

WSR 11-02-033
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 29, 2010, 1:49 p.m., effective January 1, 2011]

Effective Date of Rule: January 1, 2011.

Purpose: The purpose of the new language in chapters 388-71, 388-112, 388-829A and 388-829C WAC is to implement and clarify the training requirements and the criminal history background check requirements as directed in chapter 74.39A RCW.

Chapter 74.39A RCW requires training for long-term care workers which includes seventy-five hours of entry-level training and also requires federal and state criminal history background checks for all long-term care workers. This law increases the basic training hour requirements for long-term care workers from thirty-two hours to seventy-five hours and increases their continuing education hour requirement from ten to twelve hours annually.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-71-05665 through 388-71-05905, 388-112-0025, 388-112-0030, 388-112-0050, 388-112-0060, 388-112-0065, 388-112-0080, 388-112-0085, 388-112-0090, 388-112-0095, 388-112-0100, 388-112-0105, 388-112-0245, 388-112-02610 - 388-112-02630, and 388-112-0375; and amending WAC 388-71-0500, 388-71-0505, 388-71-0510, 388-71-0513, 388-71-0515, 388-71-0520, 388-71-0540, 388-71-0546, 388-71-0551, 388-71-0560, 388-112-0001, 388-112-0005, 388-112-0010, 388-112-0015, 388-112-0035, 388-112-0040, 388-112-0045, 388-112-0055, 388-112-0070, 388-112-0075, 388-112-0110, 388-112-0115, 388-112-0120, 388-112-0125, 388-112-0130, 388-112-0135, 388-112-0140, 388-112-0145, 388-112-0150, 388-112-0155, 388-112-0160, 388-112-0165, 388-112-0195, 388-112-0200, 388-112-0205, 388-112-0210, 388-112-0220, 388-112-0225, 388-112-0230, 388-112-0235, 388-112-0240, 388-112-0255, 388-112-0260, 388-112-0270, 388-112-0295, 388-112-0300, 388-112-0315, 388-112-0320, 388-112-0325, 388-112-0330, 388-112-0335, 388-112-0340, 388-112-0345, 388-112-0350, 388-112-0355, 388-112-0360, 388-112-0365, 388-112-0370, 388-112-0380, 388-112-0385, 388-112-0390, 388-112-0395, 388-112-0405, 388-112-0410, 388-829A-050, and 388-829C-040.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520; Washington state 2009-11 budget (ESHB 1244, section 206(5)).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Emergency adoption of these rules is necessary in order to comply with state law which requires implementation of these training rules by January 1, 2011. These rules were to be adopted by August 1, 2010. However, given the significant number of stakeholder comments received after the CR-102 hearing, the department needed to fully vet the additional comments and thus the rules could not be adopted by August 1, 2010. They must now be adopted as emergency rules in order to comply with the Jan-

uary 1, 2011, legislatively-mandated date for implementation.

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 83, Amended 67, Repealed 74.

Number of Sections Adopted at 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 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 83, Amended 67, Repealed 74.

Date Adopted: December 17, 2010.

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-71-0500 What is the purpose of WAC 388-71-0500 through ~~((388-71-05952) [388-71-05909])~~ **388-71-0562 and 388-71-0836 through 388-71-1006?** ~~((A client/legal representative may choose an individual provider or a home care agency provider.))~~ The ~~((intent))~~ purpose of WAC 388-71-0500 through ~~((388-71-05952) [388-71-05909])~~ **388-71-0562 and WAC 388-71-0836 through 388-71-1006** is to describe the:

(1) Qualifications of an individual provider, as defined in WAC 388-106-0010;

(2) Qualifications of a long-term care worker employed by a home care agency ((provider)), as defined in WAC 388-106-0010 and chapter 246-336 WAC;

(3) Conditions under which the department or the area agency on aging (AAA) will pay for the services of an individual provider or a home care agency ~~((provider))~~ long-term care worker;

(4) Training requirements for an individual provider and home care agency ~~((provider))~~ long-term care worker.

A client, as described in WAC 388-71-0836 eligible to receive long-term care services, or his/her legal representative on the client's behalf, may choose to receive personal care services in the client's home from an individual provider or a long-term care worker from a home care agency. If the client chooses to receive services from a home care agency, the agency will assign a long-term care worker employed by the agency to provide services to the client. Individual providers and home care agency long-term care workers are "long-term care workers" as defined in RCW 74.39A.009 and are subject to background checks under RCW 74.39A.055 and 43.20.710.

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0505 How does a client hire an individual provider? The client, or legal representative:

- (1) Has the primary responsibility for locating, screening, hiring, supervising, and terminating an individual provider;
- (2) Establishes an employer/employee relationship with the individual provider; and
- (3) May receive assistance from the social worker/case manager or other resources in this process.

AMENDATORY SECTION (Amending WSR 04-16-029, filed 7/26/04, effective 8/26/04)

WAC 388-71-0510 How does a person become an individual provider? In order to become an individual provider, a person must:

- (1) Be eighteen years of age or older;
- (2) Provide the social worker/case manager/designee with:
 - (a) A valid Washington state driver's license or other valid picture identification; and either
 - (b) A Social Security card; or
 - (c) Proof of authorization to work in the United States as required on the employment verification form.
- (3) ~~((Complete and submit to the social worker/case manager/designee))~~ Prior to January 1, 2012, be screened through the department's ((criminal conviction)) background ((inquiry application, unless the provider is also the parent of the adult DDD client and exempted, per chapter 74.15 RCW;)) check process:
 - (a) Preliminary results may require a thumb print for identification purposes;
 - (b) ~~((An FBI))~~ A fingerprint-based background check is required if:
 - (i) The person has lived in the state of Washington less than three consecutive years immediately before the date of the background check; or
 - (ii) The department has reasonable cause to believe the person has a conviction, pending charges, and/or negative actions in another state.
- (4) Effective January 1, 2012, be screened through the department's fingerprint-based background check, as required by RCW 74.39A.055. As provided in RCW 43.20A.710, results of the background check are provided to the department and employer for the purpose of determining:
 - (a) Whether the person is disqualified based on a disqualifying crime or negative action; or
 - (b) Whether the person should or should not be employed as an individual provider based on his or her character, competence, and/or suitability.
 - (c) Disqualifying crimes and negative actions are those listed in WAC 388-71-0540 (5) and (6).
- (5) Sign a home and community-based service provider contract/agreement to provide services to a COPEs, MNIW, PACE, WMIP, or medicaid personal care client, or sign a contract as an individual provider to provide services to a New Freedom waiver, WMIP, or PACE client under chapter 388-106 WAC.

NEW SECTION

WAC 388-71-0512 What is included in the department's fingerprint-based background check? The department's fingerprint-based background check includes a check of:

- (1) Records contained in databases maintained by the Washington state patrol and the Federal Bureau of Investigation, including records of:
 - (a) Pending charges; and
 - (b) criminal conviction.
- (2) Records maintained:
 - (a) In the national sex offenders registry;
 - (b) By the Washington state department of corrections;
 - (c) By Washington courts; and
 - (d) In the justice information system.
- (3) Records of negative actions, final findings, or civil adjudication proceedings of any agency or subagency including, but not limited to:
 - (a) DSHS adult protective services;
 - (b) DSHS residential care services;
 - (c) DSHS children's protective services;
 - (d) The Washington state department of health;
 - (e) The nursing assistant registry; and
 - (f) Any pending charge, criminal conviction, civil adjudicative proceeding and/or negative action disclosed by the applicant.
- (4) Any "civil adjudication proceeding", which is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds any agency finding of, domestic violence, abuse, sexual abuse, exploitation, financial exploitation, neglect, abandonment, violation of a child or vulnerable adult under any provision of law, including but not limited to chapters 13.34, 26.44, or 74.34 RCW or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.
- (5) Negative actions which include the denial, suspension, revocation, or termination of a license, certification, or contract for the care of children, as defined in RCW 26.44-.020, or vulnerable adults, as defined in RCW 74.34.020, for noncompliance with any state or federal regulation.
- (6) Except as prohibited by federal law, results are shared with the employer or prospective employer and with the department of health as authorized.

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0513 Is a background check required of a long-term care worker employed by a home care agency ((provider))? In order to be a long-term care worker employed by a home care agency ((provider)), a person who works for a home care agency that has a contract with the department must ((complete)):

- (1) Prior to January 1, 2012, be screened through the department's ((criminal conviction)) background ((inquiry application, which is submitted by the agency to the department. This includes an FBI fingerprint-based background

check if the home care agency provider has lived in the state of Washington less than three years)) check process:

(a) Preliminary results may require a thumb print for identification purposes; and

(b) A fingerprint-based background check is required if the long-term care worker employed by a home care agency has lived in the state of Washington for less than three consecutive years immediately before the date of the background check.

(2) Effective January 1, 2012, be screened through the department's fingerprint-based background check, as required by RCW 74.39A.055. As provided by RCW 43.20A.710, results are provided to the department and home care agency for the purpose of determining:

(a) Whether the person is disqualified from being a home care agency long-term care worker based on a disqualifying crime, civil adjudication proceeding, or negative action as defined under WAC 388-71-0512; and

(b) Whether the person should or should not be employed as a home care agency long-term care worker based on his or her character, competence, and/or suitability. Except as prohibited by federal law, results are shared with the employer or prospective employer and the department of health for purposes of making this determination.

(3) Disqualifying crimes, civil adjudicative proceedings, and negative actions are listed in WAC 388-71-0540.

(4) Effective January 1, 2012, all home care agencies, including those that do not have a contract to provide in-home care services to department clients, must initiate the required background check upon the date of the long-term care worker's hire.

(5) The required background check on long-term care workers employed by home care agencies will be performed at department expense; home care agencies are not responsible for payment for the required background check.

NEW SECTION

WAC 388-71-0514 Can an individual provider or home care agency long-term care worker work pending the outcome of the fingerprint-based background check? An individual provider or home care agency long-term care worker may work up to one hundred twenty days pending the outcome of the fingerprint-based background check provided that the person is not disqualified as a result of the department's background check.

AMENDATORY SECTION (Amending WSR 10-06-112, filed 3/3/10, effective 4/3/10)

WAC 388-71-0515 What are the responsibilities of an individual provider ~~((or home care agency provider))~~ when ~~((employed to provide))~~ providing care to a client? An individual provider ~~((or home care agency provider))~~ must:

(1) Understand the client's plan of care that is signed by the client or legal representative ~~((and social worker/case manager)),~~ and which may be translated or interpreted, as necessary, for the client and the provider;

(2) Provide the services as outlined on the client's plan of care, as ~~((defined))~~ described in WAC 388-106-0010;

(3) Accommodate the client's individual preferences and ~~((differences))~~ unique needs in providing care;

(4) Contact the ~~((client's))~~ client, client's representative and case manager when there are changes ~~((which))~~ that affect the personal care and other tasks listed on the plan of care;

(5) Observe ~~((the client for))~~ and consult with the client or representative, regarding change(s) in health, take appropriate action, and respond to emergencies;

(6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;

(7) Notify the case manager immediately ~~((#))~~ in the event of the ~~((client dies))~~ client's death;

(8) Notify the department or AAA immediately when unable to staff/serve the client; and

(9) Notify the department/AAA when the individual provider ~~((or home care agency))~~ will no longer provide services. ~~((Notification to the client/legal guardian))~~ The individual provider must:

(a) Give at least two weeks' notice, and

(b) ~~((Be))~~ Notify the client or legal guardian in writing.

(10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(11) Comply with all applicable laws and regulations.

~~((12))~~ A home care agency must not bill the department for in-home medicaid-funded personal care or DDD respite services when the agency employee providing care is a family member of the client served, unless approved to do so through an exception to rule under WAC 388-440-0001. For purposes of this section, family member means related by blood, marriage, adoption, or registered domestic partnership.)

NEW SECTION

WAC 388-71-0516 What are the responsibilities of home care agency when providing care to a client? In providing care to a client, a home care agency must:

(1) Ensure that the assigned home care agency long-term care worker(s) understands the client's plan of care that is signed by the client or legal representative, and which may be translated or interpreted, as necessary, for the client and the assigned home care agency long-term care worker(s);

(2) Provide services as outlined in a client's plan of care, as described in WAC 388-106-0010;

(3) Accommodate the client's individual preferences and unique needs in providing care;

(4) Contact the client, client's representative and case manager when there are changes observed by the assigned home care agency long-term care worker that affect the personal care and other tasks listed on the plan of care;

(5) Ensure that the assigned home care agency long-term care worker(s) observes the client for and consults with the client or representative, regarding change(s) in health, takes appropriate action, and responds to emergencies;

(6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;

(7) Notify the case manager immediately in the event of the client's death;

(8) Notify the department or AAA immediately when unable to staff/serve the client;

(9) Notify the department/AAA when the home care agency will no longer provide services. The home care agency must:

- (a) Give at least two weeks' notice; and
- (b) Notify the client or legal guardian in writing.

(10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(11) Comply with all applicable laws and regulations.

NEW SECTION

WAC 388-71-0517 What are the responsibilities of a home care agency when the home care agency long-term care worker is a family member of the client and the client is receiving in-home medicaid-funded personal care or DDD respite services? A home care agency must not bill the department for in-home medicaid-funded personal care or DDD respite services when the agency employee providing care is a family member of the client served, unless approved to do so through an exception to rule under WAC 388-440-0001. For purposes of this section, family member means related by blood, marriage, adoption, or registered domestic partnership.

AMENDATORY SECTION (Amending WSR 09-03-066, filed 1/14/09, effective 2/14/09)

WAC 388-71-0520 (~~Are there~~) What are the training requirements for an individual provider or a home care agency (~~provider of an adult client~~) long-term care worker? An individual provider or a home care agency (~~provider for an adult client~~) long-term care worker must meet the training requirements (~~it~~) under WAC (~~388-71-05665~~) 388-71-0836 through (~~388-71-05865 and WAC 388-71-0801 through 388-71-0826~~) 388-71-1006.

AMENDATORY SECTION (Amending WSR 10-06-112, filed 3/3/10, effective 4/3/10)

WAC 388-71-0540 When will the department, AAA, or department designee deny payment for services of an individual provider or home care agency (~~provider~~) long-term care worker? The department, AAA, or department designee will deny payment for the services of an individual provider or home care agency (~~provider if~~) long-term care worker:

(1) When the services are provided by (~~an employee of the~~) a home care agency (~~who is~~) employee that is a family member, as described under RCW 74.39A.326, of the client, including individuals related by blood, marriage, adoption, or registered domestic partnership to the (~~client~~).

The department, AAA, or department designee will deny payment for the services of an individual provider or home care agency provider who:

(~~H~~) client, except in circumstances described in RCW 74.39A.326 (1)(b):

(2) Who is the client's spouse(~~, per~~) in accordance with 42 C.F.R. 441.360(g), except in the case of an individual provider for a chore services client. Note: For chore spousal pro-

viders, the department pays a rate not to exceed the amount of a one-person standard for a (~~continuing general assistance~~) disability lifeline grant, per WAC 388-478-0030;

(~~(2)~~) (3) Who is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under medicaid personal care;

(~~(3)~~) (4) Who is a foster parent providing personal care to a child residing in (~~their~~) the foster parent's licensed foster home;

(~~(4)~~) Has been convicted of a disqualifying crime, under RCW 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in RCW 43.43.830;)

(5) With any of the pending or disqualifying convictions, history, or findings, described below:

(a) A history of noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) A conviction for a crime in federal court or in any other state, and the department determines that the crime is equivalent to a crime under subsections (5)(c) through (g) of this section;

(c) A conviction for a "crime against children or other persons" as described under RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

(d) A conviction for "crimes related to financial exploitation" as described under RCW 43.43.830, unless the crime is theft in the third degree and more than three years have passed since conviction, or unless the crime was forgery or theft in the second degree and more than five years have passed since conviction;

(e) Has been convicted of the manufacture, delivery, or possession with intent to manufacture or deliver drugs under one of the following laws:

(i) Violation of the imitation controlled substances act (VISCA);

(ii) Violation of the uniform controlled substances act (VUCSA);

(iii) Violation of the uniform legend drug act (VULDA);

or
(iv) Violation of the uniform precursor drug act (VUPDA).

(f) Has been convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

(g) Has been convicted of criminal mistreatment;

(h) Has been found to have abused, neglected, abandoned, or financially exploited a minor or vulnerable adult by court of law or a disciplining authority, (~~as defined in~~) including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceedings under title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW;

(i) Has a finding of abuse or neglect of a child, per RCW 26.44.020 and chapter 388-15 WAC that is:

(i) Listed on the department's background check central unit (BCCU) report; or

(ii) Disclosed by the individual, except for findings made before December, 1998. Findings made before December,

1998, require a character, competence and suitability determination.

(j) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:

(i) Listed on any registry, including the department's registry;

(ii) Listed on the department's background check central unit (BCCU) report; or

(iii) Disclosed by the individual, except for adult protective services findings made before October, 2003. Findings made before October, 2003, require a character, competence, and suitability determination.

(6) Has had a ~~((license, certification, or a contract for the care of children or vulnerable adults denied, suspended, revoked, or terminated for noncompliance with state and/or federal regulations))~~ medicaid or medicare provider agreement or any other contract for the care and treatment of children or vulnerable adults terminated, cancelled, suspended, revoked, or not renewed by any public agency, including a state medicaid agency;

(7) Who does not successfully complete ~~((the))~~ applicable training requirements, within ~~((the time limits required in WAC 388-71-05665 through 388-71-05865;))~~ one hundred and twenty days of hire or the begin date of authorization or within the timeframes described in WAC 388-71-0875, 388-71-0880, 388-71-0890, and 388-71-0991. If an individual provider or long-term care worker employed by a home care agency does not complete required training within the required timeframe:

(a) If certification is not required as described in WAC 246-980-070, then the long-term care worker may not provide care until the training is completed.

(b) If home care aide certification is required, then the long-term care worker may not provide care until the certification has been granted.

(8) ~~((Is already meeting))~~ Who does not successfully complete the certification or recertification requirements as described under WAC 388-71-0975;

(9) Who has had a home care aide certification denied, suspended, or revoked and is not eligible to work until his or her certification has been reissued;

(10) When the client's needs are already being met on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or

~~((9))~~ (11) Who is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of ~~((a))~~ a home care agency ~~((provider))~~ long-term care worker).

(12) In addition, the department, AAA, or department designee may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0543, 388-71-0546, and 388-71-0551(~~(, and 388-71-0556)).~~

NEW SECTION

WAC 388-71-0543 When may the department, AAA, or department designee deny payment for the services of an individual provider? The department, AAA, or department designee may deny payment for the services of an individual provider:

(1) Who has been convicted of:

(a) Simple assault, theft in third degree, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

(b) Forgery or theft in the second degree and more than five years has passed since conviction;

(c) Any conviction that the department determines is reasonably related to the competency of the person to provide care to a client; or

(d) A crime involving a firearm used in commission of a felony or in any act of violence against a person.

(2) Has engaged in the illegal use of drugs, or excessive use of alcohol or drugs without the evidence of rehabilitation;

(3) Has committed an act of domestic violence toward a family or household member;

(4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused or financially exploited a vulnerable adult, unless such decision requires a denial of payment under this chapter;

(5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, terminated, or not renewed;

(6) Has had any health care provider license, certification or contract denied, suspended, revoked, terminated, even though the license was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;

(7) Has had any residential care facility or health care facility license, certification, contract denied, suspended, revoked, terminated, even though the license, certification or contract was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;

(8) Has been enjoined from operating a facility for the care and services of children or adults;

(9) Has been the subject of a sanction or corrective or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(10) Has obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation;

(11) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license, certification, contract or any data attached to the application, or in any matter involving the department;

(12) Willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview clients or have access to their records.

NEW SECTION

WAC 388-71-0544 When may the department, AAA, or department designee deny payment to a home care

agency for the services of a long-term care worker that it employs? The department, AAA, or department designee may deny payment to a home care agency for services provided to a department client by a home care agency long-term care worker that it employs:

- (1) Who has been convicted of:
 - (a) Simple assault, theft in third degree, assault in the fourth degree, or prostitution and more than three years has passed since conviction;
 - (b) Forgery or theft in the second degree and more than five years has passed since conviction;
 - (c) Any conviction that the department determines is reasonably related to the competency of the person to provide care to a client; or
 - (d) A crime involving a firearm used in commission of a felony or in any act of violence against a person.
- (2) Has engaged in the illegal use of drugs, or excessive use of alcohol or drugs without the evidence of rehabilitation;
- (3) Has committed an act of domestic violence toward a family or household member;
- (4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused or financially exploited a vulnerable adult, unless such decision requires a denial of payment under this chapter;
- (5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, terminated, or not renewed;
- (6) Has had any health care provider license, certification or contract denied, suspended, revoked, terminated, even though the license was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;
- (7) Has had any residential care facility or health care facility license, certification, contract denied, suspended, revoked, terminated, even though the license, certification or contract was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;
- (8) Has been enjoined from operating a facility for the care and services of children or adults;
- (9) Has been the subject of a sanction or corrective or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;
- (10) Has obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation;
- (11) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license, certification, contract or any data attached to the application, or in any matter involving the department;
- (12) Willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview clients or have access to their records.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-71-0546 ~~When can the department, AAA, or ((managed care entity)) department designee reject ((the client's)) your choice of an individual provider?~~ The department, AAA, or ~~((managed care entity))~~ department designee may reject ~~((a client's))~~ your request to have a family member or other person serve as ~~((his or her))~~ your individual provider if the case manager has a reasonable, good faith belief that the person is or will be unable to appropriately meet ~~((the client's))~~ your needs. Examples of circumstances indicating an inability to meet ~~((the client's))~~ your needs ~~((could))~~ include, ~~((without limitation))~~ but are not limited to:

- (1) Evidence of alcohol or drug abuse;
- (2) A reported history of domestic violence committed by the individual provider, no-contact orders entered against the individual provider, or criminal conduct committed by the individual provider (whether or not the conduct is disqualifying under ~~((RCW 43.43.830 and 43.43.842))~~ WAC 388-71-0540);
- (3) A report from ~~((the client's health care provider or other))~~ any knowledgeable person that the ~~((requested))~~ individual provider lacks the ability or willingness to provide adequate care;
- (4) The individual provider has other employment or responsibilities that prevent or interfere with the provision of required services;
- (5) Excessive commuting distance that would make it impractical for the individual provider to provide services as they are needed and outlined in ~~((the client's))~~ your service plan.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-71-0551 ~~When can the department, AAA, or ((managed care entity)) department designee terminate or summarily suspend an individual provider's contract?~~ The department, AAA, or ~~((managed care entity))~~ department designee may take action to terminate an individual provider's home and community-based service provider contract/agreement to provide services to a COPEs, MNIW, or medicaid personal care client, or terminate a contract to an individual provider to provide services to a New Freedom waiver, WMIP, or PACE client under chapter 388-106 WAC if the provider's:

- (1) Home care aide certification has been revoked; or
- (2) Inadequate performance or inability to deliver quality care is jeopardizing the client's health, safety, or well-being.
- (3) The department, AAA, or ~~((managed care entity))~~ department designee may summarily suspend the contract pending a hearing based on a reasonable, good faith belief that the client's health, safety, or well-being is in imminent jeopardy. Examples of circumstances indicating jeopardy to the client ~~((could))~~ include, ~~((without limitation))~~ but are not limited to:
 - ~~((+))~~ (a) The individual provider has committed domestic violence or abuse, neglect, abandonment, or exploi-

tation of a (~~minor~~) child, as defined in RCW 26.44.020 or a vulnerable adult, as defined in RCW 74.34.020;

~~((2) Using or being)~~ (b) The individual provider uses or is under the influence of alcohol or illegal drugs during working hours;

~~((3))~~ (c) The individual provider engages in other behavior directed toward the client or other persons involved in the client's life that places the client at risk of harm;

~~((4))~~ (d) A report from the client's health care provider that the client's health is negatively affected by inadequate care being provided by the individual provider;

~~((5))~~ (e) A complaint from the client or client's representative that the client is not receiving adequate care from the individual provider;

~~((6))~~ (f) The ~~(absence of)~~ individual provider's failure to engage in essential interventions identified in the service plan, such as medications or medical supplies; and/or

~~((7))~~ (g) The individual provider's failure to respond appropriately to emergencies.

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0560 What are the client's rights if the department denies, terminates, or summarily suspends an individual provider's contract? (1) If the department denies, terminates, or summarily suspends the individual provider's contract, the client has the right to:

~~((1) A fair)~~ (a) An administrative hearing to appeal the decision, ~~(per)~~ under chapter 388-02 WAC, and

~~((2))~~ (b) Receive services from another currently contracted individual provider or home care agency ~~(provider)~~ long-term care worker, or ~~(other options)~~ to receive services through other programs the client is eligible for ~~(, if a contract is summarily suspended)~~.

~~((3))~~ (2) The hearing rights ~~(afforded)~~ provided under this section are those of the client, not the individual provider's rights.

NEW SECTION

WAC 388-71-0561 When does an individual provider have the right to an administrative hearing? (1) An individual provider has the right to an administrative hearing when the department denies payment to the individual provider because:

(a) He or she has not been certified by the department of health as a home care aide within the required timeframe; or

(b) If exempted from certification, he or she has not completed required training within the required timeframe.

