

The Long-Term Care Workforce Support Act

Section-by-Section

Senators Casey, Kaine, and Baldwin

Section 1. Short Title; Table of Contents

This section provides that the short title is “Long-term Care Workforce Support Act “and outlines a table of contents.

Section 2. Findings and Purposes.

This section provides findings from Congress and the purposes of the Act.

Section 3. Definitions

This section provides definitions for activities of daily living, aging and disability resource center, apprenticeship program, area agency on aging, assisted living facility, certified nursing assistant, commerce, community or technical college, developmental disability, direct care professional, direct care professional manager, direct care professional workforce, disability, domestic partner, employ, employee/employer, home and community-based services (HCBS), home and community-based services settings, home and community-based services worker, Indian tribe/tribal organization, institution of higher education, instrumental activities of daily living, local educational agency, long-term care services, long-term care setting, Medicaid program, nurse aide, nursing assistant, nursing home, older individual, personal or home care aide, secondary school, self-directed care professional, state, state educational agency, urban Indian organization, Workforce Innovation and Opportunity Act terms, and work-based learning.

Title I – Improving Reimbursement

Section 101. Additional Support for Medicaid Long-Term Care Services Provided by Direct Care Professionals

Increases the Federal Medical Assistance Percentage (FMAP) by 10 percentage points (not exceeding 95 percent) for State Medicaid long-term care services. Increased FMAP—which supplements and does not supplant existing State funds—are to be used to increase reimbursement rates for long-term care services; eliminate HCBS waiting lists and inadequate service capacity; and implement activities to improve the long-term care workforce (e.g., increasing service rates, providing paid sick or family leave, improving job stability through consistent hours and pay). Requires Secretary of Health and Human Services (HHS) and Secretary of Labor to evaluate program effectiveness annually until 2036.

Section 102. Additional Support for Medicaid Long-Term Care Services for States

Authorizes the Secretary of HHS to award grants to States to improve compensation, recruitment, retention, and training of the direct care professional workforce. Activities include reviewing salary rates, addressing insufficient payment rates, and addressing training for direct

care professionals. Authorizes funding at \$100,000,000,000. The Secretary of HHS and the Secretary of Labor to evaluate effectiveness of this title on state waiting lists for HCBS.

Section 103. Making Permanent the State Option to Extend Protection under Medicaid for Recipients of Home and Community-Based Services Against Spousal Impoverishment

Amend the Social Security Act to include those eligible for HCBS assistance under the definition of “institutionalized spouse” to incorporate individuals beyond those in medical institutions or nursing facilities.

Section 104. Permanent Extension of Money Follows the Person Rebalancing Demonstration

Amend the Deficit Reduction Act of 2005 to make permanent the Money Follows the Person Rebalancing Demonstration. Also requires that any portion of a State grant not expended by the end of the fourth succeeding fiscal year be rescinded so that they could be added to appropriation for the fifth succeeding fiscal year for grants under this section.

Title II – Training, Recruitment, Career Advancement, and Worker Supports

Subtitle A – Improving Workforce Training

Chapter 1 – Grants for Supporting the Long-Term Care Workforce

Section 201. Definitions

This section provides definitions for eligibility entity, project participant, Secretary, and supportive services.

Section 202. Authority to Award Grants

Directs the Secretary of HHS—in consultation with Centers for Medicare and Medicaid Services, the Secretary of Labor, and the Secretary of Education—to award grants to states or other eligible entities for initiatives to build, retain, train, and provide advancement opportunities for long-term care professional workforces, which include direct care professional workers, direct care professional managers, self-directed care professionals, and HCBS workers.

Section 203. Project Plans

Details the project plan contents that an eligible entity must submit to the Secretary to describe how such entity would carry out the activities of the grant including how the entity will consult with various aging and disability agencies and stakeholders.

Section 204. Use of Funds; Supplement, Not Supplant

Stipulates that an eligible entity receiving a grant shall not use more than 5 percent of funds for administrative costs and not less than 5 percent for direct financial benefits or supportive services to direct care professionals. Includes a supplement, not supplant provision. Authorizes funding at \$500 million for 5 years.

Chapter 2 – Other Workforce Training Grants

Section 205. Workforce Investment Activities Grants for Domestic Workers

Provides definitions for domestic services, domestic worker, Secretary, and WIOA terms. Directs the Secretary to make awards for workforce investment activities and provide related assistance for domestic workers. Authorized activities include outreach, employment, training, work safety, career counseling, and English language programs. Authorizes funding at \$10 million for 5 years.

