

WSR 23-02-022
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 27, 2022, 11:39 a.m., effective December 28, 2022]

Effective Date of Rule: December 28, 2022.

Purpose: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: Adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service from all waivers except the community protection waiver; amend the definition of the specialized evaluation and consultation service; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.

Citation of Rules Affected by this Order: New WAC 388-845-2141, 388-845-2142 and 388-845-2143; repealing WAC 388-845-0501 and 388-845-0506; and amending WAC 388-845-0001, 388-845-0005, 388-845-0010, 388-845-0045, 388-845-0050, 388-845-0070, 388-845-0110, 388-845-0111, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0415, 388-845-0425, 388-845-0500, 388-845-0505, 388-845-0510, 388-845-0515, 388-845-0800, 388-845-0805, 388-845-0810, 388-845-0820, 388-845-0900, 388-845-0940, 388-845-1030, 388-845-1040, 388-845-1163, 388-845-1190, 388-845-1192, 388-845-1195, 388-845-1197, 388-845-1660, 388-845-1810, 388-845-1865, 388-845-1890, 388-845-2000, 388-845-2005, 388-845-2010, 388-845-2130, 388-845-2210, 388-845-2260, 388-845-2290, 388-845-3080, 388-845-4000, and 388-845-4005.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Other Authority: 42 C.F.R. 441.301, Section 1915(c) of the Social Security Act.

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: Filing these amendments on an emergency basis is necessary to ensure federal compliance and maintain federal funding for the state. This is the second emergency filing on these sections and is necessary to keep the rules effective until DDA completes the permanent rule-making process. The department filed a CR-101 preproposal under WSR 22-18-073.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 46, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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 3, Amended 46, Repealed 2.

Date Adopted: December 14, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4942.4

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0001 Definitions. "Aggregate services" means a combination of services subject to the dollar limits in the basic plus waiver and CIIBS waiver.

"Allocation" means the amount of individual and family services (IFS) waiver funding available to a client for a maximum of ((twelve)) 12 months.

"Behavior support plan" means a plan written by a professionally trained behavioral health or similar provider to address behavioral health intervention needs.

"CARE" means comprehensive assessment and reporting evaluation.

"Client" means a person who has a developmental disability under RCW 71A.10.020(5) and has been determined eligible to receive services from the administration under chapter 71A.16 RCW.

"DDA" means the developmental disabilities administration, of the department of social and health services.

"DDA assessment" refers to the standardized assessment tool under chapter 388-828 WAC, used by DDA to measure the support needs of people with developmental disabilities.

"Department" means the department of social and health services (DSHS).

"Evidence-based treatment" means the use of physical, mental, and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"Family" means one or more of the following relatives: Spouse or registered domestic partner; natural, adoptive or step((-))parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your family live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"General utility" describes something used by people in the absence of illness, injury, or disability.

"HCBS waiver" is a home and community based services waiver program under section 1915(c) of the Social Security Act.

"Home" means present place of long-term residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under ((eighteen)) 18 years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney-at-law, a person's attorney-in-fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his or her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community based services waiver program.

"Person-centered service plan" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the basic plus, children's intensive in-home behavioral support, or core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State-funded services" means services that are funded entirely with state dollars.

"You" means the client or participant.

"Waiver year" means the ((twelve)) 12-month period starting from the initial or annual plan effective date in the client's person-centered service plan.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0001, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0001, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0001, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0001, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0001, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW

71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1) (i), and Title 71A RCW. WSR 10-22-088, § 388-845-0001, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0001, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-0001, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0001, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-0005 What are home and community based services (HCBS) waivers? (1) Home and community based services (HCBS) waivers are services approved by the Centers for Medicare and Medicaid Services (CMS) under section 1915(c) of the Social Security Act as an alternative to intermediate care facility for the individuals with intellectual disabilities (ICF/IID).

(2) Certain federal regulations are "waived" enabling the provision of services in the home and community to individuals who would otherwise require the services provided in an ICF/IID as defined in chapters 388-835 and 388-837 WAC.

[Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0005, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0005, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-0010 What is the purpose of HCBS waivers? The purpose of HCBS waivers is to provide services in the community to individuals with ICF/IID level of need to prevent their placement in an ICF/IID.

[Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0010, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0010, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver (~~and available funding for new waiver participants~~), DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).

(3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0045, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0045, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0045, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0045, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0045, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0045, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-0045, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0045, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0050 How do I request to be enrolled in a waiver?

(1) You can contact DDA and request to be enrolled in a waiver or to enroll in a different waiver at any time.

(2) If you are assessed as meeting ICF/IID level of care as defined in WAC 388-845-0070 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDA in a statewide database.

(3) For the children's intensive in-home behavioral support (CIIBS) waiver only, if you are assessed as meeting both ICF/IID level of care and CIIBS eligibility as defined in WAC 388-845-0030 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDA in a statewide database.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0050, filed 11/26/13, effective 1/1/14. Statutory Authority:

RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0050, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0050, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0050, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0050, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0070 What determines if I need ICF/IID level of care? DDA determines if you need ICF/IID level of care based on your need for waiver services. To reach this decision, DDA uses the DDA assessment as specified in chapter 388-828 WAC.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0070, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0070, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0070, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0070, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0110 What are the limits to the waiver services you may receive? The following limits apply to the waiver services you may receive:

(1) A service must be available in your waiver and address an unmet need identified in your person-centered service plan.

(2) Stabilization services may be added to your person-centered service plan after the services have been provided.

(3) Waiver services are limited to services required to prevent placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(4) The daily cost of your waiver services must not exceed the average daily cost of care in an ICF/IID.

(5) Waiver services must not replace or duplicate other available paid or unpaid supports or services. Before DDA will cover a service through waiver services, you must first request and be denied all applicable covered benefits through private insurance, medicare, the medicaid state plan, and other resources.

(6) Waiver funding must not be authorized for treatments determined by DSHS to be experimental or investigational under WAC 182-531-0050.

(7) For the individual and family services (IFS) waiver, basic plus waiver, and children's intensive in-home behavioral support waiv-

er, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.

(8) Your choice of qualified providers and services is limited to the most cost-effective option that meets your unmet need identified in your person-centered service plan.

(9) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care (~~(and personal care)~~) during vacations of not more than (~~(thirty)~~) 30 consecutive days.

(10) You may receive services in a recognized out-of-state bordering city under WAC 182-501-0175.

(11) Other out-of-state waiver services require an approved exception to rule before DDA will authorize payment.

(12) Waiver services do not cover:

- (a) Copays;
- (b) Deductibles;
- (c) Dues;
- (d) Membership fees; or
- (e) Subscriptions.

(13) Waiver services do not cover a product unless the product is:

- (a) The most basic model of the product available that can meet your health and safety need related to your intellectual or developmental disability;
- (b) The least restrictive means for meeting that need; and
- (c) Requested by you.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0110, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0110, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0110, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0110, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0110, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0110, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0111 Are there limitations regarding who can provide services? The following limitations apply to providers for waiver services:

(1) Your spouse must not be your paid provider for any waiver service.

(2) If you are under age (~~(eighteen)~~) 18, your natural, step, or adoptive parent must not be your paid provider for any waiver service.

(3) If you are age (~~(eighteen)~~) 18 or older, your natural, step, or adoptive parent must not be your paid provider for any waiver service with the exception of:

~~((a) Personal care;))~~

~~((b))~~ (a) Transportation to and from a waiver service;

~~((e))~~ (b) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or

~~((d))~~ (c) Respite care if you and the parent who provides the respite care live in separate homes.

(4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:

- (a) Transportation to and from a waiver service; and
- (b) Respite per WAC 388-845-1605 through 388-845-1620.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0111, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0111, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0111, filed 9/26/07, effective 10/27/07.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0210 What services are available under the basic plus waiver? The following services are available under the basic plus waiver:

SERVICE	YEARLY LIMIT
AGGREGATE SERVICES:	
<u>Assistive technology</u>	Total costs must not exceed ((six thousand one hundred ninety-two dollars)) <u>\$6,192</u> per year per participant
Extermination of cimex lectularius (bedbugs)	
Community engagement	
Environmental adaptations	
Occupational therapy	
Physical therapy	
((Positive behavior support and consultation	
Skilled nursing	
Specialized equipment and supplies	
Specialized habilitation	
Speech, hearing, and language services	
Staff and family consultation	
Transportation	
Wellness education	

SERVICE	YEARLY LIMIT
Therapeutic adaptations	Limited to a single one-time authorization every five years and limited to funds available in the client's aggregate and emergency funding
EMPLOYMENT SERVICES: Individual technical assistance Supported employment Community inclusion	Limits determined by DDA assessment and employment status Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by ((a)) the person-centered service plan
Respite care	Limits determined by DDA assessment
Risk assessment	Limits determined by DDA
Community engagement Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support)) Specialized equipment and supplies Speech, hearing, and language services Skilled nursing Staff and family consultation Transportation	((Six thousand dollars)) \$6,000 per year for emergency assistance funding

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0210, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0210, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0210, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0210, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0210, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-0210, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.120. WSR 07-05-014, § 388-845-0210, filed 2/9/07, effective 3/12/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0210, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0215 What services are available under the core waiver? (1) The following services are available under the core waiver:

