

WSR 23-01-022
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
[Filed December 9, 2022, 9:06 a.m., effective January 9, 2023]

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

Purpose: The department is adopting WAC 388-71-0837, 388-71-0839, 388-71-0841, 388-71-0846, 388-71-0850, 388-71-0855, 388-71-0860, 388-71-0875, 388-71-0906, 388-71-0911, 388-71-0916, 388-71-0932, 388-71-0936, 388-71-0941, 388-71-0946, 388-71-0970, 388-71-0971, 388-71-0973, 388-71-0980, 388-71-0985, 388-71-0990, 388-71-0991, 388-71-1001, 388-71-1026, 388-71-1031, 388-71-1045, 388-71-1050, 388-71-1051, 388-71-1055, 388-71-1060, 388-71-1064, 388-71-1076, 388-71-1091, 388-71-1096, 388-71-1106, 388-71-1111, 388-71-1120, 388-71-1125, 388-71-1130, 388-112A-0105, 388-112A-0110, 388-112A-0115, 388-112A-0120, 388-112A-0125, 388-112A-0130, 388-112A-0200, 388-112A-0210, 388-112A-0220, 388-112A-0310, 388-112A-0320, 388-112A-0330, 388-112A-0520, 388-112A-0550, 388-112A-0560, 388-112A-0580, 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-0920, 388-112A-0940, 388-112A-0950, 388-112A-1010, 388-112A-1020, 388-112A-1230, 388-112A-1240, 388-112A-1250, 388-112A-1270, 388-112A-1285, 388-112A-1292, 388-112A-1300 and 388-112A-1310; repealing WAC 388-71-05833, 388-71-05834, 388-71-0921, 388-71-0931, 388-71-0951, 388-71-1006, 388-71-1021, 388-71-1083, 388-112A-0240, 388-112A-0350, 388-112A-0480, 388-112A-0530, 388-112A-0540, 388-112A-0585, 388-112A-0620 and 388-112A-0840; and new WAC 388-71-0958 Is there a challenge test for nurse delegation core or specialized diabetes training?, 388-71-0961 What knowledge and skills must nurse delegation core training include?, 388-71-0962 What knowledge and skills must nurse delegation specialized diabetes training include?, 388-71-1067 What are the minimum qualifications for community instructors for mental health specialty training?, 388-71-1068 What are the minimum qualifications for community instructors for dementia specialty training?, 388-71-1069 What are the minimum qualifications for community instructors to teach expanded specialty trainings?, and 388-112A-0118 What documentation is required for completion of each training?

Citation of Rules Affected by this Order: New WAC 388-71-0958 Is there a challenge test for nurse delegation core or specialized diabetes training?, 388-71-0961 What knowledge and skills must nurse delegation core training include?, 388-71-0962 What knowledge and skills must nurse delegation specialized diabetes training include?, 388-71-1067 What are the minimum qualifications for community instructors for mental health specialty training?, 388-71-1068 What are the minimum qualifications for community instructors for dementia specialty training?, 388-71-1069 What are the minimum qualifications for community instructors to teach expanded specialty trainings? and 388-112A-0118 What documentation is required for completion of each training?; repealing WAC 388-71-05833, 388-71-05834, 388-71-0921, 388-71-0931, 388-71-0951, 388-71-1006, 388-71-1021, 388-71-1083, 388-112A-0240, 388-112A-0350, 388-112A-0480, 388-112A-0530, 388-112A-0540, 388-112A-0585, 388-112A-0620 and 388-112A-0840; and amending WAC 388-71-0837, 388-71-0839, 388-71-0841, 388-71-0846, 388-71-0850, 388-71-0855, 388-71-0860, 388-71-0875, 388-71-0906, 388-71-0911, 388-71-0916, 388-71-0932, 388-71-0936, 388-71-0941,

388-71-0946, 388-71-0970, 388-71-0971, 388-71-0973, 388-71-0980,
 388-71-0985, 388-71-0990, 388-71-0991, 388-71-1001, 388-71-1026,
 388-71-1031, 388-71-1045, 388-71-1050, 388-71-1051, 388-71-1055,
 388-71-1060, 388-71-1064, 388-71-1076, 388-71-1091, 388-71-1096,
 388-71-1106, 388-71-1111, 388-71-1120, 388-71-1125, 388-71-1130,
 388-112A-0105, 388-112A-0110, 388-112A-0115, 388-112A-0120,
 388-112A-0125, 388-112A-0130, 388-112A-0200, 388-112A-0210,
 388-112A-0220, 388-112A-0310, 388-112A-0320, 388-112A-0330,
 388-112A-0520, 388-112A-0550, 388-112A-0560, 388-112A-0580,
 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-0920,
 388-112A-0940, 388-112A-0950, 388-112A-1010, 388-112A-1020,
 388-112A-1230, 388-112A-1240, 388-112A-1250, 388-112A-1270,
 388-112A-1285, 388-112A-1292, 388-112A-1300, and 388-112A-1310.

Statutory Authority for Adoption: RCW 18.20.270, 70.128.230,
 74.08.090, 74.39A.070, and 74.39A.074.

Adopted under notice filed as WSR 22-22-102 on November 2, 2022.

Changes Other than Editing from Proposed to Adopted Version: The original proposal was filed under WSR 22-17-073 on August 16, 2022, and a continuance notice was filed due to a service-wide network outage under WSR 22-22-102 on November 2, 2022. The proposed language was filed under SHS-4921.5. This version had a technical spacing issue change per code reviser's office that was changed from SHS-4921.4 filed by the department. The other changes from SHS-4921.5 to SHS-4921.7 include adding rules from chapter 388-71 WAC that are already in chapter 388-112A WAC, language added from interested parties that clarified language, and the adopted language version included the department of health reference of chapter 246-980 WAC in the rule.

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 0, 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 7, Amended 71, Repealed 16.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, Amended 71, Repealed 16.

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 7, Amended 71, Repealed 16.

Date Adopted: December 7, 2022.

Katherine I. Vasquez
 Rules Coordinator

SHS-4921.7

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0837 How does DSHS determine a long-term care worker's date of hire? (1) The department determines a long-term care

worker's date of hire according to (~~WAC 246-980-010~~) chapter 246-980 WAC.

(2) The date of hire is specific to each long-term care worker. It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.

(3) This section does not apply to background check requirements under this chapter.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0837, filed 8/30/21, effective 10/1/21.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0839 Which long-term care workers are exempt from the (~~seventy-hour~~) 70-hour, (~~thirty-hour~~) 30-hour, or (~~twelve-hour~~) seven-hour basic training requirements? The following long-term care workers are exempt from the (~~seventy~~) 70-hour (~~long-term care worker~~) home care aide 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 (~~his or her~~) hire;

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

(3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;

(4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within (~~one hundred twenty~~) 120 days of the date of hire and the department of health has issued (~~them their~~) a 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 being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;

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

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

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0839, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0839, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0841 What is orientation training, who should complete it, and when should it be completed? (1) ~~((Orientation))~~ Long-term care worker orientation is ~~((a training of))~~ two hours of orientation training regarding the long-term care worker's role ~~((as long-term care workers))~~ and the applicable terms of employment. Individuals required to complete the 70-hour home care aide basic training must complete long-term care worker orientation before providing care to a client.

(2) Long-term care worker orientation training, unless taken through a department approved online training program, must be provided by qualified instructors who meet the requirements of WAC 388-71-1060.

~~((2))~~ (3) The department must approve orientation curricula and instructors.

~~((3))~~ (4) There is no ~~((challenge))~~ competency test for long-term care worker orientation.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0841, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0846 What content must be included in long-term care worker orientation? ~~((Orientation must include introductory information in the following areas:~~

~~(1) The care setting and the characteristics and special needs of the population served or to be served;~~

~~(2) Basic job responsibilities and performance expectations;~~

~~(3) The care plan, including what it is and how to use it;~~

~~(4) The care team;~~

~~(5) Process, policies, and procedures for observation, documentation and reporting;~~

~~(6) Client rights protected by law, including the right to confidentiality and the right to participate in care decisions or to refuse care and how the long-term care worker will protect and promote these rights;~~

~~(7) Mandatory reporter law and worker responsibilities; and~~

~~(8) Communication methods and techniques that can be used while working with a client or guardian, and other care team members.~~

~~One hour of completed classroom instruction or other form of training (such as video or online course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions.)~~

(1) For long-term care worker orientation required of those individuals identified in WAC 388-71-0860, long-term care worker orientation is a two hour training that must include introductory information in the following areas:

(a) The care setting and the characteristics and special needs of the population served;

(b) Basic job responsibilities and performance expectations;

(c) The care plan or negotiated service agreement, including what it is and how to use it;

(d) The care team;

(e) Process, policies, and procedures for observation, documentation, and reporting;

(f) Resident rights protected by law, including the right to confidentiality and the right to participate in care decisions or to refuse care and how the long-term care worker will protect and promote these rights;

(g) Mandatory reporter law and worker responsibilities as required under chapter 74.34 RCW; and

(h) Communication methods and techniques that may be used while working with a resident or guardian and other care team members.

(2) One hour of completed classroom instruction or other form of training (such as a video or online course) in long-term care orientation training equals one hour of training. The training entity must establish a way for the long-term care worker to receive feedback from an approved instructor or a proctor trained by an approved instructor.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0846, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0850 What is safety training, who must complete it, and when should it be completed? (1) Safety training is part of the long-term care worker requirements. It is a ((training of)) three ((hours that)) hour training that must meet the requirements as described in WAC 388-71-0855, and includes basic safety precautions, emergency procedures, and infection control. ((The)) Safety training must be completed prior to providing care to the client.

(2) All long-term care workers who are not exempt from home care aide certification as described in RCW 18.88B.041 hired after January 7, 2012, must complete three hours of safety training. This safety training must be provided by qualified instructors who meet the requirements in WAC 388-71-1060.

((2)) (3) The department must approve safety training curricula and instructors.

((3)) (4) There is no ((challenge)) competency test for safety training.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0850, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0855 What content must be included in safety training? Safety training consists of introductory information in the following areas:

(1) Safety planning and accident prevention, including but not limited to:

- (a) Proper body mechanics;
- (b) Fall prevention;
- (c) Fire safety;
- (d) In-home hazards;
- (e) Long-term care worker safety; and
- (f) Emergency and disaster preparedness.

(2) Standard precautions and infection control, including but not limited to:

- (a) Proper hand washing;
- (b) When to wear gloves and how to correctly put them on and take them off;
- (c) Basic methods to stop the spread of infection;
- (d) Protection from exposure to blood and other body fluids;
- (e) Appropriate disposal of contaminated/hazardous articles;
- (f) Reporting exposure to contaminated articles; and
- (g) What to do when sick or injured, including whom to report

this to.

- (3) Basic emergency procedures, including but not limited to:

- (a) Evacuation preparedness;
- (b) When and where to call for help in an emergency;
- (c) What to do when a client is falling or falls;
- (d) Location of any advanced directives (~~and when they are given~~) if available; and
- (e) Basic fire emergency procedures.

(4) One hour of completed classroom instruction or other form of training (such as video or online course) equals one hour of training. The training entity must establish a way for the long-term care worker to (~~ask the instructor questions~~) receive feedback from an approved instructor or a proctor trained by an approved instructor.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0855, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0860 Who must complete orientation and safety, (~~training and~~) by when, and when does an orientation and safety training attestation process need to be completed? (1) Unless exempted in WAC 388-71-0839 (1) through (7), all long-term care workers must complete orientation and safety training prior to providing care to a client.

(2) All individual providers must contact the training partnership and follow the required procedures to confirm that they have completed the orientation and safety training, once it is completed.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0860, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0860, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0875 Who must complete the ((seventy)) 70-hour basic training and by when? Unless exempt from training in WAC 388-71-0839 (1) through (7), all long-term care workers must complete core and population specific competencies within ((one hundred twenty)) 120 days of the date of hire as described in chapter 246-980 WAC.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0875, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0875, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0906 What topics must be taught in the core competencies of the 70-hour home care aide basic training? Basic training must include all of the competencies under WAC 388-71-0911 for the following topics:

- (1) Communication skills;
- (2) Long-term care worker self-care;
- (3) Problem solving;
- (4) Client rights and maintaining dignity;
- (5) Abuse, abandonment, neglect, financial exploitation, and mandatory reporting;
- (6) Client directed care;
- (7) Cultural sensitivity;
- (8) Body mechanics;
- (9) Fall prevention;
- (10) Skin and body care;
- (11) Long-term care worker roles and boundaries;
- (12) Supporting activities of daily living;
- (13) Food preparation and handling;
- (14) Medication assistance;
- (15) Infection control, blood-borne pathogens, HIV/AIDS; and
- (16) Grief and loss.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0906, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0911 What are the core competencies and learning objectives for the ((core competencies of)) 70-hour home care aide basic training? ((Long-term care worker)) Home care aide basic training includes core competencies that describe the behavior and skills that a long-term care worker must exhibit when working with clients and the learning objectives associated with each competency as follows:

(1) ~~((Regarding communication:~~

~~(a))~~ Communicate effectively and in a respectful and appropriate manner with clients, family members, and care team members ~~((+))~~:

~~((b))~~ (a) Recognize how verbal and nonverbal cues impact communication with the client and care team;

~~((c))~~ (b) Engage and respect the client through verbal and non-verbal communication;

~~((d))~~ (c) Listen attentively and determine that the client, when able, understands what has been communicated;

~~((e))~~ (d) Recognize and acknowledge clients' communication including indicators of pain, confusion, or misunderstanding;

~~((f))~~ (e) Utilize communication strategies to deal with difficult situations; and

~~((g))~~ (f) Recognize common barriers to effective communication and identify how to eliminate them;

(2) Regarding long-term care worker self-care:

(a) Identify behaviors, practices, and resources to reduce stress and avoid burnout;

(b) Recognize common barriers to self-care and ways to overcome them; and

(c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout ~~((+))~~, and the importance of taking action to practice self-care to avoid burnout;

(3) Regarding the competency of effective problem solving, use effective problem solving skills to:

(a) Explain why it is necessary to understand and utilize a problem solving method;

(b) Implement a problem solving process/method; and

(c) Identify obstacles to effective problem solving and ways to overcome them;

(4) Regarding the competency of client rights and dignity, take appropriate action to promote and protect a client's legal and human rights as protected by federal and Washington state laws including:

(a) Protect a client's confidentiality, including what is considered confidential information, to whom a long-term care worker is allowed or not allowed to give confidential information, and how to respond if a non-care team member asks for confidential information;

(b) Promote client's dignity and privacy, and encourage, and support a client's maximum independence when providing care;

(c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints. Use common, safe alternatives to restraint use; and

(d) Protect and promote the client's right to live free of abuse, neglect, abandonment, and financial exploitation;

(5) Regarding the competency of recognizing indicators of abuse and understanding the mandatory reporting requirements, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:

(a) Describe long-term care worker's responsibilities as a mandatory reporter as defined in RCW 74.34.020 through 74.34.053; and

(b) Identify common indications of abuse, abandonment, neglect, and financial exploitation;

(6) Regarding the competency of client directed care, take appropriate action when following a client's direction regarding ~~((his or her))~~ care:

- (a) Describe a long-term care worker's role in client directed care including determining, understanding, and supporting a client's choices;
- (b) Describe the importance and impact of client directed care on a client's independence, self-determination, and quality of life;
- (c) Identify effective problem solving strategies that help balance a client's choice with personal safety; and
- (d) Report concerns when a client refuses care or makes choices that present a possible safety concern;
- (7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:
 - (a) Describe how cultural background, lifestyle practices, and traditions can impact care; and
 - (b) Use methods to determine and ensure that these are respected and considered when providing care;
- (8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the care plan;
- (9) Regarding the competency on fall prevention:
 - (a) Identify fall risk factors and take action to reduce fall risks for a client; and
 - (b) Take proper steps to assist when a client is falling or has fallen;
- (10) Regarding the competency of skin and body care, use personal care practices that promote and maintain skin integrity:
 - (a) Explain the importance of observing a client's skin, when to observe it, and what to look for including common signs and symptoms of skin breakdown;
 - (b) Identify risk factors of skin breakdown;
 - (c) Observe skin at pressure point locations and report any concerns;
 - (d) Describe what a pressure ulcer is, what it looks like, and what actions to take if a client appears to be developing or develops a pressure ulcer;
 - (e) Describe current best practices that protect and maintain a client's skin integrity including position changes when sitting or lying for extended periods, and proper positioning and transfer techniques;
 - (f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and
 - (g) Identify when to report skin changes and who to report them to;
- (11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:
 - (a) Identify when, how, and why to obtain information from appropriate sources about a client's condition or disease for which they are receiving services, and describe how to use this information to provide appropriate, individualized care;
 - (b) Describe a client's baseline based on information provided in the care plan and explain why it is important to know a client's baseline;
 - (c) Identify changes in a client's physical, mental, and emotional state through observation;
 - (d) Report changes from baseline and concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements (such as coming to work on time) and describe how maintaining these standards are critical to a client's safety and well-being;

(f) Explain the purpose of a care plan and describe how it is created, used, and modified;

(g) Use a client's care plan to direct a long-term care worker's job tasks and any client directed care tasks;

(h) Identify what is required of a long-term care worker, as described in WAC 388-71-0946, prior to performing a nurse-delegated task;

(i) Describe the role of a care team and a long-term care worker's role in the care team;

(j) Describe professional boundaries and the importance of maintaining them; and

(k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them;

(12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:

(a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:

(i) Helping an individual walk;

(ii) Transferring an individual from bed to wheelchair;

(iii) Turning and repositioning an individual in bed;

(iv) Providing oral care;

(v) Cleaning and storing dentures;

(vi) Shaving a face;

(vii) Providing fingernail care;

(viii) Providing foot care;

(ix) Providing a bed bath;

(x) Assisting an individual with a weak arm to dress;

(xi) Putting knee-high elastic stockings on an individual;

(xii) Providing passive range of motion for one shoulder;

(xiii) Providing passive range of motion for one knee and ankle;

(xiv) Assisting an individual to eat;

(xv) Assisting with peri-care;

(xvi) Assisting with the use of a bedpan;

(xvii) Assisting with catheter care;

(xviii) Assisting with condom catheter care; and

(xix) Providing medication assistance;

(b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate client preferences, maintain privacy and dignity, support the client's level of ability, and assure (~~his or her~~) the client's comfort and safety;

(c) Appropriately utilize assistive device(s) specified in the care plan;

(d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a client's bowel and bladder functioning baseline and when to report changes;

(13) Regarding the competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a client's health;

(b) Plan, shop, and prepare meals for a client according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions from the care plan and client preferences;

(c) Describe common signs of poor nutrition and hydration, and when to report concerns and who to report concerns to;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a client;

(e) Recognize when a client's food choices vary from specifications on the care plan, describe when to report concerns and who to report them to;

(f) Describe what causes food borne illness, the risks associated with food borne illness and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including:

(i) Avoiding cross contamination from one food to another;

(ii) Safe storage requirements for cooling of leftover foods, including:

(A) Depth;

(B) Types of containers and temperatures;

(C) The need to maintain food at proper temperatures to limit bacterial growth; and

(D) Safe food storage and holding temperatures for both cold and hot foods;

(iii) Best practices for thawing and re-heating food; and

(iv) Using clean gloves (if possible), and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses, symptoms, or both must not prepare food;

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications as described in chapter 246-888 WAC;

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects and when and to whom to report concerns;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a client who refuses to take medications, identifying when and to whom to report when a client refuses

medication or there are other medication-related concerns, and identifying what is considered a medication error, when to report a medication error, and who to report it to;

(15) Regarding the competency of infection control and blood-borne pathogens including HIV/AIDS, implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit, and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand washing and gloves;

(d) Demonstrate proper hand washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy microorganisms on surfaces;

(h) Describe what blood-borne (BB) pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure;

(l) Describe how HIV works in the body;

(m) Explain that testing and counseling for HIV/AIDS is available;

(n) Describe the common symptoms of HIV/AIDS;

(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality, and nondiscrimination; and

(p) Explain the importance of emotional issues and support for clients and long-term care workers;

(16) Regarding the competency on grief and loss, support yourself and the client in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a client and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss;

(17) Long-term care workers who complete DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250;

~~(18) ((Long-term care workers who complete DSHS approved basic training meet the four hours of AIDS education as required by the department of health for the home care aide requirement in WAC 246-980-040; and~~

~~(19))~~ Regarding the competency on identifying indicators of hearing loss, which may be part of the basic training or population specific hours:

(a) Identify common symptoms associated with hearing loss; and

(b) Identify what to do for hearing loss related concerns, including describing ways to communicate with a client who is experiencing hearing loss and identifying when and to whom to report when a client's hearing ability changes.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0911, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0911, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0916 ~~What ((topics may be taught in))~~ is the population specific ((competencies of basic)) component of the 70-hour home care aide training and what required training may be used as population specific training? (1) Population specific basic training ((may include but is not limited to one or more of the following)) is training on topics ((. Which topic(s) to include in population specific training is based on the needs of the population(s) served or to be served.)) unique to the care needs of the population that the home or provider serves. Topics may include but are not limited to:

- (a) Dementia;
- (b) Mental health;
- (c) Developmental disabilities;
- (d) Young adults with physical disabilities; and
- (e) Aging and older adults.

(2) ~~((Specialty training per))~~ Population specific classes may ((WAC 388-112-0110 may be used to meet the population specific component of basic training. The training program will provide a department issued specialty certificate in these instances.)) include but are not limited to:

- (a) DSHS developed or approved specialty training, such as:
 - (i) Dementia specialty training;
 - (ii) Mental health specialty training; and
 - (iii) Developmental disabilities specialty training.

(b) DSHS developed or approved curriculum on population specific topics, such as:

- (i) Traumatic brain injury, surviving and thriving; and
- (ii) Navigating challenging behaviors.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0916, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0932 **What is on-the-job training?** (1) Effective July 1, 2012, on-the-job training is a method of training where the long-term care worker successfully demonstrates in the ~~((seventy))~~ 70-hour ~~((long term care worker))~~ home care aide basic training, ~~((any or all~~

ef)) the core competencies for personal care or infection control skills while working with a client on the job, instead of in a practice training setting.

(2) ~~((On the job training must be provided by a))~~ A qualified instructor as described in WAC 388-71-1055, ((who)) provides on-the-job training and directly observes, coaches, and reinforces skills training for up to two long-term care workers at a time. The qualified instructor ((providing)) who provides the on-the-job training:

(a) ~~((Does not have to))~~ Need not be the instructor who ((has)) taught the core competency training; and

(b) ~~((Must not be someone whose primary job duty is providing direct care to clients; and~~

~~(e-))~~ May be the immediate supervisor in a home care agency of the long-term care worker receiving this training.

(3) ~~The ((instructor overseeing this))~~ person who oversees on-the-job training must:

(a) Submit DSHS required forms and become an approved instructor for the core competency of basic training; ((and))

(b) Verify on a DSHS approved skills checklist or other department approved form, the long-term care worker's successful completion of the demonstrated skills((-)); and

(c) Not relinquish required duties to trainee caregivers when acting as a trainer.

(4) ~~((For the person receiving on-the-job training, the hours spent in on the job training may count toward the completion of basic training requirements.~~

~~((5) The training program must get department approval for the on-the-job training hours as part of the seventy hour training))~~ The department must approve the number of on-the-job hours included in the 70-hour home care aide basic training.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0932, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0932, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0936 What is nurse delegation core training? (1)

Nurse delegation core training is ~~((the))~~ required before ~~((course a nursing assistant,))~~ certified or registered((r)) nursing assistants or certified home care aides ~~((must successfully complete before))~~ being may be delegated a nursing task.