Section 206. Direct Care Professional Career Advancement Demonstration Projects

Directs the Secretary of HHS in consultation with the Secretary of Labor to award grants to conduct demonstration projects to provide eligible individuals with opportunities for education, training, and career advancement as a direct care professional, including personal or home care aide, home health aide, or nursing assistant. Ensures that not less than half of the demonstration projects support rural areas, underserved areas, and women, people of color, and people with disabilities. Permits incentive payments of an amount equal to 25 percent of the payment amount for home health services provided under the Social Security Act by home health aides who completed education or training under the demonstration project. Authorizes funding at \$10 million for 5 years.

Section 207. Pathways to Health Careers

Reauthorizes and modernizes the Health Profession Opportunity Grant (HPOG) program to better support low-income individuals as they seek training and education for in-demand health care careers, creating good-paying jobs and expanding our labor force. It includes application requirements, preferences in considering applications, competitive grants, demonstration grants, use of grant requirements, technical assistance requirements, evaluation of demonstration projects, reports, and definitions. Authorizes a total of \$425 million for all activities for 5 years.

Section 208. Increasing Workforce Diversity in Allied Health Professionals and Direct Support Professionals

Creates a grant program that would provide grants and stipends for students of diverse ethnic backgrounds or students with disabilities in programs preparing physical therapists, occupational therapists, respiratory therapists, audiologists, speech-language pathologists, audiologists, and direct care professionals. Authorizes funding at \$10 million for 5 years.

Subtitle B. Improving Workforce Recruitment

Section 211. Technical Assistance Center for Building the Direct Care Professional Workforce

Authorizes the Secretary of HHS to establish a national technical assistance center to support the workforce creation, training and education, recruitment, retention, and advancement of the direct care professional workforce. Activities of the center may include developing training and education recommendations, exploring data gaps, and recommending creation of a direct care professional occupation category. Also creates an advisory council to provide recommendations to the national center. Authorizes funding at \$10 million for 5 years.

Section 212. Report on Efforts to Enhance Direct Care Professional Workforce

Directs the Secretary of HHS to submit a report to Congress on the efforts to enhance the long-term care professional workforce through existing programs authorized under the Public Health Services Act.

Section 213. Comprehensive Geriatric Education

Reauthorizes the Comprehensive Geriatric Education program and makes updates to terminology throughout.

Section 214. Review of the Availability and Quality of Apprenticeships in Long-Term Care Settings

Directs the Secretary of Labor, in coordination with the Secretary of HHS, to submit a report to Congress on the extent of vacancies in the direct care professional workforce, review of existing apprenticeship programs for the direct care professional workforce sector, provide recommendations on the design of apprenticeship programs for the direct care professional workforce sector, and identify opportunities for coordination across various stakeholders.

Section 215. Rural Health Workforce Grant Program

Authorizes the Secretary of HHS in consultation with the Secretary of Education to award grants for career exploration programs to bring awareness to students about health care profession careers in underserved rural communities and provide students with experiences related to such careers. Authorizes funding at \$10 million for 5 years.

Subtitle C – Providing Career Advancement Opportunities; Assessment of Worker Well-Being

Section 221. Assessment of Direct Care Professional Well-Being

Directs the Secretary of HHS, in coordination with the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention, the Substance Use and Mental Health Administration, and the Health Resources and Services Administration, to develop a research-based tool for assessing direct care professional worker well-being, collect data on direct care professional worker well-being, and make such data publicly available. Authorizes funding at \$6 million for 6 years.

Section 222. National Direct Care Professional Training Standards Commission

Directs the Secretary of HHS to establish the National Direct Care Professional Training Standards Commission to advise the Secretary on developing direct care professional training standards and provide supports to States to implement such standards. Details the requirements for standards and membership representation. The Commission is tasked with thorough study of all matters related to direct care professional training standards and shall submit a report to Congress no later than 3 years after enactment of the Act. Authorizes funding at \$500,000 for FY 2025, to remain available without FY limitation, until expended.

Subtitle D- Increasing Supports for the Existing Direct Care Professional Workforce

Section 231. Mental Health Services

Authorizes the Secretary of HHS to make awards to eligible entities to establish or enhance evidence-based or evidence-informed programs dedicated to improving mental health and resiliency for direct care professionals. Authorizes funding at \$20 million for 5 years.

Section 232. Dissemination of Best Practices with Respect to Mental Health of Direct Care Professionals.

Directs the Secretary of HHS to identify and disseminate evidence-based or evidence-informed best practices for preventing suicide and improving mental health and resiliency among direct care professionals and for training them in appropriate strategies to promote their mental health.

