applicant desiring to
25 make specified types of alterations or additions to its facilities or
26 to construct new facilities shall, before commencing such alteration,
27 addition or new construction, submit its plans and specifications
28 therefor to the department for preliminary inspection and approval or
29 recommendations with respect to compliance with the regulations and
30 standards herein authorized.

31 (2) If a pandemic, natural disaster, or other declared state of
32 emergency prevents the department from completing inspections
33 according to the timeline in subsection (1) of this section, the
34 department shall adopt rules to reestablish inspection timelines
35 based on the length of time since the last complete inspection,
36 compliance history of each facility, immediate health or safety
37 concerns, and centers for medicare and medicaid services
38 requirements. This section is retroactively effective to February 29,

1 2020, to include the period of the state of emergency created by the
2 COVID-19 outbreak.

3 **Sec. 5.** RCW 18.51.230 and 2020 c 263 s 2 are each amended to
4 read as follows:

5 (1) The department shall, in addition to any inspections
6 conducted pursuant to complaints filed pursuant to RCW 18.51.190,
7 conduct a periodic general inspection of each nursing home in the
8 state without providing advance notice of such inspection. Such
9 inspections must conform to the federal standards for surveys under
10 42 C.F.R. Part 488, Subpart E.

11 (2) If a pandemic, natural disaster, or other declared state of
12 emergency prevents the department from completing inspections
13 according to the timeline in subsection (1) of this section, the
14 department shall adopt rules to reestablish inspection timelines
15 based on the length of time since the last complete inspection,
16 compliance history of each facility, immediate health or safety
17 concerns, and centers for medicare and medicaid services
18 requirements. This section is retroactively effective to February 29,
19 2020, to include the period of the state of emergency created by the
20 COVID-19 outbreak.

21 **Sec. 6.** RCW 74.42.360 and 2020 c 263 s 3 are each amended to
22 read as follows:

23 (1) The facility shall have staff on duty twenty-four hours daily
24 sufficient in number and qualifications to carry out the provisions
25 of RCW 74.42.010 through 74.42.570 and the policies,
26 responsibilities, and programs of the facility.

27 (2) The department shall institute minimum staffing standards for
28 nursing homes. Beginning July 1, 2016, facilities must provide a
29 minimum of 3.4 hours per resident day of direct care. Direct care
30 staff has the same meaning as defined in RCW 74.42.010. The minimum
31 staffing standard includes the time when such staff are providing
32 hands-on care related to activities of daily living and nursing-
33 related tasks, as well as care planning. The legislature intends to
34 increase the minimum staffing standard to 4.1 hours per resident day
35 of direct care, but the effective date of a standard higher than 3.4
36 hours per resident day of direct care will be identified if and only
37 if funding is provided explicitly for an increase of the minimum
38 staffing standard for direct care.

1 (a) The department shall establish in rule a system of compliance
2 of minimum direct care staffing standards by January 1, 2016.
3 Oversight must be done at least quarterly using the centers for
4 medicare and medicaid services' payroll-based journal and nursing
5 home facility census and payroll data.

6 (b) The department shall establish in rule by January 1, 2016, a
7 system of financial penalties for facilities out of compliance with
8 minimum staffing standards. No monetary penalty may be issued during
9 the implementation period of July 1, 2016, through September 30,
10 2016. If a facility is found noncompliant during the implementation
11 period, the department shall provide a written notice identifying the
12 staffing deficiency and require the facility to provide a
13 sufficiently detailed correction plan to meet the statutory minimum
14 staffing levels. Monetary penalties begin October 1, 2016. Monetary
15 penalties must be established based on a formula that calculates the
16 cost of wages and benefits for the missing staff hours. If a facility
17 meets the requirements in subsection (3) or (4) of this section, the
18 penalty amount must be based solely on the wages and benefits of
19 certified nurse aides. The first monetary penalty for noncompliance
20 must be at a lower amount than subsequent findings of noncompliance.
21 Monetary penalties established by the department may not exceed two
22 hundred percent of the wage and benefit costs that would have
23 otherwise been expended to achieve the required staffing minimum
24 hours per resident day for the quarter. A facility found out of
25 compliance must be assessed a monetary penalty at the lowest penalty
26 level if the facility has met or exceeded the requirements in
27 subsection (2) of this section for three or more consecutive years.
28 Beginning July 1, 2016, pursuant to rules established by the
29 department, funds that are received from financial penalties must be
30 used for technical assistance, specialized training, or an increase
31 to the quality enhancement established in RCW 74.46.561.

32 (c) The department shall establish in rule an exception allowing
33 geriatric behavioral health workers as defined in RCW 74.42.010 to be
34 recognized in the minimum staffing requirements as part of the direct
35 care service delivery to individuals who have a behavioral health
36 condition. Hours worked by geriatric behavioral health workers may be
37 recognized as direct care hours for purposes of the minimum staffing
38 requirements only up to a portion of the total hours equal to the
39 proportion of resident days of clients with a behavioral health

1 condition identified at that facility on the most recent semiannual
2 minimum data set. In order to qualify for the exception:

3 (i) The worker must:

4 (A) Have a bachelor's or master's degree in social work,
5 behavioral health, or other related areas; or

6 (B) Have at least three years experience providing care for
7 individuals with chronic mental health issues, dementia, or
8 intellectual and developmental disabilities in a long-term care or
9 behavioral health care setting; or

10 (C) Have successfully completed a facility-based behavioral
11 health curriculum approved by the department under RCW 74.39A.078;

12 (ii) Any geriatric behavioral health worker holding less than a
13 master's degree in social work must be directly supervised by an
14 employee who has a master's degree in social work or a registered
15 nurse.

16 (d) (i) The department shall establish a limited exception to the
17 3.4 hours per resident day staffing requirement for facilities
18 demonstrating a good faith effort to hire and retain staff.

19 (ii) To determine initial facility eligibility for exception
20 consideration, the department shall send surveys to facilities
21 anticipated to be below, at, or slightly above the 3.4 hours per
22 resident day requirement. These surveys must measure the hours per
23 resident day in a manner as similar as possible to the centers for
24 medicare and medicaid services' payroll-based journal and cover the
25 staffing of a facility from October through December of 2015, January
26 through March of 2016, and April through June of 2016. A facility
27 must be below the 3.4 staffing standard on all three surveys to be
28 eligible for exception consideration. If the staffing hours per
29 resident day for a facility declines from any quarter to another
30 during the survey period, the facility must provide sufficient
31 information to the department to allow the department to determine if
32 the staffing decrease was deliberate or a result of neglect, which is
33 the lack of evidence demonstrating the facility's efforts to maintain
34 or improve its staffing ratio. The burden of proof is on the facility
35 and the determination of whether or not the decrease was deliberate
36 or due to neglect is entirely at the discretion of the department. If
37 the department determines a facility's decline was deliberate or due
38 to neglect, that facility is not eligible for an exception
39 consideration.

