

WSR 24-16-082

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 1, 2024, 9:32 a.m., effective September 1, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to adopt amendments to WAC 388-71-0752, 388-71-1055, 388-112A-0090, 388-112A-0495, 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-1240, and 388-112A-1245 due to SB 5499, (chapter 123, Laws of 2023). The adopted amendments update training rules to recognize registered nurses licensed under chapter 18.80 RCW. This concerns the multistate nurse licensure compact.

Citation of Rules Affected by this Order: Amending WAC 388-71-0752, 388-71-1055, 388-112A-0090, 388-112A-0495, 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-1240, and 388-112A-1245.

Statutory Authority for Adoption: RCW 70.128.230, 74.39A.009, 74.39A.070, and 74.39A.074; and chapter 18.80 RCW.

Adopted under notice filed as WSR 24-09-016 on April 8, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: August 1, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5005.2

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0752 What are the adult day centers' staffing qualifications and requirements? (1) Staff selection is dependent on participant needs, program design, and contracting requirements. The center must have the proper balance of professionals and paraprofessionals or nonprofessionals to adequately meet the needs of participants. Services must be delivered by those with adequate professional training. A staff person can have multiple functions, such as an administrator who is also responsible for providing nursing services or social services.

(2) To ensure continuity of direction and supervision, there must be a clear division of responsibility between the governing body and the adult day center administrator.

(3) The administrator must be given full authority and responsibility to plan, staff, direct, and implement the program. The administrator must also have the responsibility for establishing collaborative relations with other community organizations to ensure necessary support services to participants and their families (~~(+)~~) or caregivers.

(4) The administrator must be on site to manage the center's day-to-day operations during hours of operation. If the administrator is responsible for more than one site, or has duties not related to adult day center administration or provision of services, a program director must be designated for each additional site and must report to the administrator.

(5) The administrator must be responsible for the development of a written plan of operation with approval of the governing body and the development, coordination, supervision, fiscal control, and evaluation of services provided through the adult day center.

(6) A nurse or other personnel with a current first aid and CPR card must be on-site whenever participants are attending the adult day care or health program.

(7) Required credentials must be verified to ensure that they are current and in good standing for licensed and certified staff.

(8) Adult day centers may utilize a range of staff under contract or consulting from a larger parent organization or from a private entity to provide services.

(9) Staff commonly utilized by both adult day care and adult day health centers must meet the following requirements:

(a) An activity coordinator must have a bachelor's degree in recreational therapy or a related field and one year of experience (full-time equivalent) in social or health services; or an associate degree in recreational therapy or a related field plus two years of appropriate experience; or three years of paid experience in an activity program and expertise with the population served at the center.

(b) The nurse must be a registered nurse (RN) with valid (~~(state)~~) Washington or multistate credentials in good standing and have at least one-year applicable experience (full-time equivalent) in ambulatory care or hospital nursing or geriatric or preferably in home health or older adult community-based nursing (~~(and+)~~) or work with disabled clients. In addition to a registered nurse, an adult day center can utilize a licensed practical nurse (LPN), but the LPN must be supervised in compliance with all applicable nurse practice acts and standards. The LPN must have valid state credentials in good standing and at least one-year applicable experience (full-time equivalent) in ambulatory care or hospital nursing or geriatric or preferably in home health or older adult community-based nursing (~~(and+)~~) or work with disabled clients. In the adult day care center, the RN (~~(+)~~) or LPN does not need to be on site during all hours of operation. In the adult day health (ADH) center, the RN (~~(and+)~~) or LPN must be on site when the attending participants (~~(+)~~) who need nursing services are attending the ADH program. If there are no participants who have nursing service interventions identified on their negotiated care plan in attendance, then the nurse is not required to be on site during the ADH program time.

(c) The social services professional must have a master's degree in social work, gerontology, or other human services field, or coun-

seling and at least one year of professional work experience (full-time equivalent), or a bachelor's degree in social work, counseling, or a related field and two years of experience in a human services field.

(d) Program assistant(~~(/)~~) and aides or personal care aides must have the appropriate knowledge, skills, and training to meet the individual needs of the participants before they are allowed to provide care and services. The assistant(~~(/)~~) and aide competencies must be documented demonstrating their qualification to meet the needs of the center's participants within their job description.

(e) Consultants from a larger parent organization without formal contracts may be utilized whenever the center is part of a larger organization that has the ability to provide professional services within the larger framework.

(f) Consultants, with appropriate, valid state credentials may be utilized as needed to meet the requirements outlined in this chapter. The rehabilitative consultants must perform the professional assessment of the participant, train the staff regarding the participant's therapy needs and therapeutic (~~(intervention/s)~~) interventions, monitor the rehabilitation program and evaluate the participant's progress for discharge planning.

(g) (~~(Secretary/)~~) Secretaries and bookkeepers must have at least a high school diploma or equivalent and skills and training to carry out the duties of the position.

(h) If the adult day center provides transportation, drivers must have a valid and appropriate state driver's license, a safe driving record, and training in first aid and CPR. The driver must meet all state requirements for licensure or certification.