(2) ~~((Only the curriculum developed by DSHS, "Nurse Delegation for Nursing Assistants and Home Care Aides" meets the training requirement for nurse delegation core training.~~

~~(3-))~~ DSHS ((must)) approves ((the)) instructors for nurse delegation core training ((prior to an instructor offering a course)).

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR

21-18-081, § 388-71-0936, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0936, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0941 What is ~~((specialized diabetes))~~ nurse delegation specialized diabetes training? (1) ~~((Specialized diabetes))~~ Nurse delegation specialized diabetes training is the required course for nursing assistants, certified or registered, and certified home care ~~((aide))~~ aides who will be delegated the task of insulin injections.

(2) ~~((The specialized diabetes nurse delegation training consists of three modules which are diabetes, insulin, and injections.~~

~~((3) Only the curriculum developed by DSHS, "Nurse Delegation for Nursing Assistants: Special Focus on Diabetes" may be used for the specialized diabetes nurse delegation training.~~

~~((4)) DSHS approves the instructors for the ~~((specialized diabetes))~~ nurse delegation specialized diabetes training ~~((prior to an instructor offering a course)).~~~~

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0941, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0946 Who is required to complete the nurse delegation core training and nurse delegation specialized focus on diabetes training ~~((,))~~ and by when? ~~((Before performing any delegated task, a long-term care worker must:))~~

(1) ~~((Be a:))~~ Before performing any delegated nursing task, long-term care workers must:

(a) Successfully complete the DSHS designated nurse delegation core training, "nurse delegation for nursing assistants & home care aides";

(b) Be one or more of the following:

~~((a))~~ (i) Certified home care aide under chapter 18.88B RCW;
(~~((e))~~)

~~((b))~~ (ii) Nursing assistant certified under chapter 18.88A RCW~~((; e)).~~

~~((c))~~ (2) If the long-term care worker is exempt from the home care aide certification under WAC 246-980-025, the long-term care worker must be ~~((become))~~ a nursing assistant registered and complete the core competencies of basic training, unless they already completed the ~~((twenty-eight))~~ 28 hours of revised fundamentals of care or a department approved alternative ~~((was already completed.))~~;

~~((d))~~ (3) If nurse delegation is needed to implement a care plan or negotiated service agreement earlier than home care aide certification can be obtained, the long-term care worker must become a nursing assistant registered and complete core competencies ~~((the core))~~ basic training of the 70-hour home care aide basic training.

(4) Before long-term care workers may perform the task of insulin injections, the long-term care workers must:

(a) Meet the requirements in subsection (1)(a) and (b) of this section; and

((2)) (b) Successfully complete ("Nurse Delegation for Nursing Assistants") the DSHS designated nurse delegation specialized diabetes training.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0946, filed 12/20/12, effective 1/20/13.]

NEW SECTION

WAC 388-71-0958 Is there a challenge test for nurse delegation core or specialized diabetes training? There is no challenge test for nurse delegation core or specialized diabetes training.

[]

NEW SECTION

WAC 388-71-0961 What knowledge and skills must nurse delegation core training include? Only the DSHS developed curriculum for nurse delegation entitled, "nurse delegation for nursing assistants & home care aides," meets the training requirement for nurse delegation core training.

[]

NEW SECTION

WAC 388-71-0962 What knowledge and skills must nurse delegation specialized diabetes training include? Nurse delegation specialized diabetes training consists of three modules on diabetes, insulin, and injections. Only the curriculum developed by DSHS, "nurse delegation for nursing assistants: special focus on diabetes," may be used for the nurse delegation specialized diabetes training.

[]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0970 What documentation is required for completion of each training? (1) Orientation, safety, basic training, including core and population specific, the ((thirty)) 30-hour training, the ((twelve)) seven-hour parent provider training, on-the-job training, continuing education, ((and)) nurse delegation core and specialized diabetes training, specialty and expanded specialty training, and

adult education training must be documented by a certificate(~~((s) or~~), transcript, or proof of completion of training issued by a qualified instructor or qualified training entity that includes:

- ~~((1))~~ (a) The name of the student;
 - ~~((2))~~ (b) The title of the training as approved by the department;
 - ~~((3))~~ (c) For continuing education the department assigned curriculum approval code;
 - ~~((4))~~ (d) The number of hours of the training;
 - ~~((5))~~ (e) The name and identification number of the training entity;
 - ~~((6))~~ (f) The instructor's name(~~(-)~~);
 - (g) For core basic training and the 75-hour certificate, the instructor's name and identification number;
 - ~~((7))~~ (h) The instructor's signature or an authorized signature from the training entity the qualified instructor is training on behalf of; and
 - ~~((8))~~ (i) The completion date of the training.
- (2) The long-term care worker must (~~retain the original certificate or transcript for~~) be given documentation of the proof of completion of the training that the student should retain. A home care agency must keep a copy of the (~~certificate or transcript~~) proof of completion as specified in subsection (1) of this section on file.
- (3) An instructor who is approved for Core Basic may sign a 75-hour certificate from the same training program.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0970, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0971 Prior to hiring a long-term care worker, what training and certification requirements must be reviewed by the home care agency or department? Before hiring a long-term care worker, the home care agency or the department acting on behalf of the client, as defined under RCW 74.39A.009; or the consumer directed employer under chapter 74.39A RCW; must review and verify the highest level of training or certification achieved by the individual.

(1) When the individual is a home care aide certified under chapter 18.88B RCW, the home care agency, CDE, or department must:

- (a) Verify that the individual's home care aide certification is current and in good standing; and
- (b) Confirm and document that the individual (~~(has completed)~~) is in compliance with continuing education as required under WACs 388-71-0990 and 388-71-0991 for the compliance year in which they are hired.

(2) When the individual is exempt from the (~~(seventy)~~) 70-hour (~~(long-term care worker)~~) home care aide training and certification requirements under WAC 388-71-0839, the home care agency, CDE, or department must review and verify the following:

- (a) Documents demonstrating the individual's exemption status from training and certification which may include:

(i) Washington state provider active credential number, showing that the individual's license or certification is current and in good standing;

(ii) (~~Letter~~) A letter from a former or current employer documenting work history during the exemption period described in WAC 388-71-0839;

(iii) Employment history records from the Washington state employment security department documenting work history information during the exemption period;

(iv) Federal tax statements documenting work history information during the exemption period; or

(v) Documentation showing completion of the basic training as required under WAC 388-71-0839;

(b) For the year in which they are hired, documentation of completion of (~~twelve~~) 12 hours of continuing education, or information on when the continuing education must be completed, that complies with WAC 388-71-0990 and WAC 388-71-0991.

(3) Individuals who have worked as long-~~(-)~~ term care workers in the past, but who did not complete the basic training or certification required at the time, may be eligible to have (~~their~~) the date of hire reset in accordance with this section and WAC 388-71-0980.

(a) Individuals who are eligible to reset their date of hire as provided in WAC 388-71-0980 must submit a new application and fee to the department of health and adhere to the training or certification requirement under this chapter.

(b) Individuals who are not eligible to reset (~~their~~) the date of hire as provided in WAC 388-71-0980 must not be paid to provide personal care assistance until they complete required training and become certified as a long-term care worker.

(4) The home care agency, or the department acting on behalf of the client, as defined under RCW 74.39A.009; or the consumer directed employer under chapter 74.39A RCW must comply with continuing education documentation requirements under WAC 388-71-0970.

(a) Individuals who worked in the previous year in a long-term care setting during the previous calendar year, are held accountable for (~~their~~) continuing education completion by their new employer on the date of hire and shall provide at new hire, documentation of their continuing education compliance during the calendar year (~~in which they are~~) hired; or

(b) Individuals who work for multiple employers or move between employers shall on the date of hire, provide documentation of continuing education compliance for the year in which they are hired, if hired after their birthdate.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0971, filed 8/30/21, effective 10/1/21.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0973 What documentation is required for a long-term care worker to apply for the home care aide certification or recertification? (1) Successful completion of (~~seventy-five hours of~~) the

70-hour home care aide basic training, the two hours of orientation, and the three hours of safety training (referred to collectively as the 75 hours of training) must be documented on a DSHS ((seventy-five)) approved 75-hour training certificate, transcript, or proof of completion by an approved training entity verifying that ((has provided or verified that)) a total of ((seventy-five)) 75 hours of training ((has)) have occurred.

(2) An approved training entity issuing and signing a DSHS ((seventy-five)) 75-hour training certificate must verify that the long-term care worker has the certificates or transcript required documenting two hours of DSHS-approved orientation, three hours of DSHS-approved safety training, and ((seventy hours of DSHS-approved)) the 70-hour home care aide basic training, as described in this chapter. ((Only a DSHS)) When applying to the department of health for home care aide certification, the long-term care worker may only submit a 75-hour training certificate that has been issued by the department or the training partnership. ((seventy-five hour training certificate or transcript can be submitted by a long-term care worker applying to the department of health for a home care aide certification.))

(3) For annual home care aide recertification, successful completion of ((twelve)) 12 hours of DSHS-approved continuing education training must be documented on a certificate(s) or transcript(s) issued by a department((-)) approved training entity.

(4) The long-term care worker, certified home care aide, and ((their)) employer must retain ((the original seventy-five hour training certificate or transcript and)) any ((twelve)) 12-hour continuing education training certificates, transcripts, or other approved proof of completion as described in WAC 388-71-0970(1) as long as the worker is employed. ((and up to three years after termination of employment. Training entities must keep a copy of these certificates on file for six years.))

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0973, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0980 May a home care agency or client employ a long-term care worker who has not completed the ((seventy)) 70-hour basic training or certification requirements? (1) If an individual has previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, ((RCW)) 74.39A.074, and ((RCW)) 74.39A.096, ((or)) and this chapter, a home care agency or client must not employ the individual to work as a long-term care worker until the individual has completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset ((once for each home care applicant after a minimum of one year has passed since the initial date of hire)) according to chapter 246-980 WAC.

(3) Individuals who meet the criteria in subsection (2) of this section are allowed a new ((one hundred twenty)) 120 days to complete the ((seventy)) 70-hour ((long-term care worker)) home care aide basic

training and a new ((two hundred)) 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection ((+3)) (2) of this section must submit a new application and fee to the department of health.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0980, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0980, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0985 What is continuing education and what topics may be covered in continuing education? (1) Continuing education is annual training designed to promote professional development and increase a person's knowledge, expertise, and skills. DSHS must approve continuing education curricula and instructors.

(2) The same continuing education course ((may)) must not be repeated for credit unless it is a new or more advanced training on the same topic ((or, there is a demonstrated or documented need for re-training. Exceptions to this include)). However, a long-term care worker may repeat up to five credit hours per year on the following topics:

- (a) Blood((-))borne pathogens and infection control;
- (b) CPR training;
- (c) First-aid training;
- (d) Food handling training;
- (e) Health Insurance Portability and Accountability Act (HIPAA);
- (f) Medication assistance;
- (g) Disaster preparedness;
- (h) Aging sensitivity;
- (i) Client rights as it relates to caregiving issues in chapter 70.129 RCW;
- (j) Client((s)) safety; ((and))
- (k) Abuse and neglect identification and mandatory reporting((-)); and

(1) Topics where the home care agency, CDE, or department can demonstrate a need for retraining.

(3) Continuing education must be on a topic relevant to the care setting, care needs of clients, or long-term care worker career development. In addition to the topics listed in subsection (2) of this section, topics or courses may include:

- (a) Personal care services;
- (b) Mental illness;
- (c) Dementia;
- (d) Developmental disabilities;
- (e) Depression;
- (f) Communication skills;
- (g) Positive client behavior support;
- (h) Developing or improving client centered activities;
- (i) Dealing with wandering or aggressive client behaviors;

(j) Deescalating challenging behaviors; and

(k) Medical conditions.

~~((2))~~ (4) Nurse delegation core and nurse delegation specialized diabetes training hours when not applied to basic training hours count towards continuing education.

(5) Specialty training, except if completed through a challenge test, may be used to meet continuing education requirements.

(6) When hours from a class approved as specialty training are counted toward basic training requirements, the hours must not be counted toward continuing education.

~~((3))~~ (7) Successful completion of a department of health approved home care aide certified alternative bridge program may be applied for up to ~~(twelve)~~ 12 hours of continuing education in the year it was completed.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0985, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0985, filed 12/20/12, effective 1/20/13.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0990 Who is required to complete continuing education training, how many hours are required each year, and under what circumstances may the long-term care worker not be paid? (1) The following long-term care workers must complete ~~((twelve))~~ 12 hours of continuing education by their birthday each year unless exempt from continuing education as described in WAC 388-71-1001:

(a) ~~((C))~~ A certified home care aide~~((S))~~;

(b) ~~((F))~~ A long-term care worker who is exempt from home care aide certification as described in RCW 18.88B.041~~((, long-term care workers must complete twelve hours of continuing education each year worked unless exempt from continuing education as described in WAC 388-71-1001.))~~;

(c) A certified nursing assistant;

(d) 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.

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

~~((2))~~ (3) A long-term care worker or certified home care aide who did not complete the continuing education requirements by the time frame described in this section or in WAC 388-71-0991 must not be paid to provide care after that date and must not be reinstated as a long-term care worker until the worker has completed the continuing education requirements.

~~((3) One hour of completed classroom instruction or other form of training (such as a video or online course) equals one hour of continuing education. The training entity must establish a way for the long-term care worker to ask the instructor questions.))~~

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0990, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0990, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0991 When must a long-term care worker or certified home care aide complete continuing education? (1) All long-term care workers who are certified home care aides must comply with the continuing education requirements under chapter 246-980 WAC.

(2) Long-term care workers, who are exempt from home care aide certification as described in RCW 18.88B.041, unless exempt from continuing education as described under WAC 388-71-1001 must complete and provide documentation of 12 hours of continuing education within 45 calendar days of being hired or by the long-term care worker's birthday in the calendar year hired, whichever is later; and ~~((the annual continuing education requirements for each calendar year in which they performed any work as a long-term care worker.))~~

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

(b) 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.

~~((3) Long-term care workers, who are exempt from home care aide certification as described in RCW 18.88B.041, unless exempt from continuing education as described under WAC 388-71-1001 and who have not worked in long-term care for a calendar year or longer, are eligible to return to work as a long-term care worker when the continuing education hours required under this section are completed within the following time frames:~~

~~(a) On or before their birthday, if their birthday will occur after the date they return to work; or~~

~~(b) Within forty-five calendar days of the date they returned to work, if their birthday occurred took place on or before the day they returned to work.~~

~~(i) If this forty-five calendar day time period allows workers to complete their continuing education in January or February of the following year, the hours of credit earned will be applied to the year in which they were hired.~~

~~(ii) Continuing education requirements for the calendar year after the year they were hired must be completed as required under WAC 388-71-0990, even if the long-term care worker must complete twenty-four hours of classes within a very short time.))~~

~~((4))~~ (3) If the renewal period 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. (~~The long-term care worker must complete continuing education requirement for the second renewal period on or before their birthdays.~~)

~~((5))~~ (4) For long-term care workers who are caring for a biological, step, or adoptive parent, continuing education must be completed on or before ~~((by))~~ their birthday in the year after basic training was completed. If these long-term care workers have not worked in long-term care for a calendar year or longer, the worker ~~((they))~~ can complete ~~((their))~~ the continuing education requirement as provided in subsection ~~((3))~~ (2) of this section.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0991, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0991, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-1001 Which long-term care workers are exempt from the continuing education requirement? (~~Unless voluntarily certified as a home care aide, e)~~) Continuing education is not required for any of the following:

- (1) Individual providers caring only for their biological, step, or adoptive child;
- (2) Individual providers that:
 - (a) Provide care to only one person and provide no more than ~~((twenty))~~ 20 hours of care in any calendar month; or
 - (b) Individual providers who only provide respite services and work ~~((three hundred))~~ 300 hours or less in any calendar year;
- (3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and
- (4) Registered nurses, ~~((and))~~ licensed practical ~~((nurse))~~ nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-1001, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1001, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-1026 What must be submitted to DSHS for curriculum approval? (~~DSHS developed curricula are not required to be submitted~~)

to the department for approval unless the curriculum is being modified in any manner by the training entity.)

(1) If a training entity modifies a department developed curricula in any manner, the training entity must submit the curriculum to the department for approval.

(2) Training must not be offered before receiving department curriculum and instructor ~~((approved))~~ approval.

(3) Online classes when applicable, must adhere to the DSHS online class standards in effect at the time of approval. These online standards are posted on the DSHS ~~((s))~~ website <https://bit.ly/dshs-online-standards>.

(4) For orientation and ~~((or))~~ safety training:

(a) Submit an outline of what will be covered in each training offered including a table of contents that shows where the required introductory topics as listed in WAC 388-71-0846 for orientation and WAC 388-71-0855 for safety training are covered in the training.

(b) Department required orientation and safety training application forms must be submitted to the department at least ~~((forty-five))~~ 45 days in advance of when the training is expected to be offered.

(c) Training cannot be offered before the department approves the curriculum and instructor.

(5) For continuing education:

(a) Continuing education curriculum delivery models must only include instructor led, online instructor led (such as a webinar), or an online interactive self-paced ~~((class that provides clear instructions on how students get questions answered during the course))~~ learning with access to an approved instructor or a proctor trained by an approved instructor.

(b) For continuing education classes, submit on a department developed form, a summary that includes the topic, a brief description of what it will cover, a course outline, ~~((and))~~ the number of training hours, and a description of how the training is relevant to the care setting, care needs of the clients, or long-term care worker career development.

(c) For online training courses, submit the information requested in (b) of this subsection and submit a description of how the instructor or training entity will assess that the students have ~~((completed the materials and))~~ integrated the information being taught. The training entity must establish a way for the long-term care worker to receive feedback from an approved instructor or a proctor trained by an approved instructor.

(d) One hour of completed classroom instruction or other form of training (such as an online course) equals one hour of continuing education.

~~((d))~~ (e) Department required continuing education training application forms must be submitted at least ~~((forty-five))~~ 45 days in advance of ~~((when))~~ the training ~~((is expected to be offered))~~. The department must approve the curriculum and instructor before the training may be offered.

(6) For ~~((seventy))~~ the 70-hour ~~((long-term care worker))~~ home care aide basic training, the ~~((thirty))~~ 30-hour basic training, and the ~~((twelve))~~ 7-hour parent provider training:

(a) If the instructor or training entity uses the DSHS developed fundamentals of caregiving learner's guide or its substitute with enhancements, they must submit the DSHS required form with all required information.

(b) If the instructor or training entity does not use ((a)) the DSHS developed ((revised)) fundamentals of caregiving learner's guide or its substitute with enhancements to teach the ((seventy)) 70-hour ((long-term care worker)) home care aide basic training, ((thirty)) the 30-hour basic training, and for the ((twelve)) 7-hour parent provider training, they must submit to DSHS the following for approval:

(i) A completed DSHS curriculum checklist indicating where all of the competencies and learning objectives, described in this chapter, are located in the long-term care worker materials from the proposed curriculum for that course;

(ii) Any materials long-term care workers will receive, such as a textbook or long-term care worker manual, learning activities, audio-visual materials, handouts, and books;

(iii) The table of contents or outline, ((of the curriculum)) including the allotted time for each section;

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-71-0911((-)) (12) (a) and (b), and infection control skills ((+)) such as hand washing and putting on and taking off gloves((+)); and

(v) The teacher's guide or manual that includes for each section of the curriculum:

(A) The goals and objectives;

(B) Methods of teaching, including learning activities that incorporate adult learning principles;

(C) Methods ((instructors will use)) used to determine whether each long-term care worker understands the material covered and can demonstrate all skills;

(D) A list of sources or references that were used to develop the curriculum and if the primary source or reference is not a published citation, the instructor must provide detail on how the content ((was established as)) is evidence based;

(E) Description of how the curriculum was designed to accommodate long-term care workers with either limited English proficiency, learning disabilities, or both; and

(F) Description and proof of how input was obtained from consumers and long-term care worker representatives in the development of the curriculum.

(c) Curricula submitted for the core competency section of the basic training as described in WAC 388-71-0911 must include how much time long-term care workers will be given to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(d) Entities ((submitting)) that submit curriculum for population specific component of home care aide basic training must submit ((their own)) a list of competencies and learning objectives used to develop the population specific basic training curriculum.

(7) For specialty training:

(a) For specialty training that is not DSHS developed curriculum or another department approved specialty training curriculum, submit the required specialty training application form and any additional learning objectives added to the competency and learning objectives checklist, the enhancements that have been added, and additional student materials or handouts.

(b) To be approved, an alternative curriculum must at a minimum include:

(i) All the DSHS published learning outcomes and competencies for the course;

(ii) Student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio-visual materials, handouts, and books;

(iii) The recommended sequence and delivery of the material; and

(iv) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:

(A) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;

(B) Practice of skills to increase competency;

(C) Feedback to the student on knowledge and skills;

(D) An emphasis on facilitation by the teacher; and

(E) An integration of knowledge and skills from previous lessons to build skills;

(v) A list of the sources or references, if any, used to develop the curriculum;

(vi) Methods of teaching and student evaluation for students with either limited-English proficiency, learning disabilities, or both; and

(vii) A plan for updating material.

(8) Substantial changes to a previously approved curriculum must be approved before they are used.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-1026, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1026, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1031 What is the curriculum approval process for orientation, safety, ~~((seventy))~~ the 70-hour basic training ~~((core and population specific training))~~ population specific training, the ~~((thirty))~~ 30-hour basic training, the ~~((twelve))~~ 7-hour parent provider training, and continuing education? To obtain the department's approval of the curriculum for the 70-hour basic training, population specific training, the 30-hour basic training, the 7-hour parent provider training, and continuing education:

(1) Submit the required training application forms and any other materials required for specific curricula to the department.

(2) After review of the curriculum, DSHS will send a written response to the submitter, indicating approval or disapproval of the curriculum~~((s))~~.

(3) If the curriculum~~((s) are))~~ is not approved, the reason(s) for denial will be given and the submitter will be told what portion(s) of the training must be changed and resubmitted for review in order for the curriculum to be approved.

(4) The submitter ~~((can))~~ may then make the requested changes and resubmit the curriculum(s) for review.

(5) If after working with the department, the reasons why the curriculum is not approved cannot be resolved, the submitter may seek a review of the nonapproval decision from the assistant secretary of aging and ~~((disability services administration))~~ long-term support ad-

ministration (AL TSA). The assistant secretary's review decision ~~((shall))~~ will be the final decision of DSHS ~~((;ne))~~. No other administrative review is available to the submitter.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1031, filed 12/20/12, effective 1/20/13.]

INSTRUCTOR (~~((QUALIFICATIONS,))~~) APPROVAL (~~((, AND RESPONSIBILITIES))~~)

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1045 What are a training entity's responsibilities?