1 (iii) To determine eligibility for exception approval, the
2 department shall review the plan of correction submitted by the
3 facility. Before a facility's exception may be renewed, the
4 department must determine that sufficient progress is being made
5 towards reaching the 3.4 hours per resident day staffing requirement.
6 When reviewing whether to grant or renew an exception, the department
7 must consider factors including but not limited to: Financial
8 incentives offered by the facilities such as recruitment bonuses and
9 other incentives; the robustness of the recruitment process; county
10 employment data; specific steps the facility has undertaken to
11 improve retention; improvements in the staffing ratio compared to the
12 baseline established in the surveys and whether this trend is
13 continuing; and compliance with the process of submitting staffing
14 data, adherence to the plan of correction, and any progress toward
15 meeting this plan, as determined by the department.

16 (iv) Only facilities that have their direct care component rate
17 increase capped according to RCW 74.46.561 are eligible for exception
18 consideration. Facilities that will have their direct care component
19 rate increase capped for one or two years are eligible for exception
20 consideration through June 30, 2017. Facilities that will have their
21 direct care component rate increase capped for three years are
22 eligible for exception consideration through June 30, 2018.

23 (v) The department may not grant or renew a facility's exception
24 if the facility meets the 3.4 hours per resident day staffing
25 requirement and subsequently drops below the 3.4 hours per resident
26 day staffing requirement.

27 (vi) The department may grant exceptions for a six-month period
28 per exception. The department's authority to grant exceptions to the
29 3.4 hours per resident day staffing requirement expires June 30,
30 2018.

31 (3) (a) Large nonessential community providers must have a
32 registered nurse on duty directly supervising resident care twenty-
33 four hours per day, seven days per week.

34 (b) (i) The department shall establish a limited exception process
35 for large nonessential community providers that can demonstrate a
36 good faith effort to hire a registered nurse for the last eight hours
37 of required coverage per day. In granting an exception, the
38 department may consider the competitiveness of the wages and benefits
39 offered as compared to nursing facilities in comparable geographic or
40 metropolitan areas within Washington state, the provider's

1 recruitment and retention efforts, and the availability of registered
2 nurses in the particular geographic area. A one-year exception may be
3 granted and may be renewable; however, the department may limit the
4 admission of new residents, based on medical conditions or
5 complexities, when a registered nurse is not on-site and readily
6 available. If a large nonessential community provider receives an
7 exception, that information must be included in the department's
8 nursing home locator.

9 (ii) By August 1, 2023, and every three years thereafter, the
10 department, along with a stakeholder work group established by the
11 department, shall conduct a review of the exceptions process to
12 determine if it is still necessary. As part of this review, the
13 department shall provide the legislature with a report that includes
14 enforcement and citation data for large nonessential community
15 providers that were granted an exception in the three previous fiscal
16 years in comparison to those without an exception. The report must
17 include a similar comparison of data, provided to the department by
18 the long-term care ombuds, on long-term care ombuds referrals for
19 large nonessential community providers that were granted an exception
20 in the three previous fiscal years and those without an exception.
21 This report, along with a recommendation as to whether the exceptions
22 process should continue, is due to the legislature by December 1st of
23 each year in which a review is conducted. Based on the
24 recommendations outlined in this report, the legislature may take
25 action to end the exceptions process.

26 (4) Essential community providers and small nonessential
27 community providers must have a registered nurse on duty directly
28 supervising resident care a minimum of sixteen hours per day, seven
29 days per week, and a registered nurse or a licensed practical nurse
30 on duty directly supervising resident care the remaining eight hours
31 per day, seven days per week.

32 (5) For the purposes of this section, "behavioral health
33 condition" means one or more of the behavioral symptoms specified in
34 section E of the minimum data set.

35 (6) If a pandemic, natural disaster, or other declared state of
36 emergency impedes or prevents facilities from compliance with
37 subsections (2) through (4) of this section, the department may adopt
38 rules to grant exceptions to these requirements, waive penalties, and
39 suspend oversight activities. Facilities must remain in compliance
40 with subsection (1) of this section. This section is retroactively

1 effective to February 29, 2020, to include the period of the state of
2 emergency created by the COVID-19 outbreak.

3 **Sec. 7.** RCW 74.39A.074 and 2017 c 216 s 1 are each amended to
4 read as follows:

5 (1) (a) Except for long-term care workers exempt from
6 certification under RCW 18.88B.041(1)(a), all persons hired as
7 long-term care workers must meet the minimum training requirements in
8 this section within one hundred twenty calendar days after the date
9 of being hired.

10 (b) Except as provided in RCW 74.39A.076, the minimum training
11 requirement is seventy-five hours of entry-level training approved by
12 the department. A long-term care worker must successfully complete
13 five of these seventy-five hours before being eligible to provide
14 care.

15 (c) Training required by (d) of this subsection applies toward
16 the training required under RCW 18.20.270 or 70.128.230 or any
17 statutory or regulatory training requirements for long-term care
18 workers employed by community residential service businesses.

19 (d) The seventy-five hours of entry-level training required shall
20 be as follows:

21 (i) Before a long-term care worker is eligible to provide care,
22 he or she must complete:

23 (A) Two hours of orientation training regarding his or her role
24 as caregiver and the applicable terms of employment; and

25 (B) Three hours of safety training, including basic safety
26 precautions, emergency procedures, and infection control; and

27 (ii) Seventy hours of long-term care basic training, including
28 training related to:

29 (A) Core competencies; and

30 (B) Population specific competencies, including identification of
31 individuals with potential hearing loss and how to seek assistance if
32 hearing loss is suspected.

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

36 (a) Has been developed with input from consumer and worker
37 representatives; and

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

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

3 (4) If a pandemic, natural disaster, or other declared state of
4 emergency impacts the ability of long-term care workers to complete
5 training as required by this section, the department may adopt rules
6 to allow long-term care workers additional time to complete the
7 training requirements. This section is retroactively effective to
8 February 29, 2020, to include the period of the state of emergency
9 created by the COVID-19 outbreak.

10 (5) The department shall adopt rules to implement this section.

11 **Sec. 8.** RCW 74.39A.076 and 2019 c 363 s 19 are each amended to
12 read as follows:

13 (1) Beginning January 7, 2012, except for long-term care workers
14 exempt from certification under RCW 18.88B.041(1) (a):

15 (a) A biological, step, or adoptive parent who is the individual
16 provider only for the person's developmentally disabled son or
17 daughter must receive twelve hours of training relevant to the needs
18 of adults with developmental disabilities within the first one
19 hundred twenty days after becoming an individual provider.