SERVICE	YEARLY LIMIT
Assistive technology Extermination of cimex lectularius (bedbugs) Community engagement Community transition Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support and consultation)) Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies <u>Specialized habilitation</u> Speech, hearing, and language services Staff and family consultation <u>Supported parenting</u> Transportation Wellness education	Determined by the person-centered service plan
((Specialized habilitation	Limited to four thousand dollars per waiver year))
EMPLOYMENT SERVICES: Individualized technical assistance Supported employment	Limits determined by DDA assessment and employment status
Community inclusion	Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan
Respite care	Limits determined by DDA assessment

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0215, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0215, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0215, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0215, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0215, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0215, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0220 What services are available under the community protection waiver? (1) The following services are available under the community protection waiver:

SERVICE	YEARLY LIMIT
<u>Assistive technology</u> Extermination of cimex lectularius (bedbugs) Community transition Environmental adaptations Occupational therapy Physical therapy Positive behavior support and consultation Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies <u>Specialized evaluation and consultation</u> Speech, hearing, and language services Staff and family consultation Transportation	Determined by the person-centered service plan
EMPLOYMENT SERVICES: Individual technical assistance Supported employment	Limits determined by DDA assessment and employment status

SERVICE	YEARLY LIMIT
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0220, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0220, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0220, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0220, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0220, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0220, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0225 What services are available under the children's intensive in-home behavioral support (CIIBS) waiver? (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Environmental adaptations Nurse delegation Specialized clothing Specialized equipment and supplies Specialized habilitation Staff and family consultation Transportation Vehicle modifications	((Fifteen thousand dollars)) \$15,000 per year for any combination of services
Respite care	Limits determined by the DDA assessment.

SERVICE	YEARLY LIMIT
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan
((Risk assessment Positive behavior support	Limits determined by DDA))
Environmental adaptations (Accessibility and repairs) Specialized habilitation Staff and family consultation Vehicle modifications	((Six thousand dollars)) \$6,000 per year for emergency assistance funding
Music therapy Equine therapy Peer mentoring Person-centered plan facilitation	((Five thousand dollars)) \$5,000 per year for combination of services
Therapeutic adaptations	Limited to a single, one-time authorization not to exceed ((fifteen thousand dollars)) \$15,000 every five waiver years

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0225, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0225, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0225, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0225, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0225, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0230 What services are available under the individual and family services (IFS) waiver? (1) The following services are available under the individual and family services (IFS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Community engagement Environmental adaptations Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy ((Positive behavior support and consultation)) Respite care Skilled nursing Specialized clothing Specialized equipment and supplies Specialized habilitation Speech, hearing, and language services Staff and family consultation Supported parenting services Transportation Vehicle modifications Wellness education	Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan
Therapeutic adaptations	Limited to a one-time authorization every five years and limited to funds available in the client's ((aggregate and emergency services)) <u>annual allocation</u>
Risk assessment	Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = ~~((one thousand two hundred dollars))~~ \$1,560;
- (b) Level 2 = ~~((one thousand eight hundred dollars))~~ \$2,340;
- (c) Level 3 = ~~((two thousand four hundred dollars))~~ \$3,120; or
- (d) Level 4 = ~~((three thousand six hundred dollars))~~ \$4,680.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0230, filed 9/20/21, effective 10/21/21; WSR 20-05-080, §

388-845-0230, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0230, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0230, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-0415 What is assistive technology? Assistive technology consists of items, equipment, or product systems, not related to a client's physical health, that are used to increase, maintain, or improve functional capabilities of waiver participants, increase safety, or increase social engagement in the community, as well as supports to directly assist the participant to select, acquire, and use the technology. Assistive technology is available (~~in the CIIBS and IFS~~) on all DDA HCBS waivers, and includes the following:

- (1) The evaluation of the needs of the waiver participant, including a functional evaluation of the participant in the participant's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for the participant and(~~+~~ ~~or~~) if appropriate, the participant's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise involved in the assistive technology related life functions of individuals with disabilities.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-0415, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0415, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0415, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0425 Are there limits to the assistive technology you may receive? The assistive technology you may receive has the following limits:

- (1) Assistive technology is limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

(2) Clinical and support needs for assistive technology must be identified in your DDA assessment and documented in the person-centered service plan.

(3) DDA requires a treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The treating professional has personal knowledge of and experience with the requested assistive technology; and

(b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation of your use of the equipment and determined its effectiveness in meeting your identified need.

(4) Assistive technology exceeding \$550 requires prior approval by the DDA regional administrator or designee.

(5) DDA may require a written second opinion from a DDA-selected professional.

(6) The dollar amounts for your individual and family services (IFS) waiver annual allocation limit the amount of assistive technology you are authorized to receive.

(7) Assistive technology excludes any item that is for recreational or diversion purposes such as a television, cable, or DVD player.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0425, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0425, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0425, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0425, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0425, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0425, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0500 What is positive behavior support and consultation? (1) Positive behavior support and consultation is ~~((available on all of the DDA HCBS waivers. A participant is eligible for positive behavior support and consultation if the participant is:~~

~~(a) Under age 21 and currently authorized to receive positive behavior support and consultation for the support of behavioral health or autism treatment when unable to access through the medicaid state plan; or~~

~~(b) On the community protection waiver and requires behavior support to address sexual aggression, arson, or assaultive behaviors which make the client eligible for the community protection waiver))~~ a service available only on the community protection waiver. Effective September 1, 2022, this service is no longer available on any other waiver.

(2) Positive behavior support and consultation includes the development and implementation of programs designed to support waiver participants using:

(a) Individualized strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, conducting a functional assessment, and development and implementation of a positive behavior support plan).

(3) Effective September 1, 2022, positive behavior support and consultation is available to a community protection waiver participant if the participant:

(a) Is currently authorized to receive positive behavior support and consultation; and

(b) Is receiving positive behavior support and consultation for the sexual aggression, arson, or assaultive behaviors that make the participant eligible for the community protection waiver.

(4) Effective September 1, 2022, a community protection participant currently receiving positive behavior support and consultation shall only be eligible for that service until the end of their waiver year.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0500, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0500, filed 6/20/18, effective 7/21/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0500, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0500, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0500, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0500, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0505 Who is a qualified provider of positive behavior support and consultation? Under the ((~~basic plus, core,~~) community protection (CP) waiver, ((~~and individual and family services (IFS) waivers,~~) the provider of positive behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered, or certified as a:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);

- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Counselor registered or certified under chapter 18.19 RCW; (~~((11) Polygrapher;))~~ or (~~((12))~~) (11) State-operated positive behavior support agency qualified to provide behavioral health stabilization services.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0505, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0505, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0505, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0505, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0505, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0510 Are there limits to the positive behavior support and consultation you may receive? (1) Clinical and support needs for positive behavior support and consultation must be identified in your DDA assessment and documented in the person-centered service plan.

(2) DDA determines the amount of positive behavior support and consultation you may receive based on your needs and information from your treating professional.

(3) (~~The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services (IFS) waiver limit the amount of service unless provided as a stabilization service.~~) Positive behavior support and consultation is closed to new enrollment effective September 1, 2022.

(4) DDA must not authorize positive behavior support and consultation for service dates on or after September 1, 2023.

(5) Effective September 1, 2022, a community protection participant currently receiving positive behavior support and consultation shall only be eligible for that service until the end of their waiver year.

(~~((4))~~) (6) DDA may require a second opinion from a DDA-selected provider.

(~~((5) Positive behavior support and consultation requires prior approval by the DDA regional administrator or designee for the following waivers:~~

~~(a) Basic plus;~~

~~(b) Core;~~

~~(c) Children's intensive in-home behavior support (CIIBS); and~~

~~(d) IFS.)~~

(~~((6) Positive behavior support and consultation services are limited to services:~~

~~(a) Consistent with waiver objectives of avoiding institutionalization; and~~

~~(b) That are not a covered benefit under the medicaid state plan.))~~

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0510, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0510, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0510, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0510, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0510, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0510, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0510, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0515 What is extermination of bedbugs? (1) Extermination of cimex lectularius (bedbugs) is professional extermination of bedbugs.

(2) DDA covers professional extermination of bedbugs in your primary residence if you:

(a) ~~((Receive residential habilitation services))~~ Live with a non-relative primary caregiver; or

(b) Live in a private house or apartment for which you are financially responsible.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0515, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0515, filed 6/20/18, effective 7/21/18.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0800 What is emergency assistance funding? Emergency assistance funding is a temporary increase of ~~((ninety))~~ 90 days or less to the yearly basic plus or CIIBS waiver aggregate dollar limit when additional waiver aggregate services under WAC 388-845-0820 are required to avoid placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0800, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0800, filed 6/20/18, effective 7/21/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0800, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0800, filed

9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0800, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0805 Who is a qualified provider of emergency assistance funding? The provider of the service you need to meet your emergency must meet the provider qualifications for that service.

[Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0805, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0810 How do I qualify for emergency assistance funding? You qualify for emergency assistance funding only if you have used all of your CIIBS or basic plus aggregate funding and your current situation meets one of the following criteria:

- (1) You involuntarily lose your present residence for any reason either temporary or permanent;
- (2) You lose your present caregiver for any reason, including death;
- (3) There are changes in your caregiver's mental or physical status resulting in the caregiver's inability to perform effectively for the individual; or
- (4) There are significant changes in your emotional or physical condition that requires a temporary increase in the amount of a waiver service.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0810, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0810, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0810, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0820 Are there limits to your use of emergency assistance funding? All of the following limits apply to the emergency assistance funding you may receive.

