



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: April 06, 2022

TIME: 11:32 AM

WSR 22-08-110

Agency: Department of Social & Health Services, Aging and Long-Term Support Administration

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The Department is requiring Long-term Care Workers to complete training requirements by certain dates that would potentially be before the suspension of the training requirements ends. The Department is dividing the group of LTCWs who are working now and started within 120 days of when the suspension went into place in early 2020, into cohorts based on length of time working. The rule would then require each cohort to complete the requirements by deadlines in rule with the "oldest" LTCWs having the first deadline and then working through the groups chronologically. This emergency filing cancels and supersedes the emergency filed as WSR 22-04-008 on January 21, 2022.

Citation of rules affected by this order:

New: 388-71-0876, 388-71-0992, 388-112A-0081, 388-112A-0613
 Repealed:
 Amended:
 Suspended:

Statutory authority for adoption: RCW 74.08.090, RCW 74.09.520

Other authority: Engrossed Substitute House Bill 1120

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Long-term Care Workers are required to complete certain training requirements within specific deadlines. The passage of Engrossed Substitute House Bill 1120 during the 2021 Legislative Session, the suspension of training requirements deadlines will end when the public health emergency ends or if the Governor or the Legislature acts. DSHS anticipates that the end of the suspension of LTCW training requirements would create a sudden surge in demand for training that would likely exceed capacity of training entities and result in LTCW's failing to complete the requirements in time.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|----------------------------------|-----|-----|---------|----------|----------|-----|
| Federal statute: | New | ___ | Amended | ___ | Repealed | ___ |
| Federal rules or standards: | New | ___ | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | ___ | Amended | <u>4</u> | Repealed | ___ |

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended 4 Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended 4 Repealed ____

The number of sections adopted using:

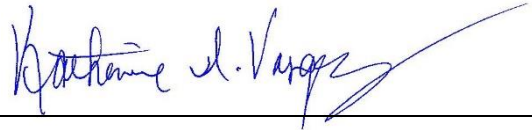
| | | | | | | |
|--------------------------------|-----|------|---------|----------|----------|------|
| Negotiated rule making: | New | ____ | Amended | ____ | Repealed | ____ |
| Pilot rule making: | New | ____ | Amended | ____ | Repealed | ____ |
| Other alternative rule making: | New | ____ | Amended | <u>4</u> | Repealed | ____ |

Date Adopted: April 6, 2022

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



NEW SECTION

WAC 388-71-0876 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? (1) Unless exempt from training as described in WAC 388-71-0839 or WAC 388-112A-0090, a long-term care worker affected by the COVID-19 public health emergency must complete training, including required specialty training, as follows:

| Worker hired or rehired during the time frame of: | Must complete basic training no later than: |
|--|---|
| 8/17/2019 to 9/30/2020 | 10/31/2022 |
| 10/1/2020 to 4/30/2021 | 1/31/2023 |
| 5/1/2021 to 3/31/2022 | 4/30/2023 |
| 4/1/2022 to 9/30/2022 | 8/31/2023 |
| 10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later | 9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later |
| After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later | Standard training |

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification as follows:

| Worker hired or rehired during the time frame of: | Must be certified as a home care aide no later than: |
|--|--|
| 8/17/2019 to 9/30/2020 | 1/19/2023 |
| 10/1/2020 to 4/30/2021 | 4/21/2023 |
| 5/1/2021 to 3/31/2022 | 7/19/2023 |
| 4/1/2022 to 9/30/2022 | 11/19/2023 |
| 10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later | 12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later |
| After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later | Standard training |

(3) "Hired" and "rehired" as used in this section mean the date of hire as defined in chapter 246-980 WAC. A long-term care worker is considered rehired if they held previous employment as a long-term

care worker and did not have an active home care aide credential when hired during the time frames outlined in section (1) of this section.

(4) If a long-term care worker is limited-English proficient, the worker may request an additional 60 days to obtain certification.

(5) Nothing in this section prevents a long-term care worker hired between 8/17/2019 and 9/30/2022 from completing training or obtaining certification in advance of the deadlines stipulated in subsections (1) or (2) of this section.

NEW SECTION

WAC 388-71-0992 When must continuing education be completed when public health emergency waivers are lifted, and what continuing education credit is granted to long-term care workers employed during the pandemic?

(1) The department finds that long-term care workers employed during the COVID-19 pandemic between March 1, 2020, and February 28, 2021, required emergent and intensive on-the-job training. Long-term care workers received critical, ongoing training in such topics as:

- (a) Donning and doffing personal protective equipment (PPE);
- (b) Hand hygiene;
- (c) Disinfection of high-touch surfaces;
- (d) Managing visitations and physical distancing;
- (e) Responding to newly infected residents;
- (f) Promotion of vaccination;
- (g) Protocols for quarantine;
- (h) Use of cloth face coverings;
- (i) Personal protection outside of the work environment; and
- (j) How to reduce exposure and spread.

(2) This on-the-job training was required of all workers in all long-term care environments in Washington state. Instruction was provided in assisted living facilities, adult family homes, homecare agencies, enhanced services facilities, certified community residential services, and to individual providers by the SEIU775 benefits group and DSHS to discuss infection control and the availability and distribution of personal protective equipment. Recognition of this training as a valid learning experience, in its various forms, was agreed upon with input from consumer and worker representatives, as the content was based on guidelines established by the Centers for Disease Control (CDC) and other federal, state, and local health care authorities.