(2) An individual provider has the right to an administrative hearing when the department terminates the individual provider's contract, or takes other enforcement measures against the individual provider because:

(a) He or she has not completed required training within the required timeframe.

(b) His or her certification as a home care aide has been revoked by the department of health.

(3) In an administrative hearing challenging DSHS action to deny payment to an individual provider or to terminate the contract of an individual provider, the individual pro-

vider may not challenge the action by the department of health affecting the individual provider's certification. Action by the department of health affecting the individual provider's certification must be challenged in a department of health hearing, as provided in department of health rules.

NEW SECTION

WAC 388-71-0562 When does a medicaid contracted home care agency have the right to an administrative hearing? (1) A medicaid contracted home care agency has the right to an administrative hearing when the department terminates its contract or takes other enforcement action related to its contract because the home care agency:

(a) Knowingly employs a long-term care worker who has not completed training within the required timeframe.

(b) Knowingly employs a long-term care worker who does not meet the certification requirements or whose certification has been revoked by the department of health.

(2) In an administrative hearing challenging DSHS action to terminate the contract or challenge some other enforcement against its contract, a medicaid contracted home care agency may not challenge the action by the department of health affecting the home care aide certification of a long-term care worker employed by the home care agency. Action by the department of health affecting the long-term care worker's certification must be challenged in a department of health hearing, as provided in department of health rules.

NEW SECTION

WAC 388-71-0836 What definitions apply to the long-term care worker training requirements? "Care team" includes the client and everyone involved in his or her care. The care team can include family, friends, doctors, nurses, long-term care workers, social workers and case managers. The role of the care team is to support the well-being of the client, however, the client directs the care plan.

"Certified home care aide" means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

"Challenge test" means a challenge test taken for specialty training, without first taking the class for which the test is designed and can only be used when basic training is not required.

"Client" means an individual receiving in-home services.

"Competency" defines the integrated knowledge, skills, or behavior expected of a long-term care worker after completing training in a required topic area. Learning objectives are associated with each competency.

"Competency testing" is evaluating a trainee to determine if he or she can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training and the specialty trainings. Training programs may integrate competency testing within their approved curriculums.

"DDD" refers to the division of developmental disabilities.

"**Department**" or "**DSHS**" refers to the department of social and health services.

"**Direct care worker**" means a paid individual who provides direct, hands-on, personal care services to persons with disabilities or the elderly requiring long-term care.

"**Functionally disabled person**" or "**person who is functionally disabled**" is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living", in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities as they are related to the mental capacity to perform activities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

"**Guardian**" means an individual as defined in chapter 11.88 RCW.

"**Individual provider**" means a person who has contracted with the department to provide personal care or respite care services to persons with functional disabilities under medicaid personal care, community options program entry system (COPES), chore services, or respite care program, or to provide respite care or residential services and supports to person with developmental disabilities under chapter 71A.12 RCW or to provide respite care as defined in RCW 74.13.270.

"**Learning objectives**" are measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

"**Long-term care worker**" includes all persons providing paid, hands-on, personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title 71 RCW, all direct care workers in state-licensed boarding homes, adult family homes, respite care providers, community residential service providers, and any other direct care staff providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities, and supported living providers.

The following persons are not long-term care workers:

- (1) Persons who are:
 - (a) Providing personal care services to individuals who are not receiving state-funded services; and
 - (b) The person is not employed by an agency or facility that is licensed by the state.

- (2) Persons employed by:
 - (a) Nursing homes licensed under chapter 18.51 RCW;
 - (b) Facilities certified under 42 CFR Part 483;
 - (c) Residential habilitation centers under chapter 71A.20 RCW;
 - (d) Hospitals or other acute care settings;
 - (e) Hospice agencies licensed under chapter 70.127 RCW;
 - (f) Adult day care centers or adult day health centers.
- (3) Persons whose services are exclusively limited to assistance with "instrumental activities of daily living," as that term is defined in WAC 388-106-0010.

"**Personal care services**" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living which is, provided because a person is a functionally disabled person as defined in this chapter.

"**Training entity**" means an organization, including an independent contractor, who is providing or may provide training under this section using approved curriculum. Training entities may only deliver approved curriculum.

"**Training partnership**" means a joint partnership or trust that includes the office of the governor and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

Reviser's note: The unnecessary 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.

ORIENTATION AND SAFETY TRAINING

NEW SECTION

WAC 388-71-0841 What is orientation? (1) Orientation is a training of two hours regarding the long-term care worker's role as long-term care workers and the applicable terms of employment.

- (2) The department must approve orientation curricula and instructors.
- (3) There is no challenge test for orientation.

NEW SECTION

WAC 388-71-0846 What content must be included in 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 during the first weeks 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 on-line course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

WAC 388-71-0850 What is safety training? (1) Safety training is a training of three hours that includes basic safety precautions, emergency procedures, and infection control.

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

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

NEW SECTION

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; and
- (e) Basic fire emergency procedures.

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

NEW SECTION

WAC 388-71-0860 Who must complete orientation and safety training and by when? Unless exempted in WAC 388-71-0901, or the long-term care worker is a parent provider as described in WAC 388-71-0890, all long-term care workers must complete orientation and safety training prior to providing care to a client.

BASIC TRAINING

NEW SECTION

WAC 388-71-0870 What is basic training? (1) Basic training is seventy hours of training that includes:

- (a) Core competencies; and
- (b) Population specific competencies.

(2) All basic training curriculum must be approved by the department and include qualified instructors.

(3) The DSHS developed revised fundamentals of care-giving (RFOC) learner's guide may be used to teach core basic training but it must include enhancements which must be approved by the department. With the increase in training hours, more time must be allotted for skills practice and additional training materials and/or classroom activities that help a worker to thoroughly learn the course content and skills. This must be approved per WAC 388-71-1026.

(4) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of training.

(5) The training entity must establish a way for the long-term care worker to ask the instructor questions.

(6) There is no challenge test for basic training.

NEW SECTION

WAC 388-71-0875 Who must complete basic training and by when? Unless exempt from training in WAC 388-71-0901, all long-term care workers must complete core and population specific competencies within one hundred twenty days of:

- (1) The date of hire for home care agency long-term care workers; or
- (2) From the begin date of the authorization to provide department-paid in-home services for a client for individual providers.

NEW SECTION

WAC 388-71-0880 Who must take the thirty hour training instead of the seventy hour basic training and when must it be completed? The thirty hour basic training, as described in WAC 388-71-0885, must be completed within one hundred twenty days from the begin date of the authorization to provide department paid, in-home services by:

- (1) An individual provider caring only for his or her biological, step, or adoptive child or parent; and
- (2) Until January 1, 2014, an individual provider who:
 - (a) Provides care to only one person; and

(b) Provides no more than twenty hours of care in any calendar month.

NEW SECTION

WAC 388-71-0885 What is the thirty hour training?

The thirty hour training is a subset of the seventy hour basic training that must include core and population specific basic training. Topics completed in the subset must be on topics relevant to the care needs of the client(s). There is no challenge test for the thirty hour training.

NEW SECTION

WAC 388-71-0890 What are the training requirements for parent providers who are individual providers for their adult children through DDD? A natural, step, or adoptive parent who is the individual provider for his or her adult child receiving services through the DSHS division of developmental disabilities must complete the twelve hour parent provider training, as described in WAC 388-71-0895, within one hundred twenty days from the begin date of the authorization to provide department paid, in-home services.

NEW SECTION

WAC 388-71-0895 What is the twelve hour parent provider training? (1) The twelve hour parent provider training must include the following topics:

- (a) Medicaid personal care;
 - (b) Assessments completed by the division of developmental disabilities;
 - (c) Community resources;
 - (d) State and federal benefits;
 - (f) Networking; and
 - (g) Client self-determination.
- (2) There is no challenge test for this training.

Reviser's note: The typographical error 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.

NEW SECTION

WAC 388-71-0901 What long-term care workers are exempt from the basic training requirement? The following long-term care workers are exempt from the basic training requirement:

- (1) A person employed as a long-term care worker on December 31, 2010, who completed prior to January 1, 2011, the basic training requirements in effect on the date of his or her hire;
- (2) A person employed as a long-term care worker on December 31, 2010, who completes within one hundred twenty days of hire, the basic training requirements in effect on the date of his or her hire;
- (3) A person previously employed as a long-term care worker prior to December 31, 2010, who completed prior to January 1, 2011, 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 during the calendar year 2010;

(4) Registered nurses, licensed practical nurses, nurse technicians, or advanced registered nurse practitioner under chapter 18.79 RCW;

(5) Nursing assistants-certified under chapter 18.88A RCW;

(6) Certified counselors under chapter 18.19 RCW;

(7) Speech language pathologists or audiologists under chapter 18.35 RCW;

(8) Occupational therapists under chapter 18.59 RCW;

(9) Physical therapists under chapter 18.74 RCW;

(10) A home health aide who is employed by a medicare-certified home health agency and has met the requirements of 42 CFR, Part 483.35;

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

(12) Parent providers as described in WAC 388-71-0890;

(13) Providers described in WAC 388-71-0880; and

(14) Until January 1, 2014, an individual provider who:

(a) Provides care to only one person; and

(b) Provides no more than twenty hours of care in any calendar month.

NEW SECTION

WAC 388-71-0906 What topics must be taught in the core competencies of 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.

NEW SECTION

WAC 388-71-0911 What are the competencies and learning objectives for the core competencies of basic training? The core competencies describe the behavior and skills that a long-term care worker should exhibit when working with clients. Learning objectives are associated with each competency.

(1) Regarding communication, communicate effectively and in a respectful and appropriate manner with clients, family members, and care team members:

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

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

(c) Listen attentively and determine that the client understands what has been communicated;

(d) Recognize and acknowledge clients' 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, take appropriate action to reduce stress and avoid burnout:

(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 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 noncare team member asks for confidential information;

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

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

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

(5) Regarding the competency of abuse and mandatory reporting, 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 defined in RCW 74.34.020 through 74.34.053; and

(b) Identify common signs and symptoms 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 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 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, prevent or reduce the risk of falls:

(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 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 to whom.

(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. 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;

(d) Report changes from baseline and/or concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements (e.g. 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 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 it;

(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 mouth 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 their 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 per the care plan and client preferences;

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

(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 and to whom to report concerns;

(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: avoiding cross contamination from one food to another, safe storage requirements for cooling of leftover foods, including depth, types of containers, and temperatures, the need to maintain food at proper temperatures to limit bacterial growth and what are the safe food storage and holding temperatures for both cold and hot foods, best practices for thawing and re-heating food, and 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/or symptoms must not prepare food.

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

(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 and when and to whom it must be reported.

(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 micro-organisms 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.

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

(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.

NEW SECTION

WAC 388-71-0916 What topics may be taught in the population specific competencies of basic training? Population specific training may include but is not limited to one or more of the following topics. Which topic(s) to include in population specific training is based on the needs of the population(s) served or to be served.

(1) Dementia;

(2) Mental health;

(3) Developmental disabilities;

(4) Young adults with physical disabilities; and

(5) Aging and older adults.

NEW SECTION

WAC 388-71-0921 What are the population specific competencies? There are no DSHS mandatory competencies or learning objectives for population specific training. The training entity developing the training determines the competencies and learning objectives that best meet the care needs of the population(s) served.

Competencies and learning objectives described for developmental disability specialty training in WAC 388-112-0122, dementia specialty training in WAC 388-112-0132, mental health specialty training in WAC 388-112-0142, aging and older adults in WAC 388-112-0091 and young adults with physical disabilities in WAC 388-112-0083 may be used to develop the population specific training in these topic areas. This is not a requirement.

Competencies and learning objectives used to develop the training must be submitted with the curricula when sent to DSHS for approval as described in WAC 388-71-1026.

NEW SECTION

WAC 388-71-0931 What other methods of training may count towards the seventy hour basic training requirement? On-the-job training provided after July 1, 2011 may count towards the seventy hour basic training requirement.

NEW SECTION

WAC 388-71-0932 What is on-the-job training? (1) Effective July 1, 2011, on the job training is a method of training when the long-term care worker successfully demonstrates any or all of the personal care or infection control skills included in the core basic training while working with a client versus in a practice training setting.

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

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

(b) Cannot be someone whose primary job duty is providing direct care to clients; or

(c) Cannot be the immediate supervisor of the long-term care worker receiving the on-the-job training.

(3) The person overseeing 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 the long-term care worker's successful completion of the demonstrated skills.

(4) For the person receiving on-the-job training, the hours spent in on the job training may count for up to twelve hours toward the completion of basic training requirements. It is not a requirement to include on-the-job training hours in the basic training hours.

**NURSE DELEGATION CORE AND SPECIALIZED
DIABETES TRAINING**

NEW SECTION

WAC 388-71-0936 What is nurse delegation core training? (1) Nurse delegation core training is the required course a nursing assistant, certified or registered, must successfully complete before being delegated a nursing task.

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

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

NEW SECTION

WAC 388-71-0941 What is specialized diabetes nurse delegation training? (1) Specialized diabetes nurse delegation training is the required course for nursing assistants, certified or registered, 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 training prior to an instructor offering a course.

NEW SECTION

WAC 388-71-0946 Who is required to complete the nurse delegation core training, and when? Before performing any delegated task, a long-term care worker must:

(1) Be a:

(a) Certified home care aide and nursing assistant registered; or

(b) Nursing assistant certified under chapter 18.88A RCW; or

(c) If exempt from the home care aide certification, become a nursing assistant registered and complete the basic training core competencies.

(2) Successfully complete "Nurse Delegation for Nursing Assistants" training.

NEW SECTION

WAC 388-71-0951 Who is required to complete the specialized diabetes nurse delegation training, and when? Specialized diabetes nurse delegation training is required before a nursing assistant, certified or registered, who meets the qualifications in WAC 388-71-0946 may be delegated the task of insulin injections.

NEW SECTION

WAC 388-71-0953 Can nurse delegation core and specialized diabetes training occur in the same year as basic training? Nurse delegation core and specialized diabetes training can occur in the same year as basic training if required to be able to perform delegated tasks. If this occurs, the maximum of twelve hours for this training can be applied towards the continuing education requirement for the following year. Nurse delegation core and specialized diabetes trainings do not apply towards basic training.

NEW SECTION

WAC 388-71-0956 Is competency testing required for the nurse delegation core training and specialized diabetes training? Passing the DSHS competency test is required for successful completion of nurse delegation core training and specialized diabetes training, as provided in WAC 388-71-1106 through 388-71-1130.

ON-THE-JOB TRAINING

NEW SECTION

WAC 388-71-0970 What documentation is required for completion of each training? Orientation, safety, basic training, including core and population specific, the thirty hour training, the twelve hour parent provider training, on-the-job training, continuing education, and nurse delegation core and specialized diabetes training, must be documented by a certificate(s) or transcript of completion of training issued by a qualified instructor or qualified training entity that includes:

(1) The name of the trainee;

(2) The name of the training;

(3) The number of hours of the training;

(4) The name and/or identification number of the training entity. The training entity's identification number for basic core training is provided by the department and is issued by the department of health's contractor for the home care aide certification test;

(5) The instructor's name. For basic core training, the instructor's name and identification number. The instructor's identification number of basic core training is provided by the department and is issued by the department of health's contractor for the home care aide certification test;

(6) The instructor's signature or an authorized signature from the training entity the qualified instructor is training on behalf of; and

(7) The completion date of the training.

The long-term care worker must retain the original certificate or transcript for proof of completion of the training. A home care agency must keep a copy of the certificate or transcript on file.

NEW SECTION

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 com-

pletion of seventy-five hours of training must be documented on a DSHS seventy-five hour training certificate by an approved training entity who has provided or verified that a total of seventy-five hours of training has occurred.

(2) An approved training entity issuing and signing a DSHS seventy-five 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 basic training, as described in this chapter. Only a DSHS or training partnership seventy-five hour training certificate can be submitted by a long-term care worker applying to the department of health for a home care aide certification.

(3) For home care aide recertification, successful completion of twelve hours of DSHS-approved continuing education training must be documented on a DSHS certificate issued by an approved training entity who has provided all twelve hours of continuing education training. If all twelve hours of continuing education were not provided by the same training entity, then an approved training entity must verify that the certified home care aide has certificates or transcripts that add up to twelve hours of DSHS-approved continuing education. Only a DSHS or training partnership twelve-hour continuing education certificate can be submitted by a certified home care aide applying to the department of health for recertification.

(4) The long-term care worker and certified home care aide must retain the original seventy-five hour training certificate and any twelve-hour continuing education training certificates as long as they are employed and up to three years after termination of employment. Training entities must keep a copy of these certificates on file for six years.

HOME CARE AIDE CERTIFICATION

NEW SECTION

WAC 388-71-0975 Who is required to obtain certification as a home care aide, and when? All long-term care workers, who do not fall within the exemptions under the department of health WAC 246-980-070, must obtain certification within one hundred and fifty days of hire or begin date of the authorization to provide department paid in-home services effective January 1, 2011.

NEW SECTION

WAC 388-71-0980 Can a home care agency employ a long-term care worker who has not completed the training and/or certification requirements? A home care agency cannot employ an individual to work as a long-term care worker if the individual has previously worked as a long-term care worker and has not completed applicable training and/or certification requirements within the required timeframe. Such individual may be employed by a home care agency to work as a long-term care worker only after applicable training and/or certification requirements are met. The department is authorized by RCW 74.39A.085 to take enforcement action for noncompliance related to training and/or certification requirements.

CONTINUING EDUCATION

NEW SECTION

WAC 388-71-0985 What is continuing education? Continuing education is additional caregiving-related training designed to keep current a person's knowledge and skills. DSHS must approve continuing education curricula and instructors. The same continuing education course may not be repeated for credit unless it is a new or more advanced training on the same topic. Nurse delegation core and nurse delegation specialized diabetes training may be used to count towards continuing education.

NEW SECTION

WAC 388-71-0990 How many hours of continuing education are required each year? (1) Until June 30, 2011, individual providers and home care agency long-term care workers must complete ten hours of continuing education each calendar year after the year in which they complete basic training. If the ten hours of continuing education were completed between January 1, 2011 and June 30, 2011, then the continuing education requirements have been met for 2011.

(2) Effective July 1, 2011, certified home care aides must complete twelve hours of continuing education each calendar year after obtaining certification as described in department of health WAC 246-980-110 and 246-112-020(3).

(3) If exempt from certification as described in RCW 18.88B.040, all long-term care workers must complete twelve hours of continuing education per calendar year unless exempt from continuing education as described in WAC 388-71-1001.

(4) A long-term care worker or certified home care aide who did not complete the continuing education requirements by the timeframe described in WAC 388-71-0991 cannot be paid to provide care after that date and cannot be reinstated as a long-term care worker until they complete the continuing education requirements.

(5) One hour of completed classroom instruction or other form of training (such as a video or on-line 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.

NEW SECTION

WAC 388-71-0991 When must a long-term care worker or certified home care aide complete continuing education? (1) Effective January 1, 2011 and for the year 2011, a long-term care worker must complete the continuing education requirements described in WAC 388-71-0990 by their birthday:

(a) A long-term care worker whose birthday occurs between January 1, 2011 and June 30, 2011, must complete the continuing education requirement by June 30, 2011.

(b) A long-term care worker whose birthday occurs on or after July 1, 2011, must complete the continuing education requirement by their birthday.

(2) Effective January 1, 2012, all long-term care workers and certified home care aides must complete the continuing education requirements described in WAC 388-71-0990 by their birthday.

(3) For long term care workers who are required to be certified, if the first renewal period is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

NEW SECTION

WAC 388-71-1001 What long-term care workers are exempt from the continuing education requirement? Unless voluntarily certified as a home care aide, continuing education is not required for:

- (1) Individual providers caring only for his or her biological, step, or adoptive son or daughter; and
- (2) Before June 30, 2014, an individual provider who:
 - (a) Provides care to only one person; and
 - (b) Provides no more than twenty hours of care in any calendar month.

NEW SECTION

WAC 388-71-1006 What kinds of training topics may be covered in continuing education? Continuing education must be on a topic relevant to the care setting, care needs of clients, or long-term care worker career development. Topics may include but are not limited to:

- (1) Client rights;
- (2) Personal care services;
- (3) Mental illness;
- (4) Dementia;
- (5) Developmental disabilities;
- (6) Depression;
- (7) Medication assistance;
- (8) Communication skills;
- (9) Positive client behavior support;
- (10) Developing or improving client-centered activities;
- (11) Dealing with wandering;
- (12) Dealing with challenging client behaviors;
- (13) Medical conditions; and
- (14) Nurse delegation core and specialized diabetes.

CURRICULUM APPROVAL

NEW SECTION

WAC 388-71-1021 What trainings must be taught with a curriculum approved by DSHS? (1) Orientation, safety, on-the-job, basic training (core and population specific training), the thirty hour basic training, the twelve hour parent provider training, and continuing education must be taught with a curriculum approved by DSHS before use.

(2) The nurse delegation core and diabetes training must use only the DSHS curriculum.

NEW SECTION

WAC 388-71-1026 What must be submitted to DSHS for curriculum approval? DSHS developed curriculum(s)

do not require submission to the department for approval unless the curriculum is being modified in any manner by the training entity.

(1) **For orientation and/or safety training:**

(a) Effective January 1, 2011, submit an outline of what will be covered in each training offered (for example, a table of contents or a class syllabus) showing that 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. Department required orientation and safety training application forms must be submitted to the department at least forty-five days in advance of when the training is expected to be offered. Training cannot be offered before receiving department curriculum and instructor approval.

(2) **For continuing education:**

(a) Effective July 1, 2011, submit an outline of what will be covered in the training (for example, a table of contents or the class syllabus), the number of training hours, and a description of how the training is relevant to the care setting, care needs of the client, or long-term care worker career development. Department required continuing education training application forms must be submitted at least forty-five days in advance of when the training is expected to be offered. The trainings cannot be offered before receiving department curriculum and instructor approval.

(3) **For basic training, the thirty hour basic training, and the twelve hour parent provider training:**

(a) If the instructor or training entity wants to use the DSHS developed revised fundamentals of caregiving learner's guide with enhancements, submit the DSHS required form with all required information. The following must be submitted to DSHS for approval of the seventy hours required for basic training, for the thirty hour basic training, and the twelve hour parent provider training. Curricula must be submitted to DSHS for approval of one or both sections (core competencies and population specific competencies) of the seventy hours required for basic training, for the thirty hour basic training, and for the twelve hour parent provider training. When submitting one or both sections of the basic training curriculum for DSHS approval, it must at a minimum include:

(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 (hand washing and putting on and taking off gloves);

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

- (A) The goals and objectives;

(B) How that section will be taught including teaching methods and learning activities that incorporate adult learning principles;

(C) Methods instructors will use 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. If the primary source or reference is not a published citation, the instructor must provide detail on how the content was established as evidence based;

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

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

(vi) In addition, for curricula being submitted for the core competency section of the basic training as described in WAC 388-71-0911, the curriculum 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.

(vii) Entities submitting curriculum for population specific basic training must submit their own list of competencies and learning objectives used to develop the population specific basic training curriculum.

NEW SECTION

WAC 388-71-1031 What is the curriculum approval process for orientation, safety, basic training (core and population specific training), the thirty hour basic training, the twelve hour parent provider training, and continuing education? (1) Submit the required training application forms and any other materials required for specific curriculums 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 curriculum(s) are 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 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 review of the nonapproval decision from the assistant secretary of aging and disability services administration. The assistant secretary's review decision shall be the final decision of DSHS; no other administrative review is available to the submitter.

INSTRUCTOR QUALIFICATIONS, APPROVAL, AND RESPONSIBILITIES

NEW SECTION

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) Administering or overseeing the administration of the DSHS competency tests for nurse delegation core and specialized diabetes trainings;
- (5) Maintaining training records including long-term care worker tests and attendance records for a minimum of six years;
- (6) Reporting training data to DSHS in DSHS-identified timeframes; and
- (7) Issuing or reissuing training certificates to long-term care workers.

NEW SECTION

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

(1) DSHS must approve and/or contract with a training entity and their instructor(s) to conduct orientation, safety, basic training (core and population specific training), nurse delegation core training and nurse delegation specialized diabetes training, on-the-job training, and continuing education. DSHS may contract with training entities and their instructor(s) using any applicable contracting procedures.

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

NEW SECTION

WAC 388-71-1055 What are the minimum qualifications for an instructor of basic training (core and population specific training), on-the-job training, nurse delegation core training, and nurse delegation specialized diabetes training? An instructor for basic training (core and population specific training), on-the-job training, nurse delegation core training, and nurse delegation specialized diabetes training must meet the following minimum qualifications:

- (1) General qualifications:
 - (a) Twenty-one years of age; and
 - (b) Has not had a professional health care, adult family home, boarding home, or social services license or certification revoked in Washington state.
- (2) Education and work experience:
 - (a) Upon initial approval or hire, an instructor must:
 - (i) Be 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
 - (ii) Have 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, boarding home, supported living through DDD, or home care setting; or

(iii) Have a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD, or home care setting.