- (1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan to determine the need for emergency assistance.
- (2) Payment authorizations are reviewed every ((thirty)) 30 days and must not exceed ((six thousand dollars)) \$6,000 per ((twelve)) 12

months based on the effective date of your current person-centered service plan.

(3) Emergency assistance funding is limited to the following aggregate services when on the basic plus waiver:

- (a) Community engagement;
- (b) Environmental adaptations;
- (c) Occupational therapy;
- (d) Physical therapy;
- (e) Positive behavior support and consultation;
- (f) Skilled nursing;
- (g) Specialized equipment and supplies;
- (h) Speech, hearing, and language services;
- (i) Staff and family consultation, which excludes individual and family counseling;
- (j) Transportation; and
- (k) Therapeutic adaptations.

(4) Emergency assistance funding is limited to the following services when on the CIIBS waiver:

- (a) Environmental adaptations;
- (b) Specialized habilitation;
- (c) Staff and family consultation; and
- (d) Vehicle modifications.

(5) Emergency assistance funding may be used for interim services until:

- (a) The emergency situation has been resolved;
- (b) You are transferred to alternative supports that meet your assessed needs; or
- (c) You are transferred to an alternate waiver that provides the service you need.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0820, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0820, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0820, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0820, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0820, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0820, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0900 What are environmental adaptations? (1) Environmental adaptations provide minimum necessary physical adaptations to the existing home and existing rooms within the home required by the individual's person-centered service plan needed to:

- (a) Ensure the health, welfare, and safety of the individual;
- (b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home; and

(c) Increase the individual's independence inside or outside the home to allow the individual to physically enter and move within the home.

(2) Examples of environmental adaptations include installing stair lifts, installing ramps and grab bars, widening doorways, modifying the individual's primary bathroom, or installing specialized electrical or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Environmental adaptations are available in all of the DDA HCBS waivers.

(4) Only the children's intensive in-home behavioral support (~~((CIIBS) and~~), individual and family services (~~((IFS))~~), core, and community protection waivers may include adaptations to the home necessary to prevent or repair damage to the structure of the home caused by the participant's behavior, as addressed in the participant's behavior support plan.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0900, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0900, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0900, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0900, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0900, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0900, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0900, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0900, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0900, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0940 Are there limits to the equine therapy I may receive? The following limits apply to your receipt of equine therapy:

(1) Support needs for equine therapy are limited to those identified in your DDA assessment and documented in the person-centered service plan.

(2) The department requires your behavior specialist's written recommendation regarding your need for the service. This recommendation must take into account that the service is expected to complement the existing behavior support plan to address behavior support needs.

~~((3) Equine therapy requires prior approval by the DDA regional administrator or designee.))~~

~~((4))~~ (3) DDA may require a second opinion by the department-selected provider.

~~((5))~~ (4) Equine therapy services must not exceed the CIIBS combined specialized-hourly services allocation of ~~((five thousand dollars))~~ \$5,000 per ~~((plan))~~ waiver year.

~~((6))~~ (5) Equine therapy services must not be used to provide hippotherapy, which is an occupational therapy service.

~~((7))~~ (6) The department reserves the right to terminate the authorization for equine therapy services if there is not a demonstrable improvement in behavior as documented by the contracted equine therapist or other treatment provider.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0940, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-1030 What are individualized technical assistance services? Individualized technical assistance services:

(1) Provide short-term, professional expertise to identify and address barriers to employment services or community inclusion; and

(2) Are available in addition to supports received through supported employment services and community inclusion for an individual who has not yet achieved his or her goal.

[Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c)(4)-(5). WSR 18-03-174, § 388-845-1030, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1030, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-1030, filed 8/1/12, effective 9/1/12.]

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-1040 Are there limits to the individualized technical assistance services you may receive? (1) The developmental disabilities administration (DDA) may authorize a maximum of ~~((three))~~ six months of individualized technical assistance services at a time, not to exceed six months in the ~~((plan))~~ waiver year.

(2) Individualized technical assistance services are available on the basic plus, core, and community protection waivers.

(3) Individualized technical assistance services are available only to ~~((individuals))~~ clients who are receiving supported employment or community inclusion services ~~((, unless approved by the regional administrator or his or her designee))~~.

(4) Individualized technical assistance services are limited to additional hours under WAC 388-828-9355 and 388-828-9360.

[Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c)(4)-(5). WSR 18-03-174, § 388-845-1040, filed 1/23/18, effective 2/23/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1040, filed 8/4/16, effective 9/4/16. Statutory

Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1040, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-1040, filed 8/1/12, effective 9/1/12.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1163 Are there limits to the music therapy I may receive? The following limits apply to your receipt of music therapy:

(1) Support needs for music therapy are limited to those identified in your DDA assessment and documented in the person-centered service plan.

(2) The department requires your behavior specialist's written recommendation regarding your need for the service. This recommendation must take into account that music therapy is expected to complement the existing behavior support plan to address behavior support needs.

~~((3) Music therapy requires prior approval by the DDA regional administrator or designee.))~~

~~((4))~~ (3) DDA may require a second opinion by a department-selected provider.

~~((5))~~ (4) Music therapy must not exceed the CIIBS combined specialized-hourly services allocation of ~~((five thousand dollars))~~ \$5,000 per year.

~~((6))~~ (5) The department reserves the right to terminate the service authorization for music therapy if there is not a demonstrable improvement in behavior as documented by the certified music therapist or other treatment provider.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1163, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-1190 What is peer mentoring? (1) Peer mentoring is a form of mentorship that takes place between a person who has lived through an experience (peer mentor) and a person who is new to that experience (mentee). Peer mentors use their experience to inform, support, and train mentees to successfully navigate new experiences related to or impacted by their disability.

(2) A peer mentor may provide support and guidance to a waiver participant and the participant's family.

(3) A peer mentor may connect a waiver participant to local community services, programs, and resources and answer participant questions or suggest other sources of support.

(4) Peer mentoring is available in the IFS and CIIBS waivers.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-1190, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and

71A.12.120. WSR 16-17-009, § 388-845-1190, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-1192 What limits apply to peer mentoring? (1) Support needs for peer mentoring are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) DDA does not contract with a peer mentor to mentor a member of the mentor's own family.

(3) A waiver participant's peer mentoring services are limited to the participant's annual IFS waiver allocation.

(4) A CIIBS waiver participant's peer mentoring services are limited to the funding available in their CIIBS funding allocation under WAC 388-845-0225.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-1192, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1192, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1195 What is person-centered plan facilitation? (1) Person-centered plan facilitation is an approach to forming life plans that is centered on the individual. It is used as a life planning process to enable individuals with disabilities to increase personal self-determination. Person-centered plan facilitation is available in the IFS and CIIBS waivers.

(2) Person-centered plan facilitation typically includes:

(a) Identifying and developing a potential circle of people who know and care about the individual;

(b) Exploring what matters to the waiver participant by listening to and learning from the person;

(c) Developing a vision for a meaningful life, as defined by the waiver participant, which may include goals for education, employment, housing, relationships, and recreation;

(d) Discovering capacities and assets of the waiver participant, and his or her family, neighborhood, and support network;

(e) Generating an action plan; and

(f) Facilitating follow-up meetings to track progress toward goals.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1195, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1197 What limitations are there for person-centered plan facilitation? (1) Support needs for person-centered planning facilitation are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Person-centered plan facilitation may include follow up contacts with the waiver participant and his or her family to consult on plan implementation.

(3) ~~((The dollar amounts for the waiver participants' annual allocation in the IFS waiver limit the amount of person-centered plan facilitation service the individual is authorized to receive.))~~ An IFS waiver participant's person-centered plan facilitation is limited to the participant's annual allocation.

(4) A CIIBS waiver participant's person-centered plan facilitation is limited to the funding available in their CIIBS funding allocation under WAC 388-845-0225.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1197, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1197, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1660 Are there limits to the risk assessment you may receive? (1) Clinical and support needs for a risk assessment are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(2) A risk assessment must meet requirements under WAC ~~((246-930-320))~~ 388-831-0060.

(3) A risk assessment requires prior approval by the DDA regional administrator or designee.

(4) The cost of a risk assessment does not count toward the:

(a) Dollar limit for aggregate services in the basic plus waiver;

(b) Annual allocation in the individual and family services waiver; or

(c) ~~((Monthly average cost limit))~~ Aggregate budget amounts available in the children's intensive in-home behavior support waiver.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1660, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1660, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1660, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-1660, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-1660, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1660, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1810 Are there limits to the specialized equipment and supplies you may receive? The following limits apply to the specialized equipment and supplies you may receive:

(1) Habilitative support needs for specialized equipment and supplies are limited to those identified in your DDA person-centered assessment and documented in your person-centered service plan.

(2) Specialized equipment and supplies over \$550 require prior approval by the DDA regional administrator or designee (~~for each authorization~~).

(3) When your medical professional recommends specialized equipment and supplies for you, DDA may require a second opinion by a DDA-selected provider.

(4) Items must be of direct medical or remedial benefit to you or required to prevent institutionalization and necessary as a result of your disability.

(5) Items requested to address a sensory integration need must have an accompanying therapeutic plan written by a current treating professional.

~~((5))~~ (6) Medications, first aid supplies, antiseptic supplies, personal hygiene products, supplements, and vitamins are excluded.