20 (b) A spouse or registered domestic partner who is a long-term
21 care worker only for a spouse or domestic partner, pursuant to the
22 long-term services and supports trust program established in chapter
23 50B.04 RCW, must receive fifteen hours of basic training, and at
24 least six hours of additional focused training based on the care-
25 receiving spouse's or partner's needs, within the first one hundred
26 twenty days after becoming a long-term care worker.

27 (c) A person working as an individual provider who (i) provides
28 respite care services only for individuals with developmental
29 disabilities receiving services under Title 71A RCW or only for
30 individuals who receive services under this chapter, and (ii) works
31 three hundred hours or less in any calendar year, must complete
32 fourteen hours of training within the first one hundred twenty days
33 after becoming an individual provider. Five of the fourteen hours
34 must be completed before becoming eligible to provide care, including
35 two hours of orientation training regarding the caregiving role and
36 terms of employment and three hours of safety training. The training
37 partnership identified in RCW 74.39A.360 must offer at least twelve
38 of the fourteen hours online, and five of those online hours must be
39 individually selected from elective courses.

1 (d) Individual providers identified in (d)(i) or (ii) of this
2 subsection must complete thirty-five hours of training within the
3 first one hundred twenty days after becoming an individual provider.
4 Five of the thirty-five hours must be completed before becoming
5 eligible to provide care. Two of these five hours shall be devoted to
6 an orientation training regarding an individual provider's role as
7 caregiver and the applicable terms of employment, and three hours
8 shall be devoted to safety training, including basic safety
9 precautions, emergency procedures, and infection control. Individual
10 providers subject to this requirement include:

11 (i) An individual provider caring only for the individual
12 provider's biological, step, or adoptive child or parent unless
13 covered by (a) of this subsection; and

14 (ii) A person working as an individual provider who provides
15 twenty hours or less of care for one person in any calendar month.

16 (2) In computing the time periods in this section, the first day
17 is the date of hire.

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

21 (a) Has been developed with input from consumer and worker
22 representatives; and

23 (b) Requires comprehensive instruction by qualified instructors.

24 (4) If a pandemic, natural disaster, or other declared state of
25 emergency impacts the ability of long-term care workers to complete
26 training as required by this section, the department may adopt rules
27 to allow long-term care workers additional time to complete the
28 training requirements. This section is retroactively effective to
29 February 29, 2020, to include the period of the state of emergency
30 created by the COVID-19 outbreak.

31 (5) The department shall adopt rules to implement this section.

32 **Sec. 9.** RCW 74.39A.341 and 2015 c 152 s 3 are each amended to
33 read as follows:

34 (1) All long-term care workers shall complete twelve hours of
35 continuing education training in advanced training topics each year.
36 This requirement applies beginning July 1, 2012.

37 (2) Completion of continuing education as required in this
38 section is a prerequisite to maintaining home care aide certification
39 under chapter 18.88B RCW.

1 (3) Unless voluntarily certified as a home care aide under
2 chapter 18.88B RCW, subsection (1) of this section does not apply to:

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

5 (b) Registered nurses and licensed practical nurses licensed
6 under chapter 18.79 RCW;

7 (c) Before January 1, 2016, a long-term care worker employed by a
8 community residential service business;

9 (d) A person working as an individual provider who provides
10 twenty hours or less of care for one person in any calendar month; or

11 (e) A person working as an individual provider who only provides
12 respite services and works less than three hundred hours in any
13 calendar year.

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

17 (a) Has been developed with input from consumer and worker
18 representatives; and

19 (b) Requires comprehensive instruction by qualified instructors.

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

22 (6) If a pandemic, natural disaster, or other declared state of
23 emergency impacts the ability of long-term care workers to complete
24 training as required by this section, the department may adopt rules
25 to allow long-term care workers additional time to complete the
26 training requirements. This section is retroactively effective to
27 February 29, 2020, to include the period of the state of emergency
28 created by the COVID-19 outbreak.

29 (7) The department of health shall adopt rules to implement
30 subsection (1) of this section.

31 ~~((7))~~ (8) The department shall adopt rules to implement
32 subsection (2) of this section.

33 **Sec. 10.** RCW 18.88B.021 and 2013 c 259 s 1 are each amended to
34 read as follows:

35 (1) Beginning January 7, 2012, except as provided in RCW
36 18.88B.041, any person hired as a long-term care worker must be
37 certified as a home care aide as provided in this chapter within two
38 hundred calendar days after the date of ~~((being hired. In computing~~
39 ~~the time periods in this subsection, the first day is the date of))~~

1 hire, as defined by the department. The department may adopt rules
2 determining under which circumstances a long-term care worker may
3 have more than one date of hire, restarting the person's two hundred
4 day period to obtain certification as a home care aide.

5 (2) (a) No person may practice or, by use of any title or
6 description, represent himself or herself as a certified home care
7 aide without being certified as provided in this chapter.

8 (b) This section does not prohibit a person: (i) From practicing
9 a profession for which the person has been issued a license or which
10 is specifically authorized under this state's laws; or (ii) who is
11 exempt from certification under RCW 18.88B.041 from providing
12 services as a long-term care worker.

13 (c) In consultation with consumer and worker representatives, the
14 department shall, by January 1, 2013, establish by rule a single
15 scope of practice that encompasses both long-term care workers who
16 are certified home care aides and long-term care workers who are
17 exempted from certification under RCW 18.88B.041.

18 (3) If a pandemic, natural disaster, or other declared state of
19 emergency impacts the ability of long-term care workers to complete
20 certification as required by this section, the department may adopt
21 rules to allow long-term care workers additional time to become
22 certified. This section is retroactively effective to February 29,
23 2020, to include the period of the state of emergency created by the
24 COVID-19 outbreak.

25 (4) The department shall adopt rules to implement this section.

26 **Sec. 11.** RCW 70.128.230 and 2019 c 466 s 5 are each amended to
27 read as follows:

28 (1) The definitions in this subsection apply throughout this
29 section unless the context clearly requires otherwise.

30 (a) "Caregiver" includes all adult family home resident managers
31 and any person who provides residents with hands-on personal care on
32 behalf of an adult family home, except volunteers who are directly
33 supervised.

34 (b) "Indirect supervision" means oversight by a person who has
35 demonstrated competency in the core areas or has been fully exempted
36 from the training requirements pursuant to this section and is
37 quickly and easily available to the caregiver, but not necessarily
38 on-site.