(i) Volunteers may be individuals or groups who desire to work with adult day center clients and must take part in program orientation and training. Volunteers and staff must mutually determine the duties of volunteers. Duties to be performed under the supervision of a staff member must either supplement staff in established activities or provide additional services for which the volunteer has special talents. Volunteers will be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualification standards of the organization, and have designated responsibilities.

(j) Dietitians must be certified with valid state credentials and have a minimum of one year applicable experience (full-time equivalent).

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-1055 What are the minimum qualifications for an instructor for basic (including 30-hour and seven-hour DDA parent providers), population specific, on-the-job, nurse delegation core, and nurse delegation specialized diabetes trainings? An instructor for basic (including 30-hour and seven-hour DDA parent providers), population specific, on-the-job, nurse delegation core, and nurse delegation specialized diabetes training must meet the following minimum qualifications:

- (1) Be at least 21 years of age;

(2) Has not had a professional health care, adult family home, enhanced services facility, assisted living facility, or social services license or certification revoked in Washington state; and

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting; or

(b) Has an associate degree or higher degree in the field of health or human services and six months of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living facility, supported living through DDA, or home care setting; or

(c) Has a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living facility, supported living through DDA, or home care setting.

(4) Meets one or more of the following teaching experience requirements:

(a) 100 hours of teaching adults in an appropriate setting on topics directly related to the basic training or basic training topics that may be offered as continuing education; or

(b) 40 hours of teaching basic training while being mentored by an instructor who is approved to teach basic training;

(5) Except for instructors for nurse delegation core and specialized diabetes training, completion of a class on adult education that meets the requirements in WAC 388-71-1066;

(6) The instructor must be experienced in caregiving practices and demonstrate competency with respect to teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing; and

(8) Community instructors for nurse delegation core and specialized diabetes trainings must have a current Washington ((state)) or multistate registered nurse (RN) license in good standing without practice restrictions.

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

WAC 388-112A-0090 Which long-term care workers are exempt from the ((seventy)) 70-hour long-term care worker basic training requirement? The following long-term care workers are exempt from the ((seventy)) 70-hour long-term care worker basic training requirement:

(1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;

(2) An individual previously employed as a long-term care worker who complied with the basic training requirements in effect on the date of hire and was employed as a long-term care worker at some time between January 1, 2011, and January 6, 2012;

(3) A registered nurse, licensed practical nurse, and advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW;

(4) A nursing assistant certified under chapter 18.88A RCW and a person in an approved training program for certified nursing assistants under chapter 18.88A RCW provided they complete the training program within (~~one hundred twenty~~) 120 days of the date of hire and the department of health has issued the nursing assistant certified credential within (~~two hundred~~) 200 days of the date of hire;

(5) A home health aide who was employed by a medicare certified home health agency within the year before the individual was hired as a long-term care worker and who has met the requirements of 42 C.F.R. Sec. 484.36;

(6) An individual with special education training with an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

WAC 388-112A-0495 What are the specialty training and supervision requirements for long-term care workers in adult family homes, assisted living facilities, and enhanced services facilities?

Adult family homes.

(1) If an adult family home serves one or more residents with special needs, the adult family home must ensure that a long-term care worker employed by the home completes and demonstrates competency in specialty training as described in WAC 388-112A-0400 within (~~one hundred twenty~~) 120 days of hire.

(2) Until a long-term care worker completes the requirements of subsection (1) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision, unless indirect supervision is allowed under subsection (3) of this section.

(3) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 or 18.80 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 or 18.80 RCW; or

(e) The long-term care worker is exempt from the (~~seventy~~) 70-hour basic training under WAC 388-112A-0090.

Assisted living facilities.

(4) If an assisted living facility serves one or more residents with special needs, the assisted living facility must ensure that a long-term care worker employed by the facility demonstrates completion of, or completes and demonstrates competency in specialty training within (~~one hundred twenty~~) 120 days of hire. However, if specialty training is not integrated with basic training, the specialty training must be completed within (~~ninety~~) 90 days of completion of basic training.

(5) Until a long-term care worker completes the specialty training and demonstrates competency as required under subsection (4) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision, unless indirect supervision is allowed under subsection (6) of this section.

(6) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

- (a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;
- (b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;
- (c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 or 18.80 RCW;
- (d) The long-term care worker is a registered nurse (RN) under chapter 18.79 or 18.80 RCW; or
- (e) The long-term care worker is exempt from the ((seventy)) 70-hour basic training under WAC 388-112A-0090.

Enhanced services facilities.

(7) All long-term care workers in enhanced services facilities must complete and demonstrate competency in mental health and dementia specialty training prior to providing client services.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0610 Who in an adult family home is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?

(1) The continuing education training requirements that apply to certain individuals working in adult family homes are described ((below)) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

- (i) A certified home care aide;
- (ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);
- (iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and
- (iv) An adult family home provider, entity representative, and resident manager as provided under WAC 388-112A-0050.

(b) A long-term care worker who is a certified home care aide, must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete 12 hours of continuing education within 45 calendar days of being hired by the adult family home or by the

long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the hours of credit earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) A long-term care worker who completed basic or modified basic training after June 30, 2005, is not required to have a food handler's permit. For a long-term care worker who completed basic or modified basic caregiver training before June 30, 2005, and does not maintain a food handler's permit, continuing education must include one half hour per year on safe food handling in adult family homes as described in RCW 70.128.250.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0611 Who in an assisted living facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?