(3) During this time, long-term care workers required ongoing critical training because guidance from the CDC, department of labor and industries, and other health authorities changed as more was learned about the SARS-CoV-2 virus. The department finds that this unprecedented on-the-job training constituted at least 12 hours of continuing education between March 1, 2020, and February 28, 2021, and that this training is not considered to be repeated training as described in WAC 388-112A-0600(2).

(4) All long-term care workers employed during the dates in section (3) of this section are granted 12 hours of DSHS-approved continuing education credit for the training entitled "COVID-19 On-The-Job Training Protocols," bearing the DSHS approval code CE2135218. No physical certificate for this training will be issued or required. The

COVID-19 continuing education hours may be applied to renewal periods ending no earlier than March 1, 2020, and no later than December 31, 2021.

(5) The department recognizes that long-term care workers may not have completed training hours in excess of the 12 hours of CE granted in section (4) of this section due to the COVID-19 public health emergency. All long-term care workers shall have until December 31, 2022, or 120 days from the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later, to complete any additional CE that may have become due while training waivers were in place in excess of the 12 hours of CE granted in subsection (4) of this section. If a worker's next birthday allows fewer than 120 days after the waivers are lifted to complete required CE for their current renewal cycle, the worker will have 120 days from the end of training waivers to complete the required CE.

NEW SECTION

WAC 388-112A-0081 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? (1) Unless exempt from training as described in WAC 388-71-0839 or WAC 388-112A-0090, a long-term care worker affected by the COVID-19 public health emergency must complete training, including required specialty training, as follows:

| Worker hired or rehired during the time frame of: | Must complete basic training no later than: |
|--|---|
| 8/17/2019 to 9/30/2020 | 10/31/2022 |
| 10/1/2020 to 4/30/2021 | 1/31/2023 |
| 5/1/2021 to 3/31/2022 | 4/30/2023 |
| 4/1/2022 to 9/30/2022 | 8/31/2023 |
| 10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later | 9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later |
| After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later | Standard training |

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification as follows:

| Worker hired or rehired during the time frame of: | Must be certified as a home care aide no later than: |
|--|---|
| 8/17/2019 to 9/30/2020 | 1/19/2023 |
| 10/1/2020 to 4/30/2021 | 4/21/2023 |

| | |
|--|--|
| 5/1/2021 to 3/31/2022 | 7/19/2023 |
| 4/1/2022 to 9/30/2022 | 11/19/2023 |
| 10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later | 12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later |
| After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later | Standard training |

(3) "Hired" and "rehired" as used in this section mean the date of hire as defined in chapter 246-980 WAC. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in section (1) of this section.

(4) If a long-term care worker is limited-English proficient, the worker may request an additional 60 days to obtain certification.

(5) Nothing in this section prevents a long-term care worker hired between 8/17/2019 and 9/30/2022 from completing training or obtaining certification in advance of the deadlines stipulated in subsections (1) or (2) of this section.

NEW SECTION

WAC 388-112A-0613 When must continuing education be completed when public health emergency waivers are lifted, and what continuing education credit is granted to long-term care workers employed during the pandemic?

(1) The department finds that long-term care workers employed during the COVID-19 pandemic between March 1, 2020, and February 28, 2021, required emergent and intensive on-the-job training. Long-term care workers received critical, ongoing training in such topics as:

- (a) Donning and doffing personal protective equipment (PPE);
- (b) Hand hygiene;
- (c) Disinfection of high-touch surfaces;
- (d) Managing visitations and physical distancing;
- (e) Responding to newly infected residents;
- (f) Promotion of vaccination;
- (g) Protocols for quarantine;
- (h) Use of cloth face coverings;
- (i) Personal protection outside of the work environment; and
- (j) How to reduce exposure and spread.

(2) This on-the-job training was required of all workers in all long-term care environments in Washington state. Instruction was provided in assisted living facilities, adult family homes, homecare agencies, enhanced services facilities, certified community residential services, and to individual providers by the SEIU775 benefits group and DSHS to discuss infection control and the availability and distribution of personal protective equipment. Recognition of this

training as a valid learning experience, in its various forms, was agreed upon with input from consumer and worker representatives, as the content was based on guidelines established by the Centers for Disease Control (CDC) and other federal, state, and local health care authorities.

(3) During this time, long-term care workers required ongoing critical training because guidance from the CDC, department of labor and industries, and other health authorities changed as more was learned about the SARS-CoV-2 virus. The department finds that this unprecedented on-the-job training constituted at least 12 hours of continuing education between March 1, 2020, and February 28, 2021, and that this training is not considered to be repeated training as described in WAC 388-112A-0600(2).

(4) All long-term care workers employed during the dates in section (3) of this section are granted 12 hours of DSHS-approved continuing education credit for the training entitled "COVID-19 On-The-Job Training Protocols," bearing the DSHS approval code CE2135218. No physical certificate for this training will be issued or required. The COVID-19 continuing education hours may be applied to renewal periods ending no earlier than March 1, 2020, and no later than December 31, 2021.

(5) The department recognizes that long-term care workers may not have completed training hours in excess of the 12 hours of CE granted in section (4) of this section due to the COVID-19 public health emergency. All long-term care workers shall have until December 31, 2022, or 120 days from the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later, to complete any additional CE that may have become due while training waivers were in place in excess of the 12 hours of CE granted in subsection (4) of this section. If a worker's next birthday allows fewer than 120 days after the waivers are lifted to complete required CE for their current renewal cycle, the worker will have 120 days from the end of training waivers to complete the required CE.