(3) Teaching experience:

(a) Must have one hundred hours of teaching adults in a classroom setting on topics directly related to the basic training; or

(b) Must have forty hours of teaching while being mentored by an instructor who meets these qualifications, and must attend a class on adult education that meets the requirements in WAC 388-71-1066.

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

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

(6) An instructor for nurse delegation core and specialized diabetes trainings must have a current Washington state RN license in good standing without practice restrictions.

NEW SECTION

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

NEW SECTION

WAC 388-71-1066 What must be included in a class on adult education? A class on adult education must include content, student practice, and evaluation of student skills by the instructor in:

- (1) Adult education theory and practice principles;
- (2) Instructor facilitation techniques;
- (3) Facilitating learning activities for adults;
- (4) Administering competency testing; and
- (5) Working with adults with special training needs (for example, English as a second language or learning or literacy issues).

NEW SECTION

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 has expertise, background, and experience that establishes his or her expertise on that specific topic;
- (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 is teaching.

(2) The approved instructor:

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

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

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

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

(3) DSHS does not approve guest speakers.

NEW SECTION

WAC 388-71-1081 What are the requirements for the training partnership to conduct training? (1) The training partnership must:

(a) Verify, document using the department's attestation process, keep on file, and make available to the department upon request, that all instructors meet the minimum instructor qualifications in WAC 388-71-1055 and 388-71-1060 for the course they plan to teach;

(b) Teach using a complete DSHS-developed or approved curriculum;

(c) When requested by DSHS, notify DSHS in writing of their intent to conduct training prior to providing training, when changing training plans, including:

(i) Name and schedule of training(s) the partnership will conduct;

(ii) Name of approved curriculum(s) the partnership will use; and

(iii) Name of the instructor(s) for only the core basic training.

(d) Ensure that DSHS competency tests are administered when conducting nurse delegation core or specialized diabetes training;

(e) Keep a copy of long-term care worker certificates on file for six years and give the original certificate to the trainee;

(f) Keep attendance records and testing records of long-term care workers trained and tested on file for six years; and

(g) Report training data to DSHS when requested by the department.

(2) The department may conduct a random audit at any time to review training and instructor qualifications.

NEW SECTION

WAC 388-71-1083 Must the department verify that training entities and their community instructors meet the minimum instructor qualifications? The department through its contracting process must verify that the community instructors meet the minimum qualifications as described in WACs 388-71-1055 and 388-71-1060. The department will conduct random audits of the training provided and of the instructor qualifications.

PHYSICAL RESOURCES AND STANDARD PRACTICES FOR TRAINING

NEW SECTION

WAC 388-71-1091 What physical resources are required for classroom training and testing? (1) Classroom facilities used for classroom training must be accessible to trainees 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. 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 adequate space for testing, comfort, lighting, lack of disturbance appropriate for the written or skills test being conducted. Appropriate supplies and equipment necessary for the particular test must be provided.

NEW SECTION

WAC 388-71-1096 What standard training practices must be maintained for classroom training and testing? The following training standards must be maintained 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.

COMPETENCY TESTING FOR NURSE DELEGATION CORE AND SPECIALIZED DIABETES TRAINING

NEW SECTION

WAC 388-71-1106 What components must competency testing include? Competency testing must include the following components:

- (1) Skills demonstration of ability to perform and/or implement specific caregiving approaches, and/or activities as appropriate to the training;
- (2) Written evaluation to show knowledge of the learning objectives included in the training; and
- (3) A scoring guide for the tester with clearly stated scoring criteria and minimum proficiency standards.

NEW SECTION

WAC 388-71-1111 What experience or training must individuals have to be able to perform competency testing? Individuals who perform competency testing must have documented experience or training in assessing competencies.

NEW SECTION

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 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 before beginning a test;
 - (c) The amount of assistance to long-term care workers allowed during testing;
 - (d) The accommodation guidelines for long-term care workers with disabilities; and
 - (e) Accessibility guidelines for long-term care workers with limited English proficiency.

NEW SECTION

WAC 388-71-1125 What form of identification must long-term care workers show before taking a competency test? Long-term care workers must show photo identification before taking a competency test.

NEW SECTION

WAC 388-71-1130 How many times may a competency test be taken? For the trainings under WAC 388-71-0936 and 388-71-0941, competency testing 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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-71-05665	What definitions apply to WAC 388-71-05670 through 388-71-05909?
WAC 388-71-05670	What is orientation?
WAC 388-71-05675	What content must be included in an orientation?
WAC 388-71-05680	Is competency testing required for orientation?
WAC 388-71-05685	Is there a challenge test for orientation?
WAC 388-71-05690	What documentation is required for orientation?
WAC 388-71-05695	Who is required to complete orientation, and when must it be completed?
WAC 388-71-05700	What is basic training?

WAC 388-71-05705	Is there an alternative to the basic training for some health care workers?	WAC 388-71-05790	Is competency testing required for continuing education?
WAC 388-71-05710	What core knowledge and skills must be taught in basic training?	WAC 388-71-05795	May basic or modified basic training be completed a second time and used to meet the continuing education requirement?
WAC 388-71-05715	Is competency testing required for basic training?	WAC 388-71-05799	What are the documentation requirements for continuing education?
WAC 388-71-05720	Is there a challenge test for basic training?	WAC 388-71-05805	What is nurse delegation core training?
WAC 388-71-05725	What documentation is required for successful completion of basic training?	WAC 388-71-05810	What knowledge and skills must nurse delegation core training include?
WAC 388-71-05730	Who is required to complete basic training, and when?	WAC 388-71-05815	Is competency testing required for nurse delegation core training?
WAC 388-71-05735	What is modified basic training?	WAC 388-71-05820	Is there a challenge test for nurse delegation core training?
WAC 388-71-05740	What knowledge and skills must be included in modified basic training?	WAC 388-71-05825	What documentation is required for successful completion of nurse delegation core training?
WAC 388-71-05745	Is competency testing required for modified basic training?	WAC 388-71-05830	Who is required to complete nurse delegation core training, and when?
WAC 388-71-05750	Is there a challenge test for modified basic training?	WAC 388-71-05832	What is safety training?
WAC 388-71-05755	What documentation is required for successful completion of modified basic training?	WAC 388-71-05835	What is competency testing?
WAC 388-71-05760	Who may take modified basic training instead of the full basic training?	WAC 388-71-05840	What components must competency testing include?
WAC 388-71-05765	What are the training requirements and exemptions for parents who are individual providers for their adult children receiving services through DDD?	WAC 388-71-05845	What experience or training must individuals have to be able to perform competency testing?
WAC 388-71-05770	What are the training requirements and exemptions for parents who are individual providers for their adult children who do not receive services through DDD?	WAC 388-71-05850	What training must include the DSHS-developed competency test?
WAC 388-71-05775	What is continuing education?	WAC 388-71-05855	How must competency test administration be standardized?
WAC 388-71-05780	How many hours of continuing education are required each year?	WAC 388-71-05860	What form of identification must providers show a tester before taking a competency or challenge test?
WAC 388-71-05785	What kinds of training topics are required for continuing education?	WAC 388-71-05865	How many times may a competency test be taken?

WAC 388-71-05870	What are an instructor's or training entity's responsibilities?	WAC 388-71-0826	Who is required to complete the specialized diabetes nurse delegation training, and when?
WAC 388-71-05875	Must instructors be approved by DSHS?		
WAC 388-71-05880	Can DSHS deny or terminate a contract with an instructor or training entity?	<u>AMENDATORY SECTION</u> (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)	
WAC 388-71-05885	What is a guest speaker, and what are the minimum qualifications to be a guest speaker for basic training?	WAC 388-112-0001 What is the purpose of this chapter? The ((residential)) purpose of this chapter is to describe the long-term care worker training requirements ((under this chapter apply to:	
WAC 388-71-05890	What are the minimum qualifications for an instructor for basic, modified basic or nurse delegation core and specialized diabetes training?	(1) All adult family homes licensed under chapter 70.128 RCW; and (2) All boarding homes licensed under chapter 18.20 RCW).	
		<u>NEW SECTION</u>	
WAC 388-71-05895	What additional qualifications are required for instructors of nurse delegation core training and specialized diabetes nurse delegation training?	WAC 388-112-0002 To whom do the long-term care worker training requirements apply? (1) Unless exempt under RCW 18.88B.040, the long-term care worker training requirements under this chapter apply to:	
WAC 388-71-05899	What must be included in a class on adult education?	(a) All direct care workers in boarding homes licensed under chapter 18.20 RCW and chapter 388-78A WAC;	
WAC 388-71-05905	What physical resources are required for basic, modified basic, or nurse delegation core classroom training and testing?	(b) Boarding home administrators (or their designees) in accordance with chapter 388-78A WAC;	
WAC 388-71-05909	What standard training practices must be maintained for basic, modified basic, or nurse delegation core classroom training and testing?	(c) All direct care workers in adult family homes licensed under chapter 70.128 RCW and chapter 388-76 WAC;	
WAC 388-71-0801	What is specialized diabetes nurse delegation training?	(d) Adult family home applicants, resident managers, and entity representatives in accordance with chapter 388-76 WAC;	
WAC 388-71-0806	What knowledge and skills must specialized diabetes nurse delegation training include?	(e) All staff providing instruction and support services in supported living settings operating under chapter 71A.12 RCW, chapter 74.15 RCW, chapter 388-101 WAC and chapter 388-148 WAC; and	
WAC 388-71-0811	Is competency testing required for the specialized diabetes nurse delegation training?	(f) Supported living applicants and administrators in accordance with chapter 388-101 WAC.	
WAC 388-71-0816	Is there a challenge test for specialized diabetes nurse delegation training?	(2) The adult family home provider, boarding home provider, and supported living provider must ensure that any one used by them receives orientation and training from an approved instructor, appropriate for their expected duties, even if the person, including a volunteer, is not included in the definition of long-term care worker.	
WAC 388-71-0821	What documentation is required for successful completion of specialized diabetes nurse delegation training?	<u>NEW SECTION</u>	
		WAC 388-112-0003 What action(s) may the department take for provider noncompliance with the requirements of this chapter? A provider's failure to comply with the requirements of this chapter may be subject to an enforcement action authorized under:	
		(1) WAC 388-78A-3170, for boarding home providers;	
		(2) WAC 388-76-10960, for adult family home providers; or	
		(3) WAC 388-101-4200, for supported living providers.	

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0005 What definitions apply to this chapter? "Applicant" means an individual, partnership, corporation, or other entity seeking to operate an adult family home or a supported living program.

("Caregiver" means anyone providing hands-on personal care to another person including but not limited to eating, reminding, or supervision of residents, on behalf of an adult family home or boarding home, except volunteers who are directly supervised.)

"Care team" includes the resident and everyone involved in his or her care. The care team can include family, friends, doctors, nurses, long-term care workers, social workers and case managers. The role of the care team is to support the well-being of the resident, however, the resident directs the service plan.

"Certified home care aide" means a person who has obtained and maintains a home care aide certification through the department of health.

"Challenge test" means a competency test taken for specialty training without first taking the class for which the test is designed and can only be used when basic training is not required.

"Client" means a person as defined in WAC 388-101-3000.

"Competency" ((means the minimum level of information and skill trainees are required to know and be able to demonstrate)) defines the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

"Competency testing" including challenge testing, is evaluating a trainee to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training and the specialty trainings. Training programs may integrate competency testing within their approved curriculums.

"DDD" refers to the division of developmental disabilities.

"Designee" means a person in a boarding home who supervises ((caregivers)) long-term care workers and who is designated by a boarding home administrator to take the trainings in this chapter required of the boarding home administrator. A boarding home administrator may have more than one designee.

"Direct care worker" means a paid individual who provides direct, hands-on, personal care services to persons with disabilities or the elderly requiring long-term care.

"Direct supervision" means oversight by a person who has demonstrated competency in the basic training (and specialty training if required), or who has been exempted from the basic training requirements, is on the premises, and is quickly and easily available to the ((caregiver)) long-term care worker.

"DSHS" or "department" refers to the department of social and health services.

"Entity representative" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

"Functionally disabled person" or "person who is functionally disabled" is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living", in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

"Guardian" means an individual as defined in chapter 11.88 RCW.

"Home" refers to adult family homes and boarding homes.

"Indirect supervision" means oversight by a person who has demonstrated competency in the basic training (and specialty training if required), or who has been exempted from the basic training requirements, and who is quickly and easily available to the ((caregiver)) long-term care worker, but not necessarily on-site.

"Instruction and support services staff" means long-term care workers of supported living providers whose primary job function is the provision of instruction and support services to clients. Instruction and support services staff shall also include employees of the service provider whose primary job function is the supervision of instruction and support services staff. In addition, both applicants, prior to initial supported living certification, and administrators, prior to assuming duties, who may provide instruction and support services to clients shall be considered instruction and support services staff for the purposes of the applicable training requirements of this chapter.

"Learning ((outcomes)) objectives" ((means the specific information, skills and behaviors desired of the learner as a result of a specific unit of instruction, such as what they would learn by the end of a single class or an entire course. Learning outcomes are generally identified with a specific lesson plan or curriculum)) are measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum designers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

"Long-term care worker" includes all persons providing paid, hands-on personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under title 71A RCW, all direct care

workers in state-licensed boarding homes, adult family homes, respite care providers, community residential service providers, and any other direct care staff providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities, and supported living providers.

The following persons are not long-term care workers:

(1) Persons who are:

(a) Providing personal care services to individuals who are not receiving state-funded services; and

(b) The person is not employed by an agency or facility that is licensed by the state.

(2) Persons employed by:

(a) Nursing homes licensed under chapter 18.51 RCW;

(b) Facilities certified under 42 CFR Part 483;

(c) Residential habilitation centers under chapter 71A.20 RCW;

(d) Hospitals or other acute care settings;

(e) Hospice agencies licensed under chapter 70.127 RCW;

(f) Adult day care centers or adult day health centers.

(3) Persons whose services are exclusively limited to assistance with "instrumental activities of daily living," as that term is defined in WAC 388-106-0010.

"Personal care services" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living which is provided because a person is a functionally disabled person as defined in this chapter.

"Provider" means any person or entity who is licensed by the department to operate an adult family home or boarding home, or certified by the department to provide instruction and support services to meet the needs of persons receiving services under title 71A RCW.

"Resident" means a person residing and receiving long-term care services at a boarding home or adult family home. As applicable, the term resident also means the resident's legal guardian or other surrogate decision maker.

"Resident manager" means a person employed or designated by the provider to manage the adult family home who meets the requirements in chapter 388-76 WAC and this chapter.

"Routine interaction" means contact with residents that happens regularly.

"Supported living provider" means a person or entity that provides instruction and support services to meet the needs of persons receiving services under title 71A RCW and chapter 74.15 RCW. These providers include persons or entities certified under chapter 388-101 WAC, group training homes, alternative living providers, companion home providers, licensed staff residential programs, and group care facilities and staffed residential homes licensed to care for children under chapter 388-148 WAC.

"Training entity" means an organization, including an independent contractor, who is providing or may provide training under this section using approved curriculum. Training entities may only deliver approved curriculum.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0010 When do the training requirements go into effect? ~~The training requirements ((of)) under this chapter ((begin September 1, 2002, or one hundred twenty days from the date of employment, whichever is later, and apply to:~~

~~(1) Adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who are hired or begin to provide hands-on personal care to residents subsequent to September 1, 2002; and~~

~~(2) Existing adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who on September 1, 2002, have not successfully completed the training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130 and this chapter. Existing adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who have not successfully completed the training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130 are subject to all applicable requirements of this chapter. However, until September 1, 2002, nothing in this chapter affects the current training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130)) apply to persons described in WAC 388-112-0002, who are hired on or apply on or after January 1, 2011, unless exempt under RCW 18.88B.040.~~

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0015 What is orientation? (1) Orientation ((provides basic introductory information appropriate to the residential care setting and population served)) is a training of two hours regarding the long-term care worker's role as long-term care workers and the applicable terms of employment.

(2) The department ((does not)) must approve ((specific)) orientation ((programs, materials, or trainers for homes)) curricula and instructors.

(3) There is no challenge test ((is required)) for orientation.

NEW SECTION

WAC 388-112-0016 What content must be included in orientation? Orientation must include introductory information in the following areas:

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

(7) Mandatory reporter law and worker responsibilities; and

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

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

NEW SECTION

WAC 388-112-0018 What is safety training? (1)

Safety training is a training of three hours that includes basic safety precautions, emergency procedures, and infection control.

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

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

NEW SECTION

WAC 388-112-0019 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 the worker or the resident is 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 resident is falling or falls;
- (d) Location of any advanced directives and when they are given; and
- (e) Basic fire emergency procedures.

One hour of completed classroom instruction or other form of training (such as video or on line course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions. In adult family homes, safe food handling information must be provided to all staff, prior to handling food for residents.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0035 What documentation is required for orientation and safety training? The adult family home, boarding home, or supported living provider must maintain documentation of the completion of orientation and safety training, issued by the ((home)) instructor as described in WAC 388-112-0383, that includes:

- (1) The ((trainee's)) name of the trainee;
- (2) A list of the specific information taught;
- (3) The number of hours of the training;
- (4) The signature of the ((person overseeing)) instructor providing orientation((-indicating completion of the required information)) and safety training;
- ~~((4))~~ (5) The trainee's date of employment;
- ~~((5))~~ (6) The name and identification number of the home or service provider giving the orientation and safety training; and
- ~~((6))~~ (7) The date(s) of orientation and safety training.
- (8) The home must keep a copy as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for boarding homes).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0040 Who ~~((is required to))~~ must complete orientation and safety training, and by when ~~((must it be completed))~~? ~~((Adult family home))~~

~~((1))~~ All ~~((paid or volunteer staff in adult family homes who begin work September 1, 2002 or later))~~ long-term care workers must complete orientation and safety training before ~~((having routine interaction with residents))~~ providing care to residents/clients. All volunteers who routinely interact with resident/clients must complete orientation and safety training before interacting with residents/clients. Orientation and safety training must be provided by ~~((appropriate adult family home staff))~~ qualified instructors as described in WAC 388-112-0383.

~~((Boarding home~~

~~(2) Boarding home administrators (or their designees), caregivers, and all paid or volunteer staff who begin work September 1, 2002 or later must complete orientation before having routine interaction with residents. Orientation must be provided by appropriate staff.))~~

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0045 What is basic training? (1) Basic training is a training of seventy hours which includes ~~((the))~~ (a) The core ((knowledge)) competencies and skills that ((caregivers)) long-term care workers need in order to provide personal care services effectively and safely;

(b) Practice and demonstration of skills;

(c) Population specific competencies.

(2) DSHS must approve basic training curricula.

(3) For instruction and support services staff, orientation, safety training, and basic training are all included in the

developmental disabilities supported living providers training.

(4) Effective July 1, 2011, only up to twelve hours may be applied for on-the-job training.

(5) The DSHS developed revised fundamentals of caregiving (RFOC) learner's guide may be used to teach core basic training but it must include enhancements which must be approved by the department. With the increase in training hours, more time must be allotted for skills practice and additional training materials and/or classroom activities that help a worker to thoroughly learn the course content and skills. This must be approved per WAC 388-112-0325.

(6) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of training.

(7) The training entity must establish a way for the long-term care worker to ask the instructor questions.

(8) There is no challenge test for basic training.

NEW SECTION

WAC 388-112-0053 What topics must be taught in the core competencies of basic training? Basic training must include all of the competencies under WAC 388-112-0055 for 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, blood-borne pathogens, HIV/AIDS; and
- (16) Grief and loss.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0055 What ~~((knowledge and skills must be taught in))~~ are the core competencies and learning objectives for basic training? ~~((+))~~ The ~~((basic training knowledge and skills must include all of the learning outcomes and competencies published by the department for the following core knowledge and skills:~~

~~((a) Understanding and using effective interpersonal and problem solving skills with the resident, family members, and other care team members;~~

~~((b) Taking appropriate action to promote and protect resident rights, dignity, and independence;~~

~~((c) Taking appropriate action to promote and protect the health and safety of the resident and the caregiver;~~

~~((d) Correctly performing required personal care tasks while incorporating resident preferences, maintaining the resident's privacy and dignity, and creating opportunities that encourage resident independence;~~

~~((e) Adhering to basic job standards and expectations.~~

~~((2) The basic training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration)) core competencies describe the behavior and skills that a long-term care worker must exhibit when working with residents. Learning objectives are associated with each competency.~~

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

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

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

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

~~((d) Recognize and acknowledge residents' 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, take appropriate action to reduce stress and avoid burnout:~~

~~((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, to whom a long-term care worker is allowed or not allowed to give confidential information, and how to respond if a noncare team member asks for confidential information;~~

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

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

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

(5) Regarding the competency of abuse and mandatory reporting, 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 under RCW 74.34.020 through 74.34.053; and

(b) Identify common symptoms 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 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 plan.

(9) Regarding the competency on fall prevention, prevent or reduce the risk of falls:

(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 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 to take if a resident 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 to whom.

(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. Describe how to use this information to provide appropriate, individualized care;

(b) Describe a resident's baseline based on 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/or concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements (e.g. 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 388-112-0195, prior to performing a nurse-delegated task;

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

(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 mouth 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 their 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 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, and when to report concerns and to whom;

(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, describe when and to whom to report concerns;

(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: avoiding cross contamination from one food to another, safe storage requirements for cooling of leftover foods, including depth, types of containers, and temperatures, the need to maintain food at proper temperatures to limit bacterial growth and what are the safe food storage and holding temperatures for both cold and hot foods, best practices for thawing and re-heating food, and 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/or symptoms must not prepare food.

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

(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 resident who refuses to take medications, identifying when and to whom to report when a resident refuses medication or there are other medication-related concerns, and identifying what is considered a medication error and when and to whom it must be reported.

(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 micro-organisms on surfaces;

(h) Describe what 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.

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.

(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.

NEW SECTION

WAC 388-112-0059 What training is required for instruction and support staff in supported living programs? (1) The training that is required for instruction and support staff in supported living programs is an integrated seventy-five hour curriculum designed specifically for instruction and support services staff in the supported living programs.

(2) Developmental disabilities supported living provider training must include the following topics:

- (a) Orientation and safety;
- (b) Client rights and dignity;
- (c) Activities of daily living;
- (d) Abuse, neglect, financial exploitation, and mandatory reporting;
- (e) Observation and reporting;
- (f) Instruction and support activities;
- (g) Communication skills;
- (h) Problem solving;
- (i) Cultural awareness and sensitivity;
- (j) Infection control;
- (k) Blood-borne pathogens and HIV/AIDS;
- (l) Skin care;
- (m) Fall prevention;
- (n) Health and functioning;
- (o) Medication assistance;
- (p) Food preparation and handling;
- (q) Instruction and support services staff roles and boundaries;
- (r) Long-term care worker self-care; and
- (s) Grief and loss.

(3) Regarding the topic of 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 client walk;
- (ii) Transferring a client from a bed to a wheelchair;
- (iii) Turning and repositioning a client in bed;
- (iv) Providing mouth 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 client with a weak arm to dress;
- (xi) Putting knee-high elastic stockings on a client;
- (xii) Providing passive range of motion for one shoulder;
- (xiii) Providing passive range of motion for one knee and ankle;
- (xiv) Assisting a client 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.

An approved skills checklist will be used to determine that each long-term care worker can proficiently complete each skill.

(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 their 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 client's bowel and bladder functioning baseline and when to report changes.

(4) Regarding the topic of food preparation and handling, assist a client to plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by assisting a client to prepare and handle food in a safe manner.

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

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

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

(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 service plan, describe when and to whom to report concerns;

(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: avoiding cross contamination from one food to another, safe storage requirements for cooling of leftover foods, including depth, types of containers, and temperatures, the need to maintain food at proper temperatures to limit bacterial growth and what are the safe food storage and holding temperatures for both cold and hot foods, best practices for thawing and re heating food, and 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/or symptoms must not prepare food.

(5) Only the curriculum developed by DSHS may be used for the developmental disabilities supported living provider training.

(6) The developmental disabilities supported living provider training may include up to twelve hours of on-the-job training.

(7) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of training.

(8) In order to become certified as a home care aide, instruction and support staff who complete this course may choose to become a certified home care aide without taking an additional core competency course.

(9) There is no challenge test for this training.

NEW SECTION

WAC 388-112-0062 What is on-the-job training? (1) Effective July 1, 2011, on-the-job training is a method of training when the long-term care worker successfully demonstrates any or all of the personal care or infection control skills included in the core basic training while working with a client versus in a practice training setting.

(2) On-the-job training is provided by a qualified instructor as defined in WAC 388-112-0380 who directly observes, coaches, and reinforces skills training for up to two long-term care workers at a time. The instructor providing the on-the-job training:

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

(b) Cannot be someone whose primary job duty is providing direct care to clients; or

(c) Cannot be the immediate supervisor of the long-term care worker receiving the on-the-job training.

(3) The person overseeing 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 the long-term care worker's successful completion of the demonstrated skills.

(4) For the person receiving on-the-job training, the hours spent in on-the-job training may count for up to twelve hours toward the completion of basic training requirements. It is not a requirement to include on-the-job training hours in the basic training hours.