~~((6))~~ (7) The dollar amounts for aggregate services in your basic plus or CIIBS waiver limit the amount of service you may receive.

~~((7))~~ (8) The dollar amounts for your annual allocation in your individual and family services (IFS) waiver limit the amount of service you may receive.

~~((8))~~ (9) Items excluded from specialized equipment and supplies include:

(a) Items of general utility; and

(b) Nonspecialized recreational or exercise equipment, including but not limited to trampolines, treadmills, swing sets, and hot tubs.

~~((9))~~ (10) Specialized equipment and supplies are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1810, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-1810, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1810, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1810, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1810, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-1810, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1810, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1865 Are there limits to your receipt of specialized clothing? (1) The following limits apply to specialized clothing you may receive:

(a) Clinical and support needs for specialized clothing are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(b) DDA requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

(c) DDA may require a second opinion from a DDA-selected provider.

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

(3) For the CIIBS waiver, the dollar amount for your aggregate services limits the amount of service you may receive.

~~((3))~~ (4) You must receive prior approval from the DDA regional administrator or designee to receive specialized clothing.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1865, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1865, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1890 Are there limits to the specialized habilitation I may receive? The following limits apply to your receipt of specialized habilitation:

(1) Specialized habilitation is limited to address a maximum of three goals at a time.

(2) Specialized habilitation support needs must be identified in your DDA assessment and specialized habilitation must be documented in your person-centered service plan.

(3) Specialized habilitation must not exceed:

~~((a) Four thousand dollars of your basic plus aggregate funding; or~~

~~((b))~~ (a) Your IFS annual allocation in combination with other waiver services; or

~~((c) Fifteen thousand dollars)~~ (b) \$15,000 within your total CIIBS aggregate budget and ~~((six thousand dollars))~~ \$6,000 emergency assistance funding when eligible per WAC 388-845-0800 and 388-845-0820.

(4) Specialized habilitation does not cover education, vocational, skills acquisition training through community first choice, behavioral health, ABA, skilled nursing, occupational therapy, physical therapy, or speech, language, and hearing services that are covered benefits through the medicaid state plan, including early and periodic screening, diagnosis, and treatment, and part B special education services.

(5) Specialized habilitation must not be authorized to clients enrolled in residential habilitation.

(6) Habilitation plans must be documented as formal plans as outlined in the provider's contract.

(7) Specialized habilitation, not provided as a stabilization service, requires prior approval by the DDA regional administrator or designee.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1890, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2000 What is staff and family consultation? (1)

Staff and family consultation is assistance, not covered by the medic-aid state plan, to families or direct service providers to help them meet the individualized and specific needs of a participant as outlined in the participant's person-centered service plan and necessary to improve the participant's independence and inclusion in their community.

(2) Staff and family consultation is available in all DDA HCBS waivers.

(3) Staff and family consultation is consultation and guidance to a staff member or family member about one or more of the following:

(a) Health and medication monitoring to track and report to healthcare provider;

(b) Positioning and transfer;

(c) Basic and advanced instructional techniques;

(d) Consultation with potential referral resources;

(e) Augmentative communication systems;

(f) Diet and nutritional guidance;

(g) Disability information and education;

(h) Strategies for effectively and therapeutically interacting with the participant;

(i) Environmental consultation;

(j) Assistive technology safety;

(k) Parenting skills; and

~~((k) An existing plan of care; and)~~

(l) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2000, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-2000, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-2000, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2000, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2000, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-2000, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-2000, filed 11/1/10, ef-

fective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2000, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2000, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2005 Who is a qualified provider of staff and family consultation? To provide staff and family consultation, a provider must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech-language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American Sign Language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- ~~((17) Providers listed in WAC 388-845-0506 and contracted with DDA to provide CIIBS intensive services;))~~
- ~~((18))~~ (17) Certified music therapist (for CIIBS only);
- ~~((19))~~ (18) Psychiatrist;
- ~~((20))~~ (19) Professional advocacy organization;
- (20) DDA-contracted specialized habilitation provider; or
- (21) Teacher certified under chapter 181-79A WAC.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2005, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-2005, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2005, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2005, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-2005, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1) (i), and Title 71A RCW. WSR 10-22-088, § 388-845-2005, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2005, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2005, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2010 Are there limits to the staff and family consultation you may receive? (1) Staff and family consultation are limited to supports identified in your DDA assessment and documented in the person-centered service plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff and family consultation.

(3) The dollar amounts for aggregate service in your basic plus or CIIBS waiver or the dollar amount of the annual allocation in your individual and family services (IFS) waiver limit the amount of staff and family consultation you may receive.

(4) (~~Under the basic plus waiver, i~~) Individual and family counseling is limited to family members who:

(a) Live with the participant; and

(b) Have been assaulted by the participant and the assaultive behavior was:

(i) Documented in the participant's person-centered service plan; and

(ii) Addressed in the participant's positive behavior support plan or therapeutic plan.

(5) Staff and family consultation does not provide training or consultation necessary to meet a provider's or staff's contractual licensing or certification requirements or to complete the necessary functions of their job.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2010, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-2010, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-2010, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2010, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2010, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2010, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2010, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2130 What are supported parenting services? (1) Supported parenting services are professional services offered to participants who are parents or expectant parents.

(2) Services may include teaching, parent coaching, and other supportive strategies in areas critical to parenting, including child development, nutrition and health, safety, child care, money management, time and household management, and housing.

(3) Supported parenting services are designed to build parental skills around the child's developmental domains of cognition, language, motor, social-emotional, and self-help.

(4) Supported parenting services are offered in the Core and IFS waivers.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2130, filed 8/4/16, effective 9/4/16.]

NEW SECTION

WAC 388-845-2141 What is specialized evaluation and consultation? (1) Specialized evaluation and consultation is direct, individualized, rehabilitative skill building support in the areas of sex education, fire safety, social skills training, and understandings of laws, rights, and responsibilities.

(2) Supports are provided in order to support a client to reduce the likelihood of:

(a) Fire setting; or

(b) Sexual or physical assault in the home and community.

(3) Supports must be used to promote safe engagement and participation in the community.

(4) Supports may be provided in an individual or group setting and includes a special needs evaluation to identify client goals and the specific support needs in order to reach those goals.

(5) Services must assist a client to learn to maintain skills using individual or group supports, treatment team participation, and plan writing.

(6) Specialized evaluation and consultation is available on the community protection waiver.

[]

NEW SECTION

WAC 388-845-2142 Who are qualified providers of specialized evaluation and consultation services? All specialized evaluation and consultation providers must be contracted with DDA and:

(1) Be licensed, registered, or certified in Washington state according to the standards of their approved profession in Title 18 RCW and Title 246 WAC; or

(2) Have a bachelor's degree or higher in social services and at least three years of prior experience working with individuals with developmental disabilities who engage in challenging behaviors.

[]

NEW SECTION

WAC 388-845-2143 What are the limits to specialized evaluation and consultation services? The following limits apply to your receipt of specialized evaluation and consultation:

- (1) You must be enrolled on the community protection waiver.
- (2) Specialized evaluation and consultation support needs must be identified in your DDA assessment and must be documented in your person-centered service plan.
- (3) Specialized evaluation and consultation is limited to services that are:
 - (a) Consistent with waiver objectives of avoiding institutionalization; and
 - (b) Not a covered benefit under the medicaid state plan.
- (4) This service must not replace one-on-one, group, or other treatments to address a mental health condition which are covered by the medicaid state plan.

[]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2210 Are there limitations to the transportation services you can receive? The following limitations apply to transportation services:

- (1) Support needs for transportation services are limited to those identified in your DDA assessment and documented in your person-centered service plan.
- (2) Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.
- (3) Transportation does not include the purchase of a bus pass.
- (4) Reimbursement for provider mileage requires prior authorization by DDA and is paid according to contract.
- (5) This service does not cover the purchase or lease of vehicles.
- (6) Reimbursement for provider travel time is not included in this service.
- (7) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.
- (8) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.
- (9) The dollar limitations for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.
- ~~((10) If your individual waiver personal care provider uses his or her own vehicle to provide transportation to you for essential shopping and medical appointments as a part of your personal care service, your provider may receive up to one hundred miles per month in mileage reimbursement. If you work with more than one individual personal care provider, your limit is still a total of one hundred miles per month. This cost is not counted toward the dollar limitation for aggregate services in the basic plus waiver.))~~

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2210, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2210, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2210, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-2210, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-2210, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2210, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2260 What are vehicle modifications? (1) Vehicle modifications are adaptations or alterations to a vehicle required in order to accommodate the unique needs of the participant, enable full integration into the community, and ensure the health, welfare, and safety of the participant or the safety of a caregiver.

(2) Vehicle modifications over \$550 require prior approval from the DDA regional administrator or designee.

(3) Examples of vehicle modifications include:

- (a) Manual hitch-mounted carrier and hitch for all wheelchair types;
- (b) Wheelchair cover;
- (c) Wheelchair strap-downs;
- (d) Portable wheelchair ramp;
- (e) Accessible running boards and steps;
- (f) Assist poles and grab handles((-)) ;
- (g) Power activated carrier for all wheelchair types;
- (h) Permanently installed wheelchair ramps;
- (i) Repairs and maintenance to vehicular modifications as needed for client safety; and
- (j) Other access modifications.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2260, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-2260, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 16-05-053, filed 2/11/16, effective 3/13/16)

WAC 388-845-2290 Who are qualified providers of wellness education? The wellness education provider must have the ability and resources to:

- (1) Receive and manage client data in compliance with all applicable federal ((HIPPA)) HIPAA regulations, state law and rules, and ensure client confidentiality and privacy;

- (2) Translate materials into the preferred language of the participant;
- (3) Ensure that materials are targeted to the participant's assessment and person-centered service plan;
- (4) Manage content sent to participants to prevent duplication of materials;
- (5) Deliver newsletters and identify any undeliverable client/representative addresses prior to each monthly mailing and manage any returned mail in a manner that ensures participants receive the monthly information; and
- (6) Contract with AL TSA or DDA to provide this service.