1 (2) Training must have three components: Orientation, basic
2 training, and continuing education. All adult family home providers,
3 resident managers, and employees, or volunteers who routinely
4 interact with residents shall complete orientation. Caregivers shall
5 complete orientation, basic training, and continuing education.

6 (3) Orientation consists of introductory information on
7 residents' rights, communication skills, fire and life safety, and
8 universal precautions. Orientation must be provided at the facility
9 by appropriate adult family home staff to all adult family home
10 employees before the employees have routine interaction with
11 residents.

12 (4) Basic training consists of modules on the core knowledge and
13 skills that caregivers need to learn and understand to effectively
14 and safely provide care to residents. Basic training must be outcome-
15 based, and the effectiveness of the basic training must be measured
16 by demonstrated competency in the core areas through the use of a
17 competency test. Basic training must be completed by caregivers
18 within one hundred twenty days of the date on which they begin to
19 provide hands-on care. Until competency in the core areas has been
20 demonstrated, caregivers shall not provide hands-on personal care to
21 residents without direct supervision.

22 (5) For adult family homes that serve residents with special
23 needs such as dementia, developmental disabilities, or mental
24 illness, specialty training is required of providers and resident
25 managers.

26 (a) Specialty training consists of modules on the core knowledge
27 and skills that providers and resident managers need to effectively
28 and safely provide care to residents with special needs. Specialty
29 training should be integrated into basic training wherever
30 appropriate. Specialty training must be outcome-based, and the
31 effectiveness of the specialty training measured by demonstrated
32 competency in the core specialty areas through the use of a
33 competency test.

34 (b) Specialty training must be completed by providers and
35 resident managers before admitting and serving residents who have
36 been determined to have special needs related to mental illness,
37 dementia, or a developmental disability. Should a resident develop
38 special needs while living in a home without specialty designation,
39 the provider and resident manager have one hundred twenty days to
40 complete specialty training.

1 (c) If an event such as a pandemic or natural disaster creates a
2 state of emergency that makes specialty training unavailable, the
3 department may adopt rules to allow an adult family home where the
4 provider and resident manager have not completed specialty training
5 to admit a resident or residents with special needs related to mental
6 illness, dementia, or a developmental disability, or to care for a
7 resident or residents already living in the home who develop special
8 needs. Such rules must include information about how to complete the
9 specialty training once the training is available. This section will
10 be retroactively effective to February 29, 2020, to include the
11 period of the state of emergency created by the COVID-19 outbreak.

12 (6) Continuing education consists of ongoing delivery of
13 information to caregivers on various topics relevant to the care
14 setting and care needs of residents. Competency testing is not
15 required for continuing education. Continuing education is not
16 required in the same calendar year in which basic or modified basic
17 training is successfully completed. Continuing education is required
18 in each calendar year thereafter. If specialty training is completed,
19 the specialty training applies toward any continuing education
20 requirement for up to two years following the completion of the
21 specialty training.

22 (7) Persons who successfully complete the competency challenge
23 test for basic training are fully exempt from the basic training
24 requirements of this section. Persons who successfully complete the
25 specialty training competency challenge test are fully exempt from
26 the specialty training requirements of this section.

27 (8)(a) Registered nurses and licensed practical nurses licensed
28 under chapter 18.79 RCW are exempt from any continuing education
29 requirement established under this section.

30 (b) The department may adopt rules that would exempt licensed
31 persons from all or part of the training requirements under this
32 chapter, if they are (i) performing the tasks for which they are
33 licensed and (ii) subject to chapter 18.130 RCW.

34 (9) In an effort to improve access to training and education and
35 reduce costs, especially for rural communities, the adult family home
36 training network must include the use of innovative types of learning
37 strategies such as internet resources, videotapes, and distance
38 learning using satellite technology coordinated through community
39 colleges, private associations, or other entities, as defined by the
40 department.

1 (10) The adult family home training network shall assist adult
2 family homes that desire to deliver facility-based training with
3 facility designated trainers, or adult family homes that desire to
4 pool their resources to create shared training systems. The
5 department shall develop criteria for reviewing and approving
6 trainers and training materials. The department may approve a
7 curriculum based upon attestation by an adult family home
8 administrator that the adult family home's training curriculum
9 addresses basic and specialty training competencies identified by the
10 department, and shall review a curriculum to verify that it meets
11 these requirements. The department may conduct the review as part of
12 the next regularly scheduled inspection authorized under RCW
13 70.128.070. The department shall rescind approval of any curriculum
14 if it determines that the curriculum does not meet these
15 requirements.

16 (11) The department shall adopt rules by September 1, 2002, for
17 the implementation of this section.

18 (12)(a) Except as provided in (b) of this subsection, the
19 orientation, basic training, specialty training, and continuing
20 education requirements of this section commence September 1, 2002,
21 and shall be applied to (i) employees hired subsequent to September
22 1, 2002; or (ii) existing employees that on September 1, 2002, have
23 not successfully completed the training requirements under RCW
24 70.128.120 or 70.128.130 and this section. Existing employees who
25 have not successfully completed the training requirements under RCW
26 70.128.120 or 70.128.130 shall be subject to all applicable
27 requirements of this section.

28 (b) Beginning January 7, 2012, long-term care workers, as defined
29 in RCW 74.39A.009, employed by an adult family home are also subject
30 to the training requirements under RCW 74.39A.074.

31 **Sec. 12.** RCW 18.20.270 and 2013 c 259 s 4 are each amended to
32 read as follows:

33 (1) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Caregiver" includes any person who provides residents with
36 hands-on personal care on behalf of an assisted living facility,
37 except volunteers who are directly supervised.

38 (b) "Direct supervision" means oversight by a person who has
39 demonstrated competency in the core areas or has been fully exempted

1 from the training requirements pursuant to this section, is on the
2 premises, and is quickly and easily available to the caregiver.

3 (2) Training must have the following components: Orientation,
4 basic training, specialty training as appropriate, and continuing
5 education. All assisted living facility employees or volunteers who
6 routinely interact with residents shall complete orientation.
7 Assisted living facility administrators, or their designees, and
8 caregivers shall complete orientation, basic training, specialty
9 training as appropriate, and continuing education.

10 (3) Orientation consists of introductory information on
11 residents' rights, communication skills, fire and life safety, and
12 universal precautions. Orientation must be provided at the facility
13 by appropriate assisted living facility staff to all assisted living
14 facility employees before the employees have routine interaction with
15 residents.

16 (4) Basic training consists of modules on the core knowledge and
17 skills that caregivers need to learn and understand to effectively
18 and safely provide care to residents. Basic training must be outcome-
19 based, and the effectiveness of the basic training must be measured
20 by demonstrated competency in the core areas through the use of a
21 competency test. Basic training must be completed by caregivers
22 within one hundred twenty days of the date on which they begin to
23 provide hands-on care. Until competency in the core areas has been
24 demonstrated, caregivers shall not provide hands-on personal care to
25 residents without direct supervision. Assisted living facility
26 administrators, or their designees, must complete basic training and
27 demonstrate competency within one hundred twenty days of employment.