The training entity is responsible for:

- (1) Coordinating and teaching classes;
- (2) Assuring that the curriculum used is DSHS-approved and taught as designed;
- (3) Selecting ~~((and monitoring))~~ qualified guest speakers, where applicable;
- (4) Establishing a method whereby the long-term care worker can receive feedback from an approved instructor or a proctor trained by an approved instructor;
- ~~((4))~~ (5) Administering or overseeing the administration of the DSHS competency and challenge tests ((for nurse delegation core, specialized diabetes trainings, dementia specialty, mental health specialty and DDD specialty training));
- ~~((5))~~ (6) Maintaining training records electronically or on paper including long-term care worker ((tests)) certificates, transcripts, or proof of successful completion of training, and attendance records for a minimum of six years;
- ~~((6))~~ (7) Reporting training data to DSHS ((in DSHS-identified time frames)) when requested by the department; and
- ~~((7))~~ (8) Issuing or reissuing training certificates or transcripts to long-term care workers.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1045, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1050 Must training entities and their instructors be approved by DSHS? ~~((All training))~~ Training entities and their ~~((instructor(s)))~~ instructors ~~((for orientation, safety, and continuing education must meet the minimum qualifications under WAC 388-71-1060. All instructors for seventy hour basic training (core and population specific training), thirty hour training, twelve hour DDD parent pro-~~

~~vider training, on-the-job training, nurse delegation core training and nurse delegation specialized diabetes training must meet the minimum qualifications under WAC 388-71-1055.)~~ must be approved by DSHS as follows:

(1) For DSHS contracted training entities:

~~((1))~~ (a) DSHS must approve ~~((and/))~~ or approve and contract with a training entity and ~~((their))~~ its instructor(s) to conduct orientation, safety, ~~((seventy))~~ 70-hour basic training, ~~((core and))~~ population specific training ~~((+))~~, specialty training, ~~((thirty))~~ 30-hour training, ~~((twelve))~~ 7-hour ~~((DDD))~~ DDA parent provider training, nurse delegation core training, and nurse delegation specialized diabetes training, on-the-job training, and continuing education.

(b) DSHS may ~~((contract with))~~ select training entities ~~((and their instructor(s)))~~ using any applicable contracting procedures. Contractors must meet the minimum qualification for instructors under this chapter and any additional qualifications established through the contracting procedure.

~~((2) The training partnership must ensure that its instructors meet the minimum qualifications under this chapter.)~~

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1050, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1051 Can DSHS deny or terminate a contract ((with)) or rescind approval of an instructor or training entity? (1) DSHS may ~~((determine not to accept an offer by))~~ deny a person or organization seeking a contract with DSHS to conduct ~~((training programs))~~ orientation, safety, 70-hour basic training, population specific training, specialty training, 30-hour training, 7-hour DDA parent provider training, nurse delegation core training, and nurse delegation specialized diabetes training, on-the-job training, or continuing education. No administrative remedies are available to dispute DSHS' decision not to ~~((accept an offer))~~ contract with or approve a person or organization, except as may be provided through the contracting process.

(2) DSHS may terminate an existing training contract in accordance with the terms of the contract. The contractor's administrative remedies ~~((shall be))~~ are limited to those specified in the contract.

(3) DSHS may terminate an existing training approval of a person or entity to conduct orientation, safety, 70-hour basic training, population specific training, specialty training, 30-hour training, 7-hour DDA parent provider training, nurse delegation core training, and nurse delegation specialized diabetes training, on-the-job training, or continuing education.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1051, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-1055 What are the minimum qualifications for an instructor for basic (including (~~thirty~~) 30-hour and (~~twelve~~) 7-hour DDA parent providers), population specific(~~(+)~~), on-the-job, nurse delegation core, and nurse delegation specialized diabetes trainings?

An instructor for basic (including (~~thirty~~) 30-hour and (~~twelve~~) 7-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) (~~Twenty-one~~) 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) (~~One hundred~~) 100 hours of teaching adults in an appropriate setting on topics directly related to the basic training (~~(for)~~) or basic training topics that may be offered as continuing education; or
 - (b) (~~Forty~~) 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) (~~E~~) The instructor must be experienced in caregiving practices and demonstrate(~~(s)~~) 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 registered nurse (RN) license in good standing without practice restrictions.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-1055, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1055, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1060 What are the minimum qualifications for an instructor of orientation, safety, and continuing education? (1) An instructor (~~(of)~~) for orientation(~~(,)~~) and safety training(~~(, and continuing education)~~) must be a registered nurse or other person with specific knowledge, training, and work experience (~~(in the provision of direct, personal care or other)~~) relevant ((services to the elderly or persons with disabilities requiring long-term care)) to the topics required in orientation and safety training.

(2) An instructor for continuing education must be a registered nurse or other person that is proficient in the content they cover in the course or have specific knowledge, training, or experience in the provision of direct, personal care, or other relevant services to the elderly or persons with disabilities requiring long-term care.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1060, filed 12/20/12, effective 1/20/13.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-1064 What are the minimum qualifications for community instructors for adult education training using DSHS curriculum?

(1) The minimum qualifications for community instructors of adult education training using DSHS curriculum, in addition to the general qualifications in WAC 388-71-1055 (1) and (2), include:

(a) The instructor must be experienced in adult education practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Has a bachelor's degree or is a registered nurse with at least one year of education in seminars, conferences, continuing education, or in college classes in subjects directly related to adult education, such as, but not limited to English as a second language (ESL), adult basic education, and adult secondary education (one year of education equals ~~((twenty-four))~~ 24 semester credits in a semester system, ~~((thirty-six))~~ 36 quarter credits in a quarter system, or at least ~~((eighty))~~ 80 hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the DSHS adult education training curriculum prior to beginning to train others;

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

(i) Two years of experience teaching long-term care workers; or

(ii) ~~((Two hundred))~~ 200 hours of experience teaching adult education or closely related subjects;

(d) Successful completion of the DSHS instructor qualification/demonstration process; and

(e) Instructor approved and contracted by the department as a community instructor.

(2) Instructors that administer tests must have experience or training in assessment and competency testing.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-1064, filed 8/30/21, effective 10/1/21.]

NEW SECTION

WAC 388-71-1067 What are the minimum qualifications for community instructors for mental health specialty training? (1) The minimum qualifications for community instructors for mental health specialty training, in addition to the general qualifications in WAC 388-71-1055 (1) and (2), include:

(a) The instructor must be experienced in mental health caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to mental health, including, but not limited to, psychology (one year of education equals 24 credits in a semester system, 36 credits in a quarter system, or at least 80 hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the mental health specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have a mental illness; and

(d) Teaching experience:

(i) 200 hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-71-1066;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor;

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

(2) Five years of full-time equivalent direct work experience with people who have a mental illness may substitute for either:

(a) The credential described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or 80 hours in seminars, conferences, continuing education described in subsection (1)(b)(i) of this section.

(3) If your status is an approved instructor for mental health specialty training, you may instruct a new mental health specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-71-1066.

[]

NEW SECTION

WAC 388-71-1068 What are the minimum qualifications for community instructors for dementia specialty training? (1) The minimum qualifications for community instructors for mental health specialty training, in addition to the general qualifications in chapter 388-71-1055 (1) and (2), include:

(a) The instructor must be experienced in dementia caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or college classes, in dementia or subjects directly related to dementia, such as, but not limited to, psychology (one year of education equals 24 credits in a semester system, 36 credits in a quarter system, or at least 80 hours of seminars, conferences, or continuing education); and

(ii) Successful completion of the dementia specialty training, prior to beginning to train others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have dementia;

(d) Teaching experience:

(i) 200 hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-71-1066;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor; and

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

(2) Five years of full-time equivalent direct work experience with people who have dementia may substitute for either:

(a) The credential (bachelor's degree, registered nurse, or mental health specialist) described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or 80 hours in seminars, conferences, continuing education described in subsection (1)(b)(i) of this section.

(3) If your status is an approved instructor for dementia specialty training, you may instruct a new dementia specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-71-1066.

[]

NEW SECTION

WAC 388-71-1069 What are the minimum qualifications for community instructors to teach expanded specialty trainings? (1) The minimum qualifications for community instructors for mental health specialty training, in addition to the general qualifications in WAC 388-71-1055 (1) and (2), include:

(a) The instructor must be experienced in caregiving practices related to the expanded specialty topic and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, paramedic, emergency medical technician (EMT), mental health specialist, or a specialist with nationally recognized credentials in the expanded specialty topic with at least 80 hours of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to expanded specialty topics; and

(ii) Successful completion of the expanded specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work or volunteer experience with people in the specialty topic population; and

(d) Teaching experience:

(i) 200 hours experience teaching;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-71-1066;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor;

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

(2) Five years of full-time equivalent direct work experience with people in the specialty topic population may substitute for either:

(a) The credential or degree described in subsection (1)(b)(i) of this section; or

(b) The 80 hours in seminars, conferences, continuing education described in subsection (1)(b)(i).

[]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1076 What is a guest speaker, and what are the minimum qualifications to be a guest speaker? (1) A guest speaker is a person selected by an approved instructor to teach on a specific topic. A guest speaker:

(a) May only teach a specific subject in which ~~((he or she))~~ the guest speaker has ~~((expertise))~~ knowledge, background, and experience that establishes ~~((his or her))~~ expertise on ~~((that specific))~~ the topic they will teach;

(b) May not teach the entire course;

(c) Must not supplant the primary teaching responsibilities of the instructor; and

(d) Must cover the DSHS competencies and learning objectives for the topic (~~he or she~~) the guest speaker is teaching.

(2) The approved instructor must:

(a) (~~Must~~) Ensure the guest speaker meets these minimum qualifications;

(b) Maintain documentation of the guest speaker's qualifications and (~~background~~) experience;

(c) Supervise and monitor the guest speaker's performance; and

(d) (~~Is~~) Be responsible for ensuring the required content is taught.

(3) DSHS does not approve guest speakers.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1076, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1091 What physical resources are required for classroom training and testing? (1) (~~Classroom facilities used for classroom training must be accessible~~) The training entity must provide accessible classroom facilities to students and provide adequate space for learning activities, comfort, lighting, lack of disturbance, and tools for effective teaching and learning, such as white boards and (~~flip~~) charts. ((A)) The training entity must maintain appropriate supplies and equipment (~~must be provided~~) for teaching and practice of caregiving skills in the class being taught.

(2) (~~Testing sites for nurse delegation core and specialized diabetes training must provide~~) The training entity must provide testing sites with adequate space for testing, comfort, lighting, and lack of disturbance appropriate for the written or skills test being conducted. ((A)) The training entity must maintain appropriate supplies and equipment necessary for the particular test must be provided.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1091, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1096 What standard training practices must be maintained for classroom training and testing? (~~The following training standards must be maintained~~) The training entity must maintain the following training standards for classroom training and testing:

(1) Training must not exceed eight hours within one day;

(2) Training provided in short time segments must include an entire unit, skill, or concept;

(3) Training must include regular breaks; and

(4) Long-term care workers attending classroom training must not be expected to leave the class to attend job duties, except in an emergency.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1096, filed 12/20/12, effective 1/20/13.]

COMPETENCY TESTING (~~(FOR NURSE DELEGATION CORE AND SPECIALIZED DIABETES TRAINING)~~)

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1106 What components must competency testing include?

- (1) Competency testing must include the following components:
- ~~((1))~~ (a) Skills demonstration of ability to perform and ~~((/or))~~ implement specific caregiving approaches, and ~~((/or))~~ activities as appropriate to the training;
 - ~~((2))~~ (b) Written evaluation to show the level of comprehension and knowledge of the training's learning objectives ~~((included in the training))~~; and
 - ~~((3))~~ (c) A scoring guide for the tester with clearly stated ~~((scoring))~~ criteria and minimum proficiency standards.
- (2) Instructors or proctors who conduct competency testing must have experience or training in assessing competencies.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1106, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1111 (~~(What experience or training must individuals have to be able to perform competency testing)~~) Which trainings must include the DSHS developed competency test? ~~((Individuals who perform competency testing must have documented experience or training in assessing competencies.))~~

The following trainings must include the DSHS developed competency test:

- (1) Dementia specialty training;
- (2) Mental health specialty training;
- (3) Developmental disabilities specialty training;
- (4) Expanded specialty training;
- (5) Nurse delegation core training; and
- (6) Nurse delegation specialized diabetes training.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1111, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1120 How must competency test administration be standardized? To standardize competency test administration, testing must include the following components:

(1) ~~((An instructor for the course who meets all minimum qualifications for the course he or she teaches must oversee))~~ The person teaching the course must administer or supervise the administration of all testing; and

(2) The tester must follow the DSHS guidelines for:

(a) The maximum length of time allowed for ~~((the))~~ testing;

(b) The amount and nature of instruction given ~~((long-term care workers))~~ to students before beginning a test;

(c) The amount of assistance to ~~((long-term care workers))~~ students allowed during testing;

(d) The accommodation guidelines for ~~((long-term care workers))~~ students with disabilities; and

(e) Accessibility guidelines for ~~((long-term care workers))~~ students with limited English proficiency.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1120, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1125 What form of identification must ~~((long-term care workers))~~ students show before taking a competency or challenge test? ~~((Long-term care workers))~~ Students must ~~((show))~~ provide photo identification before taking a competency or challenge test.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1125, filed 12/20/12, effective 1/20/13.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1130 How many times may a competency or challenge test be taken? ~~((For the trainings under WAC 388-71-0936 and 388-71-0941, competency testing))~~ (1) A competency test that is part of a course may be taken twice. If the test is failed a second time, the person must retake the course ((before taking the test for that course again)) before any additional tests are administered.

(2) If a challenge test is available for a course, it may be taken only once. If the test is failed, the person must take the classroom course.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-1130, filed 12/20/12, effective 1/20/13.]

((SECTION I)) DEFINITIONS, PURPOSE, AND APPLICABILITY

AMENDATORY SECTION (Amending WSR 21-11-090, filed 5/18/21, effective 6/18/21)

WAC 388-112A-0105 Who is required to obtain home care aide certification and by when? ((Unless exempt under WAC 246-980-025, the following individuals must be certified by the department of health as a home care aide within the required time frames:))

(1) All long-term care workers ((, within two hundred days of the date of hire;)) must obtain home care aide certification as provided in chapter 246-980 WAC.

(2) ((If a long-term care worker is limited-English proficient and the department of health has issued a provisional certification, within two hundred sixty days of the date of hire;)) The following individuals must obtain home care aide certification as follows:

((3)) (a) Adult family home applicants, before licensure;

((4)) (b) Adult family home entity representatives and resident managers, before assuming the duties of the position;

((5)) (c) Assisted living facility administrators or their designees, within ((two hundred)) 200 calendar days of the date of hire ((.);

((6)) (d) Enhanced services facility applicants, before licensure; and

((7)) (e) Enhanced services facility administrators or their designees, within ((two hundred)) 200 days of the date of hire.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, and 71A.12.030. WSR 21-11-090, § 388-112A-0105, filed 5/18/21, effective 6/18/21; WSR 17-22-036, § 388-112A-0105, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0110 May a home employ a long-term care worker who has not completed the ((seventy)) 70-hour ((long-term care worker basic)) home care aide training or certification requirements? (1) If an individual previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, 74.39A.076, and this chapter, an adult family home, enhanced services facility, or assisted living facility must not

employ the individual to work as a long-term care worker until the individual has completed the required training or certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The original date of hire may be reset (~~(once for each home care aide applicant after a minimum of one year has passed since the initial date of hire)~~) according to chapter 246-980 WAC.

(3) Individuals who meet the criteria in subsection (2) of this section are allowed a new (~~(one hundred twenty)~~) 120 days to complete the orientation, safety, and (~~(seventy)~~) 70-hour (~~(long-term care worker)~~) home care aide basic trainings and a new (~~(two hundred)~~) 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit a new application and fee to the department of health.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0110, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0115 How ~~((do we))~~ does DSHS determine a long-term care worker's date of hire? (1) The department determines a long-term care worker's date of hire (~~(under RCW 18.88B.021(1) by one of the following, whichever occurs first:)~~) according to chapter 246-980 WAC.

~~((a) The initial service begin date when hired as an individual provider;~~

~~(b) The date of hire when the individual was paid to provide personal care by a home care agency; or~~

~~(c) The date of hire when the individual was paid to provide personal care by a home licensed by the state.))~~

(2) The date of hire is specific to each long-term care worker. It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-112A-0110.

(3) This section does not apply to background check requirements under this chapter.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0115, filed 10/24/17, effective 11/24/17.]

DOCUMENTATION REQUIREMENTS**NEW SECTION**

WAC 388-112A-0118 What documentation is required for completion of each training? (1) Orientation, safety, basic training including core basic, population specific and the 75-hour certificate, continuing education, nurse delegation core and specialized diabetes training, specialty and expanded specialty training, adult education training, and adult family home administrator training must be documented by a certificate, transcript, or proof of successful completion of training issued by a qualified instructor or qualified training entity that includes:

- (a) The name of the student;
- (b) The title of the training as approved by the department;
- (c) For continuing education, the department assigned curriculum approval code;
- (d) The number of hours of the training;
- (e) The name and identification number of the training entity;
- (f) The instructor's name;
- (g) For core basic training, the instructor's name and identification number;
- (h) The instructor's signature or an authorized signature from the training entity the qualified instructor is training on behalf of; and
- (i) The completion date of the training.

(2) The long-term care worker must be given documentation of the proof of completion of the training that the student should retain. The provider and the training entity must keep a copy of the proof of completion as described in WAC 388-76-10198 for adult family homes, chapter 388-107 WAC for enhanced services facilities, and WAC 388-78A-2450 for assisted living facilities.

(3) An instructor who is approved for Core Basic may sign a 75-hour certificate from the same training program.

[]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0120 What documentation is required for a long-term care worker to apply for the home care aide certification or recertification? (1) Successful completion of ~~((seventy))~~ the 70-hour ~~((long-term care worker))~~ home care aide basic training, the two hours of orientation, and the three hours of safety training (referred to collectively as the ~~((seventy-five))~~ 75-hours of training) must be documented on a DSHS ~~((seventy-five))~~ 75-hour training certificate by an approved training entity verifying that a total of ~~((seventy-five))~~ 75 hours of approved training have occurred.

(2) An approved training entity issuing and signing a DSHS (~~(seventy-five)~~) 75-hour training certificate must verify that the long-term care worker has the certificates required documenting two hours of DSHS-approved orientation, three hours of DSHS-approved safety training, and the (~~(seventy)~~) 70-hour long-term care worker basic training, as described in this chapter. When applying to the department of health for home care aide certification, the long-term care worker may only submit a (~~(seventy-five)~~) 75-hour training certificate that has been issued by the department or the training partnership.

(3) For annual home care aide recertification, successful completion of (~~(twelve)~~) 12 hours of DSHS approved continuing education training must be documented on a certificate(s) or transcript(s) issued by a department approved training entity.

(4) The long-term care worker, certified home care aide, and employer must retain any (~~(twelve)~~) 12-hour continuing education training certificates, (~~(or)~~) transcripts, or other approved proof of completion for as long as the long-term care worker is employed.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0120, filed 10/24/17, effective 11/24/17.]

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

WAC 388-112A-0125 Prior to hiring a long-term care worker, what training and certification requirements must be reviewed? Before hiring a long-term care worker, the home must review and verify the following training and certification information. The home must verify the highest level of training or certification achieved by the individual.

(1) When the individual is a home care aide certified under chapter 18.88B RCW, the home must:

(a) Verify that the individual's home care aide certification is current and in good standing;

(b) Confirm and document that the individual is in compliance with continuing education as required under WAC 388-112A-0610, 388-112A-0611, or 388-112A-0612 for the compliance year in which they are hired; and

(c) Confirm that the specialty training (~~(is)~~) has been or will be completed as required under WAC 388-112A-0495.

(2) When the individual is exempt from the (~~(seventy)~~) 70-hour (~~(long-term care worker)~~) home care aide training and certification requirements under WAC 388-112A-0090, the home must obtain, review, and verify the following:

(a) Documents demonstrating that the individual is exempt from training and certification which may include:

(i) Washington state provider credential number, showing that the individual's license or certification is current and in good standing; or

(ii) A letter from a former or current employer documenting work history during the exemption period described in WAC 388-112A-0090; or

(iii) Employment history records from the Washington state employment security department documenting work history information during the exemption period; or

(iv) Federal tax statements documenting work history information during the exemption period; or

(v) Documents showing completion of the basic training as required under WAC 388-112A-0090; and

(b) Compliance with continuing education requirements as required under WAC 388-112A-0610, 388-112A-0611, or 388-112A-0612; and

(c) Compliance with specialty training if required under WAC 388-112A-0495.

(3) The home must comply with continuing education documentation requirements under WAC (~~(388-112A-0620)~~) 388-112A-0118. When hiring an individual who worked as a long-term care worker during the previous calendar year, an employer must verify documentation of continuing education compliance during the calendar year in which the individual is hired.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-0125, filed 6/30/20, effective 7/31/20.]

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

WAC 388-112A-0130 When and how may a long-term care worker be eligible to (~~have their date of hire~~) reset date of hire? An individual who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, may be eligible to have the date of hire reset in accordance with this section and chapter 246-980 WAC (~~(388-112A-0110)~~).

(1) An individual who is eligible to reset the date of hire under chapter 246-980 WAC (~~(388-112A-0110)~~) must submit a new application and fee to the department of health in accordance with WAC 388-112A-0110, and adhere to the training or certification requirements under this chapter.

(2) An individual who is not eligible to reset the date of hire as provided in chapter 246-980 WAC (~~(388-112A-0110)~~) must not be paid to provide personal care assistance until they complete required training and become certified as a long-term care worker.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-0130, filed 6/30/20, effective 7/31/20.]

((SECTION II)) ORIENTATION AND SAFETY TRAINING

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0200 What is orientation training, who should complete it, and when should it be completed? There are two types of orientation training: Facility orientation training and long-term care worker orientation training.

(1) Facility orientation. Individuals who are exempt from certification as described in RCW 18.88B.041 and volunteers are required to complete facility orientation training before having routine interaction with residents. This training provides basic introductory information appropriate to the residential care setting and population served. The department does not approve this specific orientation program, materials, or trainers. No test is required for this orientation.

(2) Long-term care worker orientation. Individuals required to complete the ~~((seventy))~~ 70-hour ~~((long-term care worker))~~ home care aide basic training must complete long-term care worker orientation, which is two hours of training regarding the long-term care worker's role and applicable terms of employment as described in WAC 388-112A-0210.

(a) All long-term care workers who are not exempt from home care aide certification as described in RCW 18.88B.041 hired on or after January 7, 2012, must complete two hours of long-term care worker orientation training before providing care to residents.

(b) Long-term care worker orientation training, unless taken through a department approved online training program, must be provided by qualified instructors that meet the requirements in WAC 388-112A-1260.

(c) The department must approve long-term care worker orientation curricula and instructors.

(d) There is no competency test for long-term care worker orientation.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0200, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0210 What content must be included in facility and long-term care worker orientation? (1) For those individuals identified in WAC 388-112A-0200(1) who must ~~((complete))~~ complete facility orientation training:

(a) Orientation training may include the use of video(~~(tape)~~s), audio(~~(tapes)~~) recordings, and other media if the person overseeing the orientation is available to answer questions or concerns for the person(s) receiving the orientation. Facility orientation must include introductory information in the following areas:

- (i) The care setting;
- (ii) The characteristics and special needs of the population served;
- (iii) Fire and life safety, including:
 - (A) Emergency communication (including phone system if one exists);
 - (B) Evacuation planning (including fire alarms and fire extinguishers where they exist);
 - (C) Ways to handle resident injuries and falls or other accidents;
 - (D) Potential risks to residents or staff (for instance, (~~aggressive~~) challenging resident behaviors and how to handle them); and
 - (E) The location of home policies and procedures;
- (iv) Communication skills and information, including:
 - (A) Methods for supporting effective communication among the resident/guardian, staff, and family members;
 - (B) Use of verbal and nonverbal communication;
 - (C) Review of written communications and documentation required for the job, including the resident's service plan;
 - (D) Expectations about communication with other home staff; and
 - (E) Who to contact about problems and concerns;
- (v) (~~(Universal)~~) Standard precautions and infection control, including:
 - (A) Proper hand washing techniques;
 - (B) Protection from exposure to blood and other body fluids;
 - (C) Appropriate disposal of contaminated/hazardous articles;
 - (D) Reporting exposure to contaminated articles, blood, or other body fluids; and
 - (E) What staff should do if they are ill;
- (vi) Resident rights, including:
 - (A) The resident's right to confidentiality of information about the resident;
 - (B) The resident's right to participate in making decisions about the resident's care and to refuse care;
 - (C) Staff's duty to protect and promote the rights of each resident and assist the resident to exercise (~~(his or her)~~) these rights;
 - (D) How staff should report concerns they may have about a resident's decision (~~(on his or her)~~) pertaining to their care and who they should report these concerns to;
 - (E) Staff's duty to report any suspected abuse, abandonment, neglect, or exploitation of a resident;
 - (F) Advocates that are available to help residents (such as long-term care ombudsmen and organizations); and
 - (G) Complaint lines, hot lines, and resident grievance procedures such as, but not limited to:
 - (~~(i)~~) (I) The DSHS complaint hotline at 1-800-562-6078;
 - (~~(ii)~~) (II) The Washington state long-term care ombudsman program;
 - (~~(iii)~~) (III) The Washington state department of health and local public health departments;
 - (~~(iv)~~) (IV) The local police;
 - (~~(v)~~) (V) Facility grievance procedure; and

(b) In adult family homes, safe food handling information must be provided to all staff, prior to handling food for residents.