[Statutory Authority: RCW 71A.12.030. WSR 16-05-053, § 388-845-2290, filed 2/11/16, effective 3/13/16.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the basic plus waiver?

- (1) If you are on the basic plus waiver and your assessed need for services exceeds the maximum permitted, DDA will make the following efforts to meet your health and welfare needs:
 - (a) Identify more available natural supports;
 - (b) Initiate an exception to rule to access available nonwaiver services not included in the basic plus waiver other than natural supports;
 - (c) Authorize emergency assistance funding up to ((~~six thousand dollars~~)) \$6,000 per year if your needs meet the definition of emergency assistance funding in WAC 388-845-0800.
- (2) If emergency assistance funding and other efforts are not sufficient to meet your needs, you will be offered:
 - (a) An opportunity to apply for an alternate waiver that has the services you need;
 - (b) Priority for placement on the alternative waiver when there is capacity to add people to that waiver;
 - (c) Placement in an ICF/IID.
- (3) If none of the options in subsections (1) and (2) ((~~above~~)) in this section is successful in meeting your health and welfare needs, DDA may terminate your waiver eligibility.
- (4) If you are terminated from a waiver, you will remain eligible for nonwaiver DDA services but access to state-only funded DDA services is limited by availability of funding.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-3080, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-3080, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-3080, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-4000 What are my appeal rights under the waiver? In addition to your appeal rights under WAC 388-825-120, you have the right to appeal the following decisions:

- (1) Disenrollment from a waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver.
- (2) A denial of your request to receive ICF/IID services instead of waiver services; or
- (3) A denial of your request to be enrolled in a waiver, subject to the limitations described in WAC 388-845-4005.

[Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-4000, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-4000, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-4000, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide database due to the following:

- (a) You do not need ICF/IID level of care per WAC 388-845-0070, 388-828-8040, and 388-828-8060; or
 - (b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.
- (2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:
- (a) DDA's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and that the services available on your current waiver can meet your health and welfare needs; or
 - (b) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(3) If DDA determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to appeal any denial of enrollment on a different waiver when DDA determines there is not capacity to enroll you on a different waiver.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-4005, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-4005, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i),

and Title 71A RCW. WSR 10-22-088, § 388-845-4005, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-4005, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-4005, filed 12/13/05, effective 1/13/06.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|---|
| WAC 388-845-0501 | What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? |
| WAC 388-845-0506 | Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? |

WSR 23-03-010

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed January 6, 2023, 10:20 a.m., effective January 6, 2023, 10:20 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510, and 246-841-555. The nursing care quality assurance commission (commission) is amending specific training requirements for nursing assistant certified (NAC) and nursing assistant registered (NAR) in response to the coronavirus disease 2019 (COVID-19) pandemic and the critical demand for health care professionals. Because a federal public health emergency is set to be in effect until at least January 2023, this extension will continue to reduce the burden on practitioners through the end of the federal public health emergency.

The rules in chapter 246-841 WAC provide regulatory requirements for NACs and NARs. These emergency rules allow additional pathways to complete necessary training to enter the workforce. This is the ninth emergency rule and follows the emergency rules that were filed on September 9, 2022, under WSR 22-19-007. This filing differs from the previous filing. Nonsubstantive technical changes were made to remove the web address for the department of health website from WAC 246-841-470, 246-841-510, and 246-841-555. This was done to avoid confusion as the commission has recently published its own website. Prior filings were under WSR 20-14-066 beginning in June 2020, continuing under WSR 20-22-023, 21-04-004, 21-12-011, 21-19-091, 22-03-055, and 22-11-049.

Citation of Rules Affected by this Order: Amending WAC 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510, and 246-841-555.

Statutory Authority for Adoption: RCW 18.88A.060.

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 immediate amendment of existing rules is necessary for the preservation of public health, safety, and general welfare. Continued demand for health care professionals, especially qualified nursing assistants, and barriers to nursing assistant training impacts the inflow of a needed health care workforce. COVID-19 has impacted nursing assistant training by delaying access to clinical training due to restrictions on in-person training opportunities. Amendments allow program directors to award clinical hours for NAR work, NAR volunteer experiences, and planned simulation. Awarding clinical practice hours for these pathways allows additional opportunities for NAC students to complete training and enter the workforce. Amendments to the current language allow the commission to survey online classroom settings, which is essential to ensure that appropriate training is being provided. These amendments assure [ensure] that programs have adequate resources to implement these new allowances and that they document all related activities appropriately. All these actions will result in increasing the quantity of health care professionals able to respond to current demands. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests.

The commission is engaged in permanent rule making to consider adopting a number of these emergency amendments as permanent rules. A notice of intent to begin rule making was filed on February 8, 2021, under WSR 21-05-021. The commission is currently hosting rule workshops to discuss potential rule language.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, 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 6, 2023.

Paula R. Meyer, RN, MSN, FRE
Executive Director

OTS-2953.6

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-420 Requirements for approval of nursing assistant-certified training programs. To qualify as a nursing assistant-certified training program, an institution or facility must:

(1) Submit a completed application packet provided by the department of health. The packet will include forms and instructions to submit the following:

(a) Program objectives.

(b) Curriculum content outline.

(c) Qualifications of program director and additional instructional staff.

(d) Contractual agreements related to providing this training.

For any program that uses another facility to provide clinical training, this includes an affiliation agreement between the training program and the facility. The affiliation agreement must describe how the program will provide clinical experience in the facility. The agreement must specify the rights and responsibilities of both parties, students and clients or residents.

(e) Sample lesson plan for one unit.

(f) Skills checklist.

(g) Description of classroom facilities.

(h) Declaration of compliance with administrative guidelines signed by the program director.

(i) Verification that the program director has completed a course on adult instruction as required by WAC 246-841-470(3) or has one year of experience in the past three years teaching adults. Acceptable ex-

perience does not include in-service education or patient teaching. A program director working exclusively in a postsecondary educational setting is exempt from this requirement.

(j) Verification that the nursing assistant-certified training program or school is approved to operate in the state of Washington by:

- (i) The state board for community and technical colleges;
- (ii) The superintendent of public instruction; or
- (iii) The workforce training and education coordinating board.

(2) Agree to on-site survey of the training program(~~(7)~~) or on-line survey of the approved online classes as requested by the commission. This on-site will be coordinated with other on-site review requirements when possible.

(3) Participate in the renewal process every two years. Failure to renew results in automatic withdrawal of approval of the program.

(4) Comply with any changes in training standards and guidelines in order to maintain approved status.

(5) Notify the commission and any other approving agency of any changes in overall curriculum plan or major curriculum content changes prior to implementation.

(6) Notify the commission and any other approving agency of changes in program director or instructors.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-420, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-07-049 (Order 116B), recodified as § 246-841-420, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-230, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-470 Program directors and instructors in approved nursing assistant-certified training programs. (1) The program director must hold a current license in good standing as a registered nurse (RN) in the state of Washington.

(2) The commission may deny or withdraw a program director's approval if there is or has been any action taken against the director's health care license or any license held by the director which allows him or her to work with vulnerable populations.

(3) The program director must complete a training course on adult instruction or have demonstrated that he or she has one year experience teaching adults.

(a) Acceptable experience does not include in-service education or patient teaching.

(b) The training course on adult instruction must provide instruction in:

- (i) Understanding the adult learner.
- (ii) Techniques for teaching adults.
- (iii) Classroom methods for teaching adults.
- (iv) Audio visual techniques for teaching adults.

(c) A program director working exclusively in a postsecondary educational setting is exempt from this requirement.

(4) The program director will have a minimum of three years of experience as an RN, of which at least one year will be in direct patient care.

(5) The program director must meet the requirements for additional staff under subsection (7)(b) of this section if the program director will also be acting as an instructor.

(6) Program director responsibilities:

(a) Develop and implement a curriculum which meets as a minimum the requirements of WAC 246-841-490. The program director is responsible for all classroom and clinical training content and instruction provided by the training program. The clinical experience may occur in a health care facility or it may occur through planned simulation in the training program's skills lab in accordance with the requirements included in WAC 246-841-490.

(b) Assure compliance with and assume responsibility for meeting the requirements of WAC 246-841-490 through 246-841-510.

(c) Assure that all student clinical experience is directly supervised. Direct supervision means that an approved program director or instructor is observing students performing tasks. As an alternative, the program director may also award clinical hours' credit for nursing assistant-registered (NAR) employment or volunteer experience completed under the supervision of a licensed nurse in a care facility with competency demonstrated and documented in accordance with the commission procedure and form "Nursing Assistant-Registered (NAR) Verification of Clinical Hours and Competency," available by request to the commission. It is the program director's responsibility to verify that each student's employment or volunteer experience meets the qualifying standards included in WAC 246-841-490.