28 (5) For assisted living facilities that serve residents with
29 special needs such as dementia, developmental disabilities, or mental
30 illness, specialty training is required of administrators, or
31 designees, and caregivers.

32 (a) Specialty training consists of modules on the core knowledge
33 and skills that caregivers need to effectively and safely provide
34 care to residents with special needs. Specialty training should be
35 integrated into basic training wherever appropriate. Specialty
36 training must be outcome-based, and the effectiveness of the
37 specialty training measured by demonstrated competency in the core
38 specialty areas through the use of a competency test.

39 (b) Specialty training must be completed by caregivers within one
40 hundred twenty days of the date on which they begin to provide hands-

1 on care to a resident having special needs. However, if specialty
2 training is not integrated with basic training, the specialty
3 training must be completed within ninety days of completion of basic
4 training. Until competency in the core specialty areas has been
5 demonstrated, caregivers shall not provide hands-on personal care to
6 residents with special needs without direct supervision.

7 (c) Assisted living facility administrators, or their designees,
8 must complete specialty training and demonstrate competency within
9 one hundred twenty days from the date on which the administrator or
10 his or her designee is hired, if the assisted living facility serves
11 one or more residents with special needs.

12 (d) If an event such as a pandemic or natural disaster creates a
13 state of emergency that makes specialty training unavailable, the
14 department may adopt rules to allow an assisted living facility where
15 the administrator, designee, and caregiving staff have not completed
16 specialty training to admit a resident or residents with special
17 needs related to mental illness, dementia, or a developmental
18 disability. Such rules must include information about how to complete
19 the specialty training once the training is available. This section
20 will be retroactively effective to February 29, 2020, to include the
21 period of the state of emergency created by the COVID-19 outbreak.

22 (6) Continuing education consists of ongoing delivery of
23 information to caregivers on various topics relevant to the care
24 setting and care needs of residents. Competency testing is not
25 required for continuing education. Continuing education is not
26 required in the same calendar year in which basic or modified basic
27 training is successfully completed. Continuing education is required
28 in each calendar year thereafter. If specialty training is completed,
29 the specialty training applies toward any continuing education
30 requirement for up to two years following the completion of the
31 specialty training.

32 (7) Persons who successfully challenge the competency test for
33 basic training are fully exempt from the basic training requirements
34 of this section. Persons who successfully challenge the specialty
35 training competency test are fully exempt from the specialty training
36 requirements of this section.

37 (8) (a) Registered nurses and licensed practical nurses licensed
38 under chapter 18.79 RCW are exempt from any continuing education
39 requirement established under this section.

1 (b) The department may adopt rules that would exempt licensed
2 persons from all or part of the training requirements under this
3 chapter, if they are (i) performing the tasks for which they are
4 licensed and (ii) subject to chapter 18.130 RCW.

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

12 (10) The department shall develop criteria for the approval of
13 orientation, basic training, and specialty training programs.

14 (11) Assisted living facilities that desire to deliver facility-
15 based training with facility designated trainers, or assisted living
16 facilities that desire to pool their resources to create shared
17 training systems, must be encouraged by the department in their
18 efforts. The department shall develop criteria for reviewing and
19 approving trainers and training materials that are substantially
20 similar to or better than the materials developed by the department.
21 The department may approve a curriculum based upon attestation by an
22 assisted living facility administrator that the assisted living
23 facility's training curriculum addresses basic and specialty training
24 competencies identified by the department, and shall review a
25 curriculum to verify that it meets these requirements. The department
26 may conduct the review as part of the next regularly scheduled yearly
27 inspection and investigation required under RCW 18.20.110. The
28 department shall rescind approval of any curriculum if it determines
29 that the curriculum does not meet these requirements.

30 (12) The department shall adopt rules for the implementation of
31 this section.

32 (13)(a) Except as provided in (b) of this subsection, the
33 orientation, basic training, specialty training, and continuing
34 education requirements of this section commence September 1, 2002, or
35 one hundred twenty days from the date of employment, whichever is
36 later, and shall be applied to (i) employees hired subsequent to
37 September 1, 2002; and (ii) existing employees that on September 1,
38 2002, have not successfully completed the training requirements under
39 RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who
40 have not successfully completed the training requirements under RCW

1 74.39A.010 or 74.39A.020 shall be subject to all applicable
2 requirements of this section.

3 (b) Beginning January 7, 2012, long-term care workers, as defined
4 in RCW 74.39A.009, employed by facilities licensed under this chapter
5 are also subject to the training requirements under RCW 74.39A.074.

6 **Sec. 13.** RCW 70.128.070 and 2011 1st sp.s. c 3 s 204 are each
7 amended to read as follows:

8 (1) A license shall remain valid unless voluntarily surrendered,
9 suspended, or revoked in accordance with this chapter.

10 (2)(a) Homes applying for a license shall be inspected at the
11 time of licensure.

12 (b) Homes licensed by the department shall be inspected at least
13 every eighteen months, with an annual average of fifteen months.
14 However, an adult family home may be allowed to continue without
15 inspection for two years if the adult family home had no inspection
16 citations for the past three consecutive inspections and has received
17 no written notice of violations resulting from complaint
18 investigations during that same time period.

19 (c) The department may make an unannounced inspection of a
20 licensed home at any time to assure that the home and provider are in
21 compliance with this chapter and the rules adopted under this
22 chapter.

23 (d) If an event such as a pandemic or natural disaster creates a
24 state of emergency that prevents the department from completing
25 inspections according to the timeline in this subsection, the
26 department shall adopt rules to reestablish inspection timelines
27 based on the length of time since last inspection, compliance history
28 of each facility, and immediate health or safety concerns. This
29 section is retroactively effective to February 29, 2020, to include
30 the period of the state of emergency created by the COVID-19
31 outbreak.

32 (3) If the department finds that the home is not in compliance
33 with this chapter, it shall require the home to correct any
34 violations as provided in this chapter.

35 **Sec. 14.** RCW 70.97.160 and 2020 c 278 s 9 are each amended to
36 read as follows:

37 (1) The department shall make or cause to be made at least one
38 inspection of each facility prior to licensure and an unannounced

1 full inspection of facilities at least once every eighteen months.
2 The statewide average interval between full facility inspections must
3 be fifteen months.