(2) For long-term care worker orientation required of those individuals identified in WAC 388-112A-0200(2), long-term care worker orientation is a two hour training that must include introductory information in the following areas:

(a) The care setting and the characteristics and special needs of the population served;

(b) Basic job responsibilities and performance expectations;

(c) The care plan or negotiated service agreement, including what it is and how to use it;

(d) The care team;

(e) Process, policies, and procedures for observation, documentation, and reporting;

(f) Resident rights protected by law, including the right to confidentiality and the right to participate in care decisions or to refuse care and how the long-term care worker will protect and promote these rights;

(g) Mandatory reporter law and worker responsibilities as required under chapter 74.34 RCW; and

(h) Communication methods and techniques that may be used while working with a resident or guardian and other care team members.

(3) One hour of completed classroom instruction or other form of training (such as a video or online course) in long-term care orientation training equals one hour of training. The training entity must establish a way for the long-term care worker to ~~((ask the instructor questions))~~ receive feedback from an approved instructor or a proctor trained by an approved instructor.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0210, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0220 What is safety training, who must complete it, and when should it be completed? (1) Safety training is part of the long-term care worker requirements. It is a three hour training that must meet the requirements ~~((of))~~ as described in WAC 388-112A-0230, and include basic safety precautions, emergency procedures, and infection control. Safety training must be completed prior to providing care to a resident.

(2) ~~((The following individuals must complete safety training:~~

~~(a-))~~ All long-term care workers who are not exempt from home care aide certification as described in RCW 18.88B.041 hired after January 7, 2012, must complete three hours of safety training. This safety training must be provided by qualified instructors ~~((that))~~ who meet the requirements in WAC 388-112A-1260.

(3) The department must approve safety training curricula and instructors.

(4) There is no competency test for safety training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0220, filed 10/24/17, effective 11/24/17.]

((SECTION III--)) BASIC TRAINING

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0310 What topics must be taught in the core competencies of the ((seventy)) 70-hour ((long-term care worker basic training for long-term care workers)) home care aide basic training? ((The core competencies of the seventy-hour long-term care worker)) The 70-hour home care aide basic training for long-term care workers must include all of the competencies described in WAC 388-112A-0320 and the following topics:

- (1) Communication skills;
- (2) Long-term care worker self-care;
- (3) Problem solving;
- (4) Resident rights and maintaining dignity;
- (5) Abuse, abandonment, neglect, financial exploitation, and mandatory reporting;
- (6) Resident directed care;
- (7) Cultural sensitivity;
- (8) Body mechanics;
- (9) Fall prevention;
- (10) Skin and body care;
- (11) Long-term care worker roles and boundaries;
- (12) Supporting activities of daily living;
- (13) Food preparation and handling;
- (14) Medication assistance;
- (15) Infection control, bloodborne pathogens, HIV/AIDS; and
- (16) Grief and loss.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0310, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0320 What are the core competencies and learning objectives for the ((seventy)) 70-hour ((long-term care worker basic))

home care aide training? The ((seventy)) 70-hour ((long-term care worker)) home care aide basic training includes core competencies that describe the behavior and skills that a long-term care worker must exhibit when working with residents and the learning objectives associated with each competency as follows:

(1) ((Regarding communication, e)) Communicate effectively and in a respectful and appropriate manner with residents, family members, and care team members:

(a) Recognize how verbal and nonverbal cues impact communication with the resident and care team;

(b) Engage and respect the resident through verbal and nonverbal communication;

(c) Listen attentively and determine that the resident, when able, understands what has been communicated;

(d) Recognize and acknowledge resident's communication including indicators of pain, confusion, or misunderstanding;

(e) Utilize communication strategies to deal with difficult situations; and

(f) Recognize common barriers to effective communication and identify how to eliminate them.

(2) Regarding long-term care worker self-care:

(a) Identify behaviors, practices, and resources to reduce stress and avoid burnout;

(b) Recognize common barriers to self-care and ways to overcome them; and

(c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout, and the importance of taking action to practice self-care to avoid burnout.

(3) Regarding the competency of effective problem solving, use effective problem solving skills:

(a) Explain why it is necessary to understand and utilize a problem solving method;

(b) Implement a problem solving process/method; and

(c) Identify obstacles to effective problem solving and ways to overcome them.

(4) Regarding the competency of resident rights and dignity, take appropriate action to promote and protect a resident's legal and human rights as protected by federal and Washington state laws, including:

(a) Protect a resident's confidentiality including what is considered confidential information, who a long-term care worker is allowed or not allowed to give confidential information to, and how to respond if a ((noneare)) non-care team member asks for confidential information;

(b) Promote a resident's dignity and privacy and encourage and support a resident's maximum independence when providing care;

(c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints and use common, safe alternatives to restraint use; and

(d) Protect and promote the resident's right to live free of abuse, neglect, abandonment, and financial exploitation.

(5) Regarding the competency of recognizing indicators of abuse and understanding the mandatory reporting requirements, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:

(a) Describe long-term care workers' responsibilities as a mandatory reporter as described in RCW 74.34.020 through 74.34.053; and

(b) Identify common indications of abuse, abandonment, neglect, and financial exploitation.

(6) Regarding the competency of resident directed care, take appropriate action when following a resident's direction regarding (~~his~~ ~~or her~~) care:

(a) Describe a worker's role in resident directed care including determining, understanding, and supporting a resident's choices;

(b) Describe the importance and impact of resident directed care on a resident's independence, self-determination, and quality of life;

(c) Identify effective problem solving strategies that help balance a resident's choice with personal safety; and

(d) Report concerns when a resident refuses care or makes choices that present a possible safety concern.

(7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:

(a) Describe how cultural background, lifestyle practices, and traditions can impact care; and

(b) Use methods to determine and ensure that these are respected and considered when providing care.

(8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the ((service)) care plan.

(9) Regarding the competency of fall prevention:

(a) Identify fall risk factors and take action to reduce fall risks for a resident; and

(b) Take proper steps to assist a resident who is falling or has fallen.

(10) Regarding the competency of skin and body care, use of personal care practices that promote and maintain skin integrity:

(a) Explain the importance of observing a resident's skin, when to observe it, and what to look for, including common signs and symptoms of skin breakdown;

(b) Identify risk factors of skin breakdown;

(c) Observe skin at pressure point locations and report any concerns;

(d) Describe what a pressure ulcer is, what it looks like, and what action to take if a resident appears to be developing or develops a pressure ulcer;

(e) Describe current best practices that protect and maintain a resident's skin integrity including position changes when sitting or lying for extended periods, and proper positioning and transfer techniques;

(f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and

(g) Identify when to report skin changes and who to report them to.

(11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:

(a) Identify when, how, and why to obtain information from appropriate sources about a resident's condition or disease for which they are receiving services and describe how to use this information to provide appropriate, individualized care;

(b) Describe a resident's baseline functioning level using information provided in the service plan and explain why it is important to know a resident's baseline;

- (c) Identify changes in a resident's physical, mental, and emotional state through observation;
 - (d) Report changes from baseline and concerns to the appropriate care team member(s);
 - (e) Identify basic job standards and requirements (such as coming to work on time) and describe how maintaining these standards are critical to a resident's safety and well-being;
 - (f) Explain the purpose of a service plan and describe how it is created, used, and modified;
 - (g) Use a resident's service plan to direct a worker's job tasks and any resident directed care tasks;
 - (h) Identify what is required of a long-term care worker, as described in WAC 388-112A-0550, prior to performing a nurse-delegated task;
 - (i) Describe the role of a care team and a long-term care worker's role in the care team;
 - (j) Describe professional boundaries and the importance of maintaining them; and
 - (k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them.
- (12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:
- (a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:
 - (i) Helping a resident walk;
 - (ii) Transferring a resident from a bed to a wheelchair;
 - (iii) Turning and repositioning a resident in bed;
 - (iv) Providing oral care;
 - (v) Cleaning and storing dentures;
 - (vi) Shaving a face;
 - (vii) Providing fingernail care;
 - (viii) Providing foot care;
 - (ix) Providing a bed bath;
 - (x) Assisting a resident with a weak arm to dress;
 - (xi) Putting knee-high elastic stockings on a resident;
 - (xii) Providing passive range of motion for one shoulder;
 - (xiii) Providing passive range of motion for one knee and ankle;
 - (xiv) Assisting a resident to eat;
 - (xv) Assisting with peri-care;
 - (xvi) Assisting with the use of a bedpan;
 - (xvii) Assisting with catheter care;
 - (xviii) Assisting with condom catheter care; and
 - (xix) Providing medication assistance;
 - (b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate resident preferences, maintain privacy and dignity, support the resident's level of ability, and assure (~~his or her~~) the resident's comfort and safety;
 - (c) Appropriately utilize assistive device(s) specified on the service plan;
 - (d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a resident's bowel and bladder functioning baseline and when to report changes.

(13) Regarding the core competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food_borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a resident's health;

(b) Plan, shop, and prepare meals for a resident according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions per the service plan and resident preferences;

(c) Describe common signs of poor nutrition and hydration, when to report concerns, and who to report concerns to;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a resident;

(e) Recognize when a resident's food choices vary from specifications on the care plan and describe when to report concerns and who to report them to;

(f) Describe what causes food_borne illness, the risks associated with food borne illness, and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including:

(i) Avoiding cross contamination from one food to another;

(ii) Safe storage requirements for cooling of leftover foods, including:

(A) Depth;

(B) Types of containers and temperatures;

(C) The need to maintain food at proper temperatures to limit bacterial growth; and

(D) What are the safe food storage and holding temperatures for both cold and hot foods;

(iii) Best practices for thawing and reheating food; and

(iv) Using clean gloves (if possible) and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses and symptoms must not prepare food.

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications as described in chapter 246-888 WAC;

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects, when to report concerns, and who to report them to;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a resident who refuses to take medications, identifying when to report when a resident refuses medication, or there are other medication-related concerns, ((and)) who to report these concerns to, and identifying what is considered a medication error, when to report a medication error, and who to report it to.

(15) Regarding the competency of infection control and bloodborne pathogens including HIV/AIDS, implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit, and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand_washing and gloves;

(d) Demonstrate proper hand_washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy microorganisms on surfaces;

(h) Describe what bloodborne (BB) pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure;

(l) Describe how HIV works in the body;

(m) Explain that testing and counseling for HIV/AIDS is available;

(n) Describe the common symptoms of HIV/AIDS;

(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality, and nondiscrimination; and

(p) Explain the importance of emotional issues and support for residents and long-term care workers.

(16) Regarding the competency on grief and loss, support yourself and the resident in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a resident and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss.

(17) Long-term care workers who complete a DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250.

~~(18) ((Long-term care workers who complete a DSHS approved basic training meet the four hours of AIDS education as required by the department of health in WAC 246-980-040.~~

~~(19)~~) Regarding the competency on identifying indicators of hearing loss, which may be part of the basic training or population specific hours:

- (a) Identify common symptoms associated with hearing loss; and
- (b) Identify what to do for hearing loss related concerns, including describing ways to communicate with a resident who is experiencing hearing loss and identifying when and to whom to report when a resident's hearing ability changes.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0320, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0330 What is on-the-job training? (1) Effective July 1, 2012, on-the-job training is a method of training where the long-term care worker successfully demonstrates in the ~~((seventy))~~ 70-hour ~~((long-term care worker))~~ home care aide basic training, the core competencies in personal care and infection control skills while working with a resident on the job, instead of in a practice training setting.

(2) A qualified instructor as defined in WAC 388-112A-1240 provides on-the-job training and directly observes, coaches, and reinforces skills training for up to two long-term care workers at a time. The qualified instructor who provides the on-the-job training:

(a) Need not be the same instructor who taught the core competency training; and

(b) May be the immediate supervisor of the long-term care worker who receives the on-the-job training.

(3) The person who oversees on-the-job training must:

(a) Submit DSHS required forms and become an approved instructor for the core competency of basic training;

(b) Verify on a department approved skills checklist the long-term care worker's successful completion of the demonstrated skills; and

(c) Not relinquish ~~((his or her))~~ required duties to trainee caregivers when acting as a trainer.

(4) The department must approve the number of on-the-job hours included in the ~~((seventy))~~ 70-hour ~~((long-term care worker))~~ home care aide basic training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0330, filed 10/24/17, effective 11/24/17.]

~~((SECTION IV))~~ SPECIALTY TRAINING~~((SECTION V))~~ NURSE DELEGATION CORE AND SPECIALIZED DIABETES TRAINING

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0520 Is competency testing required for nurse delegation core or specialized diabetes training? Passing the DSHS competency test is required for successful completion of nurse delegation core or specialized diabetes training, as provided under WAC 388-112A-0900 through 388-112A-0950.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0520, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 21-11-090, filed 5/18/21, effective 6/18/21)

WAC 388-112A-0550 Who is required to complete nurse delegation core training and nurse delegation specialized diabetes training and by when? (1) Before performing any delegated nursing task, long-term care workers in adult family homes and assisted living facilities must:

- (a) Successfully complete the DSHS designated nurse delegation core training, "nurse delegation for nursing assistants & home care aides";
- (b) Be one or more of the following:
 - (i) Certified home care aide under chapter 18.88B RCW;
 - (ii) Nursing assistant certified under chapter 18.88A RCW(~~(7)~~) .
 - (~~(iii)~~) (2) If the long-term care worker is exempt from the home care aide certification under WAC 246-980-025, the long-term care worker must be a nursing assistant registered and complete the core competencies of basic training, unless they already completed the (~~twenty-eight~~) 28 hours of revised fundamentals of care or a department approved alternative;

~~((iv))~~ (3) If nurse delegation is needed to implement a care plan or negotiated service agreement earlier than home care aide certification can be obtained, the long-term care worker must become a nursing assistant registered and complete core competencies (the core basic training) of the ~~((seventy))~~ 70-hour long-term care worker basic training.

~~((2))~~ (4) Before long-term care workers in adult family homes and assisted living facilities may perform the task of insulin injections, the long-term care workers must:

(a) Meet the requirements in subsection (1)(a) and (b) of this section; and

(b) Successfully complete the DSHS designated specialized diabetes nurse delegation training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, and 71A.12.030. WSR 21-11-090, § 388-112A-0550, filed 5/18/21, effective 6/18/21; WSR 17-22-036, § 388-112A-0550, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0560 What is ~~((specialized diabetes))~~ nurse delegation specialized diabetes training? (1) ~~((Specialized diabetes n))~~ Nurse delegation specialized diabetes training is the required training for certified or registered nursing assistants or certified home care aides, who will be delegated the task of insulin injections.

(2) DSHS approves the instructors for ~~((specialized diabetes))~~ nurse delegation specialized diabetes training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0560, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0580 Is there a challenge test for ~~((specialized diabetes nurse delegation training))~~ nurse delegation core or specialized diabetes training? There is no challenge test for ~~((specialized diabetes nurse delegation training))~~ nurse delegation core or specialized diabetes training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0580, filed 10/24/17, effective 11/24/17.]

~~((SECTION VI))~~ CONTINUING EDUCATION

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

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.

(a) The following long-term care workers must complete ~~((twelve))~~ 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 ~~((seventy))~~ 70-hour ~~((long-term care worker))~~ 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 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 ~~((twelve))~~ 12 hours of continuing education within ~~((forty-five))~~ 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 ~~((twelve))~~ 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the ~~((forty-five))~~ 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.

~~((Continuing education must include one half hour per year on safe food handling in adult family homes as described in RCW 70.128.250 for a long-term care worker who does not maintain a food~~

~~handler's permit, and completed basic or modified basic caregiver training before June 30, 2005. 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.))~~ 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.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-0610, filed 6/30/20, effective 7/31/20. Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0610, filed 10/24/17, effective 11/24/17.]

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

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.

(a) The following long-term care workers must complete ((~~twelve~~)) 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 ((~~seventy~~)) 70-hour ((~~long-term care worker~~)) 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 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 ((~~twelve~~)) 12 hours of continuing education within ((~~forty-five~~)) 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 (~~twelve~~) 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the (~~forty-five~~) 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.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-0611, filed 6/30/20, effective 7/31/20.]

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

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.

(a) The following long-term care workers must complete (~~twelve~~) 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 (~~seventy~~) 70-hour (~~long-term care worker~~) 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 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under ((WAC)) RCW 18.88B.041, a long-term care worker((s)) must complete (~~twelve~~) 12 hours of con-

tinuing education within (~~forty-five~~) 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 (~~twelve~~) 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the (~~forty-five~~) 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 (~~ten~~) 10 of the (~~twelve~~) 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.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-0612, filed 6/30/20, effective 7/31/20.]

(~~SECTION VII~~) CPR AND FIRST-AID TRAINING

(~~SECTION VIII~~) RESIDENTIAL CARE ADMINISTRATOR TRAINING

((SECTION IX)) COMPETENCY TESTING

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0920 ((What training)) Which trainings must include ((the)) a DSHS developed competency test? The following trainings must include ((the)) a DSHS developed competency test:

- (1) Dementia specialty training;
- (2) Mental health specialty training;
- (3) Developmental disabilities specialty training;
- (4) Expanded specialty training;
- ~~((4))~~ (5) Nurse delegation core training;
- ~~((5))~~ (6) Nurse delegation specialized diabetes training; and
- ~~((6))~~ (7) Adult family home administrator training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0920, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0940 What form of identification must students provide before they take a competency or challenge test? Students must provide photo identification before they take a competency or challenge test ~~((for basic, specialty, adult family home administrator, and nurse delegation training))~~.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0940, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0950 How many times may a competency or challenge test be taken? (1) A competency test that is part of a course may be taken twice. If the test is failed a second time, the person must re-take the course before any additional tests are administered.

(2) If a challenge test is available for a course, it may be taken only once. If the test is failed, the person must take the classroom course.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0950, filed 10/24/17, effective 11/24/17.]

((SECTION X—)) CURRICULUM APPROVAL

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1010 What is the curriculum approval process for orientation, safety training, basic training, population specific training, specialty training, residential care administrator training, and continuing education? (~~In order to~~) To obtain the department's approval of the curriculum for orientation, safety training, basic training, population specific training, specialty training, residential care administrator training, and continuing education:

(1) Submit the required training application forms and any other materials required for specific curriculum to the department.

(2) After review of the curriculum, DSHS will send a written response to the submitter, indicating approval or disapproval of the curriculum.

(3) If the curriculum is not approved, the reason(s) for denial will be given and the submitter will be told what portion(s) of the training must be changed and resubmitted for review for the curriculum to be approved.

(4) The submitter may then make the requested changes and resubmit the curriculum for review.

(5) If after working with the department, the reasons why the curriculum was not approved cannot be resolved, the submitter may seek a review of the nonapproval decision from the assistant secretary of aging and long-term support administration (AL TSA). The assistant secretary's review decision will be DSHS's final decision. No other administrative review is available to the submitter.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1010, filed 10/24/17, effective 11/24/17.]

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

WAC 388-112A-1020 What must be submitted to DSHS for curriculum approval? (1) If a training entity modifies a department developed

curriculum in any manner, the training entity must submit the amended curriculum to the department for approval.

(2) Training must not be offered before receiving department approval.

(3) Online classes when applicable must adhere to the DSHS online class standards in effect at the time of approval. These online standards are posted on the DSHS website.

(4) **For orientation and safety training:**

(a) Submit an outline of what will be covered in each training offered, including a table of contents or a class syllabus, that shows where the required introductory topics listed in WAC 388-112A-0210 for orientation and WAC 388-112A-0230 for safety training are covered in the training.

(b) Department required orientation and safety training application forms must be submitted to the department at least (~~forty-five~~) 45 days before the training is expected to be offered.

(c) Training cannot be offered before the department approves the curriculum and instructor.

(5) **For continuing education:**

(a) Continuing education curriculum delivery models must only include instructor led, online instructor led (such as a webinar), or online interactive self-paced learning with access to an instructor.

(b) For continuing education classes, submit on a department developed form a summary of the class that includes the topic, a brief description of what the training will cover, a course outline, the number of training hours, and a description of how the training is relevant to the care setting, care needs of residents, or long-term care worker career development.

(c) For online training courses, submit the information requested in (b) of this subsection and a description of how the instructor or training will assess that the students have integrated the information being taught. The training entity must establish a way for the long-term care worker to (~~ask the instructor questions~~) receive feedback from an approved instructor or a proctor trained by an approved instructor.

(d) One hour of completed classroom instruction or other form of training (such as online course) equals one hour of continuing education.

(e) Department required continuing education training application forms must be submitted at least (~~forty-five~~) 45 days in advance of the training. The department must approve the curriculum and instructor before the training may be offered.

(6) **For (~~core~~) home care aide basic training:**

(a) If the instructor or training entity uses the DSHS developed fundamentals of caregiving learner's guide with enhancements, they must submit the DSHS form with all required information.

(b) If the instructor or training entity does not use a DSHS developed fundamentals of caregiving learner's guide with enhancements to teach the (~~seventy-hour long-term care worker~~) 70-hour home care aide basic training, they must submit to DSHS the following for approval:

(i) A completed DSHS curriculum checklist indicating where all of the competencies and learning objectives described in this chapter are located in the long-term care worker materials from the proposed curriculum for that course;

(ii) Any materials long-term care workers will receive, such as a textbook, long-term care worker manual, learning activities, audio-visual materials, handouts, and books;

(iii) The table of contents or curriculum outline, including the allotted time for each section;

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-112A-0320 (12) (a) and (b) and infection control skills such as hand washing and putting on and taking off gloves; and

(v) The teacher's guide or manual that includes for each section of the curriculum:

(A) The goals and objectives;

(B) Method of teaching, including learning activities that incorporate adult learning principles;

(C) Methods used to determine whether each long-term care worker understands the materials covered and can demonstrate all skills;

(D) A list of the sources or references that were used to develop the curriculum and if the primary source or reference is not a published citation, the instructor must provide detail on how the content is evidence based;

(E) Description of how the curriculum was designed to accommodate long-term care workers with either limited English proficiency, learning disabilities, or both; and

(F) Description and proof of how input was obtained from consumer and long-term care worker representatives in the development of the curriculum.

(c) Curriculum submitted for the core competency section of basic training, called core basic training, as described in WAC 388-112A-0320, must include how much time students will have to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(d) Entities that submit curriculum for the population specific component of the (~~seventy-hour long-term care worker~~) 70-hour home care aide basic training must submit their own list of competencies and learning objectives used to develop the population specific basic training curriculum.

(7) **For specialty training:**

(a) For specialty training that is not DSHS developed curriculum or another department approved specialty training curriculum, submit the required specialty training application form and any additional learning objectives added to the competency and learning objectives checklist, the enhancements that have been added, and additional student materials or handouts.