(d) Assure that the clinical instructor has no concurrent duties during the time he or she is instructing students.

(e) Create and maintain an environment conducive to teaching and learning.

(f) Select and supervise all other instructors involved in the course, including clinical instructors and guest lecturers.

(g) Assure that students are not asked to, nor allowed to, perform any clinical skill with patients or clients or in simulation activities until first demonstrating the skill satisfactorily to an instructor in a ((practice setting)) skills lab setting. As an alternative, a program director may provide students with instruction regarding the NAR employment or volunteer pathway and how to demonstrate competency and have competency documented under the supervision of a licensed nurse in a care facility in accordance with WAC 246-841-470 (6)(c).

(h) Assure evaluation of knowledge and skills of students before verifying completion of the course.

(i) Assure that students receive a verification of completion when requirements of the course have been satisfactorily met.

(7) The program director may select instructional staff to assist in the teaching of the course.

(a) Instructional staff must teach in their area of expertise.

(b) Instructional staff must have a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age or both.

(c) All instructional staff must hold a current Washington state license to practice as a registered or licensed practical nurse. The commission may deny or withdraw an instructor's approval if there is or has been any action taken against a health care license or any li-

cense held by the applicant which allows him or her to work with vulnerable populations.

(d) Instructional staff may assist the program director in development of curricula, teaching modalities, and evaluation. The instructor will be under the supervision of the program director at all times.

(e) A guest lecturer, or individual with expertise in a specific course unit may be used in the classroom setting for teaching without commission approval, following the program director's review of the currency of content. The guest lecturer, where applicable, must hold a license, certificate or registration in good standing in their field of expertise.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-470, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-23-077 (Order 214B), § 246-841-470, filed 11/19/91, effective 12/20/91; WSR 91-07-049 (Order 116B), redefined as § 246-841-470, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-260, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-841-490 Core curriculum in approved nursing assistant-certified training programs. (1) The curriculum must be competency based. It must be composed of learning objectives and activities that will lead to knowledge and skills required for the graduate to demonstrate mastery of the core competencies as provided in WAC 246-841-400.

(2) The program director will determine the amount of time required in the curriculum to achieve the objectives. The time designated may vary with characteristics of the learners and teaching or learning variables. There must be a minimum of eighty-five hours total, with a minimum of thirty-five hours of classroom training and a minimum of fifty hours of clinical training.

(a) Of the fifty hours of clinical training, at least forty clinical hours must be in the (~~practice setting~~) a health care facility or completed through planned simulation in the training program's skills lab.

(b) Training to orient the student to the health care facility (~~and~~), facility policies and procedures, planned simulation, and simulation policies and procedures are not to be included in the minimum hours above.

(c) Planned simulation as used in this section means a technique to replace or amplify real experiences with guided experiences evoking or replicating substantial aspects of the real world in a fully interactive manner. The requirements for training programs to offer planned simulation include:

(i) Nursing assistant training programs may use planned simulation activities as a substitute for traditional clinical experiences in health care facilities after submitting a request on a form provided by the commission and receiving approval from the commission.

(ii) For the purposes of planned simulation activities, the skills lab of the training program represents a health care facility

with students acting in a variety of roles in predeveloped scenarios that provide opportunities for students to demonstrate nursing assistant competencies as they would in a traditional clinical experience in a health care facility. Examples of roles students may play include: The nursing assistant providing care; another member of the health care team; a client or resident; a client's or resident's loved one. Simulated health care facility scenarios include, at a minimum: Policies and procedures for students to follow; a cadre of diverse clients or residents and their care plans; and opportunities to participate in shift reports, respond to and communicate status changes to the nurse, and document appropriately.

(iii) A written plan exists for each planned simulation activity and includes specific nursing assistant competencies identified as objectives. The written plan also includes a summary of the care situation or scenario and the various roles students will play in the scenario; and the time allotted for the planned simulation activity, including time for debriefing.

(iv) Debriefing is a critical component of planned simulation activities that helps students to learn from their clinical experiences. Debriefing is facilitated by the program instructor or director in a way that encourages active discussion and reflective thinking by students and provides relevant instructor and peer feedback regarding simulation events and participants' performance.

(v) Planned simulation activities reflect an array of objectives and care scenarios to support adequate evaluation of each student's competency in the nursing assistant role as reflected in WAC 246-841-400.

(vi) Documentation exists as a record of the evaluation of each student's performance in planned simulation activities.

(vii) The nursing assistant training program shall have adequate human and material resources to implement planned simulation activities, including adequate space, equipment, and supplies.

(viii) An approved program instructor or the program director must supervise and evaluate planned simulation activities. A guest lecturer may not supervise or evaluate planned simulation activities.

(ix) The nursing assistant training program obtains anonymous written student evaluations of the planned simulation activities at the end of each class and demonstrates use of student feedback for on-going quality improvement efforts as needed.

(3) Each unit of the core curriculum will have:

(a) Behavioral objectives, which are statements of specific observable actions and behaviors that the learner is to perform or exhibit.

(b) An outline of information the learner will need to know in order to meet the objectives.

(c) Learning activities such as lecture, discussion, readings, film, or clinical practice designed to enable the student to achieve the stated objectives.

(d) To meet qualifying standards to count as clinical hours' credit, the NAR employment or volunteer experience must:

(i) Be performed under an active NAR credential during enrollment in the class;

(ii) Include a background check prior to contact with clients or residents;

(iii) Occur in a care facility where a licensed nurse is present to supervise throughout the clinical experience and verify competency for tasks assigned;

(iv) Include opportunities for the NAR to successfully demonstrate the competencies of a nursing assistant as identified in WAC 246-841-400;

(v) Be supervised by a licensed nurse who is not a friend or relative;

(vi) Include care of clients or residents who are not friends or relatives; and

(vii) Be verifiable with the care facility.

(4) Clinical teaching in a competency area is closely correlated with classroom teaching to integrate knowledge with manual skills.

(a) Students must wear name tags clearly identifying them as students when interacting with patients, clients or residents, ~~((and))~~ families, and in planned simulation activities.

(b) An identified instructor(s) will supervise clinical teaching or learning at all times. At no time will the ratio of students to instructor exceed ten students to one instructor in the clinical setting whether the clinical setting is a health care facility or represented through planned simulation in the training program's skills lab. As an alternative, the program director may award clinical hours' credit for NAR employment or volunteer experience as described in WAC 246-841-470 (6) (c).

(5) The curriculum must include evaluation processes to assess mastery of competencies. Students cannot perform any clinical skill on clients or residents or in planned simulation activities until first demonstrating the skill satisfactorily to an instructor in ~~((the practice setting))~~ a skills lab setting; as an alternative, students can demonstrate skills satisfactorily to a licensed nurse who is supervising a student employed or volunteering as an NAR and assuring competency for tasks assigned in accordance with WAC 246-841-470 (6) (c).

[Statutory Authority: RCW 18.79.110, 18.88A.060 and 2020 c 76. WSR 21-04-016, § 246-841-490, filed 1/22/21, effective 2/22/21. Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-490, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-23-077 (Order 214B), § 246-841-490, filed 11/19/91, effective 12/20/91; WSR 91-07-049 (Order 116B), recodified as § 246-841-490, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-270, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-500 Physical resources required for approved nursing assistant-certified training programs. (1) Classroom facilities must provide adequate space, lighting, comfort, and privacy for effective teaching and learning.

(2) Adequate classroom resources, such as white board or other writing device, audio visual materials, and written materials must be available.

(3) Appropriate equipment must be provided for teaching and practicing clinical skills and procedures before implementing the skills with clients or residents or in planned simulation in the training program's skills lab.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-500, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-07-049 (Order 116B), recodified as § 246-841-500, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-275, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-510 Administrative procedures for approved nursing assistant-certified training programs. (1) The program must establish and maintain a file for each student enrolled. The file must include:

(a) Dates attended.

(b) Test results.

(c) A skills evaluation checklist with dates of skills testing and signature of instructor. If the program grants clinical hours' credit for students employed or volunteering as nursing assistants-registered in accordance with WAC 246-841-470 (6)(c), the student file must also include a fully completed commission-approved student form to verify student clinical hours and competency "Nursing Assistant-Registered (NAR) Verification of Clinical Hours and Competency," available by request to the commission.

(d) Documentation of successful completion of the course, or documentation of the course outcome.

(2) Each student file must be maintained by the program for a period of five years, and copies of documents made available to students who request them.

(3) Verification of successful completion of the course of training will be provided to the commission on forms provided by the commission.

(4) For those programs based in a health care facility: Verification of program completion and the application for state testing will not be withheld from a student who has successfully met the requirements of the program. Successful completion will be determined by the training program director separately from other employer issues.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-510, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-07-049 (Order 116B), recodified as § 246-841-510, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-280, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 11-16-042, filed 7/27/11, effective 8/27/11)

WAC 246-841-555 Responsibilities of the program director in alternative programs. The program director of an alternative program is responsible for:

(1) Development and use of a curriculum which:

(a) Meets the requirements of WAC 246-841-545; or

(b) Meets the requirements of WAC 246-841-550.

(2) Ensuring compliance with the requirements of WAC 246-841-500 and 246-841-510.

(3) Verifying home care aides-certified have a valid certification before admission to the alternative program.

(4) Verifying medical assistants-certified have certification before admission to the alternative program.