4 (2) Any duly authorized officer, employee, or agent of the
5 department may enter and inspect any facility at any time to
6 determine that the facility is in compliance with this chapter and
7 applicable rules, and to enforce any provision of this chapter.
8 Complaint inspections shall be unannounced and conducted in such a
9 manner as to ensure maximum effectiveness. No advance notice shall be
10 given of any inspection unless authorized or required by federal law.

11 (3) During inspections, the facility must give the department
12 access to areas, materials, and equipment used to provide care or
13 support to residents, including resident and staff records, accounts,
14 and the physical premises, including the buildings, grounds, and
15 equipment. The department has the authority to privately interview
16 the provider, staff, residents, and other individuals familiar with
17 resident care and service plans.

18 (4) Any public employee giving advance notice of an inspection in
19 violation of this section shall be suspended from all duties without
20 pay for a period of not less than five nor more than fifteen days.

21 (5) The department shall prepare a written report describing the
22 violations found during an inspection, and shall provide a copy of
23 the inspection report to the facility.

24 (6) The facility shall develop a written plan of correction for
25 any violations identified by the department and provide a plan of
26 correction to the department within ten working days from the receipt
27 of the inspection report.

28 (7) If an event such as a pandemic or natural disaster creates a
29 state of emergency that prevents the department from completing
30 inspections according to the timeline in this section, the department
31 shall adopt rules to reestablish inspection timelines based on the
32 length of time since last inspection, compliance history of each
33 facility, and immediate health or safety concerns. This section is
34 retroactively effective to February 29, 2020, to include the period
35 of the state of emergency created by the COVID-19 outbreak.

36 **Sec. 15.** RCW 18.20.110 and 2012 c 10 s 6 are each amended to
37 read as follows:

38 (1) The department shall make or cause to be made, at least every
39 eighteen months with an annual average of fifteen months, an

1 inspection and investigation of all assisted living facilities.
2 However, the department may delay an inspection to twenty-four months
3 if the assisted living facility has had three consecutive inspections
4 with no written notice of violations and has received no written
5 notice of violations resulting from complaint investigation during
6 that same time period. The department may at anytime make an
7 unannounced inspection of a licensed facility to assure that the
8 licensee is in compliance with this chapter and the rules adopted
9 under this chapter. Every inspection shall focus primarily on actual
10 or potential resident outcomes, and may include an inspection of
11 every part of the premises and an examination of all records, methods
12 of administration, the general and special dietary, and the stores
13 and methods of supply; however, the department shall not have access
14 to financial records or to other records or reports described in RCW
15 18.20.390. Financial records of the assisted living facility may be
16 examined when the department has reasonable cause to believe that a
17 financial obligation related to resident care or services will not be
18 met, such as a complaint that staff wages or utility costs have not
19 been paid, or when necessary for the department to investigate
20 alleged financial exploitation of a resident. Following such an
21 inspection or inspections, written notice of any violation of this
22 law or the rules adopted hereunder shall be given to the applicant or
23 licensee and the department. The department may prescribe by rule
24 that any licensee or applicant desiring to make specified types of
25 alterations or additions to its facilities or to construct new
26 facilities shall, before commencing such alteration, addition, or new
27 construction, submit plans and specifications therefor to the
28 agencies responsible for plan reviews for preliminary inspection and
29 approval or recommendations with respect to compliance with the rules
30 and standards herein authorized.

31 (2) If an event such as a pandemic or natural disaster creates a
32 state of emergency that prevents the department from completing
33 inspections according to the timeline in subsection (1) of this
34 section, the department shall adopt rules to reestablish inspection
35 timelines based on the length of time since last inspection,
36 compliance history of each facility, and immediate health or safety
37 concerns. This section is retroactively effective to February 29,
38 2020, to include the period of the state of emergency created by the
39 COVID-19 outbreak.

1 **Sec. 16.** RCW 18.79.260 and 2012 c 164 s 407, 2012 c 13 s 3, and
2 2012 c 10 s 37 are each reenacted and amended to read as follows:

3 (1) A registered nurse under his or her license may perform for
4 compensation nursing care, as that term is usually understood, to
5 individuals with illnesses, injuries, or disabilities.

6 (2) A registered nurse may, at or under the general direction of
7 a licensed physician and surgeon, dentist, osteopathic physician and
8 surgeon, naturopathic physician, optometrist, podiatric physician and
9 surgeon, physician assistant, osteopathic physician assistant,
10 advanced registered nurse practitioner, or midwife acting within the
11 scope of his or her license, administer medications, treatments,
12 tests, and inoculations, whether or not the severing or penetrating
13 of tissues is involved and whether or not a degree of independent
14 judgment and skill is required. Such direction must be for acts which
15 are within the scope of registered nursing practice.

16 (3) A registered nurse may delegate tasks of nursing care to
17 other individuals where the registered nurse determines that it is in
18 the best interest of the patient.

19 (a) The delegating nurse shall:

20 (i) Determine the competency of the individual to perform the
21 tasks;

22 (ii) Evaluate the appropriateness of the delegation;

23 (iii) Supervise the actions of the person performing the
24 delegated task; and

25 (iv) Delegate only those tasks that are within the registered
26 nurse's scope of practice.

27 (b) A registered nurse, working for a home health or hospice
28 agency regulated under chapter 70.127 RCW, may delegate the
29 application, instillation, or insertion of medications to a
30 registered or certified nursing assistant under a plan of care.

31 (c) Except as authorized in (b) (~~(e)~~), (e), or (f) of this
32 subsection, a registered nurse may not delegate the administration of
33 medications. Except as authorized in (e) of this subsection, a
34 registered nurse may not delegate acts requiring substantial skill,
35 and may not delegate piercing or severing of tissues. Acts that
36 require nursing judgment shall not be delegated.

37 (d) No person may coerce a nurse into compromising patient safety
38 by requiring the nurse to delegate if the nurse determines that it is
39 inappropriate to do so. Nurses shall not be subject to any employer
40 reprisal or disciplinary action by the nursing care quality assurance

1 commission for refusing to delegate tasks or refusing to provide the
2 required training for delegation if the nurse determines delegation
3 may compromise patient safety.

4 (e) For delegation in community-based care settings or in-home
5 care settings, a registered nurse may delegate nursing care tasks
6 only to registered or certified nursing assistants or home care aides
7 certified under chapter 18.88B RCW. Simple care tasks such as blood
8 pressure monitoring, personal care service, diabetic insulin device
9 set up, verbal verification of insulin dosage for sight-impaired
10 individuals, or other tasks as defined by the nursing care quality
11 assurance commission are exempted from this requirement.

12 (f) The delegation of nursing care tasks to registered or
13 certified nursing assistants under chapter 18.88A RCW or to home care
14 aides certified under chapter 18.88B RCW may include glucose
15 monitoring and testing.