(b) To be approved, an alternative curriculum must at a minimum include:

(i) All the DSHS published learning outcomes and competencies for the course;

(ii) Student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio-visual materials, handouts, and books;

(iii) The recommended sequence and delivery of the material; and

(iv) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:

(A) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;

(B) Practice of skills to increase competency;

(C) Feedback to the student on knowledge and skills;

(D) An emphasis on facilitation by the teacher; and

(E) An integration of knowledge and skills from previous lessons to build skills;

(v) A list of the sources or references, if any, used to develop the curriculum;

(vi) Methods of teaching and student evaluation for students with either limited-English proficiency, learning disabilities, or both; and

(vii) A plan for updating material.

(8) Substantial changes to a previous approved curriculum must be approved before they are used.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-1020, filed 6/30/20, effective 7/31/20. Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1020, filed 10/24/17, effective 11/24/17.]

~~((SECTION XI))~~ HOME-BASED TRAINING

~~((SECTION XII))~~ INSTRUCTOR APPROVAL

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1230 What is a guest speaker and what are the minimum qualifications to be a guest speaker? (1) A guest speaker is a person selected by an approved instructor to teach a specific topic. A guest speaker:

(a) May only teach a specific subject in which ~~((they))~~ the guest speaker has ~~((expertise))~~ knowledge, ~~((and their))~~ background, and experience ~~((demonstrates))~~ that establishes expertise on the topic they will teach~~((-))~~;

(b) May not teach the entire course;

(c) Must not supplant the primary teaching responsibilities of the primary instructor; and

(d) Must cover the DSHS competencies and learning objectives for the topic the guest speaker is teaching.

(2) The approved instructor must:

(a) (~~(Must select a)~~) Ensure the guest speaker (~~((based on his or her knowledge and experience in the specific topic))~~) meets these minimum qualifications;

(b) Maintain documentation of the guest speaker's qualifications and experience;

(c) Supervise and monitor the guest speaker's performance; and

(d) (~~(Is)~~) Be responsible for (~~(insuring)~~) ensuring the required content is taught.

(3) DSHS does not approve guest speakers.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1230, filed 10/24/17, effective 11/24/17.]

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

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) (~~(Twenty-one)~~) 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) (~~(One hundred)~~) 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) (~~(Forty)~~) 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 experi-

ence described in (a) or (b) of this subsection, must have and attest to the following experience and plans in their application:

(i) (~~Forty~~) 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 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.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-1240, filed 6/30/20, effective 7/31/20. Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1240, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1250 What are the minimum qualifications for community instructors for adult education training using DSHS curriculum?

(1) The minimum qualifications for community instructors of adult education training using DSHS curriculum, in addition to the general qualifications in WAC 388-112A-1240 (1) and (2), include:

(a) The instructor must be experienced in adult education practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Has a bachelor's degree or is a registered nurse with at least one year of education in seminars, conferences, continuing education, or in college classes in subjects directly related to adult education, such as, but not limited to, English as a second language

(ESL), adult basic education, and adult secondary education (one year of education equals (~~twenty-four~~) 24 semester credits in a semester system, (~~thirty-six~~) 36 quarter credits in a quarter system, or at least (~~eighty~~) 80 hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the DSHS adult education training curriculum prior to beginning to train others;

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

(i) Two years experience teaching long-term care workers; or

(ii) (~~Two hundred~~) 200 hours experience teaching adult education or closely related subjects;

(d) Successful completion of the DSHS instructor qualification/demonstration process; and

(e) Instructor approved and contracted by the department as a community instructor.

(2) Instructors that administer tests must have experience or training in assessment and competency testing.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1250, filed 10/24/17, effective 11/24/17.]

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

WAC 388-112A-1270 What are the minimum qualifications for community instructors for mental health specialty training? (1) The minimum qualifications for community instructors for mental health specialty training, in addition to the general qualifications in WAC 388-112A-1240 (1) and (2), include:

(a) The instructor must be experienced in mental health caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to mental health, including, but not limited to, psychology (one year of education equals (~~twenty-four~~) 24 credits in a semester system, (~~thirty-six~~) 36 credits in a quarter system, or at least (~~eighty~~) 80 hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the mental health specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have a mental illness; and

(d) Teaching experience:

(i) (~~Two hundred~~) 200 hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

- (iv) The instructor has been approved and contracted by the department as a community instructor;
- (e) Instructors who will administer tests must have experience or training in assessment and competency testing; and
- (2) Five years of full-time equivalent direct work experience with people who have a mental illness may substitute for either:
 - (a) The credential described in subsection (1)(b)(i) of this section; or
 - (b) The one year of education in college classes or (~~eighty~~) 80 hours in seminars, conferences, and continuing education described in subsection (1)(b)(i) of this section.
- (3) If your status is an approved instructor for mental health specialty training, you may instruct a new mental health specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-1270, filed 6/30/20, effective 7/31/20. Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1270, filed 10/24/17, effective 11/24/17.]

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

- WAC 388-112A-1285 What are the minimum qualifications for community instructors for dementia specialty training?** (1) The minimum qualifications for instructors for dementia specialty, in addition to the general qualifications defined in WAC 388-112A-1240 (1) and (2) include:
- (a) The instructor must be experienced in dementia caregiving practices and capable of demonstrating competency in the entire course content;
 - (b) Education:
 - (i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education or college classes, in dementia or subjects directly related to dementia, such as, but not limited to, psychology (one year of education equals (~~twenty-four~~) 24 credits in a semester system, (~~thirty-six~~) 36 credits in a quarter system, or at least (~~eighty~~) 80 hours of seminars, conferences, or continuing education); and
 - (ii) Successful completion of the dementia specialty training, prior to beginning to train others;
 - (c) Work experience: Two years full-time equivalent direct work experience with people who have dementia;
 - (d) Teaching experience:
 - (i) (~~Two hundred~~) 200 hours experience teaching long-term care related subjects;
 - (ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor; and

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

(2) Five years of full-time equivalent direct work experience with people who have dementia may substitute for either:

(a) The credential (bachelor's degree, registered nurse, or mental health specialist) described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or (~~eighty~~) 80 hours in seminars, conferences, or continuing education described in subsection (1)(b)(i) of this section.

(3) If your status is an approved instructor for dementia specialty training, you may instruct a new dementia specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030, and 70.97.080. WSR 20-14-088, § 388-112A-1285, filed 6/30/20, effective 7/31/20. Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1285, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 21-04-057, filed 1/28/21, effective 2/28/21)

WAC 388-112A-1292 What are the minimum qualifications for community instructors to teach expanded specialty trainings? (1) The minimum qualifications for community instructors to teach an expanded specialty training, in addition to the general qualifications in WAC 388-112A-1420 (1) and (2), include:

(a) The instructor must be experienced in caregiving practices related to the expanded specialty topic and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, paramedic, emergency medical technician (EMT), mental health specialist, or a specialist with nationally recognized credentials in the expanded specialty topic with at least (~~eighty~~) 80 hours of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to expanded specialty topics; and

(ii) Successful completion of the expanded specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work or volunteer experience with people in the specialty topic population; and

(d) Teaching experience:

(i) (~~Two hundred~~) 200 hours experience teaching;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor;

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

(2) Five years of full-time equivalent direct work experience with people in the specialty topic population may substitute for either:

(a) The credential or degree described in subsection (1)(b)(i) of this section; or

(b) The ((~~eighty~~)) 80 hours in seminars, conferences, or continuing education described in subsection (1)(b)(i) of this section.

[Statutory Authority: RCW 74.08.090 and 70.128.060. WSR 21-04-057, § 388-112A-1292, filed 1/28/21, effective 2/28/21.]

((SECTION XIII)) PHYSICAL RESOURCES AND STANDARD PRACTICES FOR TRAINING

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1300 What physical resources are required for classroom training and testing? (1) The training entity must provide accessible classroom facilities to students and provide adequate space for learning activities, comfort, lighting, lack of disturbance, and tools for effective teaching and learning such as white boards and ((~~flip~~)) charts. The training entity must maintain appropriate supplies and equipment for teaching and practice of caregiving skills in the class being taught.

(2) The training entity must provide testing sites with adequate space for testing, comfort, lighting, and lack of disturbance appropriate for the written or skills test being conducted. The training entity must maintain appropriate supplies and equipment necessary for the particular test.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1300, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1310 (~~(The training entity must maintain standard training practices)~~) What standard training practices must be maintained for classroom training and testing((-))? The training entity must maintain the following training standards for classroom training and testing:

- (1) Training must not exceed eight hours within one day;
- (2) Training provided in short time segments must include an entire unit, skill, or concept;
- (3) Training must include regular breaks; and
- (4) Long-term care workers attending ((a)) classroom training must not be expected to leave the class to attend to job duties, except in an emergency.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-1310, filed 10/24/17, effective 11/24/17.]

REPEALER

The following sections of the Washington Administrative Code ~~((is))~~ are repealed:

WAC 388-71-058329	SAFETY TRAINING SUBCAPTION
WAC 388-71-05833	What content must be included in safety training?
WAC 388-71-05834	When does a safety training attestation process need to be completed?
WAC 388-71-0921	What are the population specific competencies?
WAC 388-71-0931	What other methods of training may count towards the seventy hour basic training requirement?
WAC 388-71-0951	Who is required to complete the specialized diabetes nurse delegation training, and when?
WAC 388-71-1006	What kinds of training topics may be covered in continuing education?
WAC 388-71-1021	What trainings must be taught with a curriculum approved by DSHS?
WAC 388-71-1083	Must the department verify that training entities and their community instructors meet the minimum instructor qualifications?
WAC 388-112A-0240	What documentation is required for facility orientation training?

- WAC 388-112A-0350 What documentation is required to show completion of the seventy-hour long-term care worker basic training and five hour orientation and safety training?
- WAC 388-112A-0480 What documentation is required for successful completion of specialty training?
- WAC 388-112A-0530 Is there a challenge test for nurse delegation core training?
- WAC 388-112A-0540 What documentation is required for successful completion of nurse delegation core training?
- WAC 388-112A-0585 What documentation is required for successful completion of specialized diabetes nurse delegation training?
- WAC 388-112A-0620 What are the documentation requirements for continuing education?
- WAC 388-112A-0840 What documentation is required for adult family home administrator training?

Reviser's note: The unnecessary strikethrough and underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 23-03-009
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
 [Filed January 6, 2023, 10:13 a.m., effective February 6, 2023]

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

Purpose: This rule making is necessary to ensure WAC 388-107-0630 is consistent with the requirements of chapter 388-112A WAC for training and home care aide certification to support the health and safety of residents in this setting and to benefit enhanced services facilities business owners.

During the COVID-19 pandemic, this rule was suspended to allow enhanced services facilities to hire home care aids [aides] who could not meet the training requirements of chapter 388-112A WAC, which was suspended under Governor's Proclamation 20-10. The department has since adopted rules to address the backlog of home care aides needing training and/or testing for certification caused by the COVID-19 pandemic. The training rules allow additional time for home care aides to be trained and certified by requiring them to complete training requirements by certain dates based on their initial hire date. This amendment to WAC 388-107-0630 will align enhanced services facilities requirements with the newly adopted requirements in chapter 388-112A WAC.

Citation of Rules Affected by this Order: Amending WAC 388-107-0630.

Statutory Authority for Adoption: RCW 70.97.230.

Adopted under notice filed as WSR 22-22-044 on October 26, 2022.

A final cost-benefit analysis is available by contacting Sondra Haas, phone 360-688-0715, email Sondra.haas@dshs.wa.gov.

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 0, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, 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 1, Repealed 0.

Date Adopted: January 6, 2023.

Katherine I. Vasquez
 Rules Coordinator

SHS-4944.1

AMENDATORY SECTION (Amending WSR 18-20-040, filed 9/25/18, effective 10/26/18)

WAC 388-107-0630 Training and home care aide certification requirements. (1) Under RCW 18.88B.041 and chapter 246-980 WAC, certain individuals including registered nurses, licensed practical nurses, certified nursing assistants, or persons who are in an approved certified nursing assistant program are exempt from long-term care worker training requirements.

(2) Continuing education requirements are outlined in chapter 388-112A WAC; registered nurses and licensed practical nurses are exempt from the long-term care worker continuing education requirement.

(3) The enhanced services facility must ensure staff persons meet training requirements in effect on the date hired, including requirements described in chapter 388-112A WAC, unless exempt under RCW 18.88B.041.

(4) The enhanced services facility must ensure all enhanced services facility administrators, or their designees, and caregivers who are not exempt under subsection (1) of this section meet the long-term care worker training requirements of chapter 388-112A WAC, including but not limited to:

- (a) Orientation and safety;
- (b) Basic training;
- (c) Specialty for dementia and, mental illness ((and/)) or developmental disabilities or both when serving residents with any of those primary special needs;
- (d) Cardiopulmonary resuscitation and first aid; and
- (e) Continuing education.

(5) The enhanced services facility must ensure that all staff receives appropriate training and orientation to perform their specific job duties and responsibilities.

(6) The enhanced services facility must ensure the following staff obtains home care aide certification(~~(, unless exempt under WAC 246-980-070)~~) if required by this section, chapters 246-980, or 388-112A WAC:

- (a) All long-term care workers(~~(, within two hundred days of hire)~~);
- (b) All enhanced services facility applicants, before licensure;
- (c) All enhanced services facility administrators (~~(within two hundred days of hire,)~~); and
- (d) Any other staff who will provide direct care and services to residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0630, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-0630, filed 9/12/14, effective 10/13/14.]

WSR 23-03-018
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2022-08—Filed January 6, 2023, 3:07 p.m., effective February 6, 2023]

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

Purpose: On August 29, 2022, the Thurston County superior court issued an order (*Nat'l Ass'n of Mut. Ins. Co., et al. v. State of Washington*, Order Granting in Part Petition for Declaratory Relief, Docket No. 22-2-00180-34 (consolidated) (Thurston Co. Sup. Ct., 2022)) invalidating Insurance Commissioner Matter R 2021-07, which temporarily prohibited insurers from using consumer credit histories to set rates for all homeowners, renters, and auto insurance. As a result, there is a conflict between the existing WAC provisions impacted by R 2021-07 and the court's ruling. The purpose of this rule is to align WAC with the court's ruling.

Citation of Rules Affected by this Order: Repealing WAC 284-24A-090; and amending WAC 284-24A-050.

Statutory Authority for Adoption: RCW 48.02.060(3).

Adopted under notice filed as WSR 22-22-050 on October 27, 2022.

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 0, 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 1, Repealed 1.

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

Date Adopted: January 6, 2023.

Mike Kreidler
Insurance Commissioner

OTS-4147.3

AMENDATORY SECTION (Amending WSR 22-04-090, filed 2/1/22, effective 3/4/22)

WAC 284-24A-050 What types of information must an insurer include in a multivariate analysis? (1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

(a) For homeowners, dwelling property, earthquake, and personal inland marine insurance:

- (i) Insurance score;
- (ii) Territory and/or geographic area;
- (iii) Protection class;
- (iv) Amount of insurance;

- (v) Surcharges or discounts based on loss history;
- (vi) Number of family units; and
- (vii) Policy form relativity.

(b) For private passenger automobile, personal liability and theft, and mechanical breakdown insurance:

- (i) Insurance score;
- (ii) Driver class;
- (iii) Multicar discount;
- (iv) Territory and/or geographic area;
- (v) Vehicle use;
- (vi) Rating factors related to driving record; and
- (vii) Surcharges or discounts based on loss history.

(2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:

- (a) Formulas the model uses;
- (b) Rating factors that are included in the modeling process; and
- (c) Output from the model, such as indicated rates or rating factors.

(3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

~~((4) The temporary prohibition in WAC 284-24A-090 on the use of credit history to determine personal insurance rates, premiums, or eligibility for coverage for all homeowners and private passenger automobile coverage will remain in effect for three years following the day the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates, or the day the Governor's Proclamation 20-05, proclaiming a state of emergency throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States expires, whichever is later.~~

~~(a) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(i) Homeowners coverage includes dwelling property, mobile homeowners, manufactured homeowners, renters, and condominium owner's coverage.~~

~~(ii) Private passenger automobile coverage includes motorcycles and recreational vehicle coverage.~~

~~(b) The temporary prohibition on the use of credit history to determine personal insurance rates, premiums, or eligibility for homeowners and private passenger automobile coverage does not apply to commercial lines, personal liability and theft, earthquake, personal inland marine, or mechanical breakdown coverage.)~~

[Statutory Authority: RCW 48.02.060, 48.18.480, 48.19.020, 48.19.035, 48.19.080. WSR 22-04-090 (Matter R 2021-07), § 284-24A-050, filed 2/1/22, effective 3/4/22. Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-050, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-050, filed 9/6/02, effective 10/7/02.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-24A-090 Temporary prohibition of use of credit history.

WSR 23-03-057
PERMANENT RULES
SOUTHWEST CLEAN
AIR AGENCY

[Filed January 11, 2023, 11:53 a.m., effective February 11, 2023]

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

Purpose: Southwest clean air agency (SWCAA) 400-025 Adoption of Federal Rules. The proposed rule changes update the adoption by reference date for federal regulations cited in other sections of SWCAA 400.

SWCAA 400-030 Definitions. The proposed rule change updates the definition for volatile organic compound.

SWCAA 400-040 General Standards for Maximum Emissions. The proposed rule changes make administrative edits and remove "A" reference in subsection (1)(f).

SWCAA 400-045 Permit Application for Nonroad Engines. The proposed rule changes revise the explanation of application fees.

SWCAA 400-070 General Requirements for Certain Source Categories. The proposed rule changes remove affirmative new source review applicability citations from subsection (12), add a pool heater exemption in subsection (13)(b), adopt the federal plan found in 40 C.F.R. 62 Subpart 000, and make administrative edits.

SWCAA 400-072 Emission Standards for Selected Small Source Categories. The proposed rule changes add an Environmental Protection Agency test method citation for small boilers/heaters, add gasoline to list of allowable fuels for emergency service engines, add a 40 C.F.R. 60 Subpart JJJJ citation for emergency service engines, and make administrative edits.

SWCAA 400-100 Registration Requirements. The proposed rule changes revise the description of registration fees and make administrative edits.

SWCAA 400-101 Emission Units Exempt from Registration Requirements. The proposed rule changes add registration exemptions for gas fired rooftop comfort heating units and gas fired freeze protection units and make administrative edits.

SWCAA 400-105 Records, Monitoring and Reporting. The proposed rule changes change term "source" to "stationary source" in selected sections to improve clarity.

SWCAA 400-106 Emission Testing and Monitoring at Air Contaminant Sources. The proposed rule changes revise emission test report submission requirements and make administrative edits.

SWCAA 400-109 Air Discharge Permit Applications. The proposed rule changes add a section specifying equipment subject to mandatory permitting, add exemptions for gas fired rooftop comfort heating units and gas fired freeze protection units, and make administrative edits.

SWCAA 400-110 Application Review Process for Stationary Sources (New Source Review). The proposed rule changes revise application completeness criteria to include applicable fees and make administrative edits.

SWCAA 400-115 Standards of Performance for New Sources. The proposed rule changes remove the adoption exemption for 40 C.F.R. 60 Subpart JJJJ, revise the adoption exemption for 40 C.F.R. 60 Subparts TTTT and UUUUa, and make administrative edits.

SWCAA 400-200 Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques. The proposed rule changes make administrative edits.

SWCAA 400-290 Severability. The proposed rule changes revise existing language for greater consistency with similar language in other statutes.

SWCAA 400 Appendix C - FEDERAL STANDARDS ADOPTED BY REFERENCE. The proposed rule changes update the lists of adopted federal regulations.

Citation of Rules Affected by this Order: Amending SWCAA 400-025, 400-030, 400-040, 400-045, 400-070, 400-072, 400-100, 400-101, 400-105, 400-106, 400-109, 400-110, 400-115, 400-200, 400-290, 400 Appendix C.

Statutory Authority for Adoption: RCW 70A.15.2040(1).

Adopted under notice filed as WSR 22-19-080 on September 20, 2022.

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 0, 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 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 16, 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 16, Repealed 0.

Date Adopted: January 5, 2023.

Uri Papish
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 23-05 issue of the Register.

WSR 23-03-061
PERMANENT RULES
GAMBLING COMMISSION

[Filed January 11, 2023, 3:41 p.m., effective February 11, 2023]

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

Purpose: The proposed rule amendment would: (1) Allow pull-tab licensees to write the date they put a pull-tab game in play on the flare instead of a purchase invoice; (2) clarify what records pull-tab licensees must record I.D. stamp numbers on; (3) eliminate duplicative language related to distributors and invoice requirements; and (4) amend language referring to I.D. stamps for consistency within the rule.

Citation of Rules Affected by this Order: Amending WAC 230-14-260 Inventory control.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 22-23-161 on November 22, 2022.

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 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 11, 2023.

Jess Lohse
Special Agency
Acting Rules Coordinator

OTS-4166.1

AMENDATORY SECTION (Amending WSR 08-03-053, filed 1/11/08, effective 2/11/08)

WAC 230-14-260 Inventory control. (1) Punch board and pull-tab operators must control and account for each punch board and pull-tab series they obtain. Operators must:

(a) Enter the I.D. stamp numbers for the series (~~in all records~~) on purchase invoices and monthly income summaries; and

(b) Attach the packing slip to the original invoice if the pull-tab series is packed in more than one container; and

(c) Record each pull-tab dispenser they purchase (~~(-~~

~~(2) Distributors must record every purchase of punch boards or pull-tabs on an invoice. Operators must use this record to account for each series between the time they purchase it and the time they remove it from play. Invoices must include space for the operator to attach:~~

~~(a) The I.D. stamp numbers for each board or series; and~~

~~(b) The date they placed the punch board or pull-tab series out for play.~~

~~(3))~~; and

(d) Record the date they place each series in play on a purchase invoice. Alternatively, operators may record the date they place each series in play on the game's flare.

(2) When operators receive punch boards or pull-tab series, they must ensure that the manufacturer or distributor recorded all required data by comparing the (~~Washington state identification~~) I.D. stamp number attached to each punch board and pull-tab series to the number recorded on the purchase invoice.

~~((4))~~ (3) Operators may use a separate computerized inventory record as long as they:

(a) Use an I.D. stamp or print a computer generated facsimile of the I.D. stamp number on the inventory record; and

(b) Record all other required information.

[Statutory Authority: RCW 9.46.070. WSR 08-03-053 (Order 622), § 230-14-260, filed 1/11/08, effective 2/11/08; WSR 07-17-058 (Order 614), § 230-14-260, filed 8/10/07, effective 1/1/08.]

WSR 23-03-063

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed January 12, 2023, 8:06 a.m., effective February 12, 2023]

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

Purpose: The agency is amending these rules to allow it to be flexible in its approach to sanctions with managed care organizations (MCOs), as authorized by 42 C.F.R. 438.702(b). These rules allow the agency to impose the maximum allowable sanction on a daily, per occurrence basis for an MCO's violation of any material obligation under the MCO's contract.

Citation of Rules Affected by this Order: Amending WAC 182-538-070 and 182-538-140.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 22-24-005 on November 28, 2022.

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 0, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, 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 2, Repealed 0.

Date Adopted: January 12, 2023.