(5) Direct supervision of all students during clinical experience in a health care facility or during planned simulation in the training program's skills lab. Direct supervision means an approved program director or instructor observes students performing tasks. As an alternative, the program director may also award clinical hours' credit for nursing assistant-registered (NAR) employment or volunteer experience completed under the supervision of a licensed nurse in a care facility with competency demonstrated and documented in accordance with commission procedure and form "Nursing Assistant-Registered (NAR) Verification of Clinical Hours and Competency," available by request to the commission. In addition, to meet qualifying standards to count as clinical hours' credit, the NAR employment or volunteer experience must:

(a) Be performed under an active NAR credential during enrollment in the class;

(b) Include a background check prior to contact with clients or residents;

(c) Occur in a care facility where a licensed nurse is present to supervise throughout the clinical experience and verify competency for tasks assigned;

(d) Include opportunities for the NAR to successfully demonstrate the competencies of a nursing assistant as identified in WAC 246-841-400;

(e) Be supervised by a licensed nurse who is not a friend or relative;

(f) Include care of clients or residents who are not friends or relatives; and

(g) Be verifiable with the care facility.

(6) Ensuring the clinical instructor has no concurrent duties during the time he or she is instructing students.

(7) Maintaining an environment acceptable to teaching and learning.

(8) Supervising all instructors involved in the course. This includes clinical instructors and guest lecturers.

(9) Ensuring students are not asked to, or allowed to perform any clinical skill with patients or clients or in planned simulation activities until the students have demonstrated the skill satisfactorily to an instructor in a practice setting, or as an alternative, providing students with instruction regarding the NAR employment or volunteer pathway and how to demonstrate competency and have competency documented under the supervision of a licensed nurse in a care facility in accordance with WAC 246-841-555(5).

(10) Evaluating knowledge and skills of students before verifying completion of the course.

(11) Providing students a verification of completion when requirements of the course have been satisfied.

(12) Providing adequate time for students to complete the objectives of the course. The time may vary with skills of the learners and teaching or learning variables.

(13) Establishing an evaluation process to assess mastery of competencies.

[Statutory Authority: RCW 18.88A.087 and 18.88A.060. WSR 11-16-042, § 246-841-555, filed 7/27/11, effective 8/27/11.]

WSR 23-03-011

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed January 6, 2023, 10:28 a.m., effective January 6, 2023, 10:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-840-365 and 246-840-367. The nursing care quality assurance commission (commission) is amending specific license requirements for advanced registered nurse practitioners (ARNPs). These amendments are necessary in response to the Coronavirus Disease 2019 (COVID-19) pandemic and the critical demand for health care professionals. Because a federal public health emergency is set to be in effect until at least January 2023, this extension will continue to reduce the burden on practitioners through the end of the federal public health emergency.

The rules in chapter 246-840 WAC provide regulatory requirements for registered nurses, licensed practical nurses, advanced registered nurse practitioners, and nurse technicians. These emergency rules remove barriers for license renewal for ARNPs returning to active practice, while permanent rule making is underway. This is the tenth emergency rule originally filed under WSR 20-10-014 in 2020 and continuing under WSR 20-14-065, 20-22-024, 21-04-005, 21-12-012, 21-19-092, 22-03-056, 22-11-047, and on September 9, 2022, as WSR 22-19-008. This filing does not differ from the previous filing. The commission anticipates this will be the last refiling of these emergency rules, as permanent rules codifying the emergency amendments will be adopted.

Citation of Rules Affected by this Order: Amending WAC 246-840-365 and 246-840-367.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.050, and 18.79.110.

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: Essential functions including increasing and maintaining the availability of health care professionals must continue while taking necessary measures to help treat and prevent the spread of COVID-19 as permanent rule making is ongoing. The amendments remove specific barriers that nurses face to providing care in response to COVID-19. Waiving the restriction that ARNPs with an inactive or expired license must complete clinical practice hours while permanent rule making is underway removes barriers to reentering the health care workforce. More health care professionals will be available to continue responding to current demands because of these changes. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, 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 2, Repealed 0.

Date [Adopted]: January 6, 2023.

Paula R. Meyer, RN, MSN, FRE
Executive Director

OTS-3406.4

AMENDATORY SECTION (Amending WSR 19-08-031, filed 3/27/19, effective 4/27/19)

WAC 246-840-365 Inactive and reactivating an ARNP license. To apply for an inactive ARNP license, an ARNP shall comply with WAC 246-12-090 or 246-12-540, if military related.

(1) An ARNP may apply for an inactive license if he or she holds an active Washington state ARNP license without sanctions or restrictions.

(2) To return to active status the ARNP:

(a) Shall meet the requirements identified in chapter 246-12 WAC, Part 4;

(b) Must hold an active RN license under chapter 18.79 RCW without sanctions or restrictions;

(c) Shall submit the fee as identified under WAC 246-840-990; and

(d) Shall submit evidence of current certification by the commission approved certifying body identified in WAC 246-840-302(1) (~~(~~

~~(e) Shall submit evidence of thirty contact hours of continuing education for each designation within the past two years; and~~

~~(f) Shall submit evidence of two hundred fifty hours of advanced clinical practice for each designation within the last two years.~~

~~(3) An ARNP applicant who does not have the required practice requirements, shall complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.~~

~~(4) The ARNP applicant needing to complete supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5)).~~

~~((5))~~ (3) To regain prescriptive authority after inactive status, the applicant must meet the prescriptive authority requirements identified in WAC 246-840-410.

[Statutory Authority: RCW 18.79.110. WSR 19-08-031, § 246-840-365, filed 3/27/19, effective 4/27/19. Statutory Authority: RCW 18.79.050, 18.79.110, and 18.79.160. WSR 16-08-042, § 246-840-365, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 18.79.010, [18.79.]050, [18.79.]110, and [18.79.]210. WSR 09-01-060, § 246-840-365, filed 12/11/08, effective 1/11/09. Statutory Authority: RCW 43.70.280. WSR

98-05-060, § 246-840-365, filed 2/13/98, effective 3/16/98. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-365, filed 6/18/97, effective 7/19/97.]

AMENDATORY SECTION (Amending WSR 19-08-031, filed 3/27/19, effective 4/27/19)

WAC 246-840-367 Expired license. When an ARNP license is not renewed, it is placed in expired status and the nurse must not practice as an ARNP.

(1) To return to active status when the license has been expired for less than two years, the nurse shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Meet ARNP renewal requirements identified in WAC 246-840-360; and

(c) Meet the prescriptive authority requirements identified in WAC 246-840-450, if renewing prescriptive authority.

~~(2) ((Applicants who do not meet the required advanced clinical practice requirements must complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.~~

~~(3) The ARNP applicant needing to complete supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).~~

~~(4))~~ If the ARNP license has expired for two years or more, the applicant shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Submit evidence of current certification by the commission approved certifying body identified in WAC 246-840-302(3);

~~(c) ((Submit evidence of thirty contact hours of continuing education for each designation within the prior two years;~~

~~(d))~~ Submit evidence of ~~((two hundred fifty))~~ 250 hours of advanced clinical practice completed within the prior two years; and

~~((e))~~ (d) Submit evidence of an additional ~~((thirty))~~ 30 contact hours in pharmacology if requesting prescriptive authority, which may be granted once the ARNP license is returned to active status.

~~((5))~~ (3) If the applicant does not meet the required advanced clinical practice hours, the applicant shall obtain an ARNP interim permit consistent with the requirements for supervised advanced clinical practice as defined in WAC 246-840-340 (4) and (5).

[Statutory Authority: RCW 18.79.110. WSR 19-08-031, § 246-840-367, filed 3/27/19, effective 4/27/19. Statutory Authority: RCW 18.79.050, 18.79.110, and 18.79.160. WSR 16-08-042, § 246-840-367, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 18.79.010, [18.79.]050, [18.79.]110, and [18.79.]210. WSR 09-01-060, § 246-840-367, filed 12/11/08, effective 1/11/09.]

WSR 23-03-014

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed January 6, 2023, 12:17 p.m., effective January 6, 2023, 12:17 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-840-930 and 246-841-405, amending specific training requirements for nursing assistant registered (NARs) and home care aides (HCAs). These rules continue the initial emergency rules filed as WSR 22-07-046 on March 14, 2022, and continuing under WSR 22-15-020 and 22-19-006.

The nursing care quality assurance commission (commission) is re-filing these emergency rules to allow a registered nurse delegator to delegate nursing tasks to a NAR or HCA based on training requirements established by the department of social and health services (DSHS). NARs and HCAs must complete basic caregiver training as part of their licensure requirements. DSHS provides this training but was unable to do so during the coronavirus disease 2019 (COVID-19) pandemic and is currently experiencing significant delays due to the backlog. DSHS adopted permanent rules effective July 1, 2022, as WSR 22-12-081. The rules outline dates by which NARs and HCAs must complete basic caregiver training. These dates may extend through September 30, 2023.

No changes were made to the emergency rule language from the previous filing.

Citation of Rules Affected by this Order: Amending WAC 246-840-930 and 246-841-405.

Statutory Authority for Adoption: RCW 18.88A.060, 18.79.110.