16 (i) "Community-based care settings" includes: Community
17 residential programs for people with developmental disabilities,
18 certified by the department of social and health services under
19 chapter 71A.12 RCW; adult family homes licensed under chapter 70.128
20 RCW; and assisted living facilities licensed under chapter 18.20 RCW.
21 Community-based care settings do not include acute care or skilled
22 nursing facilities.

23 (ii) "In-home care settings" include an individual's place of
24 temporary or permanent residence, but does not include acute care or
25 skilled nursing facilities, and does not include community-based care
26 settings as defined in ~~((e))~~ (f)(i) of this subsection.

27 (iii) Delegation of nursing care tasks in community-based care
28 settings and in-home care settings is only allowed for individuals
29 who have a stable and predictable condition. "Stable and predictable
30 condition" means a situation in which the individual's clinical and
31 behavioral status is known and does not require the frequent presence
32 and evaluation of a registered nurse.

33 (iv) The determination of the appropriateness of delegation of a
34 nursing task is at the discretion of the registered nurse. Other than
35 delegation of the administration of insulin by injection for the
36 purpose of caring for individuals with diabetes, the administration
37 of medications by injection, sterile procedures, and central line
38 maintenance may never be delegated.

39 (v) When delegating insulin injections under this section, the
40 registered nurse delegator must instruct the individual regarding

1 proper injection procedures and the use of insulin, demonstrate
2 proper injection procedures, and must supervise and evaluate the
3 individual performing the delegated task (~~weekly during the first~~
4 ~~four weeks of delegation of insulin injections~~) as required by the
5 commission. If the registered nurse delegator determines that the
6 individual is competent to perform the injection properly and safely,
7 supervision and evaluation shall occur at (~~least every ninety days~~
8 ~~thereafter~~) an interval determined by the commission.

9 (vi) (A) The registered nurse shall verify that the nursing
10 assistant or home care aide, as the case may be, has completed the
11 required core nurse delegation training required in chapter 18.88A or
12 18.88B RCW prior to authorizing delegation.

13 (B) Before commencing any specific nursing tasks authorized to be
14 delegated in this section, a home care aide must be certified
15 pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

16 (vii) The nurse is accountable for his or her own individual
17 actions in the delegation process. Nurses acting within the protocols
18 of their delegation authority are immune from liability for any
19 action performed in the course of their delegation duties.

20 (viii) Nursing task delegation protocols are not intended to
21 regulate the settings in which delegation may occur, but are intended
22 to ensure that nursing care services have a consistent standard of
23 practice upon which the public and the profession may rely, and to
24 safeguard the authority of the nurse to make independent professional
25 decisions regarding the delegation of a task.

26 (~~(f)~~) (g) The nursing care quality assurance commission may
27 adopt rules to implement this section.

28 (4) Only a person licensed as a registered nurse may instruct
29 nurses in technical subjects pertaining to nursing.

30 (5) Only a person licensed as a registered nurse may hold herself
31 or himself out to the public or designate herself or himself as a
32 registered nurse.

33 (6) This section is retroactively effective to February 29, 2020,
34 to include the period of the state of emergency created by the
35 COVID-19 outbreak.

36 **Sec. 17.** RCW 18.79.260 and 2020 c 80 s 18 are each amended to
37 read as follows:

1 (1) A registered nurse under his or her license may perform for
2 compensation nursing care, as that term is usually understood, to
3 individuals with illnesses, injuries, or disabilities.

4 (2) A registered nurse may, at or under the general direction of
5 a licensed physician and surgeon, dentist, osteopathic physician and
6 surgeon, naturopathic physician, optometrist, podiatric physician and
7 surgeon, physician assistant, advanced registered nurse practitioner,
8 or midwife acting within the scope of his or her license, administer
9 medications, treatments, tests, and inoculations, whether or not the
10 severing or penetrating of tissues is involved and whether or not a
11 degree of independent judgment and skill is required. Such direction
12 must be for acts which are within the scope of registered nursing
13 practice.

14 (3) A registered nurse may delegate tasks of nursing care to
15 other individuals where the registered nurse determines that it is in
16 the best interest of the patient.

17 (a) The delegating nurse shall:

18 (i) Determine the competency of the individual to perform the
19 tasks;

20 (ii) Evaluate the appropriateness of the delegation;

21 (iii) Supervise the actions of the person performing the
22 delegated task; and

23 (iv) Delegate only those tasks that are within the registered
24 nurse's scope of practice.

25 (b) A registered nurse, working for a home health or hospice
26 agency regulated under chapter 70.127 RCW, may delegate the
27 application, instillation, or insertion of medications to a
28 registered or certified nursing assistant under a plan of care.

29 (c) Except as authorized in (b) (~~(e)~~), (e), or (f) of this
30 subsection, a registered nurse may not delegate the administration of
31 medications. Except as authorized in (e) of this subsection, a
32 registered nurse may not delegate acts requiring substantial skill,
33 and may not delegate piercing or severing of tissues. Acts that
34 require nursing judgment shall not be delegated.

35 (d) No person may coerce a nurse into compromising patient safety
36 by requiring the nurse to delegate if the nurse determines that it is
37 inappropriate to do so. Nurses shall not be subject to any employer
38 reprisal or disciplinary action by the nursing care quality assurance
39 commission for refusing to delegate tasks or refusing to provide the

1 required training for delegation if the nurse determines delegation
2 may compromise patient safety.

3 (e) For delegation in community-based care settings or in-home
4 care settings, a registered nurse may delegate nursing care tasks
5 only to registered or certified nursing assistants or home care aides
6 certified under chapter 18.88B RCW. Simple care tasks such as blood
7 pressure monitoring, personal care service, diabetic insulin device
8 set up, verbal verification of insulin dosage for sight-impaired
9 individuals, or other tasks as defined by the nursing care quality
10 assurance commission are exempted from this requirement.

11 (f) The delegation of nursing care tasks to registered or
12 certified nursing assistants under chapter 18.88A RCW or to home care
13 aides certified under chapter 18.88B RCW may include glucose
14 monitoring and testing.

15 (i) "Community-based care settings" includes: Community
16 residential programs for people with developmental disabilities,
17 certified by the department of social and health services under
18 chapter 71A.12 RCW; adult family homes licensed under chapter 70.128
19 RCW; and assisted living facilities licensed under chapter 18.20 RCW.
20 Community-based care settings do not include acute care or skilled
21 nursing facilities.

22 (ii) "In-home care settings" include an individual's place of
23 temporary or permanent residence, but does not include acute care or
24 skilled nursing facilities, and does not include community-based care
25 settings as defined in ~~((e))~~ (f)(i) of this subsection.