Wendy Barcus
Rules Coordinator

OTS-4206.1

AMENDATORY SECTION (Amending WSR 19-24-063, filed 11/27/19, effective 1/1/20)

WAC 182-538-070 Payments ((and)), corrective action, and sanctions for managed care organizations (MCOs) ((in integrated managed care regional service areas)). (1) The medicaid agency pays apple health managed care organizations (MCOs) monthly capitated premiums that:

(a) Have been developed using generally accepted actuarial principles and practices;

(b) Are appropriate for the populations to be covered and the services to be furnished under the MCO contract;

(c) Have been certified by actuaries who meet the qualification standards established by the American Academy of Actuaries and follow the practice standards established by the Actuarial Standards Board;

(d) Are based on analysis of historical cost, rate information, or both; and

(e) Are paid based on legislative allocations.

(2) The MCO is solely responsible for payment of MCO-contracted health care services. The agency will not pay for a service that is the MCO's responsibility, even if the MCO has not paid the provider for the service.

(3) The agency pays MCOs a service-based enhancement rate for wraparound with intensive services (WISe) administered by a certified WISe provider who holds a current behavioral health agency license issued by the department of health under chapter 246-341 WAC.

(4) For crisis services, the MCO must determine whether the person receiving the services is eligible for Washington apple health or if the person has other insurance coverage.

(5) The agency may ~~((+))~~

~~((a))~~ ~~Impose intermediate sanctions under 42 C.F.R. Sec. 438.700 and)~~ require corrective action for:

~~((a))~~ Substandard rates of clinical performance measures ((and for));

~~((b))~~ Deficiencies found in audits and on-site visits; or

~~((b))~~ ~~Require corrective action for)~~ ~~((c))~~ Findings ((for)) of noncompliance with any contractual, state, or federal requirements ((+ (e))).

~~((6))~~ The agency may:

~~((a))~~ Impose sanctions for an MCO's noncompliance with any contractual, state, or federal requirements ((not corrected)) including, but not limited to, intermediate sanctions as described in 42 C.F.R. Sec. 438.700 and 42 C.F.R. Sec. 438.702; and

~~((d))~~ ~~((b))~~ Apply a monthly penalty assessment associated with poor performance on selected behavioral health performance measures.

~~((6))~~ (7) As authorized by 42 C.F.R. Sec. 438.702(b), if an MCO fails to meet any material obligation under the MCO contract including, but not limited to, the items listed in 42 C.F.R. Sec. 438.700 (b), (c), or (d), the agency may impose the maximum allowable sanction on a per-occurrence, per-day basis until the agency determines the MCO has:

~~((a))~~ Corrected the violation; and

~~((b))~~ Remedied any harm caused by the noncompliance.

~~((8))~~ The agency pays an enhancement rate for each MCO enrollee assigned to a federally qualified health center ((FQHC)) or rural health clinic ((RHC) according to), as authorized under chapters 182-548 and 182-549 WAC.

~~((7))~~ (9) The agency pays MCOs a delivery case rate, separate from the capitation payment, when an enrollee delivers a ((child(ren))) child or children and the MCO pays for any part of labor and delivery.

[Statutory Authority: RCW 41.05.021, 41.05.160, 2019 c 325, 2014 c 225, and 2018 c 201. WSR 19-24-063, § 182-538-070, filed 11/27/19, effective 1/1/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-08-035, § 182-538-070, filed 3/27/18, effective 4/27/18; WSR 15-24-098, § 182-538-070, filed 12/1/15, effective 1/1/16. Statutory Authority: RCW 41.05.021, 42 C.F.R. 438. WSR 13-02-010, § 182-538-070, filed 12/19/12, effective 2/1/13. WSR 11-14-075, recodified as § 182-538-070, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.522. WSR 08-15-110, § 388-538-070, filed 7/18/08, effective 8/18/08; WSR 06-03-081, § 388-538-070, filed 1/12/06, effective 2/12/06. Statutory Authority: RCW 74.08.090, 74.09.522, 2003 E1 c 25 § 201(4), 2004 c 276 § 201(4), 42 U.S.C. 1396N (section 1915 (b) and (c) of the Social Security Act of 1924). WSR 05-01-066, §

388-538-070, filed 12/8/04, effective 1/8/05. Statutory Authority: RCW 74.08.090, 74.09.522. WSR 03-18-109, § 388-538-070, filed 9/2/03, effective 10/3/03. Statutory Authority: RCW 74.09.080, 74.08.510, [74.08.]522, 74.09.450, 1115 Waiver, 42 U.S.C. 1396. WSR 02-01-075, § 388-538-070, filed 12/14/01, effective 1/14/02. Statutory Authority: RCW 74.08.090, 74.09.510 and [74.09.]522 and 1115 Federal Waiver, 42 U.S.C. 1396 (a), (e), (p), 42 U.S.C. 1396r-6(b), 42 U.S.C. 1396u-2. WSR 00-04-080, § 388-538-070, filed 2/1/00, effective 3/3/00. Statutory Authority: RCW 74.08.090. WSR 96-24-073, § 388-538-070, filed 12/2/96, effective 1/2/97. Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. WSR 95-18-046 (Order 3886), § 388-538-070, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. WSR 93-17-039 (Order 3621), § 388-538-070, filed 8/11/93, effective 9/11/93.]

OTS-4207.1

AMENDATORY SECTION (Amending WSR 19-24-063, filed 11/27/19, effective 1/1/20)

WAC 182-538-140 Quality of care. (~~((1))~~) To assure that managed care enrollees receive quality health care services, the agency requires managed care organizations (MCOs) to comply with quality improvement standards detailed in the agency's managed care contract. MCOs must:

~~((a))~~ (1) Have a clearly defined quality organizational structure and operation, including a fully operational quality assessment, measurement, and improvement program;

~~((b))~~ (2) Have effective means to detect overutilization and underutilization of services;

~~((c))~~ (3) Maintain a system for provider and practitioner credentialing and recredentialing;

~~((d))~~ (4) Ensure that MCO subcontracts and the delegation of MCO responsibilities align with agency standards;

~~((e))~~ (5) Ensure MCO oversight of delegated entities responsible for any delegated activity to include:

~~((i))~~ (a) A delegation agreement with each entity describing the responsibilities of the MCO and the entity;

~~((ii))~~ (b) Evaluation of the entity before delegation;

~~((iii))~~ (c) An annual evaluation of the entity; and

~~((iv))~~ (d) Evaluation or regular reports and follow-up on issues that are not compliant with the delegation agreement or the agency's managed care contract specifications(~~((f))~~);

(6) Cooperate with an agency-contracted, qualified independent external quality review organization (EQRO) conducting review activities as described in 42 C.F.R. Sec. 438.358;

~~((g))~~ (7) Have an effective mechanism to assess the quality and appropriateness of care furnished to enrollees with special health care needs;

~~((h))~~ (8) Assess and develop individualized treatment plans for enrollees with special health care needs which ensure integration of

clinical and nonclinical disciplines and services in the overall plan of care;

~~((i))~~ (9) Submit annual reports to the agency on performance measures as specified by the agency;

~~((j))~~ (10) Maintain a health information system that:

~~((i))~~ (a) Collects, analyzes, integrates, and reports data as requested by the agency;

~~((ii))~~ (b) Provides information on utilization, grievances and appeals, enrollees ending enrollment for reasons other than the loss of Medicaid eligibility, and other areas as defined by the agency;

~~((iii))~~ (c) Retains enrollee grievance and appeal records described in 42 C.F.R. Sec. 438.416, base data as required by 42 C.F.R. Sec. 438.5(c), MLR reports as required by 42 C.F.R. Sec. 438.8(k), and the data, information, and documentation specified in 42 C.F.R. Secs. 438.604, 438.606, 438.408, and 438.610 for a period of no less than ~~(ten)~~ 10 years;

~~((iv))~~ (d) Collects data on enrollees, providers, and services provided to enrollees through an encounter data system, in a standardized format as specified by the agency; and

~~((v))~~ (e) Ensures data received from providers is adequate and complete by verifying the accuracy and timeliness of reported data and screening the data for completeness, logic, and consistency~~((k))~~;

(11) Conduct performance improvement projects designed to achieve significant improvement, sustained over time, in clinical care outcomes and services, and that involve the following:

~~((i))~~ (a) Measuring performance using objective quality indicators;

~~((ii))~~ (b) Implementing system changes to achieve improvement in service quality;

~~((iii))~~ (c) Evaluating the effectiveness of system changes;

~~((iv))~~ (d) Planning and initiating activities for increasing or sustaining performance improvement;

~~((v))~~ (e) Reporting each project status and the results as requested by the agency; and

~~((vi))~~ (f) Completing each performance improvement project timely so as to generally allow aggregate information to produce new quality of care information every year~~((l))~~;

~~((1))~~;

(12) Ensure enrollee access to health care services;

~~((m))~~ (13) Ensure continuity and coordination of enrollee care;

~~((n))~~ (14) Maintain and monitor availability of health care services for enrollees;

~~((o))~~ (15) Perform client satisfaction surveys; and

~~((p))~~ (16) Obtain and maintain national committee on quality assurance (NCQA) accreditation.

~~((2) The agency may:~~

~~(a) Impose intermediate sanctions under 42 C.F.R. Sec. 438.700 and corrective action for substandard rates of clinical performance measures and for deficiencies found in audits and on-site visits;~~

~~(b) Require corrective action for findings for noncompliance with any contractual state or federal requirements; and~~

~~(c) Impose sanctions for noncompliance with any contractual, state, or federal requirements not corrected.))~~

[Statutory Authority: RCW 41.05.021, 41.05.160, 2019 c 325, 2014 c 225, and 2018 c 201. WSR 19-24-063, § 182-538-140, filed 11/27/19, ef-

fective 1/1/20. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Parts 431, 433, 438, 440, 457, and 495. WSR 17-23-199, § 182-538-140, filed 11/22/17, effective 12/23/17. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-24-098, § 182-538-140, filed 12/1/15, effective 1/1/16. Statutory Authority: RCW 41.05.021, 42 C.F.R. 438. WSR 13-02-010, § 182-538-140, filed 12/19/12, effective 2/1/13. WSR 11-14-075, recodified as § 182-538-140, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.522. WSR 08-15-110, § 388-538-140, filed 7/18/08, effective 8/18/08; WSR 06-03-081, § 388-538-140, filed 1/12/06, effective 2/12/06; WSR 03-18-111, § 388-538-140, filed 9/2/03, effective 10/3/03. Statutory Authority: RCW 74.09.080, 74.08.510, [74.08.]522, 74.09.450, 1115 Waiver, 42 U.S.C. 1396. WSR 02-01-075, § 388-538-140, filed 12/14/01, effective 1/14/02. Statutory Authority: RCW 74.08.090, 74.09.510 and [74.09.]522 and 1115 Federal Waiver, 42 U.S.C. 1396 (a), (e), (p), 42 U.S.C. 1396r-6(b), 42 U.S.C. 1396u-2. WSR 00-04-080, § 388-538-140, filed 2/1/00, effective 3/3/00. Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. WSR 95-18-046 (Order 3886), § 388-538-140, filed 8/29/95, effective 9/1/95. Statutory Authority: RCW 74.08.090. WSR 93-17-039 (Order 3621), § 388-538-140, filed 8/11/93, effective 9/11/93.]

WSR 23-03-064

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed January 12, 2023, 8:22 a.m., effective February 12, 2023]

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

Purpose: The agency is amending WAC 182-508-0005 to include individuals residing in "public institutions" (as that term is defined in WAC 182-500-0050) within the population not eligible for state-funded Washington apple health medical care services. The amendment is necessary to ensure that individuals residing in public institutions receiving a new aged, blind, or disabled program cash grant (ESSB 5693 section 205(22), chapter 297, Laws of 2022) do not thereby become eligible for state-funded Washington apple health medical care services.

Citation of Rules Affected by this Order: Amending WAC 182-508-0005.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: ESSB 5693, section 205(22), chapter 297, Laws of 2022.

Adopted under notice filed as WSR 22-24-072 on December 5, 2022.

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 0, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, 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 1, Repealed 0.

Date Adopted: January 12, 2023.

Wendy Barcus
Rules Coordinator

OTS-4185.1

AMENDATORY SECTION (Amending WSR 22-02-034, filed 12/29/21, effective 2/1/22)

WAC 182-508-0005 Washington apple health medical care services—Eligibility and scope of coverage. (1) A person is eligible for state-funded Washington apple health medical care services (MCS) coverage to the extent of available funds if the person is:

(a) Determined by the department of social and health services to be eligible for benefits under:

(i) The aged, blind, or disabled program as described in WAC 388-400-0060;

(ii) The housing and essential needs referral program as described in WAC 388-400-0070; or

(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, which includes victims of human trafficking as described in RCW 74.04.005; ~~((and))~~

(b) Not eligible for another federally funded categorically needy (CN) (as defined in WAC 182-500-0020) or alternative benefits plan (ABP) (as defined in WAC 182-500-0010) Washington apple health program; and

(c) Not residing in a public institution as defined in WAC 182-500-0050.

(2) If an enrollment cap exists under WAC 182-508-0150, a waiting list of people may be established.

(3) A person's period of eligibility for MCS is the same as the person's period of eligibility for:

(a) The aged, blind, or disabled program as described in WAC 388-449-0150;

(b) The person's incapacity authorization period for the housing and essential needs referral program as described in WAC 388-447-0110; or

(c) The person's period of eligibility for the SCC program as described in WAC 388-424-0035.

(4) The MCS program covers only the medically necessary services defined in WAC 182-501-0060.

(5) The MCS program does not cover medical services received outside the state of Washington unless the medical services are provided in a border city listed in WAC 182-501-0175.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 2020 c 136. WSR 22-02-034, § 182-508-0005, filed 12/29/21, effective 2/1/22. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-019, § 182-508-0005, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-508-0005, filed 9/13/12, effective 10/14/12.]

WSR 23-03-071

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed January 13, 2023, 8:40 a.m., effective February 13, 2023]

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

Purpose: The health care authority is correcting a typographical error in the cross-reference to the early and periodic screening, diagnosis, and treatment program rules in WAC 182-531-1675 (1)(f). The current cross-reference points to chapter 182-543 WAC. This should read chapter 182-534 WAC.

Citation of Rules Affected by this Order: Amending WAC 182-531-1675.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 22-22-103 on November 2, 2022.

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 0, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, 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 1, Repealed 0.

Date Adopted: January 13, 2023.

Wendy Barcus
Rules Coordinator

OTS-4180.1

AMENDATORY SECTION (Amending WSR 21-08-058, filed 4/5/21, effective 5/6/21)

WAC 182-531-1675 Washington apple health—Gender affirming interventions for gender dysphoria. (1) Overview of treatment program.

(a) **Medicaid agency coverage.** The medicaid agency covers the services listed in (b) of this subsection to treat gender dysphoria (also referred to as gender incongruence) under WAC 182-501-0050 and 182-531-0100. These services include life-changing procedures that may not be reversible.

(b) **Medical services covered.** Medical services covered by the agency include, but are not limited to:

- (i) Presurgical and postsurgical hormone therapy;
- (ii) Puberty suppression therapy;
- (iii) Behavioral health services; and
- (iv) Surgical and ancillary services including, but not limited

to:

- (A) Anesthesia;
- (B) Labs;

- (C) Pathology;
- (D) Radiology;
- (E) Hospitalization;
- (F) Physician services; and

(G) Hospitalizations and physician services required to treat postoperative complications of procedures performed under this section.

(c) **Surgical services covered.** Surgical services to treat gender dysphoria are a covered service for clients who have a diagnosis of gender dysphoria made by a provider who meets the qualifications outlined in chapter 182-502 WAC.

(d) **Medical necessity.** Under this program, the agency authorizes and pays for only medically necessary services. Medical necessity is defined in WAC 182-500-0070 and is determined under WAC 182-501-0165 and limitation extensions in accordance with WAC 182-501-0169.

(e) **Provider requirements.** Providers should be knowledgeable of gender-nonconforming identities and expressions, and the assessment and treatment of gender dysphoria, including experience utilizing standards of care that include the World Professional Association for Transgender Health (WPATH) Standards of Care.

(f) **Clients age twenty and younger.** The agency evaluates requests for clients age twenty and younger according to the early and periodic screening, diagnosis, and treatment (EPSDT) program described in chapter ((182-543)) 182-534 WAC. Under the EPSDT program, the agency pays for a service if it is medically necessary, safe, effective, and not experimental.

(g) **Transportation services.** The agency covers transportation services under the provisions of chapter 182-546 WAC.

(h) **Out-of-state care.** Any out-of-state care, including a presurgical consultation, must be prior authorized as an out-of-state service under WAC 182-501-0182.

(i) **Reversal procedures.** The agency does not cover procedures and surgeries related to reversal of gender affirming surgery.

(j) **Corrective surgeries for intersex traits.** The agency covers corrective or reparative surgeries for people with intersex traits who received surgeries that were performed without the person's consent.

(2) **Prior authorization.**

(a) **Prior authorization requirements for surgical services.** As a condition of payment, the agency requires prior authorization for all surgical services to treat gender dysphoria, including modifications to, or complications from, a previous surgery, except as provided in subsection (3) of this section.

(b) **Required documentation.** The provider must include the following documentation with the prior authorization request:

(i) **Two psychosocial evaluations required.** Documentation of two separate psychosocial evaluations performed within ((eighteen)) 18 months preceding surgery by two separate qualified mental health professionals as defined in WAC 182-531-1400. These providers must be licensed health care professionals who are eligible under chapter 182-502 WAC, as follows:

- (A) Psychiatrist;
- (B) Psychologist;
- (C) Psychiatric advanced registered nurse practitioner (ARNP);
- (D) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC);
- (E) Mental health counselor (LMHC);
- (F) Independent clinical social worker (LICSW);

- (G) Advanced social worker (LASW); or
- (H) Marriage and family therapist (LMFT).

(ii) **One psychosocial evaluation for top surgery.** For top surgery with or without chest reconstruction, the agency requires only one comprehensive psychosocial evaluation.

(iii) **Evaluation requirements.** Each comprehensive psychosocial evaluation must:

(A) Confirm the diagnosis of gender dysphoria as defined by the *Diagnostic Statistical Manual of Mental Disorders*;

(B) Document that:

(I) The client has:

- Lived for (~~twelve~~) 12 continuous months in a gender role that is congruent with their gender identity, except for top surgery, hysterectomy, or orchiectomy; or

- Been unable to live in their gender identity due to personal safety concerns.

(II) The client has been evaluated for any coexisting behavioral health conditions and if any are present, the conditions are adequately managed.

(iv) **Hormone therapy.** Documentation from the primary care provider or the provider prescribing hormone therapy that the client has:

(A) Had (~~twelve~~) 12 continuous months of hormone therapy immediately preceding the request for surgery, as appropriate to the client's gender goals, unless hormones are not clinically indicated for the individual, with the exception of mastectomy or reduction mammo-plasty, which do not require hormone therapy; or

(B) A medical contraindication to hormone therapy; and

(C) A medical necessity for surgery and that the client is adherent with current gender dysphoria treatment.

(v) **Surgical.** Documentation from the surgeon of the client's:

(A) Medical history and physical examination(s) performed within the (~~twelve~~) 12 months preceding surgery;

(B) Medical necessity for surgery and surgical plan; and

(C) For hysterectomies, a completed agency hysterectomy consent form must be submitted.

(c) **Other requirements.** If the client fails to complete all of the requirements in subsection (2)(b) of this section, the agency will not authorize gender affirming surgery unless:

(i) The clinical decision-making process is provided in the referral letter and attachments described in subsection (2)(b) of this section; and

(ii) The agency has determined that the request is medically necessary in accordance with WAC 182-501-0165 based on review of all submitted information.

(d) **Behavioral health provider requirements.** Behavioral health providers who perform the psychosocial evaluation described in subsection (2)(b)(i) of this section must:

(i) Meet the provisions of WAC 182-531-1400;

(ii) Be competent in using the *Diagnostic Statistical Manual of Mental Disorders*, and the *International Classification of Diseases* for diagnostic purposes;

(iii) Be able to recognize and diagnose coexisting mental health conditions and to distinguish these from gender dysphoria;

(iv) Be knowledgeable of gender-nonconforming identities and expressions, and the assessment and treatment of gender dysphoria; and

(v) Have completed continuing education in the assessment and treatment of gender dysphoria. This may include attending relevant

professional meetings, workshops, or seminars; obtaining supervision from a mental health professional with relevant experience; or participating in research related to gender nonconformity and gender dysphoria.

(e) **Clients age ((seventeen)) 17 and younger.** Clients age ((seventeen)) 17 and younger must meet the requirements for prior authorization identified in subsection (2)(a) through (d) of this section, except that:

(i) One of the comprehensive psychosocial evaluations required in subsection (2)(b)(i) of this section must be performed by a behavioral health provider who specializes in adolescent transgender care and meets the qualifications outlined in WAC 182-531-1400.

(ii) For top surgery with or without chest reconstruction, the agency requires only one comprehensive psychosocial evaluation from a behavioral health provider who specializes in adolescent transgender care and meets the qualifications outlined in WAC 182-531-1400.

(3) **Expedited prior authorization (EPA).**

(a) **Approved EPA procedures.** The agency allows a provider to use the EPA process for clients age ((seventeen)) 17 and older for the following medically necessary procedures:

(i) Bilateral mastectomy or reduction mammoplasty with or without chest reconstruction; and

(ii) Genital or donor skin graft site hair removal when medically necessary to prepare for genital reassignment.

(b) **Clinical criteria and documentation.** To use the EPA process for procedures identified in (a) of this subsection, the following clinical criteria and documentation must be kept in the client's record and made available to the agency upon request:

(i) One comprehensive psychosocial evaluation performed by a licensed behavioral health provider within the ((eighteen)) 18 months preceding surgery that meets the requirements identified in subsection (2) of this section;

(ii) Documentation from the primary care provider or the provider prescribing hormone therapy of the medical necessity for surgery and confirmation that the client is adherent with current gender dysphoria treatment; and

(iii) Documentation from the surgeon of the client's:

(A) Medical history and physical examinations performed within the ((twelve)) 12 months preceding surgery; and

(B) Medical necessity for surgery and surgical plan.

(c) **Documentation exception.** When the requested procedure is for genital or donor skin graft site hair removal to prepare for bottom surgery, there is an exception to the requirements in (b) of this subsection. The only documentation required is either a:

(i) Letter of medical necessity from the treating surgeon that includes the size and location of the area to be treated, and expected date of planned genital surgery; or

(ii) Letter of medical necessity from the provider who will perform the hair removal that includes the surgical consult for bottom surgery and addresses the need for hair removal prior to gender affirming surgery.

(d) **Prior authorization required for other surgeries.** All other surgeries to treat gender dysphoria, including modifications to, or complications from a previous surgery require prior authorization to determine medical necessity.

(e) **Recoupment.** The agency may recoup any payment made to a provider for procedures listed in this subsection if the provider does

not follow the EPA process outlined in WAC 182-501-0163 or if the provider does not maintain the documentation required by this subsection.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-08-058, § 182-531-1675, filed 4/5/21, effective 5/6/21; WSR 15-16-084, § 182-531-1675, filed 7/31/15, effective 8/31/15.]

WSR 23-03-074
PERMANENT RULES
SEATTLE COLLEGES

[Filed January 13, 2023, 10:51 a.m., effective February 13, 2023]

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

Purpose: To protect and control pedestrian and vehicular traffic on district campus sites; ensure access at all times for emergency equipment; minimize traffic disturbances; facilitate the operation of the district by ensuring access to vehicles; allocate limited parking space for the most efficient use; protect state property; and encourage and support travel to district campus sites by means other than single occupancy vehicle.

Citation of Rules Affected by this Order: New 29; repealing 6; and amending 1.

Statutory Authority for Adoption: RCW 28B.50.140, 28B.50.090(3).

Adopted under notice filed as WSR 22-19-022 on September 12, 2022.

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 0, 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 29, Amended 1, Repealed 6.

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

Date Adopted: January 13, 2023.