(1) The continuing education training requirements that apply to certain individuals working in assisted living facilities are described ((below)) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant;

(iv) A person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(v) An assisted living facility administrator or the administrator designee as provided under WAC 388-112A-0060.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete and provide documentation of 12 hours of continuing education within 45 calendar days of being hired by the

assisted living facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of initial certification, no continuing education will be due for the first renewal period.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0612 Who in an enhanced services facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed? (1) The continuing education training requirements that apply to certain individuals working in enhanced services facilities are described (~~below~~) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) An enhanced services facility applicant, facility representative, administrator, or the administrator designee as provided under WAC 388-112A-0070.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete 12 hours of continuing education within 45 calendar days of being hired by the enhanced services facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the

following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) Enhanced services facility certified home care aide staff and nursing assistant certified staff must have 10 of the 12 hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.

(g) In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of staff education per quarter on topics relevant to the needs of the population served.

(2) A long-term care worker who does not complete continuing education as required in this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-1240 What are the minimum qualifications for an instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and specialized diabetes trainings? An instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and nurse delegation specialized diabetes trainings must meet the following minimum qualifications:

(1) Be at least 21 years of age;

(2) Has not had a professional health care, adult family home, assisted living facility, or social services license or certification revoked in Washington state;

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting;

(b) Has an associate degree or higher degree in the field of health or human services and six months professional or caregiving experience within the last five years in a community-based setting or an adult family home, enhanced services facility, assisted living facility, supported living through the developmental disabilities administration (DDA), or home care setting; or

(c) Has a high school diploma or equivalent and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living, supported living through DDA, or home care setting;

(4) Meets one or more of the following teaching experience requirements:

(a) 100 hours of experience teaching adults in an appropriate setting on topics directly related to basic training or basic training topics that may be offered as continuing education;

(b) 40 hours of teaching basic training while being mentored by an instructor who is approved to teach basic training; or

(c) Instructors with adult family homes, enhanced services facilities, and assisted living facilities who do not have the experience described in (a) or (b) of this subsection, must have and attest to the following experience and plans in their application:

(i) 40 hours of informal teaching experiences unrelated to basic training topics such as guest lecturing, team teaching, and volunteer teaching with parks, local high schools, 4-H groups, English as a second language (ESL) groups, senior organizations, or religious organizations;

(ii) Three adult learning techniques that the instructor will implement in the long-term care worker training; and

(iii) Three ways the instructor plans on improving instructional skills and the method the instructor will use to measure improvement such as submitting the continuous improvement plan feedback from the DSHS adult education class;

(5) Except for instructors for nurse delegation core and diabetes training, completion of a class on adult education that meets the requirements of WAC 388-112A-1297;

(6) The instructor must be experienced in caregiving practices and demonstrate competency for teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing;

(8) Community instructors for nurse delegation core and diabetes training must have a current Washington or multistate registered nurse (RN) license in good standing without practice restrictions; and

(9) Facility instructors must be approved and contracted by the department as a community instructor in order to be approved to teach the following classes:

(a) Nurse delegation core;

(b) Nurse delegation specialized diabetes training; or

(c) DSHS adult education training curriculum.

AMENDATORY SECTION (Amending WSR 22-10-053, filed 4/29/22, effective 5/30/22)

WAC 388-112A-1245 What are the requirements and minimum qualifications for high school instructors and programs that offer core basic, population specific, nurse delegation, and specialty trainings?

(1) A high school instructor teaching core basic, population specific, nurse delegation core, nurse delegation special focus on diabetes, specialty and expanded specialty trainings must meet the following minimum qualifications:

(a) Be at least 21 years of age;

(b) Not have had a professional, adult family home, assisted living facility, or social services license or certification revoked in Washington state;

(c) ~~((Meet the following education and work experience requirements upon))~~ Upon initial approval or hire ~~((=~~

~~(i) Have))~~, have a valid teaching credential with a related endorsement such as career and technical education, science, health, or special education; and

~~((A))~~ (i) Have caregiving experience within the last five years in a school, community-based, or home setting; or

~~((B))~~ (ii) Be a registered nurse with direct care experience within the last five years; or

~~((C))~~ (iii) Be certificated under the vocational code V511614;
or

~~((D))~~ (iv) Have successfully completed core basic training taught by a DSHS approved instructor; or

~~((E))~~ (v) Have taught 40 hours of basic training while being mentored by an instructor who is approved to teach basic training;

(d) Have at least 100 hours teaching experience;

(e) Be knowledgeable in caregiving practices and demonstrate competency for teaching the course content or units being taught; and

(f) Have successfully completed a specialty or expanded specialty training class before providing training in that curriculum to others;

(2) In addition to requirements under subsection (1) of this section, an instructor for nurse delegation core or diabetes must have a current Washington or multistate registered nurse (RN) license in good standing without practice restrictions.

(3) A high school home care aide training program must be approved and contracted by the department as a community instructor program.