

WSR 22-06-012
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed February 18, 2022, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-20-130.

Title of Rule and Other Identifying Information: WAC 388-829-0085 How many hours of continuing education must DDA community residential staff complete each year?, 388-829-0086 When must a direct support professional employed during the COVID-19 public health emergency complete training?, and 388-829-0087 When must continuing education be completed when public health emergency waivers are lifted, and what continuing education credit is granted to direct support professionals employed during the pandemic?

Hearing Location(s): On April 5, 2022, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>, or virtually; Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than April 6, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on April 5, 2022.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email tencza@dshs.wa.gov [tencza@dshs.wa.gov], by 5:00 p.m. on March 22, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) amended WAC 388-829-0085 to clarify when continuing education credits must be completed. New WAC 388-829-0086 and 388-829-0087 establish training and continuing education requirements for people employed during the COVID-19 public health emergency.

Reasons Supporting Proposal: These amendments are necessary to clarify, and in some circumstances extend, the due dates for providers who are required to complete training and continuing education requirements under chapter 388-829 WAC.

Statutory Authority for Adoption: RCW 71A.12.030, 74.39A.074.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, DDA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1500; Implementation and Enforcement: Sarah Blanchette, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1540.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1500, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.0030 [19.85.030] because the rules do not impose new costs.

Explanation of exemptions: While providers do pay for their staff to attend trainings, continuing education training reimbursement is built into the provider's rate.

February 15, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4897.6

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0085 How many hours of continuing education must DDA community residential staff complete each year? (1) ~~((Effective January 1, 2016, service providers))~~ A direct support professional must complete ~~((twelve))~~ 12 hours of continuing education: ~~((CE))~~

(a) Each calendar year, except in the calendar year they complete ~~((the))~~ one-time basic training ~~((requirement.))~~; or

(b) By their birth date each year if the direct support professional is also a:

- (i) Registered nurse;
- (ii) Licensed practical nurse;
- (iii) Nurse technician;
- (iv) Advanced registered nurse practitioner; or
- (v) Home care aide certified.

~~((2) Service providers who are not credentialed through the department of health (DOH) must complete their CE by the end of the calendar year.~~

~~(3) Service providers must complete DOH required CE (such as home care aide certification) by their birth date each year.)~~

(2) A direct support professional employed during the COVID-19 public health emergency must complete:

- (a) Training according to WAC 388-829-0086; and
- (b) Continuing education according to WAC 388-829-0087.

[Statutory Authority: RCW 71A.12.030, 74.39A.074, 74.39A.341, 74.39A.351, and 18.88B.041. WSR 17-14-090, § 388-829-0085, filed 6/30/17, effective 8/1/17.]

NEW SECTION

WAC 388-829-0086 When must a direct support professional employed during the COVID-19 public health emergency complete training?

(1) A direct support professional employed during the COVID-19 public health emergency must complete training as follows:

Worker hired during the time frame of:	Must complete 75-hour new employee training no later than:
8/17/2019 to 9/30/2020	4/30/2022
10/1/2020 to 4/30/2021	6/30/2022
5/1/2021 to 3/31/2022	8/31/2022
After 3/31/2022	As required under WAC 388-829-0015

(2) Nothing in this section prevents a direct support professional hired between 11/17/2019 and 3/31/2022 from completing training in advance of the deadlines in subsection (1) of this section.

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NEW SECTION

WAC 388-829-0087 What continuing education credit is granted to direct support professionals employed during the pandemic and when must continuing education be completed? (1) The department finds that direct support professionals employed during the COVID-19 pandemic between March 1, 2020, and February 28, 2021, required emergent and intensive on-the-job training. Direct support professionals received critical, ongoing training in such topics as:

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

(2) This on-the-job training was required of all service providers under WAC 388-829-0005. Instruction included infection control and the availability and distribution of personal protective equipment. Recognition of this training as a valid learning experience, in its various forms, was agreed upon with input from consumer and worker representatives, as the content was based on guidelines established by the Centers for Disease Control (CDC) and other federal, state, and local health care authorities.

(3) During this time, direct support professionals required ongoing critical training because guidance from the CDC, department of labor and industries, and other health authorities changed as more was learned about the SARS-CoV-2 virus. The department finds that this unprecedented on-the-job training comprised of at least 12 hours of continuing education between March 1, 2020, and February 28, 2021, and that this training:

- (a) Is not considered to be repeated training as described in WAC 388-829-0100; and
- (b) Satisfies the 12 hours of annual continuing education training.

(4) The direct support professional may apply the 12 hours of on-the-job training towards continuing education for either 2020 or 2021.

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

(6) The department recognizes that direct support professionals may not have completed training hours in excess of the 12 hours of CE granted in subsection (4) of this section due to the COVID-19 public health emergency. All direct support professionals have 120 days from the end of the federal public health emergency to complete any additional CE that may have become due while training waivers were in place in excess of the 12 hours of CE granted in subsection (4) of this section.

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