Richerson Chen
Compliance and Public Records Manager

OTS-2951.3

NEW SECTION

WAC 132F-116-001 Objectives of parking and traffic rules. The objectives of these rules are:

- (1) To protect and control pedestrian and vehicular traffic on district campus sites.
- (2) To ensure access at all times for emergency equipment.
- (3) To minimize traffic disturbances.
- (4) To facilitate the operation of the district by ensuring access to vehicles.
- (5) To allocate limited parking space for the most efficient use.
- (6) To protect state property.
- (7) To encourage and support travel to district campus sites by means other than single occupancy vehicle.

[]

NEW SECTION

WAC 132F-116-002 Knowledge of parking and traffic rules. It is the responsibility of all individuals parking or operating a vehicle on a district campus to comply with these rules. Lack of knowledge of these rules shall not be grounds for the dismissal of any citation for a violation of the parking or traffic rules.

[]

NEW SECTION

WAC 132F-116-003 Definitions. The following definitions apply to this chapter:

- (1) Authorized valid payment: Any payment accepted by the district, including online, mobile application, and pay stations.
- (2) Bicycle: Any device defined as a bicycle in RCW 46.04.071.
- (3) Campus: Any of the campuses of Seattle College District VI to include those lands and leased facilities where parking is managed or controlled by Seattle College District VI.
- (4) Campus safety director: The senior employee responsible for campus safety.
- (5) Campus safety officers: Employees of Seattle College District VI who are responsible for campus security, safety, parking, and traffic control.
- (6) Carpool: A group of two or more employees or students who commute to campus in the same vehicle and complete the campus commuter services carpool registration process.
- (7) Citation: Formal written notice of a parking violation.
- (8) College: A Seattle College District VI college: Central Seattle College, North Seattle College, South Seattle College, and collectively those responsible for their control and operations.
- (9) Commuter services: Any district or college unit that manages and maintains parking facilities, issues parking products, issues citations, processes citation appeals, and collects fees and fines.
- (10) Day: Unless otherwise specified, the term "day" refers to a calendar day.
- (11) Disability parking: See persons with a disability.
- (12) Disability zone/area: A parking zone designated for exclusive use by persons with a disability and identified with a sign bearing the associated international symbol.
- (13) District: Seattle College District VI consisting of Central Seattle College, North Seattle College, South Seattle College, and collectively those responsible for its control and operations.
- (14) Electric-assisted bicycle: As defined under RCW 46.04.169.
- (15) Employee: Any individual hired as or appointed to the faculty, staff, or administration of Seattle College District VI.
- (16) EPAMD: Electric personal assistive mobility device as defined under RCW 46.04.1695.
- (17) Fee: A charge for the use of services provided and facilities managed by commuter services.
- (18) Fine: Monetary penalty for a parking violation.
- (19) Idling: The running of an engine which supplies the motive power for a vehicle, when not for the purpose of moving the vehicle with the normal flow of traffic on a street or roadway. Idling does

not include running the vehicle's engine while stopped at a traffic signal or waiting for the passage of other vehicles to permit safe entry into the flow of traffic.

(20) Immobilization: The attachment of a device to a parked motor vehicle so that the vehicle cannot be moved.

(21) Impoundment: The removal of the vehicle to a storage facility by an authorized agent of campus safety, commuter services, or an authorized agent of commuter services.

(22) License plate recognition (LPR): Technology that uses optical character recognition to automatically read license plate characters.

(23) Meter: A single fixed device that registers and collects payment for the length of time a vehicle occupies a single parking space. A meter does not produce a receipt, physical permit, or virtual permit. A meter is not a permit-issuance machine.

(24) Moped: As defined under RCW 46.04.304.

(25) Motor vehicle: As defined under RCW 46.04.320.

(26) Motorcycle: As defined under RCW 46.04.330.

(27) Nonmotorized vehicle: A device other than a motor vehicle used to transport persons including, but not limited to, bicycles, skateboards, in-line skates, hoverboards, personal conveyance devices, and roller skates.

(28) Operator or driver: Every person who drives or is in actual physical control of a motor vehicle or nonmotorized vehicle.

(29) Overtime parking: The occupation by a vehicle of a time-limited space beyond the posted time limit or time provided on a permit, meter, or permit-issuance machine.

(30) Parking product: A product issued by commuter services to manage motorized and nonmotorized access to the campus. Parking products include, but are not limited to, visual permits, virtual permits, access to bicycle lockers and other bicycle parking facilities, and parking access cards.

(31) Parking space: A space for parking one motor vehicle normally designated by lines painted on either side of the space, a wheel stop positioned in the front of the space, a sign or signs, or other markings.

(32) Pay station: A commuter services deployed and managed machine that issues virtual permits.

(33) Permit: A visual permit or virtual permit.

(34) Persons with a disability: For the purpose of this chapter, persons with a disability shall refer to a person or persons with a disability or disabilities who qualify for a state-issued individual with disabilities parking identification and permit.

(35) Registered owner: The person who has the lawful right of possession of a vehicle most recently recorded with any state department of licensing.

(36) Roller skate/in-line skate: A device used to attach wheels to the foot or feet of a person.

(37) Skateboard: Any oblong board of whatever composition, with a pair of wheels at each end, which may be ridden by a person.

(38) Student: A person enrolled in a Seattle College District VI college.

(39) Traffic: The movement of motorized vehicles, nonmotorized vehicles, and pedestrians in an area or along a street as is defined in RCW 46.04.590.

(40) Vehicle: As defined under RCW 46.04.670.

(41) Virtual permit: An authorization to park, issued by commuter services, or an authorized agent, that is associated with a vehicle's license plate.

(42) Visitor: A person who is neither an employee nor a student of Seattle College District VI and who only visits campus on an occasional basis.

(43) Visual permit: A physical permit issued by campus commuter services that when properly filled out and displayed according to instructions, authorizes a vehicle to park on campus.

[]

NEW SECTION

WAC 132F-116-004 Severability, savings clause. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[]

NEW SECTION

WAC 132F-116-005 Delegation of authority. Each college president shall delegate to one department or individual on campus the authority to enforce these traffic and parking rules and regulations. Assignments of parking spaces shall be the responsibility of the commuter services personnel as directed by the president of the college or the district to represent the interests of faculty, staff, and students.

[]

NEW SECTION

WAC 132F-116-006 Enforcement of parking and traffic rules. Duly appointed campus safety officers, designated commuter services employees, or independent contractors hired by the district are authorized to enforce these parking and traffic rules and may conduct traffic control on campus.

[]

NEW SECTION

WAC 132F-116-007 District liability. Except for vehicles that the district owns or operates, the district assumes no liability under any circumstances for vehicles on the campus. No bailment, but only a license, is created by the purchase and/or issuance of a permit.

[]

AMENDATORY SECTION (Amending WSR 15-02-072, filed 1/6/15, effective 2/6/15)

WAC 132F-116-010 Traffic rules and regulations. (1) The motor vehicle and other traffic laws of the state of Washington shall be applicable upon all lands located within the state of Washington.

(2) The traffic code of the city of Seattle shall be applicable upon all lands located within the city of Seattle.

(3) These regulations shall be applicable to all state lands which are or may hereafter be devoted mainly to educational, public service, and other activities sponsored or endorsed by (~~Seattle College District VI~~) the district.

[Statutory Authority: RCW 28B.50.140(13) and 42.56.040. WSR 15-02-072, § 132F-116-010, filed 1/6/15, effective 2/6/15; Order 29, § 132F-116-010, filed 10/10/75; Order 7, § 132F-116-010, filed 1/12/73.]

NEW SECTION

WAC 132F-116-011 General parking regulations. (1) No person may use any vehicle parked on campus as a living unit without specific approval from the campus safety director. Violators may be cited and/or towed.

(2) Vehicles are to be maintained in operating condition at all times while on campus, except those in a garage, research facility, or automotive shop designated for parking such vehicles by the campus safety director or designee.

(3) A vehicle which appears to be abandoned, with or without a current parking product or license plate(s), may be impounded after an attempt is made to locate and notify the owner of the impending action.

(4) Stopped or parked vehicles must do so in line with the flow of traffic where they are located.

(5) Excessive idling while on the Seattle College District VI campuses prohibited.

(6) Idling permitted. To the extent necessary for the specified purpose, idling is permitted in the following cases:

(a) Police, sheriff, or other law enforcement vehicles, including meter patrols, as required for safe and effective performance;

(b) Fire department vehicles, ambulances, and other emergency vehicles when responding to an emergency or when the use of special equipment requires that the engines remain in operation;

(c) Construction or demolition equipment or other machinery when actually employed at the site of such work, and only to the extent necessary for efficient operation;

(d) Trucks, buses, or automobiles equipped with lift gates, winches, or other devices powered by take-offs from their engines, to the extent necessary to allow use of those devices provided; however, that this subsection does not authorize idling solely for the purpose of operating any heating device, radio, power-assisted brakes, steer-

ing, seat adjustment, or any luxury device not then required for safe operation of the vehicle;

(e) Buses or other mass transit vehicles while operated on a regular schedule;

(f) Insofar as necessary for diagnosis, adjustment, or testing, vehicles undergoing repair or maintenance; but only when on the premises of the owner or person performing the work;

(g) Any vehicle when required in an emergency for the protection of life, health, or property.

(7) Notices. The security director or transportation coordinator shall cause to be placed such notices as he may deem necessary to inform drivers of the prohibition against excessive vehicle idling; however, actual knowledge of the prohibition is not an element of an offense under this chapter.

[]

NEW SECTION

WAC 132F-116-041 Permits required for all motorized vehicles parked on campus. No person shall park or leave any motor vehicle, whether attended or unattended, upon the campus without a permit issued by the district. Permission to park on campus will be shown by the display of a valid visual permit or registration of a valid virtual permit. Persons wishing to obtain virtual permits are required to complete a registration process established by commuter services and pay the corresponding fee. A vehicle associated with a virtual permit must have a visible license plate.

(1) A valid permit is:

(a) A current unexpired, visual permit issued by commuter services, or an authorized agent designated by commuter services, and displayed in accordance with the instructions given at the time of issuance;

(b) A current unexpired virtual permit issued by commuter services, or an authorized agent, that is associated with a vehicle's license plate.

(i) Vehicles with virtual permits associated with a vehicle's license plate must have the license plate exposed to the lane of travel and be clearly visible, unobstructed, and able to be read by the LPR equipment.

(ii) Parking permits are not transferable.

(2) Commuter services reserve the right to refuse to issue parking products.

(3) The district may allow persons without permits to drive through the campus without parking.

(a) This section does not apply to vehicles that the district owns or operates.

(b) Any vehicle, attended or unattended, must have a valid parking permit when parked on the campus unless the vehicle is:

(i) Parked in a metered parking space with meter payment;

(ii) Parked in a loading zone in compliance with posted limits;

(iii) Parked in a lot that does not require a permit during specified times as posted;

(iv) Parked in a posted short-term parking space in compliance with posted time limits; or

(v) A public safety or emergency vehicle parked while performing emergency services.

[]

NEW SECTION

WAC 132F-116-042 Carpool and disability parking permits. (1)

Carpool permits may be issued to employees and students. One transferable permit will be issued for each carpool. This permit is transferable only among the registered members of the carpool. This permit must be displayed in accordance with the instructions provided with the permit. A carpool permit may be used with only one vehicle per day. Members of the campus carpool program must register their carpool with commuter services.

(2) The district provides parking for persons with disabilities in accordance with the requirements of federal and state law, including parking spots reserved for persons who display a state of Washington disabled driver permit. Commuter services shall make alternative parking available for short-term disabilities.

(3) Use of disability accommodation parking on campus requires payment for parking in the form of a campus parking permit issued by commuter services, payment at a pay station, or payment at a parking meter for the designated space in which the vehicle is parked.

[]

NEW SECTION

WAC 132F-116-043 Transfer of parking products limited. (1) As

provided herein, a permit holder may transfer a permit between motor vehicles when used by that permit holder. Improper transfer of a permit shall include, but is not limited to, the resale, lending, or transfer of a parking product or parking permit other than as provided herein. Multiple motor vehicles may be associated with a virtual permit, but only one vehicle associated with a specific virtual permit may be parked on campus per calendar day. If more than one vehicle associated with a virtual permit is parked on campus during the course of a day, all additional vehicles are subject to a parking citation unless each additionally parked vehicle has a separate valid permit.

(2) Permits displaying license plate numbers shall be used only in the vehicles whose license number is written on the permit.

[]

NEW SECTION

WAC 132F-116-044 Responsibility of person(s) to whom parking product issued. (1) The person(s) to whom a parking product is issued is responsible for paying for the product until it expires or is returned to commuter services unless stated otherwise in these rules.

All associated outstanding commuter services related fees and fines must be satisfactorily settled before a parking product may be issued, reissued, or renewed.

(2) When requested, a parking permit holder shall provide commuter services with the current valid license plate number of any vehicle(s) with which they intend to use a parking permit.

(3) The person(s) to whom a parking product is issued is responsible for any violations of this chapter associated with a vehicle with which the product is used during the time the product is valid and up to the date and time the product expires or is reported lost or stolen.

(4) Commuter services may also require proof of vehicle registration for certain designated parking products.

[]

NEW SECTION

WAC 132F-116-051 Display of permits. (1) Visual permits shall be prominently displayed in accordance with the instructions printed on the permit and shall be fully visible from the exterior of the vehicle. Virtual permits are associated with a vehicle's license plate, and accordingly, a vehicle associated with a virtual permit must have its license plate exposed to the lane of travel and be clearly visible, unobstructed, and able to be read by the LPR equipment.

(2) Instructions relating to the display and assignment of a permit to a vehicle(s) will be provided by commuter services at the time of issuance and are located on the commuter services website.

(3) Motorcycle and scooter permits shall be registered with commuter services.

(4) Commuter services may authorize certain designated virtual permit holders to use a vehicle's license plate as a permit. Certain designated virtual permits may require the completion of a permit registration process. Virtual permit instructions will be provided at the time of permit issuance.

[]

NEW SECTION

WAC 132F-116-052 Allocation of parking spaces. The parking spaces available on campus shall be allocated in a manner that will best attain the objectives of these rules.

During special occasions causing additional or heavy traffic and during emergencies, the district may impose additional traffic and parking policies to achieve the specified objectives of this chapter.

[]

NEW SECTION

WAC 132F-116-053 Overtime parking violations. After a motor vehicle has been cited for parking beyond the time posted, the vehicle may be cited at a frequency of one additional citation for each period of time equal to the maximum time limit posted for the space.

[]

NEW SECTION

WAC 132F-116-061 Parking fees. Seattle College District VI board of trustees shall adopt parking fees, specifying the charge per time period, day, quarter, and year. The fee structure shall be on file at individual college business offices and the district purchasing office.

Commuter services shall sell quarterly and yearly permits to the districts' employees and students. Students who are registered for six or more credits shall purchase parking at the student rate, even if the student is working as an employee of the college or district.

Commuter services may also sell hourly, daily, quarterly, and yearly permits at their discretion to regular visitors. A person who parks a vehicle in a metered parking space must pay for time used during posted times of operation.

Fees collected from the sale of parking permits shall be used to help offset the expenses of the district's commute trip reduction program, to help maintain the parking facilities at each campus, and to assist with funding of the positions necessary to enforce these parking rules and regulations, and other purposes deemed appropriate.

[]

NEW SECTION

WAC 132F-116-062 Parking within designated spaces. (1) No motor vehicle shall be parked on the campus except in areas designated as parking areas, unless expressly authorized by commuter services or campus safety.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not excuse a violation of this section.

(3) No person shall stop, stand, or park any motor vehicle so as to create a safety hazard, obstruct traffic along or upon any street, parking lot drive aisle, or roadway, or obstruct pedestrian movement along any plaza, path, or sidewalk unless expressly authorized by commuter services or campus safety.

(4) No vehicle shall park in a parking space designated for persons with disabilities without displaying a disabled license plate, card, or decal issued by the Washington state department of licensing (or from equivalent other jurisdictions in other states) that indi-

cates that an occupant of the vehicle is disabled. Such vehicle must be used to transport the person with disabilities.

[]

NEW SECTION

WAC 132F-116-063 Denial or revocation of parking privileges.

Commuter services reserve the right to deny or revoke parking privileges to anyone who has:

- (1) Had a permit revoked;
- (2) Falsified a parking application or registration;
- (3) Counterfeited or altered a permit;
- (4) Failed to pay outstanding citations;
- (5) Been found to be in possession of or using a lost, refunded, or stolen permit;
- (6) Removed an immobilization device without authorization;
- (7) Been banned from campus;
- (8) Failed to comply with commuter services directions;
- (9) Damaged campus property while driving or parking on campus;
- (10) Verbally abused or assaulted staff, including commuter services staff.

[]

NEW SECTION

WAC 132F-116-064 Parking—Operator's responsibility. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first:

- (1) Stopping the engine, locking the ignition, and removing the key;
- (2) Effectively setting the brake and transmission to prevent movement of the vehicle.

[]

NEW SECTION

WAC 132F-116-066 Regulatory signs, markings, barricades, etc.

(1) The district may erect permanent or temporary signs, barricades, and other structures, and paint marks and other directions upon the streets and parking areas within campus. Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions. Drivers of vehicles shall comply with directions given to them by commuter services employees, campus facilities employees, campus safety officers, or authorized contractors in the control and regulation of traffic. Drivers shall also comply with directions given to them by commuter services employees, campus safety officers, or authorized

contractors in the assignment of parking space and in the collection of parking fees.

(2) No person without authorization from the district shall move, deface, or in any way change a sign, barricade, structure, marking, or direction that regulates traffic or parking.

[]

NEW SECTION

WAC 132F-116-067 Speed. No vehicle shall be operated on the campus at a speed in excess of posted limits. If no limit is posted, no vehicle shall exceed 20 miles per hour or such lower speed as is reasonable and prudent in the circumstances.

[]

NEW SECTION

WAC 132F-116-069 Pedestrian's right of way. (1) The operator of a vehicle shall yield right of way to any pedestrian. However, no pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass that vehicle.

(3) Where a sidewalk is provided, pedestrians shall proceed upon the sidewalk.

[]

NEW SECTION

WAC 132F-116-071 Motorcycles, bicycles, EPAMDs, and scooters.

(1) Motorcycles, bicycles, EPAMDs, and scooters are subject to all traffic rules controlling other motor vehicles.

(2) Motorcycles and motorized scooters must be parked in designated motorcycle parking areas.

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas, or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and fine imposed upon the owner.

(5) No bicycles, EPAMDs, or foot-propelled devices shall be operated on campus corridors, hallways, or buildings unless their use is required as part of the educational process in an authorized program, or authorized by campus personnel. A "foot-propelled device" is a wheeled device designed or used for recreation or transportation in-

cluding, but not limited to, skateboards, roller skates, and roller blades.

[]

NEW SECTION

WAC 132F-116-072 Issuance of parking citations. Upon probable cause that a violation of these rules has occurred, a campus safety officer, commuter services employee, or contractor designated by commuter services may issue a citation setting forth the date, the approximate time, the locality, the nature of the violation, the license plate number, infraction, officer, and the amount of fine(s). The citation shall be served on the person responsible for the violation by: Attaching a copy of the citation to, or placing it prominently within, the vehicle allegedly involved in the violation; mailing a copy of the citation to the person responsible; or serving a copy of the citation personally on the person responsible.

[]

NEW SECTION

WAC 132F-116-073 Fines, immobilization, and impounding. (1) The current schedule of fines shall be published by the district and made available for review online and prominently displayed on campus.

(2) All fines are due upon receipt of the citation and must be paid as designated on the citation within 20 calendar days from the date of the citation. Fines must be delivered in person to a college cashier's office, paid online, or postmarked on or before the due date specified in these rules to avoid additional penalties. If any citation has neither been paid nor appealed after 20 calendar days from the date of the citation, the institution shall impose an additional fine of \$10 per offense and may:

- (a) Impound or immobilize the violator's vehicle;
- (b) Deny future parking privileges to the violator;
- (c) Refuse to issue keys to a violator who is an employee or student;
- (d) Refer outstanding balances associated with unpaid fines for collection in accordance with applicable statutes and institutional procedure.

(3) In addition to imposing fines, campus safety officers, commuter services employees, or authorized contractors or agents may immobilize and/or impound any vehicle parked on campus in violation of these rules. Grounds for impounding or immobilizing vehicles shall include, but not be limited to, the following:

- (a) Blocking a roadway so as to impede the flow of traffic;
- (b) Blocking a walkway so as to impede the flow of pedestrian traffic;
- (c) Blocking a fire hydrant or fire lane;
- (d) Creating a safety hazard;
- (e) Blocking another legally parked vehicle;
- (f) Parking in a marked "tow-away" zone;

(g) Leaving a vehicle unattended on campus for longer than two days, unless the vehicle has a valid student housing resident permit;

(h) Failing to pay a fine(s) imposed under this chapter;

(i) Parking a vehicle on campus that has no license plate(s) and no observable vehicle identification number.

(4) Not more than one business day after impoundment or immobilization of any motor vehicle, commuter services shall mail a notice to the registered owner of the vehicle and to any other person who claims the right to possession of the vehicle, if those persons can be identified. Similar notice shall be given to each person who seeks to redeem an immobilized or impounded motor vehicle. If a motor vehicle is redeemed prior to the mailing of the notice, the notice may not be mailed. The notice shall contain the date of immobilization or impoundment, reason for the action, the location of the motor vehicle if impounded, redemption procedures, and an opportunity to contest the immobilization or impoundment. The institutions shall not be liable for loss or damage of any kind resulting from impounding, immobilization, or storage.

All parking fines, fees, the cost of immobilization and/or impoundment (e.g., booting, towing, and storage fees) must be paid prior to the removal of an immobilization device or the release of an impounded motor vehicle. Impounded motor vehicles shall be redeemed only by the registered owner who has a valid driver's license or a person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt for the motor vehicle. Proof of ownership may be required before a vehicle is released from immobilization or impound.

(5) An accumulation of traffic violations by a student may be cause for discipline under the student conduct code of the student's college.

[]

NEW SECTION

WAC 132F-116-074 Appeals of fines, immobilization, and impoundments. (1) Any immobilization, impoundment, or fine under this chapter may be appealed in writing, or when available, appealed through the online parking portal, within 20 calendar days from the date of the citation, the notice of immobilization, or the notice of impoundment. The notice of appeal must be addressed to the location indicated on the citation, notice of immobilization, or notice of impoundment. Commuter services will make appeal forms available at the commuter services office. The notice of appeal must explain the reasons for contesting the citation, immobilization, or impoundment. If the person who files a notice of appeal desires an opportunity to make an oral statement in the appeal, the request to make an oral statement must be included in the notice of appeal. Online appeal instructions can be accessed through each college website.

(2) The hearing on the appeal shall be a brief adjudicative hearing as provided by WAC 132F-108-050. If a request for an oral statement was made, the presiding officer or officers shall provide reasonable notice of the time and place for receiving the oral statement. The presiding officer(s) shall review the notice of appeal and provide a written decision to the person submitting the appeal within 10 cal-

endar days of taking action. If the appeal is denied, the decision shall include a brief statement of its reasons and information about the opportunity for further review. Any fine owed on a written decision that is not further appealed as provided in subsection (3) of this section shall be paid within 21 calendar days after service of the decision.

(3) A person wishing to contest the written decision may request a review by contacting the college issuing the citation in writing within 21 calendar days after service of the decision. The request for review shall explain why the decision was incorrect. The reviewing officer shall, within 20 calendar days of the date of the request, review the matter and render a final written decision, which shall include a brief statement of its reasons and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (4) of this section shall be paid within 10 calendar days after service of the decision.