Section 233. Education and Awareness Initiative Encouraging Use of Mental Health and Substance Use Disorder Services by Direct Care Professionals.

Directs the Secretary of HHS, in consultation with relevant stakeholders, to establish a national evidence-based or evidence-informed education and awareness initiative with the goal of preventing suicide, mental health condition, and substance use disorders of direct care professionals and to address stigma associated with seeking mental health and substance use disorder services.

Section 234. Direct Care Professional Training Grants

Amends Section 2041 of the Social Security Act to authorize Secretary to allot grants to State, Indian tribes, and Tribal organizations to provide wage subsidies, student loan repayment, childcare, and transportation assistance for direct care professional workers (e.g., personal care aide, home health aide, licensed practical nurse, or licensed social worker). Entities may also use funds to provide emergency financial assistance; provide in-kind resource donations, such as interview clothing and conference attendance fees; provide assistance with activities designed to lower barriers to employment, including legal assistance; support eligible employers in offering not less than 2 weeks of paid leave per year. Authorizes funding at \$400 million for 5 years, of which 2 percent are reserved for Indian tribes and tribal organizations.

Section 235. Credit for Certain Healthcare Professionals

Provides a \$5,000 tax credit to practitioners (as defined by section 1842(b)(18)(C) of the Social Security Act), certified nursing assistants, licensed practical nurses, home health aides practicing in long-term care settings, personal care aides practicing in long-term care settings, or other direct care professionals.

Section 236. Direct Care Professional Workforce Equity Technical Assistance Center

Directs the Secretary of HHS to establish a national technical assistance center to address inequity and disparities facing the direct care professional workforce and ensure that long-term care settings are meeting the unique demographic, cultural and linguistic needs of the community in which such settings are and the community of workers withing such settings. Authorizes funding at \$10 million for 5 years.

Title III -Workforce Labor Protections

Subtitle A – Long-Term Care Workforce Wage Theft Prevention and Wage Recovery Act

Section 301. Definitions

This section provides definitions for Administrator, community partner, community partnership, covered employee, covered employer, eligible entity, Secretary, strategic enforcement, wage and hour law, and wage and hour violation.

Section 302. Direct Care Workforce Wage Theft Prevention and Wage Recovery Grant Program

Creates a grant program at DOL to assist DOL in its education, trainings, and enforcement through partnerships with organizations on the ground that fight wage theft and enhance enforcement of wage and hour laws. Authorizes funding at \$50 million for 5 years, to remain available until expended.

Subtitle B – Direct Care Professionals Rights

Section 311. Definitions

This section provides definitions for Fair Labor Standards Act terms, child, covered entity, Medicaid HCBS-eligible older individual, on-call shift, parent, personal care services, Secretary, shared living arrangement, and spouse.

Section 312. Written Agreements

Requires domestic work hiring entities to provide a written agreement to each covered or personal home care aide. Details the information required in the agreement, including the address where the aide will be providing services, work responsibilities, rate of pay, required work hours and time off, and information about policies and procedures related to safety and emergencies.

Section 313. Fair Scheduling Practices

Ensures personal or home care aides do not lose pay when they are cancelled on last minute. Requires the regular rate of pay for last minute cancellations when personal or home care aides show up to work for scheduled hours and half the regular rate of pay if their hours are reduced or cancelled with less than 72-hour notice, with exceptions for emergency situations. Does not apply to natural or major disasters, severe weather conditions, or shared living arrangements.

Section 314. Right to Request and Receive Temporary Changes to Scheduled Work Hours Due to Personal Events

Ensures that personal or home care aides who regularly work at least 8 hours each week can get at least 2 requests granted for scheduling changes related to personal events such as caregiving, health, and legal proceedings per calendar year.

Section 315. Privacy

Prohibits hiring entities from (1) recording or monitoring personal or home care aides' use of restroom or bathing facilities, private living areas, or activities related to dressing; (2) restricting personal or home care aides' private communications, unless they significantly interfere with

their work; (3) monitoring private communications; (4) confiscating personal or home care aides' personal effects or documents.

Section 316. Breaks for Meals and Rest

Ensures that personal or home care aides have the right to break for meals and rest: provides personal or home care aides who work more than 5 hours for the same hiring entity a paid 30-minute uninterrupted meal break; provides personal or home care aides who work 4 or more hours for the same hiring entity a paid rest of at least 10 uninterrupted minutes paid at the regular rate of pay for each 4 hours worked, unless the worker is relieved of all duties during that time; and in situations where a personal or home care aides' duties prevent them from taking an "off-duty" break, they will receive an "on-duty" break. Such meal and rest breaks shall be paid. Does not apply to shared living arrangements.