NEW SECTION

WAC 388-112-0066 What is the population specific component of basic training? Population specific basic training is training on topics that are unique to the care needs of the population that the home or provider is serving. Topics can include but are not limited to:

- (1) Dementia;
- (2) Mental health;
- (3) Developmental disabilities;
- (4) Young adults with physical disabilities; and
- (5) Aging and older adults.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0070 What documentation is required ~~((for successful))~~ to show completion of seventy hours of basic training that includes both core competencies and population specific competencies? (1) Basic training must be documented by a certificate(s) or transcript of ~~((successful))~~ completion of training, issued by the instructor or training entity, that includes:

(a) The name of the trainee;

(b) The name of the training;

(c) The number of hours of the training;

(d) The name and the identification number of the instructor for core competencies, and the home or training entity giving the training. The instructor's, home's, or training entity's identification number for basic core training is provided by the department and is issued by the department of health's contractor for the home care aide certification test;

~~((e))~~ (e) The instructor's ~~((name and))~~ signature; and

~~((f))~~ (f) The completion date~~((s))~~ of the training.

(2) The trainee must be given an original certificate(s) or transcript for proof of completion of the training. A home must keep a copy of the certificate on file as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for boarding homes).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0075 Who is required to complete basic training, and when, unless exempt as described in WAC 388-112-0076? Adult family homes

(1) Adult family home ~~((providers (including entity representatives as defined under chapter 388-76 WAC)))~~ applicants must complete basic training ~~((and demonstrate competency))~~ before ~~((operating an))~~ licensure of the adult family home.

(2) Adult family home entity representatives and resident managers must complete basic training and demonstrate competency before ~~((providing services in an))~~ assuming the duties of the position in the adult family home.

(3) ~~((Caregivers))~~ Long-term care workers in adult family homes must complete basic training within one hundred twenty days of ~~((when they begin providing hands-on personal care or within one hundred twenty days of September 1, 2002, whichever is later))~~ employment. Until ~~((competency in))~~ completion of the basic training ~~((has been demonstrated, caregivers))~~ long-term care workers may not provide hands-on, personal care without indirect supervision.

Boarding homes

(4) Boarding home administrators (or their designees), except administrators with a current nursing home administrator license, must complete basic training ~~((and demonstrate competency))~~ within one hundred twenty days of employment ~~((or within one hundred twenty days of September 1, 2002, whichever is later)).~~

(5) ~~((Caregivers))~~ Long-term care workers must complete basic training within one hundred twenty days of ~~((when they begin providing hands-on personal care or within one hundred twenty days of September 1, 2002,~~

~~whichever is later~~) employment. Until ~~((competency in))~~ completion of the basic training ~~((has been demonstrated))~~, ~~((caregivers))~~ long-term care workers may not provide hands-on personal care without direct supervision.

Supported living providers

(6) Supported living applicants, administrators, and instruction and support services staff must complete the developmental disabilities supported living provider integrated basic training within one hundred twenty days of employment. Until completion of the basic training, long-term care workers may not provide hands-on personal care without indirect supervision.

NEW SECTION

WAC 388-112-0076 What long-term care workers are exempt from the basic training requirement? The following long-term care workers are exempt from the basic training requirement:

(1) A person employed as a long-term care worker on December 31, 2010, who completed prior to January 1, 2011, the basic training requirements in effect on the date of his or her hire;

(2) A person employed as a long-term care worker on December 31, 2010, who completes within one hundred twenty days of hire, the basic training requirements in effect on the date of his or her hire;

(3) A person previously employed as a long-term care worker prior to December 31, 2010, who completed prior to January 1, 2011, 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 during the calendar year 2010;

(4) Registered nurses, licensed practical nurses, nurse technicians, or advanced registered nurse practitioner under chapter 18.79 RCW;

(5) Nursing assistants-certified under chapter 18.88A RCW;

(6) Certified counselors under chapter 18.19 RCW;

(7) Speech language pathologists or audiologists under chapter 18.35 RCW;

(8) Occupational therapists under chapter 18.59 RCW;

(9) Physical therapists under chapter 18.74 RCW;

(10) A home health aide who is employed by a medicare-certified home health agency and has met the requirements of 42 CFR, Part 483.35; and

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

NEW SECTION

WAC 388-112-0078 What DSHS-developed curriculum may be used in the population specific component of the basic training? Homes or providers may use the following DSHS-developed curriculum to meet all or some of the population specific component of basic training depending on the needs of the population served:

(1) Dementia specialty training;

(2) Mental health specialty training; and

(3) Developmental disabilities specialty training.

NEW SECTION

WAC 388-112-0079 What are the requirements for using basic training to meet the specialty training requirements as described in WAC 388-112-0385, 388-112-0390 and 388-112-0395 When basic training is used to meet the specialty training requirements:

(1) It must include the department developed competencies and learning objectives as described in WAC 388-112-0385, 388-112-0390, or 388-112-0395. Homes or providers may enhance the specialty training component by adding additional competencies, learning objectives, content, or activities. If the department approves the enhancements and an increased number of training hours, the worker's training hours will apply to the seventy hour training requirement.

(2) Long-term care workers must take and pass a department competency test to meet the licensing requirements for adult family homes and boarding homes for all specialty training.

Reviser's note: The typographical error 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.

NEW SECTION

WAC 388-112-0081 What topics may the training on young adults with physical disabilities include? The training on young adults with physical disabilities may include all of the competencies and learning objectives under WAC 388-112-0083 for the following topics:

(1) Introduction to physical disabilities;

(2) Common physical disabilities and ability limitations;

(3) Supporting residents living with chronic conditions;

(4) Independent living and resident-directed care; and

(5) Social connections and sexual needs of adults living with disabilities.

NEW SECTION

WAC 388-112-0083 What are the competencies and learning objectives for the training on young adults with physical disabilities? The competencies define the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training on young adults with physical disabilities. Learning objectives are associated with each competency.

(1) Regarding the competency on young adults with physical disabilities, work effectively with young adults with physical disabilities based upon a basic understanding of disability:

(a) Identify basic information regarding physical disabilities, injuries, and illnesses that are more common in young adults;

(b) Describe the impact of changing and fluctuating abilities;

(c) Identify stereotypes, biases, and misconceptions regarding the perception of young adults with physical disabilities;

(d) Describe how biases, stereotypes, and misconceptions can influence care to young adults with physical disabilities;

(e) Identify and explain the Americans with Disabilities Act and rights for adults with physical disabilities; and

(f) Describe the value of personalizing care and support to the specific resident with a disability.

(2) Regarding the competency on common physical disabilities and ability limitations, provide individualized care based upon a basic understanding of common physical disabilities and their impact on functioning:

(a) Describe common physical disabilities, including paraplegia and quadriplegia, diabetes, multiple sclerosis, and pulmonary disease.

(b) Describe the characteristics and functional limitations of residents with these specific disabilities.

(3) Regarding the competency on supporting residents living with chronic conditions, provide appropriate care by recognizing chronic secondary conditions that impact functioning:

(a) Identify how common chronic medical conditions affect physical disability;

(b) Describe how chronic medical conditions influence and impact care for a young resident with a physical disability;

(c) Describe how to support a resident with a physical disability and multiple chronic conditions; and

(d) Describe how to support the resident's dignity while providing personal care.

(4) Regarding the competency on independent living and resident-directed care, support independent living and self-determination for the resident living with a disability:

(a) Define the independent living philosophy and describe what it might look like;

(b) Describe barriers to independent living, including accessibility and attitudes;

(c) Describe ways to support independent living and self-determination with the resident living with a disability;

(d) Describe resident-directed support;

(e) Identify ways to promote resident-directed support; and

(f) Identify resources that promote independence and self-determination for a resident living with a disability.

(5) Regarding the competency of social connections and sexual needs of young adults living with a physical disability, provide optimum support to a resident living with a disability in his or her expression of social and sexual needs:

(a) Describe and explain the importance of full, appropriate, and equal participation of resident's living with a physical disability;

(b) Identify ways to support social connections and activities;

(c) Describe and explain the importance of honoring the resident as a sexual being with diverse sexual needs, desires, and orientation; and

(d) Identify ways to support expression of sexual needs in a respectful, professional, and confidential manner.

NEW SECTION

WAC 388-112-0088 What topics may the training on aging and older adults include? Training on aging and older adults may include all of the competencies and learning

objectives under WAC 388-112-0091 for the following core knowledge and skills:

(1) Introduction to aging;

(2) Age-associated physical changes;

(3) Cultural impacts on aging;

(4) Ageism and supporting resident dignity;

(5) Supporting residents living with a chronic condition;

(6) Dealing with death, grief, and loss; and

(7) Supporting health and wellness.

NEW SECTION

WAC 388-112-0091 What are the competencies and learning objectives for training on aging and older adults? The competencies define the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training on aging and older adults. Learning objectives are associated with each competency.

(1) Regarding the competency on an introduction to aging, draw upon a basic understanding of the aging process and demonstrate awareness of the unique needs of older adults:

(a) Describe basic information on the aging process, including the difference between age-related changes and a disease process;

(b) List typical changes that occur with aging;

(c) Identify common stereotypes, biases, myths, and misconceptions regarding aging, ageism, and older adults;

(d) Describe how ageism, biases, myths, and misconceptions can influence care to older residents;

(e) Describe how aging affects the resident's needs and behaviors; and

(f) Describe the value of adapting caregiving to the age-related concerns of the resident.

(2) Regarding the competency on age-associated physical changes, provide individualized care by understanding physical changes that are experienced in aging:

(a) Identify common physical changes experienced in the aging process;

(b) Describe common sensory changes that occur in aging and their impact on an older adult's activities;

(c) Describe the difference between age-associated physical changes versus a disease process; and

(d) Describe how age-related physical changes can impact functioning and the ability to perform personal care.

(3) Regarding the competency on cultural impacts of aging, provide culturally compassionate care by utilizing a basic understanding of issues related to culture and aging:

(a) Describe how race/ethnicity, poverty, and class influence the aging process;

(b) Describe how race/ethnicity, poverty, and class influence an older adult's help-seeking behavior; and

(c) Describe a culturally sensitive approach to working with older adults that demonstrates shared decision-making and mutual respect.

(4) Regarding the competency on ageism and supporting resident dignity, overcome ageism and support resident dignity by understanding stereotypes and myths regarding aging:

(a) Describe the concept of "ageism" and its possible impact on working with older adults;

(b) Identify his or her perceptions about aging and how these perceptions may contribute to "ageism";

(c) Describe how "ageism" can influence resident dignity; and

(d) Describe strategies for overcoming "ageism" and supporting resident dignity.

(5) Regarding the competency on supporting residents living with chronic medical conditions, provide appropriate care by recognizing how chronic conditions impact functioning:

(a) Describe how chronic medical conditions can influence and impact care for older adults;

(b) Describe strategies for working with an older adult with multiple chronic medical conditions;

(c) Describe proactive ways to support an older adult living with chronic medical conditions; and

(d) Describe how to help support the older adult's dignity while providing care.

(6) Regarding the competency on dealing with death, grief and loss, respond appropriately to a resident experiencing loss:

(a) Describe common examples of losses encountered in the aging process;

(b) Describe common reactions to loss of significant roles;

(c) Describe strategies for dealing with loss;

(d) Describe the value of promoting social engagement for the older adult;

(e) Identify strategies and opportunities for promoting social engagement; and

(f) Identify actions and resources that can be used to help an older adult work through feelings of grief and loss.

(7) Regarding the competency on supporting optimum health and wellness, support the optimum health and wellness of older adults:

(a) Identify key factors that support resident health and wellness;

(b) Identify strategies for promoting resident optimum health while aging;

(c) Identify strategies and opportunities to support an older adult to engage in healthy life style choices; and

(d) Describe his or her role in promoting optimum health and wellness for older residents.

NEW SECTION

WAC 388-112-0092 What learning objectives may be included in the curriculum for young adults with physical disabilities and/or for aging and older adults? Homes or providers may develop a curriculum for young adults with physical disabilities and/or for aging and older adults using the learning objectives in WACs 388-112-0083 and WAC 388-112-0091 or any other relevant learning objectives for these populations and submit it for approval by the department.

Reviser's note: The typographical error 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.

NEW SECTION

WAC 388-112-0106 Who is required to obtain certification as a home care aide, and when? Unless exempt under WAC 246-980-070, the following must be certified by the department of health as a home care aide within the required timeframes:

(1) All long-term care workers, within one hundred and fifty days of hire;

(2) Adult family home applicants, before licensure;

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

(4) Boarding home administrators or their designee within one hundred and fifty days of hire.

NEW SECTION

WAC 388-112-0107 Can an adult family home, boarding home, or supported living provider employ an individual to work as a long-term care worker if the individual has not completed the training and/or certification requirements? An adult family home, boarding home, or supported living provider cannot employ an individual to work as a long-term care worker if the individual has previously worked as a long-term care worker and has not completed applicable training and/or certification requirements within the specific time limits. Such individual may be employed by an adult family home, boarding home or supported living provider to work as a long-term care worker only after applicable training and/or certification requirements are met. The department is authorized by RCW 70.128.160 to take enforcement action against an adult family home provider for noncompliance related to training and/or certification requirements. The department is authorized by RCW 18.20.190 to take enforcement action against a boarding home provider for noncompliance related to training and/or certification requirements. The department is authorized by WAC 388-101-4200 to take enforcement action against a supported living provider for noncompliance related to training and/or certification requirements.

NEW SECTION

WAC 388-112-0108 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 training must be documented on a DSHS seventy-five hour training certificate by an approved training entity who has provided or verified that a total of seventy-five hours of training have occurred.

(2) An approved training entity issuing and signing a DSHS seventy-five 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 basic training, as described in this chapter. Only a DSHS or training partnership seventy-five hour training certificate can be submitted by a long-term care worker applying to the department of health for a home care aide certification.

(3) For home care aide recertification, successful completion of twelve hours of DSHS-approved continuing education training must be documented on a DSHS certificate issued by an approved training entity who has provided all twelve hours of continuing education training. If all twelve hours of continuing education were not provided by the same training entity, then an approved training entity must verify that the certified home care aide has certificates or transcripts that add up to twelve hours of DSHS-approved continuing education. Only a DSHS or a training partnership twelve-hour continuing education certificate can be submitted by a certified home care aide applying to the department of health for recertification.

(4) The long-term care worker and certified home care aide must retain the original seventy-five hour training certificate and any twelve-hour continuing education training certificates as long as they are employed and up to three years after termination of employment. Training entities must keep a copy of the certificates on file for six years.

AMENDATORY SECTION (Amending WSR 06-16-072, filed 7/28/06, effective 8/28/06)

WAC 388-112-0110 What is specialty training and who is required to take specialty training? (1) Specialty or "special needs" training ~~((including caregiver specialty training))~~ provides instruction in caregiving skills that meet the special needs of people living with mental illness, dementia, or developmental disabilities. Specialty trainings are different for each population served and are not interchangeable. Specialty training may be integrated with basic training if the complete content of each training is included. DSHS must approve specialty training curricula for managers and ~~((caregivers, except for adult family home caregiver specialty training))~~ long-term care workers.

(2) Manager specialty training is required for boarding home administrators (or designees), adult family home applicants or providers ((and)), resident managers, and entity representatives who are affiliated with homes that serve residents who have one or more of the following special needs: developmental disabilities, dementia, or mental health. The managers described in subsection (2) of this section must take one or more of the following specialty trainings:

(a) Developmental disabilities specialty training, under WAC 388-112-0120 ~~((is the required training on that specialty for adult family home providers and resident managers, and for boarding home administrators (or designees))~~);

(b) Manager dementia specialty training, under WAC 388-112-0125((:); and

(c) Manager mental health specialty training, under WAC 388-112-0135((, are the required trainings on those specialties for adult family home providers and resident managers, and for boarding home administrators (or designees)).

(3) ((Caregiver specialty training for boarding homes)) All long-term care workers including those who are exempt from basic training and who work in a boarding home, adult family home, or a supported living program, serving residents/clients with the special needs described in subsection (2) of this section, must take long-term care worker specialty

training. Long-term care worker specialty training is as follows:

(a) Developmental disabilities specialty training, under WAC 388-112-0120 ~~((is the required training on that specialty for boarding home caregivers))~~.

(b) ((Caregiver)) Long-term care worker dementia specialty training, under WAC 388-112-0130((:); and ((caregiver))

(c) Long-term care worker mental health specialty training, under WAC 388-112-0140((, are the required trainings on those specialties for boarding home caregivers)).

(4) ((Caregiver specialty training for adult family homes: The provider or resident manager who has successfully completed the manager specialty training, or a person knowledgeable about the specialty area, trains adult family home caregivers in the specialty needs of the individual residents in the adult family home, and there is no required curriculum)) Specialty training may be used to meet the requirements for the basic training population specific component if completed within one hundred and twenty days of employment.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0115 What specialty training ~~((including caregiver specialty training))~~ is required if a resident has more than one special need? If ~~((an individual))~~ a resident has needs in more than one of the special needs areas, the home must determine which of the specialty trainings will most appropriately address the overall needs of the person and ensure that the specialty training that addresses the overall needs is completed as required. If additional training beyond the specialty training is needed to meet all of the resident's needs, the home must ensure that additional training is completed.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0120 What ~~((knowledge and skills))~~ topics must ~~((manager and caregiver))~~ developmental disabilities specialty trainings include? (1) ((Manager and caregiver developmental disabilities specialty trainings)) Developmental disabilities specialty training must include all of the ~~((learning outcomes and competencies published by DSHS))~~ competencies and learning objectives described under WAC 388-112-0122 for the following ~~((core knowledge and skills))~~ topics:

- (a) Overview of developmental disabilities;
- (b) Values of service delivery;
- (c) Effective communication;
- (d) Introduction to interactive planning;
- (e) Understanding behavior;
- (f) Crisis prevention and intervention; and
- (g) Overview of legal issues and ~~((individual))~~ resident rights.

(2) For adult family homes, the division of developmental disabilities (DDD) will provide in-home technical assistance to the adult family home upon admission of the first resident eligible for services from DDD and, thereafter, as determined necessary by DSHS.

~~((3) The manager and caregiver developmental disabilities specialty training learning outcomes and competencies may be obtained from the DSHS division of developmental disabilities.))~~

NEW SECTION

WAC 388-112-0122 What are the competencies and learning objectives for the departmental disability specialty training? The developmental disabilities specialty competencies describe the behavior and skills a long-term care worker should exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding the competency on an overview of developmental disabilities, draw upon a basic understanding of developmental disabilities and demonstrate awareness of the unique needs of residents with developmental disabilities:

(a) Define developmental disability and describe intellectual disability, cerebral palsy, epilepsy, and autism;

(b) Identify common myths and misconceptions about developmental disabilities;

(c) Describe the negative effects of using labels such as "retarded" or "handicapped" to represent people and positive alternatives; and

(d) Differentiate between developmental disabilities and mental illness.

(2) Regarding the competency on values of service delivery, promote and support a resident's self-determination:

(a) Identify the principle of normalization and its significance to the work of long-term care workers;

(b) Explain how understanding each resident's needs leads to better services and supports, which lead to better outcomes for the resident;

(c) Describe each of the residential services guidelines and identify how the values represented in the guidelines are important in the lives of people with developmental disabilities;

(d) Describe the principle of self-determination; and

(e) Identify positive outcomes for residents with developmental disabilities when they are connected to the community they live in.

(3) Regarding the competency on communication, provide culturally compassionate and individualized care by utilizing a basic understanding of a resident or resident's history, experience, and cultural beliefs:

(a) List the key elements of effective communication;

(b) Describe the impact communication has on the lives of residents with developmental disabilities;

(c) Explain the impact a long-term care worker's behavior can have on eliciting communication;

(d) Explain the impact of a resident's physical environment on their ability to communicate;

(e) Describe methods of communication, other than verbal, that long-term care workers might use when supporting residents with developmental disabilities; and

(f) List tips for communication with residents with developmental disabilities.

(4) Regarding the competency on interactive planning, use person-centered and interactive planning when working with residents with developmental disabilities:

(a) Identify the benefits of using a person-centered planning process rather than the traditional planning methods used to develop supports for people with developmental disabilities;

(b) Identify key elements involved in interactive planning;

(c) Identify ways to include people with developmental disabilities and their families in the planning process; and

(d) Identify the required planning document for the setting and list ways to have a positive impact on the plan.

(5) Regarding the competency on challenging behaviors, use a problem solving approach and positive support principles when dealing with challenging behaviors:

(a) Identify the essential components of the concept of positive behavioral supports;

(b) Define the "ABCs" and describe how to use that process to discover the function of behavior;

(c) Explain why it is critical to understand the function of behavior before developing a support plan;

(d) Define reinforcement and identify ways to utilize it as a tool to increase a resident's ability to be successful;

(e) Identify the problems with using punishment to manage behavior;

(f) Identify behavior management techniques that are not allowed under DSHS policies and applicable laws;

(g) Identify factors that can positively and negatively influence the behavior of residents with developmental disabilities; and

(h) List steps to be taken when crisis or danger to people is immediate.

(6) Regarding the competency on crisis prevention, support a resident experiencing a crisis and get assistance when needed:

(a) Identify behaviors in people with developmental disabilities that might constitute "normal stress";

(b) Define "crisis";

(c) Differentiate the behaviors a resident who is in crisis exhibits from mental illness;

(d) Identify the principles of crisis prevention and intervention;

(e) Identify what types of situations require outside assistance and at what point it becomes necessary; and

(f) Name several ways to provide support to a resident experiencing a crisis.

(7) Regarding the competency on legal rights, promote and protect the legal and resident rights of residents with developmental disabilities:

(a) Explain how the rights of residents with disabilities compare to those of the general population;

(b) List the rights of residents living in adult family homes and boarding homes and the laws that support those rights;

(c) Describe how long-term care workers can help residents to exercise their rights;

(d) List ways a long-term care worker must safeguard each resident's confidentiality;

(e) Describe the three types of guardianship an resident with developmental disabilities might be subject to and why;

(f) List less restrictive alternatives to guardianship;

(g) Describe the responsibilities, powers, and limitations of a guardian; and

(h) Describe the relationship between long-term care workers and guardians/families.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0125 What knowledge and skills must manager dementia specialty training include? (1) Manager dementia specialty training must include all the learning ~~((outcomes))~~ objectives and competencies published by DSHS for the following core knowledge and skills:

- (a) Introduction to the dementias;
- (b) Differentiating dementia, depression, and delirium;
- (c) Caregiving goals, values, attitudes and behaviors;
- (d) Caregiving principles and dementia problem solving;
- (e) Effects of cognitive losses on communication;
- (f) Communicating with people who have dementia;
- (g) Sexuality and dementia;
- (h) Rethinking "problem" behaviors;
- (i) Hallucinations and delusions;
- (j) Helping with activities of daily living (ADLs);
- (k) Drugs and dementia;
- (l) Working with families;
- (m) Getting help from others; and
- (n) Self-care for ~~((caregivers))~~ long-term care workers.

~~((2) The manager dementia specialty training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.))~~

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0130 What ~~((knowledge and skills))~~ topics must ~~((caregiver))~~ long-term care worker dementia specialty training include? ~~((1) Caregiver))~~ Long-term care worker dementia specialty training must include all the ~~((learning outcomes and competencies published by DSHS))~~ competencies and learning objectives under WAC 388-112-0132 for the following ~~((core knowledge and skills))~~ topics:

- ~~((a))~~ (1) Introduction to the dementias;
- ~~((b))~~ (2) Dementia, depression, and delirium;
- ~~((c))~~ ~~Resident-based caregiving;~~
- ~~((d))~~ (3) Dementia caregiving principles;
- ~~((e))~~ (4) Communicating with people who have dementia;
- ~~((f))~~ (5) Sexuality and dementia;
- ~~((g))~~ (6) Rethinking "problem" behaviors;
- ~~((h))~~ (7) Hallucinations and delusions;
- ~~((i))~~ (8) Helping with activities of daily living (ADLs);
- ~~((j))~~ (9) Working with family and friends.

~~((2) The learning outcomes and competencies for caregiver dementia training may be obtained from the DSHS aging and adult services administration.))~~

NEW SECTION

WAC 388-112-0132 What are the competencies and learning objectives for the long-term care worker demen-

tia specialty training? The dementia specialty competencies describe the behavior and skills a long-term care worker should exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding the competency on an introduction to dementia, draw upon a basic understanding of dementia and demonstrate awareness of the unique needs of residents with dementia:

(a) Identify basic information on dementia, including causes and treatments;

(b) Describe how dementia affects resident needs and behaviors;

(c) List typical behaviors and symptoms a resident with dementia would most likely experience;

(d) Describe the differences that might be seen based on the type of dementia a resident has.

(2) Regarding the competency on dementia, depression, and delirium, respond appropriately to residents who have dementia, delirium, and/or depression:

(a) Identify and differentiate between dementia, depression, and delirium;

(b) Describe common symptoms of dementia, depression, and delirium and list possible causes;

(c) Compare and contrast among common symptoms of dementia, depression, and delirium; and

(d) Identify what symptom changes require immediate professional attention and how to access professional help.