26 (iii) Delegation of nursing care tasks in community-based care
27 settings and in-home care settings is only allowed for individuals
28 who have a stable and predictable condition. "Stable and predictable
29 condition" means a situation in which the individual's clinical and
30 behavioral status is known and does not require the frequent presence
31 and evaluation of a registered nurse.

32 (iv) The determination of the appropriateness of delegation of a
33 nursing task is at the discretion of the registered nurse. Other than
34 delegation of the administration of insulin by injection for the
35 purpose of caring for individuals with diabetes, the administration
36 of medications by injection, sterile procedures, and central line
37 maintenance may never be delegated.

38 (v) When delegating insulin injections under this section, the
39 registered nurse delegator must instruct the individual regarding
40 proper injection procedures and the use of insulin, demonstrate

1 proper injection procedures, and must supervise and evaluate the
2 individual performing the delegated task (~~(weekly during the first~~
3 ~~four weeks of delegation of insulin injections)~~) as required by the
4 commission. If the registered nurse delegator determines that the
5 individual is competent to perform the injection properly and safely,
6 supervision and evaluation shall occur at (~~(least every ninety days~~
7 ~~thereafter)~~) an interval determined by the commission.

8 (vi) (A) The registered nurse shall verify that the nursing
9 assistant or home care aide, as the case may be, has completed the
10 required core nurse delegation training required in chapter 18.88A or
11 18.88B RCW prior to authorizing delegation.

12 (B) Before commencing any specific nursing tasks authorized to be
13 delegated in this section, a home care aide must be certified
14 pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

15 (vii) The nurse is accountable for his or her own individual
16 actions in the delegation process. Nurses acting within the protocols
17 of their delegation authority are immune from liability for any
18 action performed in the course of their delegation duties.

19 (viii) Nursing task delegation protocols are not intended to
20 regulate the settings in which delegation may occur, but are intended
21 to ensure that nursing care services have a consistent standard of
22 practice upon which the public and the profession may rely, and to
23 safeguard the authority of the nurse to make independent professional
24 decisions regarding the delegation of a task.

25 (~~(f)~~) (g) The nursing care quality assurance commission may
26 adopt rules to implement this section.

27 (4) Only a person licensed as a registered nurse may instruct
28 nurses in technical subjects pertaining to nursing.

29 (5) Only a person licensed as a registered nurse may hold herself
30 or himself out to the public or designate herself or himself as a
31 registered nurse.

32 (6) This section is retroactively effective to February 29, 2020,
33 to include the period of the state of emergency created by the
34 COVID-19 outbreak.

35 **Sec. 18.** RCW 18.88A.030 and 2010 c 169 s 4 are each amended to
36 read as follows:

37 (1) (a) A nursing assistant may assist in the care of individuals
38 as delegated by and under the direction and supervision of a licensed
39 (registered) nurse or licensed practical nurse.

1 (b) A health care facility shall not assign a nursing assistant-
2 registered to provide care until the nursing assistant-registered has
3 demonstrated skills necessary to perform competently all assigned
4 duties and responsibilities.

5 (c) Nothing in this chapter shall be construed to confer on a
6 nursing assistant the authority to administer medication unless
7 delegated as a specific nursing task pursuant to this chapter or to
8 practice as a licensed (registered) nurse or licensed practical nurse
9 as defined in chapter 18.79 RCW.

10 (2)(a) A nursing assistant employed in a nursing home must have
11 successfully obtained certification through: (i) An approved training
12 program and the competency evaluation within ~~((four months after the
13 date of employment))~~ a period of time determined in rule by the
14 commission; or (ii) alternative training and the competency
15 evaluation prior to employment.

16 (b) Certification is voluntary for nursing assistants working in
17 health care facilities other than nursing homes unless otherwise
18 required by state or federal law or regulation.

19 (3) The commission may adopt rules to implement the provisions of
20 this chapter.

21 (4) This section is retroactively effective to February 29, 2020,
22 to include the period of the state of emergency created by the
23 COVID-19 outbreak.

24 **Sec. 19.** RCW 18.88A.087 and 2010 c 169 s 3 are each amended to
25 read as follows:

26 (1) The commission shall adopt criteria for evaluating an
27 applicant's alternative training to determine the applicant's
28 eligibility to take the competency evaluation for nursing assistant
29 certification. At least one option adopted by the commission must
30 allow an applicant to take the competency evaluation if he or she:

31 (a)(i) Is a certified home care aide pursuant to chapter 18.88B
32 RCW; or

33 (ii) Is a certified medical assistant pursuant to a certification
34 program accredited by a national medical assistant accreditation
35 organization and approved by the commission; and

36 (b) Has successfully completed at least twenty-four hours of
37 training that the commission determines is necessary to provide
38 training equivalent to approved training on topics not addressed in
39 the training specified for certification as a home care aide or

1 medical assistant, as applicable. In the commission's discretion, a
2 portion of these hours may include clinical training.

3 (2) (a) (~~By July 1, 2011, the~~) The commission, in consultation
4 with the secretary, the department of social and health services, and
5 consumer, employer, and worker representatives, shall adopt rules to
6 implement this section and to provide (~~(, beginning January 1, 2012,)~~)
7 for a program of credentialing reciprocity to the extent required by
8 this section between home care aide and medical assistant
9 certification and nursing assistant certification. (~~By July 1, 2011,~~
10 ~~the~~) The secretary shall also adopt such rules as may be necessary
11 to implement this section and the credentialing reciprocity program.

12 (b) Rules adopted under this section must be consistent with
13 requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal
14 social security act relating to state-approved competency evaluation
15 programs for certified nurse aides.

16 (3) (~~Beginning December 1, 2012, the~~) The secretary, in
17 consultation with the commission, shall report annually by December
18 1st to the governor and the appropriate committees of the legislature
19 on the progress made in achieving career advancement for certified
20 home care aides and medical assistants into nursing practice.

21 (4) This section is retroactively effective to February 29, 2020,
22 to include the period of the state of emergency created by the
23 COVID-19 outbreak.

24 NEW SECTION. Sec. 20. Section 16 of this act expires July 1,
25 2022.

26 NEW SECTION. Sec. 21. Section 17 of this act takes effect July
27 1, 2022.

28 NEW SECTION. Sec. 22. This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of
30 the state government and its existing public institutions, and takes
31 effect immediately.

32 NEW SECTION. Sec. 23. This act is remedial and curative in
33 nature and all of its sections are intended to apply retroactively to
34 February 29, 2020. In any instance where this act grants rule-making
35 authority to the department of social and health services or the

1 department of health, the agencies may adopt the rules as emergency
2 rules and may make the rules retroactively effective.

--- **END** ---