(4) A person wishing to appeal a final decision of the citation hearing office to the district court may, within 10 calendar days of service of the final decision, file a written notice with the institution. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

[]

NEW SECTION

WAC 132F-116-076 Permit and parking product revocations. Parking products are the property of the district and may be recalled by the issuer for any of the following reasons:

- (1) When the purpose for which the parking product was issued changes or no longer exists;
- (2) When a parking product is used on an unauthorized vehicle, by an unauthorized individual, or in an unauthorized manner;
- (3) Falsification on a parking product application;
- (4) Multiple or continued violations of parking rules;
- (5) Counterfeiting, altering, or using a lost/stolen parking product;
- (6) Failure to comply with a final decision of the citation review committee, or institutional hearing officer;
- (7) Nonpayment of parking product fees or parking fines.

[]

NEW SECTION

WAC 132F-116-077 Right to appeal revocation. Parking product revocations under this chapter may be appealed pursuant to the procedures in WAC 132F-116-005.

[]

NEW SECTION

WAC 132F-116-079 Motorized vehicles—Responsible parties for illegal parking. (1) For any motor vehicle citation involving a violation of this chapter where the motor vehicle is registered to a permit holder, there shall be a prima facie presumption that the permit holder was the person who operated the motor vehicle in violation of these rules. Such responsibility does not afford a defense to another person who violated these rules.

(2) For any motor vehicle citation involving a violation of this chapter where the motor vehicle is not registered to a permit holder, there shall be a prima facie presumption that the registered owner of the motor vehicle was the person who operated the motor vehicle in violation of these rules. Such responsibility does not afford a defense to another person who violated these rules.

(3) This section shall not apply to district-operated motor vehicles. The operator of a district-owned motor vehicle is personally liable for any citation issued to the motor vehicle.

(4) A third party other than the permit holder or registered owner can assume responsibility for a citation by either paying the citation within 20 calendar days of the date of the citation or submitting a petition where the third party agrees to take responsibility.

(5) When mitigating circumstances exist, authorized commuter services personnel may reduce or dismiss fines.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132F-116-020	Parking—Permits and restrictions.
WAC 132F-116-045	Ticketing and enforcement of traffic and parking rules and regulations.
WAC 132F-116-055	Permit revocations.
WAC 132F-116-065	Fees and fee payments.
WAC 132F-116-075	Reciprocity of parking privileges.
WAC 132F-116-085	Disabled parking.

WSR 23-03-081

PERMANENT RULES

THE EVERGREEN STATE COLLEGE

[Filed January 13, 2023, 3:36 p.m., effective February 13, 2023]

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

Purpose: (1) To bring chapter 174-276 WAC up-to-date and into compliance with current public records law; (2) to update, clarify, and streamline procedures governing access to public records of the college; and (3) to improve service to requesters via updated rules and procedures that make use of the current tools available to the college's public records staff.

Citation of Rules Affected by this Order: Repealing WAC 174-276-020, 174-276-095 and 174-276-120; and amending WAC 174-276-005, 174-276-010, 174-276-030, 174-276-040, 174-276-050, 174-276-060, 174-276-070, 174-276-080, 174-276-090, 174-276-100, and 174-276-110.

Statutory Authority for Adoption: RCW 28B.40.120; chapters 34.05, 42.56 RCW.

Adopted under notice filed as WSR 22-15-120 on July 20, 2022.

Changes Other than Editing from Proposed to Adopted Version: A minor change was made to WAC 174-276-030(4) clarifying that should the need for an index of "final orders," "declaratory orders," "interpretive statements" and "policy statements" arise, any such index will be organized by type of record, reviewed and updated at least once a year, revised when deemed necessary, and published on the college website.

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 0, 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 11, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 3.

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 0, Repealed 0.

Date Adopted: January 12, 2023.

Daniel B. Ralph
Rules Coordinator

OTS-3782.2

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-005 Purpose. The purpose of this chapter is to provide ((rules)) for public access to existing, identifiable, nonexempt public records of The Evergreen State College ((implementation of the

provisions of chapter 42.17 RCW relating to public records)) in accordance with the Public Records Act, chapter 42.56 RCW.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-005, filed 6/13/97, effective 7/14/97.]

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-010 Definitions ((of public record)). ~~((1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by The Evergreen State College, regardless of the physical form or characteristics.~~

~~(2) "Writing" means handwriting, typewriting, printing, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.)~~ (1) **Public record.** The term "public record" and other terms defined in the Public Records Act shall have the same meaning in this chapter that they have under the Public Records Act.

(2) **Public Records Act.** References in this chapter to the "Public Records Act" are to chapter 42.56 RCW.

(3) **Requestor.** A "requestor" is any person or entity requesting public records of The Evergreen State College pursuant to the Public Records Act.

(4) **College.** The term "college" means The Evergreen State College.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-010, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-010, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-030 ((Informal procedures regarding the general course and methods of decision.)) Description of the college. ~~((Informal procedures regarding the methods and general course of operations at the college are, for the purposes of these rules, either:~~

~~(1) Decisions made by persons authorized by board resolution, the president, or any designee to make a decision within the scope of responsibility assigned to such person; or~~

~~(2) Methods of human persuasion utilized by any member of the college's constituencies or of the public to attempt to influence one in power to make decisions within that person's scope of responsibility.)~~ (1) **Mission - Governance.** The college is a public institution of higher education, established under chapter 28B.40 RCW as a state college. The college is governed by a board of trustees appointed by the

governor. The board appoints a president who serves as the chief executive officer responsible for the administration of the college.

(2) **College campus.** The campus of the college is located at 2700 Evergreen Parkway N.W., Olympia, WA 98505. The college is located within Thurston County. The college operates the Tacoma Program at 1210 6th Ave, Tacoma, WA 98405.

(3) **Policies and procedures.** College policies meeting the definition of a "rule" under the Administrative Procedure Act, chapter 34.05 RCW are adopted by the board of trustees or designees and published in Title 174 of the Washington Administrative Code (WAC). Other college policies approved by the administration are published in college policies and procedures manuals.

(4) **Documents index.** As an institution of higher education, the college generally does not have occasion to issue nonexempt "final orders," "declaratory orders," "interpretive statements," or "policy statements" as those terms are defined and used in the Public Records Act. Should the college possess such records, an index of final orders, declaratory orders, interpretive statements, and policy statements, entered after June 30, 1990, shall be available for public inspection at the office of the public records officer, and shall also be published on the college website. Any such index shall be organized by type of record, reviewed and updated at least once a year, and revised when deemed necessary. The secretary of the college's board of trustees does maintain and publish on the college website a document index of the board's approved meeting agendas and minutes. Inquiries may be directed to the secretary of the board in the office of the college president.

(5) **College website.** The college's official website, available at www.evergreen.edu, provides general information about the college and its governing board, administration, educational programs, and policies and procedures. Persons seeking public records of the college are encouraged to view the records available on the website prior to submitting a records request.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-030, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-040 ((Designation of) Public records officer(s)).

((The public records officer for the college shall be the executive associate to the president or the president's designee within the office of the president. The public records officer shall be responsible for insuring full public access to public records in accordance with chapter 42.17 RCW. The public records officer shall enforce the rules and regulations related to release of public records and coordinate such with the faculty, staff, and students of the college.)) (1) **Designation.** A public records officer designated by the college shall be responsible for responding to public records requests in accordance with the provisions of this chapter and applicable provisions of the Public Records Act, chapter 42.56 RCW. The duties of the public records officer under this chapter may be delegated to one or more public records assistants designated by the college.

(2) **Duties.** The public records officer shall oversee the college's compliance with the Public Records Act. The records officer (or designee) and the college are responsible for providing the fullest assistance to requestors of public records, for ensuring that public records are protected from damage or disorganization, and for preventing records requests from excessively interfering with essential institutional functions or unreasonably disrupting the operations of the college. The college may take reasonable precautions to prevent a requestor from being unreasonably disruptive or disrespectful to college staff.

(3) **Records office.** Inquiries regarding public records of the college may be addressed to the public records officer at the following office address:

Public Records Officer
The Evergreen State College
2700 Evergreen Parkway N.W., Library 3200
Olympia, WA 98505
360-867-6914
publicrecords@evergreen.edu

(4) **Office hours.** The regular office hours of the public records office are from 8:00 am to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and college closures.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-040, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-040, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-050 ((Availability for public inspection and copying of)) Requests for public records. ((Public records shall be available for inspection and copying during the customary office hours of the college. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the college, acting through the public records officer, agree on a different time.)) (1) **Written requests preferred. Requests for public records of the college may be addressed to the public records officer at the address given in WAC 174-276-040. The college encourages, but does not require, requestors to submit their request via email or by using the form made available on the college website (www.evergreen.edu/publicrecords). Requests made orally, whether by phone or in person, may be confirmed in writing by the public records officer or designee.**

(2) **Contents of records requests.** A request for public records must include the following information:

(a) The name and contact information of the person requesting public records;

(b) The requestor's mailing address or email address;

(c) The date and time of the request;

(d) A description of the requested records that is sufficiently detailed to enable the public records officer and records custodians to identify and locate the responsive records;

(e) A statement indicating whether the requestor wishes to inspect the records or to receive copies of the records, and if copies are requested, the preferred format for receipt of the records (e.g., paper or electronic, and if electronic, pdf or other format); and

(f) A statement indicating the requestors preferred method for receipt of responsive records (i.e., email, postal service, or pick-up).

(3) **Lists of individuals for commercial purposes.** State agencies and institutions are not permitted to provide lists of individuals for commercial purposes. A request for lists of individuals must be accompanied by the requestor's signed declaration that the list will not be used for commercial purposes. The public records officer may inquire as to the requestor's intended use of the list and may deny the request if it is evident from the request that the list will be used for commercial purpose.

(4) **Assistance in identifying records.** The public records officer may assist requestors in identifying the specific records sought by the requestor. With limited exceptions, a requestor may not be required to state the purpose of the request. However, the records officer may ask the purpose of the request if such inquiry will assist in identifying the records requested.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-050, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-050, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-060 ((Requests for)) Processing of public records requests. ~~((In accordance with the requirements of chapter 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:~~

~~(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer or the president's designee. Such request shall include the following:~~

~~(a) The name of the person requesting the record.~~

~~(b) The time of day and calendar date on which the request was made.~~

~~(c) If the matter requested is referenced within the current index maintained by the college records officer, a reference to the requested record as it is described in such index.~~

~~(d) If the requested matter is not identifiable by reference to the college records current index, a statement that succinctly describes the record requested.~~

~~(e) A verification that the records requested shall not be used to compile a commercial sales list.~~

~~(2) In all cases in which a member of the public is making a request, it shall be the obligation of the college person to whom the request is being made to assist the member of the public in succinctly identifying the public record requested.)~~ (1) **Applicable law.** Requests for public records will be processed in accordance with these rules and applicable provisions of the Public Records Act, chapter 42.56 RCW. Guidance concerning the application of these rules may be found in the advisory model rules adopted by the attorney general under chapter 44-14 WAC.

(2) **Prioritizing requests.** Public records requests generally will be processed in the order in which they are received by the college's public records office, and within the staffing limitations of the office. However, the records office may expedite requests for a single record or for only a few records, if such records are easily identifiable and can be readily retrieved. The records office may ask, but not require, a requestor to prioritize the records the requestor is seeking.

(3) **Clarification of requests.** The public records officer may request clarification of a records request in accordance with applicable provisions of the Public Records Act. The requestor must respond to the request for clarification within 30 days of the request.

(4) **Providing records by installment.** If a requestor submits multiple records requests, or if a request seeks a large number of records or many different types of records, the public records office may provide access to the records in installments in accordance with applicable provisions of the Public Records Act.

(5) **Denial of bot requests.** The public records officer may deny a bot request as defined under the Public Records Act, RCW 42.56.080(3), if responding to the multiple requests would cause excessive interference with other essential functions of the college and the records officer reasonably believes the request was automatically generated by a computer program or script.

(6) **Closure of requests.** When the requestor withdraws the request, fails to respond to a request for clarification from the college within 30 days or clarify an entirely unclear request within 30 days, fails to provide signed certification that a request for records including a list of names is not for commercial purposes, or fails to fulfill the requestor's obligations to inspect records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer will close the request and notify the requestor that the request has been closed.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-060, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-060, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-070 ((Charges for copying.)) **Records exempt from inspection or copying.** ((+1) No fee shall be charged for inspection of public records. The college may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the

amount necessary to reimburse the college for its actual costs incident to such copying.

~~(2) No person shall be released a record which has been copied by photostatic process until and unless the person requesting the copied public record has tendered payment for such copying to the records official from whom the public record was obtained, or to any person designated by such records official.)~~ (1) **Public Records Act exemptions.** The Public Records Act, chapter 42.56 RCW, exempts from inspection or copying certain categories of records as set forth in the Public Records Act or under other statutes. The public records officer will disclose the existence of exempt records as required by law, but will deny the inspection or copying of such records to the extent that the records are exempt from inspections or copying under the Public Records Act or other applicable law.

(2) **Commonly applied exemptions.** The public records office maintains a list explaining the exemptions most commonly applied by the college in processing requests for public records. A copy of the list can be requested from the public records officer. Relevant exemptions will be provided to the requestor by the public records officer in responding to a request for records that are determined in whole or in part to be exempt from inspection or copying.

(3) **Determining applicable exemptions.** The public records officer may seek information from the requestor sufficient to determine whether another statute prohibits disclosure of the requested records. For example, student education records generally may not be disclosed to third parties without the student's written consent.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-070, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-080 ((Determination regarding exempt records.)) Public records available for inspection. ~~((1) The college reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the college, president of the college, or an assistant attorney general assigned to the college.~~

~~(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within five business days as to whether her or his request for a public record will be honored.~~

~~(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or his or her designee, specifying the specific reasons therefor. The following nonexhaustive lists are examples of records exempted from public inspection and copying:~~

~~(a) Personal information in any files maintained for students in public schools; patients or clients of public institutions or public health agencies; welfare recipients; prisoners, probationers, or parolees.~~

~~(b) Personal information in files maintained for employees, appointed or elected officials, or any public agency to the extent that disclosure would violate their right to privacy.~~

~~(c) Information required of any taxpayer in connection with the assessment or collection of any tax, if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.~~

~~(d) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.~~

~~(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.~~

~~(f) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.~~

~~(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.~~

~~(h) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.~~

~~(i) Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.~~

~~(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.~~

~~(k) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of information would:~~

~~(i) Be prohibited to such persons by RCW 82.32.330; or~~

~~(ii) Violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.~~

~~(l) Records, maps, or other information identifying the location of archeological sites in order to avoid the looting or depredation of such sites.~~

~~(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.~~

~~(n) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant.~~

~~(o) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers. RCW 51.36.120.~~

~~(p) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.~~

~~(q) Information that identifies a person who, while an agency employee:~~

~~(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and~~

~~(ii) Requests his or her identity or any identifying information not be disclosed.~~

~~(r) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.~~

~~(s) Business related information protected from public inspection and copying under RCW 15.86.110.~~

~~(4) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital government interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.~~

~~(5) Prior to releasing personal information regarding an identifiable person or persons, the college must notify the affected person or persons in writing and provide them with a two-week opportunity to seek an injunction through Thurston County superior court preventing the release of the document or documents in question. The affected person or persons may waive the two-week notice requirement under this section by contacting the public records officer in writing of said waiver.)~~ (1) Scheduling of appointments. Public records identified as responsive to a public records request may be made available for inspection and copying during regular office hours by scheduling an appointment with the public records officer. The requestor must review the assembled records or installment of records within 30 days of being notified that the records are available for review. The records officer will notify the requestor in writing of this requirement and will ask the requestor to contact the records office to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the college may close the request.

(2) Protection of records. The public records officer will be responsible for providing full access to public records made available for inspection, for protecting the records from damage or disorganization, and for preventing excessive interference with essential college functions. Public records made available for inspection may not be removed from the office without the permission of the records officer.

(3) Copying of records. The public records officer will arrange for copying of any records designated by the requestor and will charge such copying fees as may apply under WAC 174-276-090.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-080, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-080, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 97-13-047, filed 6/13/97, effective 7/14/97)

WAC 174-276-090 (~~(Review of denials for public records requests.)~~) **Copying fees—Payments.** ((1) Any person who objects to the denial of a request for a public record shall petition for prompt review of such decision by tendering a written request for a review of such denial. Such written request by a person demanding prompt review shall specifically reference the written statement by the college denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the college or any of her or his designees, which for the purposes of this section may include the public records officer, shall consider such petition.

(3) During the course of the two business days in which the president or her or his designee reviews the decision of the public records officer denying the request for a public record, the president or designee may conduct an informal hearing. During the course of such informal hearing, the president or designee may require that the person requesting the public record appear in person at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record she or he is seeking. Failure by the person requesting the review hearing to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request within two business days. If the petitioner requesting review does appear at such informal hearing, then the period for review by the college shall be extended to a period not exceeding twenty-four hours after such person requesting review has appeared before the president or designee.

(4) During the course of the informal hearing conducted by the president or his or her designee under this section, the hearing officer shall consider the obligations of the college fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.250 insofar as it requires the college to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

(5) Administrative remedies shall not be considered exhausted until the college has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.) **(1) Fees and payment procedures.** The following copying fees and payment procedures apply to requests to the college for public records under chapter 42.56 RCW received on or after the effective date of this section.

(2) Inspection of records. There is no fee for inspecting public records made available for inspection by the public records officer under WAC 174-276-080.

(3) Actual costs not calculated. Pursuant to RCW 42.56.120 (2) (b), the college is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons: (a) The institution does not have the resources to conduct a study to determine all its actual copying costs; (b) to conduct such a study would interfere with other essential college functions; and (c)

through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2) (b) and (c), (3), and (4).

(4) **Default fees adopted.** The college will charge for copies of public records pursuant to the default fees in RCW 42.56.120 (2) (b) and (c). Under RCW 42.56.130, the college may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The college may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the college are summarized in the fee schedule available on the college's website at www.evergreen.edu.

(5) **Advanced payment required - Fee waivers.** Requestors are required to pay for copies in advance of receiving records or an installment of records. The public records officer will notify the requestor when payment is due. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when: (i) All of the records responsive to an entire request are paper copies only and consist of 25 or fewer pages; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(6) **Copying fee deposits.** The public records officer may require an advance deposit of 10 percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceed \$25.

(7) **Payment method.** Payment should be made by credit card or debit card or by check or money order payable to The Evergreen State College. The college prefers not to receive cash. Cash payments will be accepted if made in the exact amount.

(8) **Closure of request for nonpayment.** The college will close a request when a requestor fails by the payment due date to pay in the manner prescribed for records, an installment of records, or a required deposit.

[Statutory Authority: RCW 28B.40.120(12). WSR 97-13-047, § 174-276-090, filed 6/13/97, effective 7/14/97. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-090, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-100 ((~~Form Request for public records.~~) **Review of denials of public records requests.**

((~~REQUEST FOR PUBLIC RECORDS~~)

The Evergreen State College

<p><u>Section I</u> IDENTIFICATION. The information requested in Boxes 1 through 4 is not mandatory. If provided, it will allow the Records Officer to contact you, if necessary, in connection with your request.</p>		<p>DATE</p>
<p>1. Name of Requester</p>	<p>2. Representing (if applicable)</p>	
<p>3. Street Address</p>		
<p>4. City-State-Zip Code</p>	<p>If there is any particular urgency attached to this request, please indicate the date by which you need the information.</p>	

Section II NATURE OF REQUEST. Please be specific about the records you wish to see. If you do not know the name of the records, make your request in the form of a question. To comply with RCW 42.17.260(5) (noncommercial use), please sign the certification below.

I certify that the information obtained as a result of this request for public records will not be used in whole or in part to compile a list for commercial purposes.

.....
 Requester's Signature

DO NOT FILL IN BELOW THIS LINE

Section III REQUEST FOR REVIEW

<p>Requested by</p>	<p>Office</p>	<p>Telephone</p>
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Section IV DISPOSITION OF REQUEST

1.	2.	3.	4.	
5.	6.	7.	8.	9.))

(1) Petition for internal administrative review. A requestor who objects to the denial or partial denial of a records request may petition in writing to the public records officer for a review of that decision. The public records officer will promptly refer the petition to the office of the president. A senior administrator designated by the president will consider the petition and will render a decision within two business days following the initial receipt of the petition by the public records officer. The time for considering the petition may be extended by mutual agreement of the college and the requestor.

(2) Review by the attorney general's office. A requestor who objects to the denial or partial denial of a records request may request the office of the attorney general to review the matter as provided in RCW 42.56.530 and WAC 44-06-160. Requests for attorney general review must be directed to Public Records Review, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100.

(3) **Judicial review.** A requestor may obtain judicial review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative review.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-100, filed 1/26/90, effective 2/26/90.]

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-110 ((Form—Public records request for copies.))
Court protection of public records.

((PUBLIC RECORDS REQUEST
FOR COPIES

The Evergreen State College

Please indicate the records that you wish to have copied, and number of copies of each. When completed, give this request to a staff member who will accompany you to the cashier and then to the nearest copy center. You will be required to pay for the copies before receiving them.

DESCRIPTION OF MATERIALS TO BE COPIED:

.....
Requester's Signature))

(1) **Notifying interested persons.** The college, as required by permitted law or contract, including any collective bargaining agreement, and in other appropriate circumstances, may notify persons named in a public record, or to whom the record specifically pertains, that release of the record has been requested and that such persons may apply to the superior court for a protective order under RCW 42.56.540.

(2) **Applying for court protection.** The college in appropriate circumstances may apply to the superior court for a protective order enjoining the examination of any specific public record in accordance with the procedures under RCW 42.56.540. Nothing in this chapter shall be construed as either requiring or prohibiting the college's application to the court for such an order.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-276-110, filed 1/26/90, effective 2/26/90.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 174-276-020 General course and method of decision making.
- WAC 174-276-095 Requests for review.
- WAC 174-276-120 Form—Request for review—Public records request.

WSR 23-03-113
PERMANENT RULES
PARAEDUCATOR BOARD

[Filed January 18, 2023, 8:35 a.m., effective September 1, 2023]

Effective Date of Rule: September 1, 2023.

Purpose: Amend rule to state when a paraeducator may begin training to meet the requirements of the advanced paraeducator certificate. The amendment will articulate training may begin after a date of issuance. The amendment will align the rule with language impacting other educators in the state. In addition, the rule change will clearly articulate when a paraeducator may begin training to complete the advanced certificate.

Citation of Rules Affected by this Order: Amending WAC 179-17-030.

Statutory Authority for Adoption: Chapter 28A.413 RCW.

Adopted under notice filed as WSR 22-23-149 on January 11, 2023 [November 22, 2022].

Changes Other than Editing from Proposed to Adopted Version: We corrected a grammatical error to ensure clarity and changed "prior to" to "before["] to align with plain talk guidance. In the proposed language, paraeducators were the indirect object of the sentence which created ambiguity, so in the adopted version we changed the language to make them the subject of the sentence, as the guidance is around actions they must take.

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 0, 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 1, Repealed 0.

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

Date Adopted: January 11, 2023.

Alicia Erezim
Rules Coordinator

OTS-3979.2

AMENDATORY SECTION (Amending WSR 18-17-012, filed 8/2/18, effective 9/2/18)

WAC 179-17-030 Minimum requirements. ((Prior to)) Before completing continuing education credit hours for the advanced paraeducator certificate, the paraeducator must ((meet requirements and apply for)) be issued the general paraeducator certificate by the Washington office of the superintendent of public instruction.

[Statutory Authority: Chapter 28A.413 RCW. WSR 18-17-012, § 179-17-030, filed 8/2/18, effective 9/2/18.]