(3) Regarding the competency on dementia caregiving principles, incorporate current best practices when providing dementia care:

(a) Identify current best practices in dementia caregiving;

(b) Describe current best practices in caregiving;

(c) Demonstrate the ability to support the resident's strengths using caregiving techniques to support those strengths; and

(d) Describe how to use cultural and life information to develop and enhance care provided to residents with dementia.

(4) Regarding the competency on communicating with people who have dementia, communicate in a respectful and appropriate manner with residents with dementia:

(a) Describe common dementia-caused cognitive losses and how those losses can affect communication;

(b) Identify appropriate and inappropriate nonverbal communication skills and discuss how each impacts a resident's behavior;

(c) Describe how to effectively initiate and conduct a conversation with a resident who has dementia; and

(d) Identify communication strategies to work with residents who have dementia.

(5) Regarding the competency on sexuality and dementia, protect a resident or resident's rights when dealing with issues of sexuality and appropriately manage unwanted or inappropriate sexual behavior:

(a) Identify ways in which dementia affects sexuality and sexual behaviors;

(b) Identify a resident's rights as they relate to sexuality and sexual behavior and discuss ways to support these rights; and

(c) Describe how to respond using nonjudgmental caregiving skills to residents' appropriate and inappropriate sexual behaviors.

(6) Regarding the competency on dealing with challenging behaviors, use a problem-solving approach when dealing with challenging behaviors:

(a) Describe how to use a problem-solving method to intervene in challenging behaviors or situations;

(b) Describe some possible common causes of challenging behaviors, including aggression, catastrophic reactions, wandering, and inappropriate sexual behavior and explore their causes;

(c) Describe how to implement a problem-solving process when working with a resident who has dementia; and

(d) Describe how to respond appropriately to a resident who is expressing a challenging behavior.

(7) Regarding the competency on hallucinations and delusions, respond appropriately when a resident is experiencing hallucinations or delusions:

(a) Define and differentiate between hallucinations and delusions;

(b) List different types of dementia-related hallucinations; and

(c) Describe how to appropriately and safely respond to a resident with dementia who is experiencing hallucinations and delusions.

(8) Regarding the competency on activities of daily living, make activities of daily living pleasant and meaningful:

(a) Identify and describe ways in which to support making activities of daily living pleasant for residents with dementia; and

(b) Describe strategies that support meaning and utilize an individualized approach when assisting a resident with dementia with activities of daily living.

(9) Regarding the competency on working with family and friends, respond respectfully, appropriately, and with compassion when interacting with families and friends of residents with dementia:

(a) Identify common concerns friends and family have when a loved one has dementia;

(b) Describe ways to be supportive and compassionate in interactions with family and friends of the resident with dementia;

(c) Identify how to find local resources for family support needs; and

(d) Describe a method to gather cultural and life history information from a resident and/or representative(s).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0135 What knowledge and skills must manager mental health specialty training include? (1) Manager mental health specialty training must include all the learning ~~((outcomes))~~ objectives and competencies published by DSHS for the following core knowledge and skills:

(a) Introduction to mental illness;

(b) Culturally compassionate care;

(c) Respectful communications;

(d) Understanding mental illness - major mental ~~((disorders))~~ illnesses;

(e) Understanding mental illness - baseline, decompensation, and relapse planning; responses to hallucinations and delusions;

(f) Understanding and interventions for behaviors perceived as problems;

(g) Aggression;

(h) Suicide;

(i) Medications;

(j) Getting help from others; and

(k) Self-care for ~~((caregivers))~~ long-term care workers.

~~((2) The manager mental health specialty training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.))~~

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0140 What ~~((knowledge and skills))~~ topics must ((caregiver)) the long-term care worker mental health specialty training include? (1) ~~((Caregiver))~~ The long-term care worker mental health specialty training must include all the ~~((learning outcomes and competencies published by DSHS))~~ competencies under WAC 388-112-0142 for the following ~~((core knowledge and skills))~~ topics:

(a) Understanding major mental ~~((disorders))~~ illnesses;

(b) ~~((Individual))~~ Resident background, experiences and beliefs;

(c) ~~((Responding to))~~ Respectful communication;

(d) Creative approaches to challenging behaviors;

(e) Decompensation((:)) and relapse((:)) planning;

(f) Responding to hallucinations and delusions;

~~((d) Interventions for behaviors perceived as problems;~~

~~((e))~~ (g) Crisis intervention and dealing with aggression;

~~((f))~~ (h) Suicide prevention.

~~((2) The learning outcomes and competencies for caregiver mental health training may be obtained from the DSHS aging and adult services administration.))~~

NEW SECTION

WAC 388-112-0142 What are the competencies and learning objectives for the long-term care worker mental health specialty training? The mental health specialty competencies describe the behavior and skills a long-term care worker should exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding the competency on understanding major mental illnesses, draw upon a basic understanding of mental illness and demonstrate awareness of the unique needs of residents with mental illness:

(a) Define and describe main symptoms of depression, bipolar schizophrenia, and anxiety disorder, and list treatment options for each;

(b) Describe causes of mental illness;

(c) Describe the progression of mental illness;

(d) Identify common myths and misinformation about mental illness; and

(e) Define stigma and identify how stigma can impact caregiving.

(2) Regarding the competency on resident background, experiences and beliefs, provide culturally compassionate and individualized care by utilizing a basic understanding of the resident's history, experience, and cultural beliefs:

(a) Demonstrate a method for gathering cultural, lifestyle, and personal value information from a resident;

(b) Identify why obtaining cultural information from a resident is important;

(c) Describe the importance of being sensitive to cultural differences when providing care;

(d) Differentiate how cultural beliefs and symptoms may be misinterpreted as mental illness; and

(e) Identify how the long-term care worker's culture might affect caregiving.

(3) Regarding the competency on communication and mental illness, communicate respectfully and appropriately with residents with a mental illness:

(a) Identify what is considered respectful and disrespectful communication when interacting with a resident with a mental illness;

(b) Identify what is judgmental communication toward a resident with a mental illness and ways to ensure communication is nonjudgmental;

(c) Identify examples of verbal and nonverbal communication and describe how each impacts communication; and

(d) Describe how to effectively initiate and conduct a respectful conversation with a resident who has a mental illness.

(4) Regarding the competency on creative approaches to challenging behaviors, use a problem-solving approach when dealing with challenging behaviors:

(a) Define and differentiate between inappropriate learned behaviors and symptoms of a mental illness;

(b) Identify possible common causes of challenging behaviors in a resident with a mental illness;

(c) Differentiate how challenging behaviors may be misinterpreted as mental illness; and

(d) Describe intervention strategies that can be used to reduce or prevent challenging behaviors.

(5) Regarding the competency on responding to de-compensation and relapse, respond appropriately when a resident is decompensating to help prevent a relapse:

(a) Define the terms baseline, de-compensation, and relapse;

(b) Identify common causes and symptoms of de-compensation and relapse;

(c) Describe the term "relapse plan" and review an example of a relapse plan; and

(d) Identify how a long-term care worker can support and use the relapse plan.

(6) Regarding the competency on responding to hallucinations and delusions, respond appropriately to a resident experiencing hallucinations or delusions:

(a) Define the terms hallucination and delusion;

(b) Identify common triggers (including stress) of delusions and hallucinations;

(c) Identify and describe appropriate intervention strategies for a resident experiencing a hallucination or delusion; and

(d) Describe how to accurately document a resident's behavioral symptoms, interventions, and outcomes.

(7) Regarding the competency on crisis intervention and dealing with aggression, intervene early when dealing with aggressive behavior to increase emotional stability and ensure safety:

(a) Define the term aggression;

(b) Identify the difference between aggressive behaviors and aggressive feelings;

(c) List de-escalation "do's" and "don'ts" as they relate to working with a resident expressing aggressive behavior;

(d) Describe appropriate de-escalation techniques when working with a resident expressing aggressive behavior; and

(e) Differentiate between nonimmediate and immediate danger and at what point additional assistance may be needed.

(8) Regarding the competency on suicide prevention, respond appropriately to a resident at risk of suicide:

(a) Identify and list signs a resident is possibly suicidal;

(b) Describe how to respond appropriately to a resident experiencing suicidal thoughts, including:

(i) How, where, and when to refer a resident who is experiencing suicidal thoughts and/or planning; and

(ii) Methods to keep a suicidal resident safe and ensure the safety for others.

(c) Describe strategies to help cope with a resident's suicide.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0145 ((~~Is~~) Who is required to complete competency testing ((~~required~~)) for specialty training(~~(, including caregiver specialty training)~~)? Passing the DSHS competency test, as provided under WAC 388-112-0295 through 388-112-0315 is required for successful completion of specialty training for:

(1) All adult family home applicants or providers ((~~and~~), resident managers, entity representatives, and ((~~for~~)) long-term care workers; and

(2) All boarding home administrators (or designees) and ((~~caregivers, as provided under WAC 388-112-0290 through 388-112-0315. Competency testing is not required for adult family home caregivers~~)) long-term care workers.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0150 Is there a challenge test for specialty training(~~(, including caregiver specialty training)~~)? There is a challenge test for ((~~all~~)) each of the specialty trainings(~~(, including caregiver specialty trainings, except the adult family home caregiver training)~~). Individuals may take the DSHS challenge test instead of required specialty training. A person who does not pass a challenge test on the first attempt must attend the class.

NEW SECTION

WAC 388-112-0152 Is competency testing required for population specific trainings on young adults with physical disabilities, aging and older adults, and the supported living provider training? No, there is no competency testing required for the population specific trainings on young adults with physical disabilities, aging and older adults, and the supported living provider training.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0155 What documentation is required for successful completion of specialty training(~~(-including caregiver specialty training)~~)? Specialty training(~~(-including caregiver specialty training)~~) as applicable, must be documented by a certificate or transcript of successful completion of training, issued by the instructor or training entity(~~(s)~~) that includes:

- (1) The (~~(trainee's)~~) name of the trainee;
- (2) The name of the training;
- (3) The number of hours of the training;
- (4) The name and identification number of the home or training entity giving the training;
- (~~((4))~~) (5) The instructor's name and signature; and
- (~~((5))~~) (6) The date(s) of training.
- (~~((6))~~) The trainee must be given an original certificate. The home must keep a copy of the certificate on file as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for boarding homes).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0160 Who is required to complete manager specialty training, and when? Adult family homes

(1) Adult family home applicants, providers (~~((including))~~) entity representatives (~~(as defined under chapter 388-76 WAC))~~) and resident managers must complete manager specialty training and demonstrate competency before (~~(admitting and serving residents))~~ the home is licensed or before a new resident manager is hired in order to admit or serve residents who have special needs related to mental illness, dementia, or a developmental disability.

(2) If a resident develops special needs while living in a home without a specialty designation, the provider, entity representative, and resident manager have one hundred twenty days to complete manager specialty training and demonstrate competency.

Boarding homes

(3) If a boarding home serves one or more residents with special needs, the boarding home administrator (or designee) must complete manager specialty training and demonstrate competency within one hundred twenty days of employment (~~((or within one hundred twenty days of September 1, 2002, whichever is later))~~). A boarding home administrator with a current nursing home administrator license is exempt from this requirement, unless the administrator will train (~~(their~~

facility caregivers)) the facility's long-term care workers in a (~~(caregiver))~~ specialty.

(4) If a resident develops special needs while living in a boarding home, the boarding home administrator (or designee) has one hundred twenty days to complete manager specialty training and demonstrate competency. A boarding home administrator with a current nursing home administrator license is exempt from this requirement, unless the administrator will train (~~(their facility caregivers))~~ the facility's long-term care workers in a (~~(caregiver))~~ specialty.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0165 Who is required to complete (~~(caregiver))~~ long-term care worker specialty training, and when? (~~(Adult family homes))~~

(~~(If an adult family home serves one or more residents with special needs, all caregivers must receive training regarding the specialty needs of individual residents in the home. The provider or resident manager knowledgeable about the specialty area may provide this training.)~~)

(~~(Boarding homes))~~)

If a boarding home or adult family home serves one or more residents with special needs, (~~(caregivers))~~ long-term care workers in those settings must complete (~~(caregiver))~~ specialty training and demonstrate competency.

(1) If the (~~(caregiver))~~ specialty training is integrated with basic training, (~~(caregivers))~~ long-term care workers must complete the (~~(caregiver))~~ specialty training within one hundred twenty days of (~~(when they begin providing hands-on personal care to a resident having special needs or within one hundred twenty days of September 1, 2002, whichever is later))~~ hire.

(2) (~~(If the caregiver specialty training is not integrated with basic training, caregivers))~~ Long-term care workers who are exempt from basic training must complete the relevant (~~(caregiver))~~ specialty training within ninety days of (~~(completing basic training))~~ hire.

(3) Until competency in the (~~(caregiver))~~ specialty training has been demonstrated, (~~(caregivers))~~ long-term care workers may not provide hands-on personal care to a resident with special needs without direct supervision in a boarding home or indirect supervision in an adult family home.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0195 Who is required to complete nurse delegation core training and nurse delegation specialized diabetes training, and when? (~~(Adult family homes))~~

(1) Before performing any delegated nursing task, long-term care workers in adult family (~~((home-staff))~~) homes, boarding homes, and supported living programs must:

(a) Successfully complete DSHS-designated nurse delegation core training, "Nurse Delegation for Nursing Assistants";

(b) Be a:

(i) Certified home care aide and a nursing assistant registered; or

(ii) Nursing assistant certified under chapter 18.88A RCW; ~~((and))~~ or

(iii) If exempt from the home care aide certification, become a nursing assistant registered and complete the core competencies of basic training.

~~((e) If a nursing assistant registered, successfully complete basic training.~~

Boarding homes

(2) Before performing ((any delegated nursing task, boarding home staff)) the task of insulin injections, long-term care workers in adult family homes, boarding homes, and supported living programs must:

(a) ~~((Successfully complete DSHS-designated nurse delegation core training))~~ Meet the requirements in subsections (1)(a) and (b) of this section; and

(b) ~~((Be a nursing assistant registered or certified under chapter 18.88A RCW; and~~

~~(e) If a nursing assistant registered, successfully complete basic training))~~ Successfully complete DSHS-designated specialized diabetes nurse delegation training.

NEW SECTION

WAC 388-112-0197 Can nurse delegation core and specialized diabetes training occur in the same year as basic training? Nurse delegation core and specialized diabetes training can occur in the same year as basic training if required to be able to perform delegated tasks. If this occurs, the maximum of twelve hours for this training can be applied towards the continuing education requirement for the following year. Nurse delegation core and specialized diabetes trainings do not apply towards the population specific training.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0200 What is continuing education? Continuing education is additional caregiving-related training designed to increase and keep current a person's knowledge and skills. DSHS ~~((does not preapprove))~~ must approve continuing education ((programs or instructors)) curricula and instructors. The same continuing education course may not be repeated for credit unless it is a new or more advanced training on the same topic. Nurse delegation core and nurse delegation specialized diabetes training may be used to count towards continuing education.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0205 Who is required to complete continuing education training, and how many hours of continuing education are required each year? Adult family homes

(1) ~~((Individuals subject to a continuing education requirement))~~ Until June 30, 2011, adult family home providers, entity representatives, resident managers, and long-term care workers must complete ((at least)) ten hours of continuing education each calendar year ((January 1 through December 31)) after the year in which they ((successfully))

complete basic ((or modified basic)) training. If the ten hours of continuing education were completed between January 1, 2011 and June 30, 2011, then the continuing education requirements have been met for 2011.

(2) Effective July 1, 2011, certified home care aides must complete twelve hours of continuing education each calendar year after obtaining certification as described in department of health WAC 246-980-110.

(3) If exempt from certification as described in RCW 18.88B.040, all long-term care workers must complete twelve hours of continuing education per calendar year. Continuing education must include one-half hour per year on safe food handling in adult family homes.

Boarding homes

(4) Until June 30, 2011, boarding home administrators (or their designees) and long-term care workers must complete ten hours of continuing education each calendar year after the year in which they complete basic training. If the ten hours of continuing education were completed between January 1, 2011 and June 30, 2011, then the continuing education requirements have been met for 2011.

(5) Effective July 1, 2011, certified home care aides must complete twelve hours of continuing education each calendar year after obtaining certification as described in department of health WAC 246-980-110 and 246-12-020(3).

(6) If exempt from certification as described in RCW 18.88.040, all long-term care workers must complete twelve hours of continuing education per calendar year. A boarding home administrator with a current nursing home administrator license is exempt from this requirement.

Supported living providers

(7) Effective July 1, 2011, all instruction and support services staff must complete twelve hours of continuing education each calendar year.

(8) A long-term care worker or certified home care aide who did not complete the continuing education requirements by the timeframe described in WAC 388-112-0207 cannot be paid to provide care after that date and cannot be reinstated as a long-term care worker until they complete the continuing education requirements.

(9) One hour of completed classroom instruction or other form of training (such as a video or on-line 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.

NEW SECTION

WAC 388-112-0207 When must a long-term care worker or certified home care aide complete continuing education? (1) Effective January 1, 2011 and for the year 2011, a long-term care worker must complete the continuing education requirements described in WAC 388-112-0205 by their birthday:

(a) A long-term care worker whose birthday occurs between January 1, 2011 and June 30, 2011, must complete the continuing education requirement by June 30, 2011.

(b) A long-term care worker whose birthday occurs on or after July 1, 2011, must complete the continuing education requirement by their birthday.

(2) Effective January 1, 2012, all long-term care workers and certified home care aides must complete the continuing education requirements described in WAC 388-112-0205 by their birthday.

(3) For long term care workers who are required to be certified, if the first renewal period is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0210 What kinds of training topics ~~((are required for))~~ may be covered in continuing education? Continuing education must be on a topic relevant to the care setting ~~((and)), care needs of residents, ~~((including))~~ or long-term care career development.~~ Topics may include but are not limited to:

- (1) Resident rights;
- (2) Personal care ~~((such as transfers or skin care))~~ services;
- (3) Mental illness;
- (4) Dementia;
- (5) Developmental disabilities;
- (6) Depression;
- (7) Medication assistance;
- (8) Communication skills;
- (9) Positive resident behavior support;
- (10) Developing or improving resident centered activities;
- (11) Dealing with wandering or aggressive resident behaviors;
- (12) Medical conditions; ~~((and))~~
- (13) In adult family homes, safe food handling; and
- (14) Nurse delegation core and specialized diabetes.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0220 May basic ~~((or modified basic))~~ training be completed a second time and used to meet the continuing education requirement? Retaking basic ~~((or modified basic))~~ training may not be used to meet the continuing education requirement.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0225 May specialty training be used to meet continuing education requirements? Manager specialty training and ~~((caregiver))~~ long-term care worker specialty training, except any specialty training completed through a challenge test, may be used to meet continuing education requirements.

~~((1) If one or more specialty trainings are completed in the same year as basic or modified basic training, the specialty training hours may be applied toward the continuing education requirement for up to two calendar years following the year of completion of the basic and specialty trainings.~~

~~((2)) If ~~((one or more))~~ a different specialty training~~((s are))~~ is completed in a different year than the year when basic~~

~~((or modified basic))~~ training was taken, the specialty training hours may be applied toward the continuing education requirement for the calendar year in which ~~((the))~~ this other specialty training is taken ~~((and the following calendar year))~~.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0230 May nurse delegation core training or nurse delegation specialized diabetes training be used to meet continuing education requirements? Nurse delegation training under WAC 388-112-0175 and 388-112-01961 may be applied toward continuing education requirements for the calendar year in which it is completed.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0235 May residential care administrator training be used to meet continuing education requirements? Residential care administrator training under WAC 388-112-0275 may be used to meet ~~((ten hours of))~~ the continuing education requirements described in WAC 388-112-0205.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0240 What are the documentation requirements for continuing education? (1) The adult family home ~~((or)),~~ boarding home, or supported living provider must maintain ~~((documentation))~~ DSHS certificates or transcripts of continuing education including:

- (a) The ~~((trainee's))~~ name of the trainee;
- (b) The title or content of the training;
- (c) The number of hours of the training;

(d) The instructor's name, name of the home or training entity giving the training, or the name of the video, on-line class, professional journal, or equivalent instruction materials completed; and

- ~~((d) The number of hours of training; and)~~
- (e) The date(s) of training.

(2) The trainee must be given an original DSHS certificate or other documentation of continuing education. The adult family home or boarding home must keep a copy of the certificate on file as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for boarding homes). The supported living provider must keep a copy of the certificate on file and make it available for department inspections or reviews.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0255 What is first-aid training? First-aid training is training that meets the guidelines established by the Occupational Safety and Health Administration (OSHA) and ~~((listed))~~ described at www.osha.gov. Under OSHA guidelines, training must include hands-on skills development through the use of mannequins or trainee partners. Topics include:

- (1) General program elements, including:
 - (a) Responding to a health emergency;
 - (b) Surveying the scene;
 - (c) Basic cardiopulmonary resuscitation (CPR);
 - (d) Basic first aid intervention;
 - (e) Standard precautions;
 - (f) First aid supplies; and
 - (g) Trainee assessments.
- (2) Type of injury training, including:
 - (a) Shock;
 - (b) Bleeding;
 - (c) Poisoning;
 - (d) Burns;
 - (e) Temperature extremes;
 - (f) Musculoskeletal injuries;
 - (g) Bites and stings;
 - (h) Confined spaces; and
 - (i) Medical emergencies; including heart attack, stroke, asthma attack, diabetes, seizures, and pregnancy.
- (3) Site of injury training, including:
 - (a) Head and neck;
 - (b) Eye;
 - (c) Nose;
 - (d) Mouth and teeth;
 - (e) Chest;
 - (f) Abdomen; and
 - (g) Hand, finger and foot.
- (4) Successful completion of first aid training, following the OSHA guidelines, also serves as proof of the CPR training.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0260 What are the CPR and first-aid training requirements? Adult family homes

(1) Adult family home applicants, providers, entity representatives, and resident managers must possess a valid CPR and first-aid card or certificate prior to ~~((providing care for residents))~~ obtaining a license, and must maintain valid cards or certificates.

(2) Licensed nurses working in adult family homes must possess a valid CPR card or certificate within thirty days of employment and must maintain a valid card or certificate. If the licensed nurse is an adult family home provider or resident manager, the valid CPR card or certificate must be obtained prior to providing care for residents.

(3) Adult family home ~~((caregivers))~~ long-term care workers must obtain and maintain a valid CPR and first-aid card or certificate:

(a) Within thirty days of beginning to provide care for residents, if the provision of care for residents is directly supervised by a fully qualified ~~((caregiver))~~ long-term care worker who has a valid first-aid and CPR card or certificate; or

(b) Before providing care for residents, if the provision of care for residents is not directly supervised by a fully qualified ~~((caregiver))~~ long-term care worker who has a valid first-aid and CPR card or certificate.

Boarding homes

(4) Boarding home administrators who provide direct care, and ~~((caregivers))~~ long-term care workers must possess a valid CPR and first-aid card or certificate within thirty days of employment, and must maintain valid cards or certificates. Licensed nurses working in boarding homes must possess a valid CPR card or certificate within thirty days of employment, and must maintain a valid card or certificate.

Supported living

(5) Applicants must obtain a valid CPR and first-aid card before certification and contract issuance and maintain valid cards or certificates.

(6) Instruction and support services staff must obtain and maintain a valid CPR and first-aid card or certificate:

(a) Within thirty days of beginning to provide care for clients, as long as the provision of care for clients is directly supervised by a fully qualified instruction and support services staff who has a valid CPR and first-aid card or certificate; or

(b) Before providing care to clients, if the provision of care is not directly supervised by a fully qualified instruction and support services staff who has a valid CPR and first-aid card or certificate.

AMENDATORY SECTION (Amending WSR 07-01-045, filed 12/14/06, effective 1/14/07)

WAC 388-112-0270 Who must take the forty-eight hour adult family home residential care administrator training and when? ~~((Providers licensed prior to December 31, 2006: Before operating more than one adult family home, the provider (including an entity representative as defined under chapter 388-76 WAC) must successfully complete the department approved forty-eight hour residential care administrator training.~~

~~Prospective providers applying for a license after January 1, 2007: Before a license for an adult family home is granted, the prospective provider))~~ All applicants submitting an application for an adult family home license must successfully complete the department approved forty-eight hour residential care administrator training for adult family homes before a license for an adult family home will be issued.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0295 What components must competency testing include? Competency testing must include the following components:

(1) Skills demonstration of ability to perform and/or implement specific caregiving approaches, and/or activities as appropriate for the training;

(2) Written evaluation to show level of comprehension and knowledge of the learning ~~((outcomes))~~ objectives for the training; and

(3) A scoring guide for the tester with clearly stated criteria and minimum proficiency standards.