Section 317. Prohibited Acts

Protects personal or home care aides who exercise their rights and protects against retaliation. Creates a rebuttable presumption that if within 90 days the hiring entity takes adverse action, including reporting or threatening to report on an individual's citizenship or immigration status, against an individual who has asserted their claim or exercised their rights under the act that the adverse action is retaliation.

Section 318. Enforcement Authority

Gives the Secretary of Labor the authority to investigate violations and take administrative and civil action against those in violation of the law. Individual workers also have a private right of action. The damages and penalties structure is based on the Fair Labor Standards Act.

Section 319. Effect on Existing Employment Benefits and Other Laws

Clarifies that nothing under this Chapter shall supersede a collective bargaining agreement or diminish the obligation of hiring entities to comply with any contract, collective bargaining agreement, or employment benefit program or plan that provides greater rights or benefits to domestic workers. Clarifies that nothing under this Chapter is to preempt, limit, or effect the applicability of other Federal, State, or local law.

Subtitle C – Workplace Violence Prevention for Health Care and Social Service Workers Act

Section 321. Workplace Violence Prevention Standard

Requires the Secretary of Labor to issue a workplace violence prevention standard requiring employers within the health care and social service sectors to develop and implement a plan to protect their employees from workplace violence. An interim final standard shall be issued within 1 year of enactment, and then a final standard, subject to full notice and comment, shall be issued within 42 months of enactment. Prior to the issuance of an interim final standard, the Secretary shall provide for a 30-day comment period. The interim final standard shall be based upon the OSHA Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers and the requirements set forth under this subtitle.

Section 322. Scope and Application

The standard will cover hospitals, residential treatment facilities, non-residential treatment settings, medical treatment or social service settings in correctional or detention facilities, psychiatric treatment facilities, substance use disorder treatment centers, community care settings such as group homes and mental health clinics, freestanding emergency centers, and federal health care facilities such as those operated by the Veterans Administration and the Indian Health Service, as well as field work settings such as home care and home-based hospice, and emergency services and transport services. The standard is not intended to cover offices of individual physician offices or other medical providers located outside of covered facilities or covered services. The rule covers employers who is a person, contractor, firm, or entity that employs an individual to work at a covered facility; the rule does not cover private employment of an individual or individual who receives self-directed HCMS through a Medicaid waiver.

Section 323. Requirements for Workplace Violence Prevention Standard

The bill requires OSHA to establish a standard under which each covered employer shall develop and implement a Workplace Violence Prevention Plan tailored to the relevant hazards in the specific facility. In preparing a Plan, covered employers, in conjunction with employees (and their representatives where applicable), shall identify workplace violence risks to employees in their particular workplace, including environmental risk factors, risk factors specific to the patient population, and past violent incidents. Includes several requirements regarding what the Plan shall include. The OSHA standard mandates that employers shall investigate each incident of workplace violence as soon as practicable, document the findings, and take corrective measures. The OSHA standard requires that each employer must provide annual in-person training and education to employees. When employees are reassigned, they must receive additional training. The OSHA standard requires that employers must record workplace violence incidents in a Violent Incident Log. An annual summary of the Log shall be posted in the workplace in the same manner as the posting of the OSHA Annual Summary of Injuries and Illnesses, and similarly shall be transmitted to OSHA. Employers shall maintain records related to the Plan, and employees are provided the right to examine and make copies of the Plan, the Log and related Plan documents, with appropriate protections for patient and worker privacy. Finally, the OSHA standard prohibits retaliation against a covered employee for reporting a workplace violence incident, threat, or concern to an employer, law enforcement, local emergency services, or a government agency. A violation of this prohibition shall be enforceable as a violation of an OSHA standard.

Section 324. Rules of Construction

Nothing in this subtitle curtails or limits the authority of the Secretary of Labor under any other provision of federal or state law. The rights, privileges, and remedies of employees provided under this legislation are in addition to those provided under any other federal or state law.

Section 325. Definitions

The section provides definitions for workplace violence, type 1 violence, type 2 violence, type 3 violence, type 4 violence, threat of violence, alarm, dangerous weapon, engineering controls, environmental risk factors, patient-specific risk factors, Secretary, and work practice controls.

Section 326. Application of the Workplace Violence Prevention Standards to Certain Facilities Receiving Medicare Funds.