(4) Instructors who conduct competency testing must have experience or training in assessing competencies.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0300 What training must include the DSHS-developed competency test? (~~Basic, modified basic, manager specialty, caregiver specialty, and nurse delegation core training must include the DSHS-developed competency test~~) The following trainings must include the DSHS-developed competency test:

- (1) Manager dementia specialty training;
- (2) Manager mental health specialty training;
- (3) Long-term care worker dementia specialty training;
- (4) Long-term care worker mental health specialty training;
- (5) Developmental disabilities specialty training;
- (6) Nurse delegation core training; and
- (7) Nurse delegation specialized diabetes training.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0315 How many times may a competency 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 retake the course before any additional tests are administered. (~~Licensed adult family providers and employees who fail the food handling section of the basic training competency test a second time, must obtain a valid food worker permit.~~)

(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.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0320 What trainings must be taught with a curriculum approved by DSHS? (1) The following trainings must be taught (~~(using the DSHS))~~ with a curriculum (~~(or other curriculum))~~ approved by DSHS before use:

- (a) Basic training (core and population specific training);
- (b) (~~(Modified basic)~~) Orientation, safety, on-the-job, and continuing education;
- (c) Manager mental health, dementia, and developmental disabilities specialty training;
- (d) (~~(Caregiver)~~) Long-term care worker mental health, dementia, and developmental disabilities specialty training (~~(in boarding homes)~~); and
- (e) Any training that integrates basic training with a (~~(manager or caregiver)~~) specialty training.

(2) The residential care administrator training must use a curriculum approved by DSHS.

(3) The developmental disabilities supported living provider training, nurse delegation core and diabetes training must use only the DSHS curriculum.

(4) (~~(A curriculum other than the DSHS curriculum must be approved before it is used. An attestation that the curriculum meets all requirements under this chapter will be sufficient for initial approval. Final)~~) Approval will be based on curriculum review, as described under WAC 388-112-0330.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0325 What (~~(are the minimum components that an alternative curriculum must include in order to be approved))~~ must be submitted to DSHS for curriculum approval? (~~(In order to be approved, an alternative curriculum must at a minimum include:~~

- (1) ~~All the DSHS-published learning outcomes and competencies for the course;~~
- (2) ~~Printed 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;~~
- (3) ~~The recommended sequence and delivery of the material;~~
- (4) ~~The teaching methods or approaches that will be used for different sections of the course, including for each lesson:~~
 - (a) ~~The expected learning outcomes;~~
 - (b) ~~Learning activities that incorporate adult learning principles and address the learning readiness of the student population;~~
 - (c) ~~Practice of skills to increase competency;~~
 - (d) ~~Feedback to the student on knowledge and skills;~~
 - (e) ~~An emphasis on facilitation by the teacher; and~~
 - (f) ~~An integration of knowledge and skills from previous lessons to build skills.~~
- (5) ~~A list of the sources or references, if any, used to develop the curriculum;~~
- (6) ~~Methods of teaching and student evaluation for students with limited English proficiency and/or learning disabilities; and~~
- (7) ~~A plan for updating material. Substantial changes to a previously approved curriculum must be approved before they are used)~~ DSHS developed curriculum(s) do not require submission to the department for approval unless the curriculum is being modified in any manner by the training entity.

(1) For orientation and/or safety training:

Effective January 1, 2011, submit an outline of what will be covered in each training offered (for example, a table of contents or a class syllabus) showing that the required introductory topics as listed in WAC 388-112-0016 for orientation and WAC 388-112-0855 for safety training are covered in the training. Department required orientation and safety training application forms must be submitted to the department at least forty-five days in advance of when the training is expected to be offered. Training cannot be offered before receiving department curriculum and instructor approval.

(2) For continuing education:

Effective July 1, 2011, submit an outline of what will be covered in the training (for example, a table of contents or the class syllabus), 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. Department required continuing education training application forms must be submitted at least forty five days in advance of when the training is expected to be offered. The trainings cannot be offered before receiving department curriculum and instructor approval.

(3) For basic training:

(a) If the instructor or training entity wants to use the DSHS developed revised fundamentals of caregiving learner's guide with enhancements, submit the DSHS required form with all required information. Otherwise, the following must be submitted to DSHS for approval of one or both sections (core competencies and population specific competencies) of the seventy hours required for basic training. When submitting one or both sections of basic training curriculum for DSHS approval, it must at a minimum include:

(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 388-112-0055 (12)(a) and (b), and infection control skills (hand washing and putting on and taking off gloves);

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

(A) The goals and objectives;

(B) How that section will be taught, including teaching methods and learning activities that incorporate adult learning principles;

(C) Methods instructors will use 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. If the primary source or reference is not a published citation, the instructor must provide detail on how the content was established as evidence based;

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

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

(b) In addition, for curricula being submitted for the core competency section of basic training as described in WAC 388-112-0055, the curriculum must include how much time students will be given to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(c) Entities submitting curriculum for population specific basic training must submit their own list of competencies and learning objectives used to develop the population specific basic training curriculum.

(4) For specialty training:

For specialty training that is not the DSHS developed curriculum or other department approved curriculum, submit the required specialty training application form and any additional learning objectives added to the competency and learn-

ing objectives checklist, the enhancements that have been added, and additional student materials or handouts.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0330 What is the curriculum approval process for orientation, safety, basic training (core and population specific training), and continuing education? ~~((1) An alternative curriculum must be submitted to DSHS for approval with:~~

~~(a) Identification of where each DSHS published required learning outcome and competency is located in the alternate curriculum;~~

~~(b) All materials identified in WAC 388-112-0325; and~~

~~(c) A letter from the boarding home administrator or adult family home provider attesting that the training curriculum addresses all of the training competencies identified by DSHS;~~

~~(2) DSHS may approve a curriculum based upon the attestation in (1)(c) above, until it has been reviewed by DSHS;~~

~~(3) If, upon review by DSHS, the curriculum is not approved, the alternative curriculum may not be used until all required revisions have been submitted and approved by DSHS.~~

~~(4)) In order to obtain the department's approval of the curriculum for orientation, safety, basic training (core and population specific training), and continuing education:~~

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

~~(2) After review of the ((alternative)) curriculum, DSHS will send a written response to the submitter, indicating approval or disapproval of the curriculum(s) ((and if disapproved, the reasons for denial;)).~~

~~((5)) (3) If curriculum(s) are 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 make the requested changes and resubmit the curriculum(s) for review.~~

~~(5) If after working with the department the ((alternative curriculum is not approved, a revised curriculum may be resubmitted to DSHS for another review)) 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 (ADSA). The assistant secretary's review decision shall be the final decision of DSHS. No other administrative review is available to the submitter.~~

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0335 What are the requirements for a boarding home or adult family home that wishes to conduct orientation, safety, basic, ((modified basic, manager specialty, or caregiver)) on-the-job training, continuing education, or long-term care worker specialty training?

(1) A boarding home provider or adult family home provider

wishing to conduct orientation, safety, basic, ((modified basic, manager specialty)) on-the-job training, continuing education, or ((caregiver)) long-term care worker specialty training ((for boarding home caregivers)) may do so if the ((home)) provider:

(a) Verifies ~~((and))~~, documents using the department's attestation process, keeps on file, and makes available to the department upon request that all instructors meet ~~((each of))~~ the minimum instructor qualifications in WAC 388-112-0370 through 388-112-0395 for the course they plan to teach;

(b) Teaches using a complete DSHS-developed or approved ~~((alternative))~~ curriculum.

(c) Notifies DSHS in writing of the ~~((home's))~~ provider's intent to conduct staff training prior to providing the ~~((home's))~~ provider's first training, and when changing training plans, including:

(i) ~~((Home))~~ The provider's name;

(ii) Name of training(s) the ~~((home))~~ provider will conduct;

(iii) Name of approved curriculum(s) the ~~((home))~~ provider will use;

(iv) Name of lead instructor and instructor's past employment in boarding homes ~~((and))~~ or adult family homes; and

(v) Whether the ~~((home))~~ provider will train only the ~~((home's))~~ provider's staff, or will also train staff from other ~~((homes))~~ providers. If training staff outside the home or corporation, the instructor must become a DSHS-contracted community instructor;

(d) Ensures that DSHS competency tests are administered as required under this chapter;

(e) Provides a certificate or transcript of completion of training to all staff that successfully complete the entire course~~(, including:~~

~~(i) The trainee's name;~~

~~(ii) The name of the training;~~

~~(iii) The name of the home giving the training;~~

~~(iv) The instructor's name and signature; and~~

~~(v) The date(s) of training);~~

(f) Keeps a copy of ~~((student))~~ long-term care worker certificates on file for six years, and gives the original certificate to the trainee;

(g) Keeps attendance records and testing records of ~~((students))~~ long-term care workers trained and tested on file for six years; and

(h) Reports training data to DSHS ~~((in DSHS-identified time frames))~~ when requested by the department.

(2) ~~((An adult family home wishing to conduct caregiver specialty training that is taught by the provider, resident manager, or person knowledgeable about the specialty area, as required under WAC 388-112-0110 subsection (3), must document the specialty training as provided under WAC 388-112-0155))~~ The department may conduct a random audit at any time to review training and instructor qualifications.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0340 ((Do homes need)) Is department approval required to provide continuing education

~~((for their staff))~~? Homes, supported living providers, or entities may provide continuing education for their staff with~~((out))~~ prior approval of the training curricula ((or)) and instructors by the department.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0345 When can DSHS prohibit a home or supported living provider from conducting its own training? DSHS may prohibit a home or supported living provider from providing its own basic, ~~((modified basic;))~~ population specific, specialty, or ((caregiver specialty)) supported living provider training when:

(1) DSHS determines that the training fails to meet the standards under this chapter;

(2) The home or supported living provider fails to notify DSHS of changes in the curriculum content prior to teaching the curriculum;

(3) The home or supported living provider provides false or misleading information to long-term care workers or the public concerning the courses offered or conducted;

(4) The home's or supported living provider's instructor does not meet the applicable qualifications under WAC ((388-112-0375)) 388-112-0370 through 388-112-0395; or

~~((3))~~ (5) The home's or supported living provider's instructor has been a licensee, boarding home administrator, or adult family home resident manager, as applicable, of any home subject to temporary management or subject to a revocation or summary suspension of the home's license, a stop placement of admissions order, a condition on the license related to resident care, or a civil fine of five thousand dollars or more, while the instructor was the licensee, administrator, or resident manager; or

~~((4))~~ (6) The home has been operated under temporary management or has been subject to a revocation or suspension of the home license, a stop placement of admissions order, a condition on the license related to resident care, or a civil fine of five thousand dollars or more, within the previous ((twelve)) eighteen months.

~~((5))~~ (7) Nothing in this section shall be construed to limit DSHS' authority under chapters 388-76 ((or)) 388-78A, or 388-101 WAC to require the immediate enforcement, pending any appeal, of a condition on the home license prohibiting the home or supported living provider from conducting its own training programs.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0350 What trainings must be taught by an instructor who meets the applicable minimum qualifications under this chapter? (1) The following trainings must be taught by an instructor who meets the applicable minimum qualifications as described in WAC 388-112-0380, 388-112-0383 and 388-112-0385 through 388-112-0395 for that training: Orientation, safety training, basic training((;)), modified basic training((;)), young adults with physical disabilities, aging and older adults, manager and long-term care worker mental health, dementia, ((and)) developmental disability specialty training((; and caregiver specialty training

that is not taught by the boarding home administrator (or designee) or adult family home provider or resident manager), on-the-job training, and continuing education.

(2) Nurse delegation core and specialized diabetes training (~~and residential care administrator training~~) must be taught by ~~((an instructor))~~ a current Washington state RN who is approved by DSHS. The RN's license must be in good standing without practice restrictions.

NEW SECTION

WAC 388-112-0352 What trainings may be taught by an instructor that does not meet the minimum qualifications under this chapter? The following trainings may be taught by an instructor that does not meet the minimum qualifications under this chapter:

- (1) CPR; and
- (2) First aid training.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0355 What are ~~((an instructor's or))~~ a training entity's responsibilities? The ~~((instructor or))~~ training entity is responsible for:

- (1) Coordinating and teaching classes,
- (2) Assuring that the curriculum used is taught as designed,
- (3) Selecting qualified guest speakers where applicable,
- (4) Administering or overseeing the administration of DSHS competency and challenge tests,
- (5) Maintaining training records including ~~((student))~~ long-term care worker tests and attendance records for a minimum of six years,
- (6) Reporting training data to DSHS in DSHS-identified time frames, and
- (7) Issuing or reissuing training certificates to ~~((students))~~ long-term care workers.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0360 Must training entities and their instructors be approved by DSHS? (1) DSHS-contracted ~~((instructors))~~ training entities:

(a) DSHS must approve ~~((any))~~ and/or contract with a training entity and their instructor(s) ((under contract with DSHS)) to conduct orientation, safety, basic, modified basic, population specific, residential care administrator, manager and long-term care worker specialty, ((or)) nurse delegation core and specialized diabetes training ((classes using the training curricula developed by DSHS)), on-the-job training, and continuing education.

(b) DSHS may select ~~((contracted instructors through a purchased services contract procurement pursuant to chapter 236-48 WAC or through other))~~ training entities using any applicable contracting procedures. Contractors must meet the minimum qualifications for instructors under this chapter and any additional qualifications established through ~~((a request for qualifications and quotations (RFQQ) or other applicable))~~ the contracting procedure.

(2) Homes or supported living providers conducting their own training

~~((Homes conducting their own training))~~ programs using the training curricula developed by DSHS or ~~((alternative))~~ another curricula approved by DSHS must ensure, through an attestation process, that their instructors meet the minimum qualifications for instructors under this chapter.

~~((Other instructors))~~

DSHS must approve all other training entities and their instructor(s) not described in subsection (1) and (2) of this section.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0365 Can DSHS deny or terminate a contract with an instructor or training entity? (1) DSHS may ~~((determine not to accept a bid or other offer by))~~ deny a person or organization seeking a contract with DSHS to conduct orientation, safety, basic, modified basic, population specific, residential care administrator, specialty, or nurse delegation core or specialized diabetes training ((classes using the training curricula developed by DSHS. The protest procedures under chapter 236-48 WAC, as applicable, are a bidder's exclusive administrative remedy)). No administrative remedies are available to dispute DSHS' decision not to ~~((accept an offer that is not governed by chapter 236-48 WAC))~~ contract, except as may be provided through the contracting process.

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

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0370 What is a guest speaker, and what are the minimum qualifications to be a guest speaker for basic and developmental disabilities specialty training? (1) A guest speaker ~~((s for basic and developmental disabilities specialty training))~~ 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 have expertise, ~~((under the supervision of the instructor. A guest speaker must have as minimum qualifications, an appropriate))~~ and background and experience that demonstrates that the guest speaker has expertise on the topic he or she 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 he or she is teaching.

(2) The approved instructor:

(a) Must select guest speakers that meet the minimum qualifications ~~((, and))~~;

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

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

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

(3) DSHS does not approve guest speakers.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0380 What are the minimum qualifications for ~~((an instructor for basic or modified basic))~~ an instructor for basic, population specific, on-the-job training, residential care administrator, and nurse delegation core and specialized diabetes training? An instructor for basic ~~((or modified basic)), population specific, on-the-job training, residential care administrator, nurse delegation core and nurse delegation specialized diabetes~~ training must meet the following minimum qualifications ~~((in addition to the general instructor qualifications in WAC 388-112-0375))~~:

(1) Twenty-one years of age; and

(2) Has not had a professional health care, adult family home, boarding home, or social services license or certification revoked in Washington state.

(3) Education and work experience:

(a) Upon initial approval or hire, must ~~((have))~~:

(i) Be 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

(ii) Have 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 an adult family home, boarding home, supported living through DDD, or home care setting; or

(iii) Have a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD ~~((per chapter 388-820 WAC)), or home care setting~~((or~~~~

~~((ii) An associate degree in a health field and six months professional or caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD per chapter 388-820 WAC, or home care setting)).~~

~~((2))~~ (4) Teaching experience:

(a) Must have one hundred hours of experience teaching adults in a classroom setting on topics directly related to the basic training; or

(b) Must have forty hours of teaching while being mentored by an instructor who meets these qualifications, and must attend a class ~~((in))~~ on adult education that meets the requirements of WAC 388-112-0400.

~~((3))~~ (5) The instructor must be experienced in caregiving practices and capable of demonstrating competency with respect to teaching the course content or units being taught;

~~((4))~~ (6) Instructors who will administer tests must have experience or training in assessment and competency testing; and

~~((5) If required under WAC 388-112-0075 or 388-112-0105, instructors must successfully complete basic or modified basic training prior to beginning to train others.))~~

(7) In addition, an instructor for nurse delegation core and diabetes training must have a current Washington state RN license in good standing without practice restrictions.

NEW SECTION

WAC 388-112-0383 What are the minimum qualifications for an instructor for orientation, safety, and continuing education? An instructor for orientation, safety, and continuing education must be a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands-on personal care or other relevant services to the elderly or persons with disabilities requiring long-term care.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0385 What are the minimum qualifications for instructors for manager and ~~((caregiver))~~ long-term care worker mental health specialty training?

(1) ~~((Instructors for manager mental health specialty training.))~~ The minimum qualifications for instructors for manager mental health specialty, in addition to the general qualifications in WAC ~~((388-112-0375))~~ 388-112-0380 (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 in college classes, in subjects directly related to mental health, such as, but not limited to, psychology. (One year of education equals twenty-four semester hours, thirty-six quarter hours, or at least one hundred ninety-two hours of seminars, conferences, and continuing education.)

(ii) If required under WAC 388-112-0160, successful completion of the mental health specialty training, prior to beginning to train 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 hours experience teaching mental health or closely related subjects; and

(ii) Successful completion of an adult education class ~~((or train the trainer as follows))~~:

(A) For instructors teaching alternate curricula, a class in adult education that meets the requirements of WAC 388-112-0400 ~~((, or a train the trainer class for the curriculum they are teaching.))~~.

(B) For instructors teaching ~~((DSHS-developed))~~ mental health specialty training, successful completion of the DSHS ~~((-developed train the trainer))~~ instructor qualification/demonstration process.

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

(2) Instructors for ~~((caregiver))~~ long-term care worker mental health specialty training:

(a) ~~((Caregiver))~~ Long-term care worker mental health specialty may be taught by a boarding home administrator (or designee), adult family home provider, or corporate trainer, who has successfully completed the manager mental health specialty training. A qualified instructor under this subsection may teach ~~((caregiver))~~ specialty to ~~((caregivers))~~ long-term care workers employed at other home(s) licensed by the same licensee.

(b) ~~((Caregiver))~~ Long-term care worker mental health specialty taught by a person who does not meet the requirements in subsection (2)(a) must meet the same requirements as the instructors for manager mental health specialty in subsection (1).

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0390 What are the minimum qualifications for instructors for manager and ~~((caregiver))~~ long-term care worker dementia specialty? (1) The minimum qualifications for instructors for manager dementia specialty, in addition to the general qualifications under WAC ~~((388-112-0375,))~~ 388-112-0380 (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 semester hours, thirty-six quarter hours, or at least one hundred ninety-two hours of seminars, conferences, or continuing education.)

(ii) If required under WAC 388-112-0160, 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; and

(d) Teaching experience;

(i) Two hundred hours experience teaching dementia or closely related subjects; and

(ii) Successful completion of an adult education class ~~((or train the trainer))~~ as follows:

(A) For instructors teaching alternate curricula, a class in adult education that meets the requirements of WAC 388-112-0400 ~~((, or a train the trainer class for the curriculum they are teaching:))~~.

(B) For instructors teaching DSHS-developed dementia specialty training, successful completion of the DSHS ~~((-developed train the trainer))~~ instructor qualification/demonstration process.

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

(2) Instructors for ~~((caregiver))~~ long-term care worker dementia specialty training:

(a) ~~((Caregiver))~~ Long-term care worker dementia specialty may be taught by a boarding home administrator (or

designee), adult family home provider, or corporate trainer, who has successfully completed the manager dementia specialty training. A qualified instructor under this subsection may teach ~~((caregiver))~~ specialty to ~~((caregivers))~~ long-term care workers employed at other home(s) licensed by the same licensee.

(b) ~~((Caregiver))~~ Long-term care worker dementia specialty taught by a person who does not meet the requirements in subsection (2)(a) must meet the same requirements as the instructors for manager dementia specialty in subsection (1).

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0395 What are the minimum qualifications for instructors for ~~((manager and caregiver))~~ long-term care worker developmental disabilities specialty? (1) The minimum qualifications for instructors for ~~((manager))~~ developmental disabilities specialty, in addition to the general qualifications under WAC ~~((388-112-0375))~~ 388-112-0380 (1) and (2), include:

(a) The instructor must be experienced in developmental disabilities caregiving practices and capable of demonstrating competency in the entire course content, including the administration of competency testing:

~~((b))~~ (b) Education and work experience:

(i) Bachelor's degree with at least two years of full-time work experience in the field of disabilities; or

(ii) High school diploma or equivalent, with four years full time work experience in the field of developmental disabilities, including two years full time direct work experience with people who have a developmental disability.

~~((b))~~ (c) Successful completion of the eighteen hour developmental disabilities specialty training under WAC 388-112-0120; and

~~((c))~~ (d) Teaching experience:

(i) Two hundred hours of teaching experience; and

(ii) Successful completion of an adult education class ~~((or train the trainer as follows:~~

~~((A))~~ (A) for instructors teaching alternative curricula, a class in adult education that meets the requirements of WAC 388-112-0400 ~~((, or a train the trainer class for the curriculum they are teaching;~~

~~((B))~~ (B) For instructors teaching DSHS-developed developmental disabilities specialty training, successful completion of the DSHS-developed train the trainer)).

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

(2) Instructors for ~~((caregiver))~~ developmental disabilities specialty training:

(a) ~~((Caregiver))~~ Developmental disabilities specialty may be taught by a boarding home administrator (or designee), adult family home provider, or corporate trainer, who has successfully completed the ~~((manager developmental disabilities specialty training))~~ mental health or manager dementia specialty course, the eighteen hour developmental disabilities specialty training, and has successfully completed the instructor qualification/demonstration process. A qualified instructor under this subsection may teach ~~((caregiver))~~ developmental disabilities specialty to ~~((caregivers))~~ long-

term care workers employed at other home(s) licensed by the same licensee.

(b) (~~Caregiver~~) Developmental disabilities specialty taught by a person who does not meet the requirements in subsection (2)(a) must meet the same requirements as the instructors for (~~manager~~) developmental disabilities specialty in subsection (1).

Reviser's note: The typographical error 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.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0405 What physical resources are required for (~~basic, modified basic, specialty, or nurse delegation core~~) classroom training and testing? (1) Classroom (~~(space used for basic, modified basic, specialty, or nurse delegation core classroom training)~~) facilities must be accessible to trainees 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. Appropriate supplies and equipment must be provided for teaching and practice of caregiving skills in the class being taught.

(2) Testing sites must provide adequate space for testing, comfort, lighting, and lack of disturbance appropriate for the written or skills test being conducted. Appropriate supplies and equipment necessary for the particular test must be provided.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0410 What standard training practices must be maintained for (~~basic, modified basic, specialty, or nurse delegation core~~) classroom training and testing? The following training standards must be maintained for (~~basic, modified basic, specialty or nurse delegation core~~) classroom training and testing:

- (1) Training(~~(, including all breaks,)~~) 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) (~~Students~~) 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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-112-0025 Is competency testing required for orientation?
- WAC 388-112-0030 Is there a challenge test for orientation?
- WAC 388-112-0050 Is there an alternative to the basic training for some health care workers?

- WAC 388-112-0060 Is competency testing required for basic training?
- WAC 388-112-0065 Is there a challenge test for basic training?
- WAC 388-112-0080 What is modified basic training?
- WAC 388-112-0085 What knowledge and skills must be included in modified basic training?
- WAC 388-112-0090 Is competency testing required for modified basic training?
- WAC 388-112-0095 Is there a challenge test for modified basic training?
- WAC 388-112-0100 What documentation is required for successful completion of modified basic training?
- WAC 388-112-0105 Who may take modified basic training instead of the full basic training?
- WAC 388-112-0245 Who is required to complete continuing education training, and when?
- WAC 388-112-02610 What is HIV/AIDS training?
- WAC 388-112-02615 Is competency testing required for HIV/AIDS training?
- WAC 388-112-02620 Is there a challenge test for HIV/AIDS training?
- WAC 388-112-02625 What documentation is required for completion of HIV/AIDS training?
- WAC 388-112-02630 Who is required to complete HIV/AIDS training, and when?
- WAC 388-112-0375 What are the minimum general qualifications for an instructor teaching a DSHS curriculum or DSHS-approved alternate curriculum as defined under chapter 388-112 WAC?

AMENDATORY SECTION (Amending WSR 07-16-101, filed 7/31/07, effective 9/1/07)

WAC 388-829A-050 Who is eligible to contract with DDD to provide alternative living services? Before DDD may issue an alternative living contract, the prospective provider must:

- (1) Be twenty-one years of age or older;
- (2) Have a high school diploma or GED;

(3) Clear a background check conducted by DSHS, as required by RCW 43.20A.710;

(4) Have an FBI fingerprint-based background check as required by RCW 43.20A.710, if the person has not lived in the state continuously for the previous three years;

(5) Have a business ID number, as an independent contractor; and

(6) Meet the minimum skills and abilities described in WAC 388-829A-110.

(7) Alternative living providers contracted after January 1, 2012 must be screened through a fingerprint-based FBI check as described in WAC 388-06-0110 through 388-06-0150.

NEW SECTION

WAC 388-829A-161 What are the training requirements for alternative living providers contracted before January 1, 2011? Alternative living providers contracted before January 1, 2011 must meet the training requirements as described under WAC 388-829A-140 through 388-829A-160.

NEW SECTION

WAC 388-829A-162 What are the training requirements for alternative living providers contracted on or after January 1, 2011? Alternative living providers contracted on or after January 1, 2011 must meet the training requirements as described under chapter 388-112 WAC.

AMENDATORY SECTION (Amending WSR 07-16-102, filed 7/31/07, effective 9/1/07)

WAC 388-829C-040 Who is eligible to contract with DDD to provide companion home residential services? To be eligible to contract with DDD to provide companion home residential services, a person must:

(1) Be twenty-one years of age or older;

(2) Have a high school diploma or GED;

(3) Clear a background check conducted by DSHS as required by RCW 43.20A.710;

(4) Have an FBI fingerprint-based background check as required by RCW 43.20A.710, if the person has not lived in the state continuously for the previous three years;

(5) Have a business ID number, as an independent contractor; and

(6) Meet the minimum skills and abilities described in WAC 388-829C-080.

(7) Companion home providers contracted after January 1, 2012 must be screened through a fingerprint-based FBI background check as described in WAC 388-06-0110 through 388-06-0150.

NEW SECTION

WAC 388-829C-131 What are the training requirements companion home providers contracted before January 1, 2011? Companion home providers must ensure that staff hired before January 1, 2011 meet the training requirements as described under chapter 388-829C WAC.

NEW SECTION

WAC 388-829C-132 What are the training requirements companion home providers contracted on or after January 1, 2011? Companion home providers must ensure that staff hired on or after January 1, 2011 meet training requirements as described under chapter 388-112 WAC.

WSR 11-04-043 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 11-06—Filed January 25, 2011, 10:49 a.m., effective February 1, 2011]

Effective Date of Rule: February 1, 2011.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Nooksack River wild steelhead run is depressed and will not meet the spawning goal for the 2010/2011 return year. These closures will reduce the incidental hooking mortalities of wild steelhead. Puget Sound wild steelhead populations are listed as "threatened" under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, 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 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 25, 2011.

Philip Anderson
Director

NEW SECTION

WAC 232-28-61900P Exceptions to statewide rules—Nooksack River. Notwithstanding the provisions of WAC 232-28-619:

(1) **Nooksack River mainstem:** From the Lummi Indian reservation boundary to the confluence of the North and South forks: Closed to all fishing, effective February 1, 2011.

(2) **North Fork Nooksack River:** From the mouth to Maple Creek: Closed to all fishing, effective February 16, 2011.

(3) **North Fork Nooksack River:** From Maple Creek to Nooksack Falls: Closed to all fishing, effective February 1, 2011.

(4) **Middle Fork Nooksack River:** From the mouth to City of Bellingham diversion Dam: Closed to all fishing effective February 1, 2011.

(5) **South Fork Nooksack River:** From the mouth to Skookum Creek: Closed to all fishing, effective February 1, 2011

WSR 11-04-044
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 11-07—Filed January 25, 2011, 10:50 a.m., effective February 1, 2011]

Effective Date of Rule: February 1, 2011.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2010-2011 forecast of wild steelhead returning to the Snohomish River system is well below the spawning goal. These closures will reduce the incidental hooking mortalities of wild steelhead. Puget Sound wild steelhead populations are listed as "threatened" under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, 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 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 25, 2011.

Philip Anderson
Director

NEW SECTION

WAC 232-28-61900Q Exceptions to statewide rules. Notwithstanding the provisions of WAC 232-28-619:

- **Snohomish River:** from the mouth (Burlington Northern railroad bridge) upstream to confluence of the Skykomish and Snoqualmie rivers will be closed to all fishing on February 1, 2011.

- **Skykomish River:** From the mouth to the Highway 2 bridge at the Big Eddy Access: Closed to all fishing, effective February 1, 2011.

- **Skykomish River:** From the Highway 2 bridge at the Big Eddy Access to confluence of North and South forks: Closed to all fishing effective, February 16, 2011.

- **North Fork Skykomish River:** From the mouth to 1000 feet downstream of Bear Creeks Falls: Closed to all fishing, effective February 1, 2011.

- **South Fork Skykomish River:** From the mouth to 600 feet downstream of Sunset Falls Fishway: Closed to all fishing, effective February 1, 2011.

- **Pilchuck River:** From the mouth to 500 feet downstream of the Snohomish City diversion dam: Closed to all fishing, effective February 1, 2011.

- **Sultan River:** From the mouth to 400 feet downstream of diversion dam (river mile 9.7): Closed to all fishing, effective February 1, 2011.

- **Wallace River:** From the mouth (farthest downstream railroad bridge) to 200 feet upstream of the water intake of the salmon hatchery: Closed to all fishing, effective February 16, 2011.

- **Wallace River:** From 200 feet upstream the of the water intake of the salmon hatchery to Wallace Falls: Closed to all fishing, effective February 1, 2011.

- **Snoqualmie River:** From the mouth to the boat ramp at Plumb access: Closed to all fishing, effective February 1, 2011.

- **Snoqualmie River:** From the boat ramp at Plumb access to Snoqualmie Falls will be closed to all fishing effective February 16, 2011.

- **Tolt River:** From the mouth to the USGS trolley cable near the confluence of the North and South Forks: Closed to all fishing, effective February 1, 2011.

- **Raging River:** From the mouth to the Highway 18 Bridge: Closed to all fishing effective February 1, 2011.

- **Tokul Creek:** From the mouth to the posted cable boundary marker: Closed to all fishing, effective February 16, 2011.

Reviser's note: The typographical error 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 11-04-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 11-08—Filed January 25, 2011, 10:51 a.m., effective February 1, 2011]

Effective Date of Rule: February 1, 2011.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2010-2011 forecast of wild steelhead returning to the Stillaguamish River system is well below the spawning goal. These closures will reduce the incidental hooking mortalities of wild steelhead. Puget Sound wild steelhead populations are listed as "threatened" under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, 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 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 25, 2011.

Philip Anderson
 Director

NEW SECTION

WAC 232-28-61900R Exceptions to statewide rules.

Notwithstanding the provisions of WAC 232-28-619:

(1) **Stillaguamish River:** From Marine Drive upstream to the forks: Closed to all fishing, effective February 1, 2011.

(2) **North Fork Stillaguamish River:** From the mouth to the mouth of French Creek: Closed to all fishing, effective February 1, 2011.

(3) **North Fork Stillaguamish River:** From the mouth of French Creek to the Swede Heaven Bridge: Closed to all fishing, effective February 16, 2011.

(4) **South Fork Stillaguamish River:** From the mouth to 400 feet below the Granite Falls fishway outlet: Closed to all fishing, effective February 1, 2011.

(5) **Pilchuck Creek:** From the mouth to the Highway 9 bridge: Closed to all fishing, effective February 1, 2011.

(6) **Canyon Creek:** From the mouth upstream: Closed to all fishing, effective February 1, 2011.

WSR 11-04-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 11-09—Filed January 25, 2011, 10:53 a.m., effective February 1, 2011]

Effective Date of Rule: February 1, 2011.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2010-2011 forecast of wild steelhead returning to the Skagit River system is well below the spawning goal. These closures will reduce the incidental hooking mortalities of wild steelhead. Puget Sound wild steelhead populations are listed as "threatened" under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, 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 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 25, 2011.

Philip Anderson
 Director

NEW SECTION

WAC 232-28-61900U Exceptions to statewide rules.

Notwithstanding the provisions of WAC 232-28-619:

(1) **Skagit River mainstem:** From the mouth to the Hwy. 530 Bridge at Rockport: Closed to all fishing, effective February 1, 2011.

(2) **Skagit River:** From the Hwy. 530 Bridge at Rockport to the mouth of the Cascade River: Closed to all fishing, effective February 16, 2011.

(3) **Skagit River:** From the mouth of the Cascade River to the Gorge powerhouse at Newhalem: Closed to all fishing, effective February 1, 2011.

(4) **Sauk River:** From the mouth to the Whitechuck River: Closed to all fishing, effective February 1, 2011.

(5) **Cascade River:** From the mouth to the Rockport-Cascade Road Bridge: Closed to all fishing, effective February 16, 2011.

WSR 11-04-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 11-10—Filed January 25, 2011, 10:54 a.m., effective February 1, 2011]

Effective Date of Rule: February 1, 2011.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There is an unknown number of wild steelhead returning to these streams for the 2010-2011 season. Wild steelhead escapements to these waters over the past several years have shown a declining trend. These closures will reduce the incidental hooking mortalities of wild steelhead. Puget Sound wild steelhead populations are listed as "threatened" under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, 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 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 25, 2011.

Philip Anderson
Director

NEW SECTION

WAC 232-28-61900T Exceptions to statewide rules.

Notwithstanding the provisions of WAC 232-28-619, effective February 1, 2011, until further notice, it is unlawful to fish in the following waters:

(1) **Dungeness River:** From the mouth upstream to the forks at Dungeness Forks Campground.

(2) **Morse Creek:** from the mouth to Port Angeles Dam.

(3) **Salt Creek:** From the mouth to the bridge on Highway 112.

(4) **Deep Creek:** From the mouth upstream.

(5) **Pysht River:** From the mouth upstream.

(6) **Clallam River:** From the mouth upstream.

(7) **Sekiu River:** From the mouth to the forks.

WSR 11-04-062
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 27, 2011, 11:29 a.m., effective March 1, 2011]

Effective Date of Rule: March 1, 2011.

Purpose: The department is proposing to include federal supplemental security income (SSI) recipients as part of the temporary assistance for needy families (TANF), or state family assistance (SFA), assistance unit and count their SSI income when determining the family's eligibility for cash assistance.

The department is proposing to amend by emergency adoption WAC 388-408-0020 When am I not allowed to be in a TANF or SFA assistance unit?, 388-408-0025 When can I choose who is in my TANF or SFA assistance unit?, 388-436-0002 If my family has an emergency, can I get help from DSHS to get or keep our housing or utilities?, 388-436-0020 CEAP assistance unit composition, 388-436-0040 Excluded income and resources for CEAP, 388-450-0025 What is unearned income?, and 388-470-0045 How do my resources count toward the resource limits for cash assistance and family medical programs?

These changes are necessary in response to a growing WorkFirst budget shortfall, driven by increased demand for services by families affected by the economic recession as described in the WorkFirst reductions announcement dated December 17, 2010.

Citation of Existing Rules Affected by this Order: Amending WAC 388-408-0020, 388-408-0025, 388-436-0002, 388-436-0020, 388-436-0040, 388-450-0025, and 388-470-0045.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.660, and 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that in order to implement the requirements or reductions in

appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The department needs to make further reductions to TANF-related programs in order to achieve a balanced WorkFirst budget for the current fiscal year (which ends June 30, 2011) and the 2011-13 biennium (which begins July 1, 2011). This shortfall is the result of increased demand for TANF benefits due to the economic recession. In the last two years, the WorkFirst caseload has grown by more than thirty percent, from 51,106 cases in July 2008 to 66,634 cases in June of this year.

In September 2010, the governor directed agencies to implement cuts by October 1 to avoid running out of state general funds to address a growing WorkFirst budget shortfall. In particular, the Governor's Executive Order 10-04 (Ordering Expenditure Reductions in Allotments of State General Fund Appropriations), signed on September 13, 2010, found that:

- Revenues have fallen short of projections;
- The current official state economic and revenue forecast of general fund revenues is less than the official estimate upon which the state's 2009-2011 biennial operating budget and supplemental operating budget were enacted; and
- The anticipated revenues combined with the beginning cash balance of the general fund are insufficient to meet anticipated expenditures from this fund for the remainder of the current fiscal period.

Accordingly, the governor ordered across-the-board reductions of state general fund allotments by 6.287 percent, effective October 1, 2010.

In November 2010, the departments announced further reductions to keep the WorkFirst budget in balanced [balance]. The projected WorkFirst deficit reached approximately \$82 million for current fiscal year and \$225 million for the next biennium.

In December, 2010:

- During December 11, 2010, special session, HB 3225 approved by legislature modified appropriations for the 2009-11 operating budget. The state general fund appropriations were reduced by \$490.4 million, while the total budgeted amount was reduced by \$336.5 million. The department appropriations included a reduction of \$856,000 GF-S for the remaining of SFY 2011.
- December 15, 2010, Governor Gregoire announced proposed 2011-2013 budget cuts needed to close an additional \$4.6 billion projected shortfall in the next state fiscal biennium, and proposed eliminating or restructuring many state programs, agencies, boards and commissions. "We face unprecedented times," the governor said. "Few alive today have witnessed a recession of this magnitude and length." See the governor's proposed budget for SFY 2011-2013 at

this link http://www.governor.wa.gov/priorities/budget/press_packet.pdf.

The timing of the proposed budget reductions will lessen the adverse impact on families. If immediate budget reductions are not realized, the department will have to make additional cuts in the future to TANF/WorkFirst assistance programs to stay within budget. Additional cuts could include greater reduction in services than those currently proposed, and/or eliminating benefits rather than reducing them. These reductions would have a much greater detrimental effect on vulnerable families with children in need.

The department is concurrently working on the permanent rule-making process.

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 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 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 24, 2011.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-12-095, filed 6/1/10, effective 7/2/10)

WAC 388-408-0020 When am I not allowed to be in a TANF or SFA assistance unit? Some people cannot be in an AU for TANF or SFA. This section describes who cannot be in your TANF or SFA AU and how this will affect your benefits.

(1) We do not include the following people in your TANF or SFA AU:

(a) A minor parent or child who has been placed in Title IV-E, state, or locally-funded foster care unless the placement is a temporary absence under WAC 388-454-0015;

(b) An adult parent in a two-parent household when:

(i) The other parent is unmarried and under the age of eighteen; and

(ii) We decide that your living arrangement is not appropriate under WAC 388-486-0005.

(c) A court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis* (in the place of a parent) if they are not a relative of one of the children in the AU as defined under WAC 388-454-0010(~~(c) or~~

~~(d) Someone who gets SSI benefits~~).

(2) If someone that lives with you cannot be in the AU:

(a) We do not count them as a member of the AU when we determine the AU's payment standard; and

(b) We do not count their income unless they are financially responsible for a member of the AU under WAC 388-450-0095 through 388-450-0130.

AMENDATORY SECTION (Amending WSR 05-02-017, filed 12/27/04, effective 1/27/05)

WAC 388-408-0025 When can I choose who is in my TANF or SFA assistance unit? If you are a child's parent or other caretaker relative (a relative who cares for the child's basic needs as defined in WAC 388-454-0010), use the table below to find who you may choose to include or exclude in your TANF or SFA AU. If you include a child in your AU, it could cause you to get more or less benefits. If someone is not allowed in the AU under WAC 388-408-0020, you cannot choose to include them in your TANF or SFA AU.

(1) If you are the parent of the child, you may choose whether or not to include:	(a) ((You yourself in the AU if the child gets SSI; and (b)) The child in the AU if: (i) You already receive TANF or SFA; (ii) You are not married to the child's other parent; and (iii) The child lives with both parents.
(2) If you are not the child's parent, and do not live with the parents of the child, you may choose to:	(a) Include yourself if you are a relative defined in WAC 388-454-0010; (b) Include someone else that cares for the child and is a relative defined in WAC 388-454-0010; or (c) Receive a grant for the child only.
(3) If you are the child's parent or caretaker relative, you may choose whether or not to include any of the following children:	(a) ((Brothers or sisters of a child who gets SSI; (b)) Stepsisters and stepbrothers of a child; and ((e)) (b) Other children that are not the child's brother or sister.

AMENDATORY SECTION (Amending WSR 04-07-023, filed 3/8/04, effective 4/8/04)

WAC 388-436-0002 If my family has an emergency, can I get help from DSHS to get or keep our housing or utilities? DSHS has a program called additional requirements for emergent needs (AREN). If your family has an emergency and you need assistance to get or keep safe housing or utilities, you may be eligible. The special AREN payment is in addition to the regular monthly cash grant your family may already get.

(1) To get AREN, you must:

(a) Be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), or refugee cash assistance (RCA);

(b) Have an emergency housing or utility need; and

(c) Have a good reason that you do not have enough money to pay your housing or utility costs.

(2) To get AREN, you must be eligible for TANF, SFA, or RCA. This means you must:

(a) Get benefits through TANF, SFA, or RCA. For RCA you must also be pregnant or have an eligible child; or

(b) Apply for TANF, SFA, and RCA, and meet all eligibility criteria including:

(i) The maximum earned income limit under WAC 388-478-0035;

(ii) The requirement that your unearned income not exceed the grant payment standard;

(iii) The requirement that your countable income as defined under WAC 388-450-0162 must be below the payment standard in WAC 388-478-0020 when you have both earned income and unearned income;

(iv) The resource limits under chapter 388-470 WAC;

(v) The program summary rules for either TANF (WAC 388-400-0005); SFA (WAC 388-400-0010); or RCA (WAC 388-400-0030); and

(vi) The requirement that you must be pregnant or have an eligible child.

(3) If you do not get or do not want to get TANF, SFA or RCA, you cannot get AREN to help with housing or utility costs. We will look to see if you are eligible for diversion cash assistance (DCA) under WAC 388-432-0005.

(4) To get AREN, you must have an emergency housing or utility need. You may get AREN to help pay to:

(a) Prevent eviction or foreclosure;

(b) Get housing if you are homeless or need to leave your home because of domestic violence;

(c) Hook up or prevent a shut off of utilities related to your health and safety. We consider the following utilities to be needed for health and safety:

(i) Electricity or fuel for heating, lighting, or cooking;

(ii) Water;

(iii) Sewer; and

(iv) Basic local telephone service if it is necessary for your basic health and safety. If you receive TANF or SFA, the Washington telephone assistance program (WTAP) may be used to help you pay for basic local telephone service.

(d) Repair damage or defect to your home when it causes a risk to your health or safety:

(i) If you own the home, we may approve AREN for the least expensive method of ending the risk to your health or safety;

(ii) If you do not own the home, you must ask the landlord in writing to fix the damage according to the Residential Landlord-Tenant Act at chapter 59.18 RCW. If the landlord refuses to fix the damage or defect, we may pay for the repair or pay to move you to a different place whichever cost is lower.

(e) If you receive TANF or SFA, WorkFirst support services under WAC 388-310-0800 may be used to help you relocate to new housing to get a job, keep a job, or participate in WorkFirst activities. Nonhousing expenses that are not covered under AREN may be paid under WorkFirst support services. This includes expenses such as car repair, diapers, or clothing.

(5) To get AREN, you must have a good reason for not having enough money to pay for your housing or utility costs. You must prove that you:

(a) Did not have money available that you normally use to pay your rent and utilities due to an emergency situation that reduced your income (such as a long-term illness or injury);

(b) Had to use your money to pay for necessary or emergency expenses. Examples of necessary or emergency expenses include:

(i) Basic health and safety needs for shelter, food and clothing;

(ii) Medical care;

(iii) Dental care needed to get a job or because of pain;

(iv) Emergency child care;

(v) Emergency expenses due to a natural disaster, accident, or injury; and

(vi) Other reasonable and necessary expenses.

(c) Are currently homeless; or

(d) Had your family's cash grant reduced or suspended when we budgeted your expected income for the month, but the income will not be available to pay for the need when the payment is due. You must make attempts to negotiate later payments with your landlord or utility company before you can get AREN.

(6) In addition to having a good reason for not having enough money to pay for your costs, you must also explain how you will afford to pay for the on-going need in the future. We may deny AREN if your expenses exceed your income (if you are living beyond your means). We may approve AREN to help you get into housing you can afford.

(7) If you meet the above requirements, we decide the amount we will pay based on the following criteria.

(a) AREN payments may be made up to a maximum of seven hundred fifty dollars in a consecutive twelve-month period.

(b) The number of AREN payments you can receive in a twelve-month period is not limited, as long as the total amount does not exceed seven hundred fifty dollars.

(c) The department may approve an AREN payment above the seven hundred fifty dollar maximum for health and safety reasons.

(d) The amount of AREN is in addition to the amount of your monthly TANF, SFA, or RCA cash grant.

(e) We will decide the lowest amount we must pay to end your housing or utility emergency. We will contact your landlord, utility company, or other vendor for information to make this decision. We may take any of the following steps when deciding the lowest amount to pay:

(i) We may ask you to arrange a payment plan with your landlord or utility company. This could include us making a partial payment, and you setting up a plan for you to repay the remaining amount you owe over a period of time.

(ii) We may have you use some of the money you have available in cash, checking, or savings to help pay for the expense. We will look at the money you have available as well as your bills when we decide how much we will pay.

(iii) We may consider income that is excluded or disregarded for cash assistance benefit calculations (~~(, such as SSI)~~) as available to meet your emergency housing need.

(iv) We may consider money other individuals such as family or friends voluntarily give you. We will not count loans of money that you must repay to friends or family members.

(v) We may consider money from a nonneedy caretaker relative that lives in the home.

(vi) We may look at what other community resources you currently have to help you with your need.

(f) The seven hundred fifty dollar limit every twelve months applies to the following people even if they leave the assistance unit:

(i) Adults; and

(ii) Minor parents that get AREN when no adults are in the assistance unit.

(8) We pay AREN:

(a) Directly to the landlord, mortgage company, utility, or other vendor whenever we can.

(b) If we cannot pay AREN directly to the landlord or other vendor, we will issue the AREN as a part of your TANF, SFA, or RCA cash grant. If we issue the AREN as a part of your grant, you must use it for your emergency need.

(9) We may assign you a protective payee for your monthly grant under WAC 388-460-0020.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-436-0020 CEAP assistance unit composition. (1) To be eligible for CEAP, a child must be living with:

(a) A parent or a relative of specified degree as defined under WAC 388-454-0010; or

(b) Has lived with such a relative within six months of the request for assistance.

(2) The following persons living in the household must be included as members of the CEAP assistance unit:

(a) All full, half, or adopted siblings under eighteen years of age, including a minor parent; and

(b) The parent, adoptive parent, or stepparent living with the child or children.

(3) The following persons living in the household do not have to be included but may be included as members at the option of the applicant:

(a) One caretaker relative of specified degree when the child's parent does not live in the home;

(b) Stepbrothers or stepsisters to all children in the assistance unit.

(4) The following persons may make up a CEAP assistance unit without including others living in the home:

(a) The child of a parent who is a minor when the minor parent is not eligible due to the income and resources of his/her parents; or

(b) A pregnant woman when no other child is in the home.

(5) ~~((The following persons living in the household))~~ Household members ineligible due to reasons stated in WAC 388-436-0025 and 388-436-0030 are not included as members of the CEAP assistance unit(~~(:~~

~~(a) A household member receiving Supplemental Security Income (SSI);~~

~~(b) A household member ineligible due to reasons stated in WAC 388-436-0025 and 388-436-0030)).~~

AMENDATORY SECTION (Amending WSR 04-05-010, filed 2/6/04, effective 3/8/04)

WAC 388-436-0040 Excluded income and resources for CEAP. Resources and income listed below will not be considered in determining need or payment for CEAP:

(1) A home as defined under WAC 388-470-0045;

(2) One vehicle, running and used regularly by the assistance unit, with an equity value not to exceed one thousand five hundred dollars);

(3) Household furnishings being used by the assistance unit;

(4) Personal items being used by members of the assistance unit;

(5) Tools and equipment being used in the applicant's occupation;

(6) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;

(7) Benefits received under the women, infants and children program (WIC) of the child nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(8) Energy assistance payments;

(9) Grants, loans, or work study to a student under Title IV of the Higher Education Amendments or Bureau of Indian Affairs for attendance costs as identified by the institution;

(10) ~~((Income and resources of an SSI recipient;~~

~~((11)))~~ Livestock when the products are consumed by members of the assistance unit;

~~((12)))~~ **(11)** All resources and income excluded for the TANF program under WAC 388-470-0045 and by federal law.

Reviser's note: The typographical error 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.

AMENDATORY SECTION (Amending WSR 02-20-069, filed 9/30/02, effective 10/31/02)

WAC 388-450-0025 What is unearned income? This section applies to cash assistance, food assistance, and medical programs for families, children, and pregnant women.

(1) Unearned income is income you get from a source other than employment or self-employment. Some examples of unearned income are:

(a) Railroad Retirement;

(b) Unemployment Compensation;

(c) Social Security benefits, ~~((f))~~including:

(i) Retirement benefits((:));

(ii) Disability benefits((:and));

(iii) Benefits for survivors; and

(iv) Supplemental security income (SSI)((:)).

(d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); or

(e) Veteran Administration benefits.

(2) For food assistance we also count the total amount of cash benefits due to you before any reductions caused by your failure (or the failure of someone in your assistance unit) to perform an action required under a federal, state, or local means-tested public assistance program, such as TANF/SFA, GA, and SSI.

(3) When we count your unearned income, we count the amount you get before any taxes are taken out.