Requires that hospitals and skilled nursing facilities operated by state or local government agencies, which are not otherwise subject to the Occupational Safety and Health Act of 1970 or a State occupational safety and health plan, shall comply with the OSHA standard required in this Act as a condition of receiving Medicare funds. A covered facility that fails to comply with the OSHA standard is subject to a civil monetary penalty in an amount similar to the amount OSHA may impose under the OSHA Act for a violation of a standard, but such facility is not subject to termination of an agreement with Medicare.

Subtitle D – Improving Access to Job Benefits

Section 327. Definitions

This section provides definitions for child, commerce, covered direct care professional domestic violence, employee, employer, employment benefits, health care provider, paid sick time, parent, public health emergency, Secretary, sexual assault, spouse, stalking, and victim services organization.

Section 328. Paid Sick Time

Requires all employers to provide not less than 1 hour of earned paid sick time for every 30 hours worked. Time may be used for physical or mental illnesses, absence from obtaining care, or absence for the purpose of caring for family, among other reasons. Requires all employers to provide an additional 14 paid sick days, available immediately at the beginning of a public health emergency. Ensures paid sick leave covers days when a child’s school is closed due to a public health emergency, when an employer is closed due to a public health emergency, or if an individual or family member is quarantined or isolated due to a public health emergency.

Section 329. Notice Requirement

Requires employers to notify employees of the paid sick time available to employees under this subtitle.

Section 330. Prohibited Acts

Prohibits employers to interfere with, restrain, or deny or attempt to deny exercise of the rights provided under this subtitle.

Section 331. Enforcement Authority

Provides investigative and subpoena authority to the Secretary of Labor. Requires employers to keep and preserve records pertaining to compliance with this subtitle. It allows an employee who has been subjected to unlawful actions to file a civil action against the employer in an appropriate federal or state court for damages or equitable relief.

Section 332. Education and Outreach

Provides authority to the Secretary to conduct a public awareness campaign to educate and inform the public of the requirements for paid sick time. Authorizes funding at \$20 million to carry out such campaign.

Section 333. Effect on Existing Employment Benefits

Clarifies that nothing under this subtitle shall diminish the obligation of an employer to comply with a contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid sick leave or other leave rights to employees than the rights established under this subtitle. Additionally, clarifies that the rights established for employees under this subtitle does not diminish any contract, collective bargaining agreement, or any employment benefit program or plan.

Section 334. Encouragement of More Generous Leave Policies

Clarifies that nothing in this subtitle shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of this subtitle.

Section 335. Regulations

Directs the Secretary of Labor to promulgate regulations no later than 180 days after enactment.

Section 335A. Effective Date

Stipulates that if a public health emergency is declared before or remains in effect on the date of enactment than the public health emergency shall be considered to have been declared on the date of enactment for purposes of this subtitle.

Section 335B. Collection of Data and Further Study

Directs the Commission of the Bureau of Labor Statistics to collect data on the amount of paid and unpaid sick time and the average sick time used by employee according to occupation and type of employee. Also directs GAO to conduct a study that evaluates the implementation of this subtitle.

Title IV – National Direct Care Professional Compensation Strategy

Section 401. Definitions

This section provides definitions for advisory council, Secretary, and strategy.

Section 402. National Direct Care Professional Compensation Strategy

Directs the Secretary of HHS to develop jointly with the Advisory Council and submit to Congress a national direct care professional worker compensation strategy. The strategy shall identify recommended actions that Federal programs, State and local governments, communities, health care providers, and others to take to provide direct care professionals a livable wage. The strategy shall be developed, published, and submitted to Congress no later than 18 months after enactment. And updated, republished, and submitted to Congress biennially thereafter. Authorizes funding at \$100,000 for 5 years.

Section 403. National Direct Care Professional Compensation Strategy Advisory Council

The Secretary shall convene an Advisory Council to advise and provide recommendations, including identified best practices, to the Secretary on compensating direct care professionals.

Section 404. Sunset Provision

This Title shall sunset 10 years after enactment.

Title V – Improving Oversight and Accountability**Section 501. Evaluation of Implementation and Outcomes**

Directs the Secretary of HHS, in conjunction with the Secretary of Labor, to evaluate the implementation and outcomes of this Act through an external evaluator. Evaluation criteria includes outcomes based on recruitment, retention, wages, and benefits of direct care professionals; impact on mental health outcomes among direct care professionals; and impact on working conditions, wages, and schedule stability for direct care professionals. The Secretary shall disseminate the findings of this evaluation to all State Medicaid directors, Congress, and make all findings publicly available in an accessible format.