AMENDATORY SECTION (Amending WSR 10-15-069, filed 7/16/10, effective 8/16/10)

WAC 388-470-0045 How do my resources count toward the resource limits for cash assistance and family medical programs? (1) We count the following resources toward your assistance unit's resource limits for cash assistance and family medical programs to decide if you are eligible for benefits under WAC 388-470-0005:

(a) Liquid resources not specifically excluded in subsection (2) below. These are resources that are easily changed into cash. Some examples of liquid resources are:

(i) Cash on hand;

(ii) Money in checking or savings accounts;

(iii) Money market accounts or certificates of deposit (CDs) less any withdrawal penalty;

(iv) Available retirement funds or pension benefits, less any withdrawal penalty;

(v) Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;

(vi) Available trusts or trust accounts;

(vii) Lump sum payments as described in chapter 388-455 WAC; or

(viii) Any funds retained beyond the month of receipt from conversion of federally protected rights or extraction of exempt resources by members of a federally recognized tribe that are in the form of countable resources.

(b) The cash surrender value (CSV) of whole life insurance policies.

(c) The CSV over fifteen hundred dollars of revocable burial insurance policies or funeral agreements.

(d) The amount of a child's irrevocable educational trust fund that is over four thousand dollars per child.

(e) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220.

(f) Any real property like a home, land or buildings not specifically excluded in subsection (3) below.

(g) The equity value of vehicles as described in WAC 388-470-0070.

(h) Personal property that is not:

(i) A household good;

(ii) Needed for self-employment; or

(iii) Of "great sentimental value," due to personal attachment or hobby interest.

(i) Resources of a sponsor as described in WAC 388-470-0060.

(j) For cash assistance only, sales contracts.

(2) The following types of liquid resources do not count when we determine your eligibility:

(a) Bona fide loans, including student loans;

(b) Basic Food benefits;

(c) Income tax refunds in the month of receipt;

(d) Earned income tax credit (EITC) in the month received and the following month;

(e) Advance earned income tax credit payments;

(f) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(g) Individual development accounts (IDAs) established under RCW 74.08A.220;

(h) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a decision of the department;

(i) Underpayments received under chapter 388-410 WAC;

(j) Educational benefits that are excluded as income under WAC 388-450-0035;

~~((k))~~ ~~((The income and resources of an SSI recipient;~~

~~((H))~~ A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;

~~((m))~~ ~~((l))~~ Foster care payments provided under Title IV-E and/or state foster care maintenance payments;

~~((n))~~ ~~((m))~~ Adoption support payments;

~~((o))~~ ~~((n))~~ Self-employment accounts receivable that the client has billed to the customer but has been unable to collect;

~~((p))~~ ~~((o))~~ Resources specifically excluded by federal law; and

~~((q))~~ ~~((p))~~ For medical benefits~~((r))~~ only;

~~((i))~~ Receipts from exercising federally protected rights or extracted exempt resources (fishing, shell-fishing, timber sales, etc.) during the month of receipt for a member of a federally recognized tribe;

~~((ii))~~ The income and resources of an SSI recipient.

(3) The following types of real property do not count when we determine your eligibility:

(a) Your home and the surrounding property that you, your spouse, or your dependents live in;

(b) A house you do not live in, if you plan on returning to the home and you are out of the home because of:

(i) Employment;

(ii) Training for future employment;

(iii) Illness; or

(iv) Natural disaster or casualty.

(c) Property that:

(i) You are making a good faith effort to sell;

(ii) You intend to build a home on, if you do not already own a home;

(iii) Produces income consistent with its fair market value, even if used only on a seasonal basis; or

(iv) A household member needs for employment or self-employment. Property excluded under this section and used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(d) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

(4) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit.

(5) If you sell your home, you have ninety days to reinvest the proceeds from the sale of a home into an exempt resource.

(a) If you do not reinvest within ninety days, we will determine whether there is good cause to allow more time. Some examples of good cause are:

(i) Closing on your new home is taking longer than anticipated;

(ii) You are unable to find a new home that you can afford;

(iii) Someone in your household is receiving emergent medical care; or

(iv) Your children are in school and moving would require them to change schools.

(b) If you have good cause, we will give you more time based on your circumstances.

(c) If you do not have good cause, we count the money you got from the sale as a resource.

WSR 11-04-068

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed January 28, 2011, 1:26 p.m., effective January 28, 2011, 1:26 p.m.]

Effective Date of Rule: Immediately.

Purpose: Part I of chapter 23, 2010 Laws 1st sp. sess. (2ESSB 6143) changed the apportionment and nexus requirements for apportionable activities, effective June 1, 2010. The department has adopted the following emergency rules to explain how these requirements apply:

- WAC 458-20-19401 (Rule 19401) Minimum nexus thresholds for apportionable activities.
- WAC 458-20-19402 (Rule 19402) Single factor receipts apportionment—Generally.
- WAC 458-20-19403 (Rule 19403) Single factor receipts apportionment—Royalties.
- WAC 458-20-19404 (Rule 19404) Financial institutions—Income apportionment.

Changes from the previous emergency rules filed October 1, 2010, under WSR 10-20-104 were made in the following subsections:

- Rule 19401 - No changes.
- Rule 19402 - Subsection (5) Attribution of income.
- Rule 19403 - Subsection (5) How are royalty receipts attributed to Washington.
- Rule 19404 - No changes.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency adoption of these new rules is necessary because permanent rules cannot be adopted at this time.

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 4, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 4, 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 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 28, 2011.

Alan R. Lynn
Rules Coordinator

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 11-05 issue of the Register.

WSR 11-04-073
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)

[Filed January 31, 2011, 10:04 a.m., effective February 1, 2011]

Effective Date of Rule: February 1, 2011.

Purpose: This is not a policy change. Currently, the rule cross references to WAC 388-478-0020 because the income standards for both family medical programs and the temporary assistance for needy families (TANF) grant program is the same. However, beginning February 1, 2011, the TANF income standard is being reduced so the family medical programs income standard must be called out in WAC 388-478-0065.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0065.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The department cannot change its income standard for family medical programs due to federal "maintenance of effort" requirements. To do so would jeopardize federal funding for the programs as well as result in the loss of eligibility for some clients.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at 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 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 1, Repealed 0.

Date Adopted: January 13, 2011.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-15-080, filed 7/14/05, effective 8/14/05)

WAC 388-478-0065 Income and resource standards for family medical programs. (1) The categorically needy income level (CNIL) standards for family medical ((is the same as the grant payment standards for the TANF cash program as stated in WAC 388-478-0020.)) are:

(a) For assistance units with obligations to pay shelter costs:

<u>Assistance Unit Size</u>	<u>Payment Standard</u>
<u>1</u>	<u>\$359</u>
<u>2</u>	<u>453</u>
<u>3</u>	<u>562</u>
<u>4</u>	<u>661</u>
<u>5</u>	<u>762</u>
<u>6</u>	<u>866</u>
<u>7</u>	<u>1,000</u>
<u>8</u>	<u>1,107</u>
<u>9</u>	<u>1,215</u>
<u>10 or more</u>	<u>1,321</u>

(b) For assistance units with shelter provided at no cost:

<u>Assistance Unit Size</u>	<u>Payment Standard</u>
<u>1</u>	<u>\$218</u>
<u>2</u>	<u>276</u>
<u>3</u>	<u>341</u>
<u>4</u>	<u>402</u>
<u>5</u>	<u>464</u>
<u>6</u>	<u>526</u>
<u>7</u>	<u>608</u>
<u>8</u>	<u>673</u>
<u>9</u>	<u>739</u>
<u>10 or more</u>	<u>803</u>

(2) The countable resource standards for family medical are the same as those of the TANF/SFA cash program as stated in WAC 388-470-0005.

(3) Each unborn child is counted as a household member when determining household size for:

- (a) Family medical;
- (b) Pregnancy medical; and
- (c) Children's medical.

WSR 11-04-077
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 11-12—Filed January 31, 2011, 2:34 p.m., effective February 1, 2011, 7:00 a.m.]

Effective Date of Rule: February 1, 2011, 7:00 a.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100S; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Puget Sound Gillnetters Ass'n v. Moos*, 92 Wn.2d 939, 603 P.2d 819 (1979); *State v. James*, 72 Wn.2d 746, 435 P.2d 521 (1967); 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Modifies the treaty Indian winter season by changing the opening time and reducing the Bonneville Pool fishery to 3 1/2 days per week. Allows sales of fish caught with platform and hook and line gear. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on January 27, 2011. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 1.

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 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 31, 2011.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100T Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

1. Open Areas: SMCRA 1F:

a. Season: 7:00 a.m. Tuesday, February 1, 2011 through 6:00 p.m. Friday, February 4, 2011. From February 7, 2011 through March 21, 2011, the season will be open weekly from 7:00 a.m. Mondays through 6:00 p.m. Thursdays.

b. Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.

c. Allowable sale: Salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool may be sold or retained for subsistence purposes. Live release of all oversize and under-size sturgeon is required. Fish caught from platforms or hook-and-line fisheries during the open commercial periods.

d. River mouth sanctuaries (WAC 220-32-058) remain in effect except the Spring Creek Hatchery sanctuary (subsection 5) of WAC 220-32-058.

2. Open Areas: SMCRA 1G, 1H:

a. Season: 7:00 a.m. Tuesday, February 1, 2011 through 6:00 p.m. Monday, March 21, 2011.

b. Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.

c. Allowable sale: Salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be sold or retained for subsistence purposes. Live release of all oversize and under-size sturgeon is required. Sale of platform or hook-and-line-caught fish is allowed during open commercial seasons.

3. River mouth sanctuaries (WAC 220-32-058) remain in effect except the Spring Creek Hatchery sanctuary.

4. Open Area: SMCRA 1E, Yakama Nation MOA: on the Washington shoreline from 600 feet below the fish ladder at the Bonneville Dam North shore powerhouse, downstream to Beacon Rock (bank fishing only). Umatilla and Warm Springs MOU: Covers the banks of the Columbia River bounded by a deadline marker on the Oregon bank approximately four miles downstream of Bonneville Dam Powerhouse #1 in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock up the river to a point 600 feet below the Bonneville Dam, but excluding the following four areas:

a) Between the markers located 150 feet upstream and 450 feet downstream from the mouth of Tanner Creek out to the center of the Columbia River.

b) Inside the south navigation lock at Bonneville Dam from a marker on the western-most tip of Robins Island to a marker on the Oregon mainland shore.

c) From Bradford Island below Bonneville Dam from the south shore between the dam and a line perpendicular to the shore marker at the west end of riprap and from the north shore between the fishway entrance and a line perpendicular to the shoreline marker 850 feet downstream.

d) From Robins Island below Bonneville Dam downstream to a line perpendicular to the shoreline marker on the mooring cell.

a. Participants: Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 MOU (Memorandum of Understanding) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS). Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

b. Season: 7:00 a.m. Tuesday, February 1, 2011 through 6:00 p.m. Monday, March 21, 2011.

c. Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line.

d. Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. **Sturgeon retention is prohibited**, and sturgeon may not be sold or retained for ceremonial or subsistence purposes. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

5. 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240, for all areas.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The unnecessary 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100S	Columbia River salmon seasons above Bonneville Dam. (10-281)
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WSR 11-04-078 EMERGENCY RULES DEPARTMENT OF EARLY LEARNING

[Filed January 31, 2011, 3:43 p.m., effective January 31, 2011, 3:43 p.m.]

Effective Date of Rule: Immediately.

Purpose: The department of early learning (DEL) is amending working connections child care (WCCC) and seasonal child care (SCC) program rules in chapter 170-290 WAC. The rules revise consumer eligibility requirements as follows:

a. Consumers must have countable income at or below one hundred seventy-five percent of the federal poverty guidelines (FPG) to qualify for and remain eligible for WCCC subsidy benefits. This is \$2,671 per month for a family of three.

b. Monthly child care copayments for some consumers will change:

- Effective February 1 through February 28, 2011:
 - For consumers whose countable monthly income is above eighty-two percent of the FPG up to 137.5 percent of the FPG, copayments will increase from \$50 to \$60 per month.
 - For consumers whose countable monthly income is above 137.5 percent of the FPG through one hundred seventy-five percent of the FPG, monthly copayments will increase by amending the sliding scale formula as follows: The dollar amount equal to subtracting 137.5 percent of FPG from countable income, multiplying by forty-four percent, then adding \$60 instead of \$50.
- Effective March 1, 2011:
 - For consumers whose countable monthly income is above eighty-two percent of the FPG up to 137.5 percent of the FPG, copayments will increase to \$65 per month.
 - For consumers whose countable monthly income is above 137.5 percent of the FPG through one hundred seventy-five percent of the FPG, monthly copayments will increase by amending the sliding

scale formula as follows: The dollar amount equal to subtracting 137.5 percent of FPG from countable income, multiplying by fifty percent, then adding \$65.

- No copayment change for families with income at or below eighty-two percent of the FPG - their copayment remains at \$15 a month.

c. Only DEL-licensed or certified family home child care providers will be eligible to field trip fee reimbursements for children in subsidized care. Child care centers and school-age centers will not be eligible for field trip fees.

The one hundred seventy-five percent of FPG income limit applies to families applying for the SCC program. However, SCC has run out of funds for the current fiscal year ending June 30, 2011. No new SCC applications are being accepted at this time.

These rules will replace emergency rules filed on January 13, 2011, filing number WSR 11-03-046, which have been rescinded.

The WCCC and SCC programs provide child care assistance to lower income parents who are working or attending approved school, training or other activities. More than thirty-five thousand families in Washington state receive DEL child care subsidy assistance each month. For more information about these rules, please visit the DEL web site at <http://www.del.wa.gov/laws/development/income.aspx>.

Citation of Existing Rules Affected by this Order: Amending WAC 170-290-0005, 170-290-0075, 170-290-0085, 170-290-0247, 170-290-3520, and 170-290-3640.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070.

Other Authority: Chapter 43.215 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: DEL remains under a directive to reduce child care subsidy expenditures to help close a projected \$82 million shortfall in the state fiscal year (SFY) 2011 budget for the state's WorkFirst program. (WorkFirst is Washington state's combined welfare-to-work programs, including WCCC and SCC.) The projected SFY 2011 shortfall had climbed to \$106 million in November 2010, but the state received \$19 million in temporary federal funding in December 2010 that helped reduce the anticipated shortage. Even with the temporary federal aid, an SFY 2011 WorkFirst budget deficit remains imminent.

Failure to reduce WCCC eligibility by emergency rule would result in the program becoming oversubscribed and over budget, because of insufficient revenues to pay program benefits and higher than anticipated caseloads, causing the

state to likely run out of funds for these programs before the end of SFY 2011 on June 30, 2011. If that occurs, the state could be faced with terminating child care benefits to all families receiving WCCC benefits, with serious disruptive impacts to children, families, child care providers, employers and the public welfare.

Washington state's economic situation remains unstable. Current forecasts indicate that revenues will remain insufficient to meet state general fund appropriations in the 2010-2011 Supplemental Operating Budget Act ESSB 6444 (chapter 37, Laws of 2010 1st sp. sess.). Congress did not extend American Reinvestment and Revitalization Act (ARRA) stimulus funding that the legislature had projected receiving to help balance the SFY 2011 WorkFirst budget. See the 2010 supplemental omnibus budget overview - operating only.

As tax and federal revenues have declined sharply, WorkFirst caseloads continue to climb. In the last two years the state's WorkFirst caseload has grown by more than thirty percent, from 51,106 cases in July 2008 to 66,634 cases in June 2010. Caseloads are expected to grow further.

On September 13, 2010, Governor Gregoire formally declared that a budget shortfall is imminent and directed state agencies to implement 6.3 percent across-the-board spending cuts to avoid an SFY 2011 deficit. Executive Order 10-04 - Ordering Expenditure Reductions in Allotments of State General Fund Appropriations, declared that:

- Revenues have fallen short of projections;
- The current official state economic and revenue forecast of general fund revenues is less than the official estimate upon which the state's 2009-2011 biennial operating budget and supplemental operating budget were enacted; and
- The anticipated revenues combined with the beginning cash balance of the general fund are insufficient to meet anticipated expenditures from this fund for the remainder of the current fiscal period (SFY 2011).

On December 15, 2010, Governor Gregoire announced proposed 2011-2013 budget cuts needed to close an additional \$4.6 billion projected shortfall in the next state fiscal biennium, and proposed eliminating or restructuring many state programs, agencies, boards and commissions. "We face unprecedented times," the governor said. "Few alive today have witnessed a recession of this magnitude and length." See the governor's proposed budget for SFY 2011-2013 at http://www.governor.wa.gov/priorities/budget/press_packet.pdf.

The legislature's anticipated shortfall in the WorkFirst program, combined with the Governor's Executive Order 10-04 and proposed 2011-2013 budget, demonstrate that an emergency rule is necessary to implement spending reductions, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary both to the public interest and to the state's fiscal needs and requirements.

These rules replace emergency rules filed on January 13, 2011, as WSR 11-03-046. Filing substantially similar emergency rules in sequence is permitted under RCW 34.05.350 (2) if "...conditions have changed or the agency has filed

notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule."

DEL has filed a notice of intent to adopt permanent rules (see WSR 10-15-116 and 10-03-033). Proposed rules to implement the one hundred seventy-five percent of FPG income eligibility limit were filed in August 2010 (WSR 10-18-064) and public hearings were held in four locations around the state in October 2010. The department continues to watch state revenue and WorkFirst caseload forecasts to determine if a revised rule proposal should be filed.

DEL has determined that the rules meet office of financial management guidance 3.c regarding the Governor's Executive Order 10-06 suspending noncritical rule making, but allowing rules to proceed that are "...necessary to manage budget shortfalls, maintain fund solvency, or for revenue generating activities..."

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 6, Repealed 0.

Number of Sections Adopted at 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 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 6, Repealed 0.

Date Adopted: January 31, 2011.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0005 Consumers. (1) In WCCC, an eligible consumer has parental control of one or more children, lives in the state of Washington, and is the child's:

- (a) Parent, either biological or adopted;
- (b) Stepparent;
- (c) Legal guardian verified by a legal or court document;
- (d) Adult sibling or step-sibling;
- (e) Nephew or niece;
- (f) Aunt;
- (g) Uncle;
- (h) Grandparent; or
- (i) Any of the relatives in (f), (g), or (h) of this subsection with the prefix great (for example, great-aunt).

(2) Consumers may be eligible for WCCC benefits if they:

- (a) Meet eligibility requirements for WCCC described under part II of this chapter;
- (b) Participate in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or have been approved per WAC 170-290-0055;

(c) Comply with any special circumstances that might affect WCCC eligibility under WAC 170-290-0020; and

(d) Have countable income at or below (~~two hundred percent of the federal poverty guidelines (FPG) (under WAC 170-290-0065))~~ one hundred seventy-five percent of the federal poverty guidelines.

(3) A consumer's eligibility shall end if the consumer's countable income is greater than one hundred seventy-five percent of the FPG.

(4) A consumer is not eligible for WCCC benefits when he or she:

(a) Is the only parent in the family and will be away from the home for more than thirty days in a row; or

(b) Has a monthly copayment that is higher than the rate the state will pay for all eligible children in care.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0075 Determining income eligibility and copayment amounts. (1) DSHS takes the following steps to determine a consumer's eligibility and copayment:

(a) Determine the consumer's family size (under WAC 170-290-0015); and

(b) Determine the consumer's countable income (under WAC 170-290-0065).

(2) Before February 1, 2011, if the consumer's family's countable monthly income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG)	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG	\$50
(c) Above 137.5% of the FPG through (200) 175% of the FPG	The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 44%, then adding \$50
(d) Above (200) 175% of the FPG, a consumer is not eligible for WCCC benefits.	

(3) Effective February 1, 2011 through February 28, 2011, if the consumer's family countable income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) <u>At or below 82% of the federal poverty guidelines (FPG)</u>	\$15
(b) <u>Above 82% of the FPG up to 137.5% of the FPG</u>	\$60
(c) <u>Above 137.5% of the FPG through 175% of the FPG</u>	<u>The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 44%, then adding \$60</u>
(d) <u>Above 175% of the FPG, a consumer is not eligible for WCCC benefits.</u>	

(4) On or after March 1, 2011, if the consumer's family countable income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG)	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG	\$65
(c) Above 137.5% of the FPG through 175% of the FPG	The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 50%, then adding \$65
(d) Above 175% of the FPG, a consumer is not eligible for WCCC benefits.	

(5) DSHS does not prorate the copayment when a consumer uses care for part of a month.

((4)) (6) The FPG is updated every year on April 1. The WCCC eligibility level is updated at the same time every year to remain current with the FPG.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0085 Change in copayment. (1) Once DSHS determines that a consumer is eligible for WCCC benefits, his or her copayment may change when:

- (a) The consumer's monthly income decreases;
- (b) The consumer's family size increases;
- (c) DSHS makes an error in the consumer's copayment computation;
- (d) The consumer did not report all income, activity and household information at the time of eligibility determination or application/reapplication;
- (e) The consumer is no longer eligible for the minimum copayment under WAC 170-290-0090;
- (f) DEL makes a mass change in benefits due to a change in law or program funding;
- (g) The consumer is approved for a new eligibility period; or
- (h) The consumer is approved for the fourteen-day wait period or twenty-eight-day gap period as provided in WAC 170-290-0055.

(2) If a consumer's copayment changes during his or her eligibility period, the change is effective on the first day of the month following DSHS becoming aware of the change.

(3) DSHS does not increase a consumer's copayment during his or her current eligibility period when his or her countable income remains at or below ~~((two hundred percent of the FPG))~~ the maximum eligibility limit as provided in WAC 170-290-0005 (2)(d) and (3), and:

- (a) The consumer's monthly countable income increases;
- or
- (b) The consumer's family size decreases.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0247 Field trip fees. (1) DSHS pays licensed or certified family home child care providers (~~and DEL-contracted seasonal day camps~~) a monthly field trip fee up to twenty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fees are required of all parents whose children are in the provider's care. DEL-licensed or certified child care centers and school-age centers are not eligible to receive field trip fees. The field trip fee is to cover the provider's actual expenses for:

- (a) Admission;
- (b) Transportation (not to include the provider's gas and insurance); and
- (c) The cost of hiring a nonemployee to provide an in-house field trip activity.

(2) The field trip fee can only be reimbursed for children three years of age and older.

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 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-3520 Eligible consumers. (1) In SCC, an eligible consumer is not currently receiving temporary aid for needy families (TANF), lives in the state of Washington, has parental control of one or more children, and is the child's:

- (a) Parent, either biological or adopted;
 - (b) Stepparent;
 - (c) Legal guardian as verified by a legal or court document;
 - (d) Adult sibling or step-sibling;
 - (e) Aunt;
 - (f) Uncle;
 - (g) Niece or nephew;
 - (h) Grandparent; or
 - (i) Any of the above relatives in (e), (f), or (h) of this subsection, with the prefix "great," such as great-aunt.
- (2) Consumers may be eligible for SCC benefits if they:
- (a) Meet eligibility requirements in this chapter;
 - (b) Participate in an approved activity under WAC 170-290-3555; and
 - (c) Have countable income at or below ~~((two hundred percent of the federal poverty guidelines (FPG)))~~ the maximum eligibility limit described in WAC ((170-290-3640)) 170-290-0005 (2)(d) and (3).

- (3) Consumers are not eligible for SCC benefits if they:
- (a) Have a copayment, under WAC 170-290-0075, that is higher than the maximum monthly state rate for all of the consumer's children in care;
 - (b) Were employed with one employer more than eleven months in the previous twelve months;
 - (c) Are receiving TANF benefits; or
 - (d) Are the only parent in the household and will be away from the home for more than thirty days in a row.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-3640 Determining income eligibility and copayment. (1) For the SCC program, DEL determines a consumer's family's income eligibility and copayment by:

- (a) The consumer's family size as defined under WAC 170-290-3540;
- (b) The consumer's average monthly income as calculated under WAC 170-290-3620;
- (c) The consumer's family's average monthly income as compared to the federal poverty guidelines (FPG); and
- (d) The consumer's family's average monthly income as compared to the copayment chart defined in WAC 170-290-0075.

(2) If a consumer's family's income is above ~~((two hundred percent of the FPG as defined in WAC 170-290-0075))~~ the maximum eligibility limit as provided in WAC 170-290-0005 (2)(d) and (3), his or her family is not eligible for the SCC program.

(3) SCC does not prorate the copayment when a consumer uses care for part of a month.

(4) The FPG is updated every year on April 1. The SCC eligibility level is updated at the same time every year to remain current with the FPG.

(5) SCC shall assign a copayment amount based on the family's countable income. The copayment amount will be on the consumer's child care plan. The consumer pays the copayment directly to the provider.

WSR 11-04-079
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING

[Filed January 31, 2011, 3:53 p.m.]

Effective immediately upon this filing, the department of early learning (DEL) rescinds emergency rules filed on January 13, 2011, as WSR 11-03-046, revising rules in chapter 170-290 WAC regarding eligibility requirements for families applying for or receiving working connections child care or seasonal child care subsidy benefits.

DEL has filed subsequent emergency rules, WSR 11-04-078, that will replace and supersede the rules filed as WSR 11-03-046.

Elizabeth M. Hyde
Director