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 immediate amendment of existing rules is necessary for the preservation of public health, safety, and general welfare. DSHS is responsible for providing basic caregiver training for NARs and HCAs. Due to impacts on training caused by COVID-19, DSHS was not able to provide basic caregiver training for NARs and HCAs for a period of time. Commission emergency rules starting in April 2020 at the outset of the COVID-19 pandemic allowed NARs and HCAs to work without the required training. DSHS has since filed emergency and permanent rules that outline the dates by which HCAs and NARs must complete basic caregiver training dependent on hire and re-hire dates.

The commission rules need to align with DSHS rules to assure [ensure] NARs and HCAs can continue to provide necessary health care to patients.

This emergency rule will be refiled every 120 days until such time that DSHS can resume its standard training schedule.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, 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 2, Repealed 0.

Date Adopted: January 6, 2023.

Paula R. Meyer, RN, MSN, FRE
Executive Director

OTS-3966.2

AMENDATORY SECTION (Amending WSR 22-12-026, filed 5/23/22, effective 9/9/22)

WAC 246-840-930 Criteria for delegation. (1) Before delegating a nursing task, the registered nurse delegator decides the task is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE.

ASSESS

(2) The setting allows delegation because it is a community-based care setting as defined by RCW 18.79.260 (3) (e) (i) or an in-home care setting as defined by RCW 18.79.260 (3) (e) (ii).

(3) Assess the patient's nursing care needs and determine the patient's condition is stable and predictable. A patient may be stable and predictable with an order for sliding scale insulin or terminal condition.

(4) Determine the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine the task to be delegated can be properly and safely performed by the nursing assistant or home care aide. The registered nurse delegator assesses the potential risk of harm for the individual patient.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant or home care aide to competently accomplish the task. The registered nurse delegator identifies and facilitates any additional training of the nursing assistant or home care aide needed prior to delegation. The registered nurse delegator ensures the task to be delegated can be properly and safely performed by the nursing assistant or home care aide.

(7) Assess the level of interaction required. Consider language or cultural diversity affecting communication or the ability to accomplish the task and to facilitate the interaction.

(8) Verify that the nursing assistant or home care aide:

(a) Is currently registered or certified as a nursing assistant or home care aide in Washington state without restriction;

(b) Has completed both the basic caregiver training in accordance with dates established by the department of social and health services per WAC 388-71-0876, 388-71-0992, 388-112A-0081, 338-112A-0613, and core delegation training before performing any delegated task;

(c) Has evidence as required by the department of social and health services of successful completion of nurse delegation core training;

(d) Has evidence as required by the department of social and health services of successful completion of nurse delegation special focus on diabetes training when providing insulin injections to a diabetic client; and

(e) Is willing and able to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant or home care aide to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse:

(a) Discusses the delegation process with the patient or authorized representative, including the level of training of the nursing assistant or home care aide delivering care.

(b) Obtains written consent. The patient, or authorized representative, must give written consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within 30 days; electronic consent is an acceptable format. Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse, nursing assistant, or home care aide will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant or home care aide with a copy maintained in the patient's record that includes:

(a) The rationale for delegating the nursing task;

(b) The delegated nursing task is specific to one patient and is not transferable to another patient;

(c) The delegated nursing task is specific to one nursing assistant or one home care aide and is not transferable to another nursing assistant or home care aide;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator uses to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant or home care aide of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document teaching done and a return demonstration, or other method for verification of competency; and

(m) Supervision shall occur at least every 90 days. With delegation of insulin injections, the supervision occurs at least weekly for the first four weeks, and may be more frequent.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator, including insulin injections. Any other injection (intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise) is prohibited. The registered nurse delegator provides to the nursing assistant or home care aide written directions specific to an individual patient.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant or home care aide how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator monitors the performance of the task(s) to assure compliance with established standards of practice, policies and procedures and appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator evaluates the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator supervises and evaluates the performance of the nursing assistant or home care aide, including direct observation or other method of verification of competency of the nursing assistant or home care aide. The registered nurse delegator reevaluates the patient's condition, the care provided to the patient, the capability of the nursing assistant or home care aide, the outcome of the task, and any problems.

(18) The registered nurse delegator ensures safe and effective services are provided. Reevaluation and documentation occur at least every 90 days. Frequency of supervision is at the discretion of the registered nurse delegator and may be more often based upon nursing assessment.

(19) The registered nurse must supervise and evaluate the performance of the nursing assistant or home care aide with delegated insulin injection authority at least weekly for the first four weeks. After the first four weeks the supervision shall occur at least every 90 days.

[Statutory Authority: RCW 18.79.010, 18.79.110, and 18.79.260. WSR 22-12-026, § 246-840-930, filed 5/23/22, effective 9/9/22. Statutory Authority: RCW 18.79.110, 18.79.260, 2012 c 164, and 2012 c 10. WSR 13-15-063, § 246-840-930, filed 7/15/13, effective 8/15/13. Statutory Authority: RCW 18.79.110, 18.79.260, 18.88A060 [18.88A.060], and 18.88A.210. WSR 09-06-006, § 246-840-930, filed 2/18/09, effective

3/21/09. Statutory Authority: RCW 18.79.110, 18.79.260 (3) (f), 18.88A.210, 2003 c 140. WSR 04-14-065, § 246-840-930, filed 7/2/04, effective 7/2/04. Statutory Authority: Chapters 18.79 and 18.88A RCW. WSR 02-02-047, § 246-840-930, filed 12/27/01, effective 1/27/02. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-930, filed 6/18/97, effective 7/19/97; WSR 96-05-060, § 246-840-930, filed 2/19/96, effective 3/21/96.]

OTS-3665.3

AMENDATORY SECTION (Amending WSR 09-06-006, filed 2/18/09, effective 3/21/09)

WAC 246-841-405 Nursing assistant delegation. Provision for delegation of certain tasks.

(1) Nursing assistants perform tasks delegated by a registered nurse for patients in community-based care settings or in-home care settings each as defined in RCW 18.79.260 (3) (e).

(2) Before performing any delegated task:

(a) Nursing assistants-registered must show ((the certificate of)) evidence as required by the department of social and health services of successful completion of both the basic caregiver training and the designated nurse delegation core ((delegation)) training from the department of social and health services to the registered nurse delegator. Nursing assistants-registered who were working or hired during the COVID-19 public health emergency must complete basic caregiver training by dates established by the department of social and health services per WAC 388-71-0876, 388-71-0992, 388-112A-0081, and 388-112A-0613.

(b) Nursing assistants-certified must show ((the certificate of)) evidence as required by the department of social and health services of successful completion of the core delegation training from the department of social and health services to the registered nurse delegator. Nursing assistants-certified who were working or hired during the COVID-19 public health emergency must complete basic caregiver training by dates established by the department of social and health services per WAC 388-71-0876, 388-71-0992, 388-112A-0081, and 388-112A-0613.

(c) All nursing assistants must comply with all applicable requirements of the nursing care quality assurance commission in WAC 246-840-910 through 246-840-970.

(d) All nursing assistants, registered and certified, who may be completing insulin injections must ((give a certificate of completion of diabetic training from the department of social and health services)) show evidence as required by the department of social and health services of successful completion of nurse delegation special focus on diabetes training to the registered nurse delegator.

(e) All nursing assistants must meet any additional training requirements identified by the nursing care quality assurance commission. Any exceptions to additional training requirements must comply with RCW 18.79.260 (3) (e) (v).

(3) Delegated nursing care tasks described in this section are:

(a) Only for the specific patient receiving delegation;

(b) Only with the patient's consent; and

(c) In compliance with all applicable requirements in WAC 246-840-910 through 246-840-970.

(4) A nursing assistant may consent or refuse to consent to perform a delegated nursing care task. The nursing assistant is responsible for their own actions with the decision to consent or refuse to consent and the performance of the delegated nursing care task.

(5) Nursing assistants shall not accept delegation of, or perform, the following nursing care tasks:

(a) Administration of medication by injection, with the exception of insulin injections;

(b) Sterile procedures;

(c) Central line maintenance;

(d) Acts that require nursing judgment.

[Statutory Authority: RCW 18.79.110, 18.79.260, 18.88A060 [18.88A.060], and 18.88A.210. WSR 09-06-006, § 246-841-405, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 18.88A.060 and 2003 c 140. WSR 04-14-064, § 246-841-405, filed 7/2/04, effective 7/2/04. Statutory Authority: Chapter 18.88A RCW. WSR 96-06-029, § 246-841-405, filed 2/28/96, effective 3/30/96.]

WSR 23-03-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-02—Filed January 6, 2023, 1:25 p.m., effective January 7, 2023]

Effective Date of Rule: January 7, 2023.

Purpose: The purpose of this emergency rule is to close game fish seasons in the Nooksack River system.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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: This emergency rule is necessary to close all game fish seasons in the Nooksack River and all forks. Current hatchery steelhead returns to Kendall Hatchery are well short of steelhead broodstock needs. The hatchery has received less than 20 percent of the 160 fish needed to reach the broodstock goal. Closing game fish seasons in the system will increase the odds of meeting the hatchery steelhead program goals and perpetuation of the program. 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 the 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 6, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000C Freshwater exceptions to statewide rules—Puget Sound. Effective January 7, through February 15, 2023, the following provisions of WAC 220-312-040 regarding game fish seasons for the Nooksack River, Nooksack River, Middle Fork, Nooksack River, North Fork, and Nooksack River, Middle Fork shall be modified during the dates and in locations listed and described herein. All other provi-

sions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) Nooksack River (Whatcom Co.): From Lummi Indian Reservation boundary to yellow marker at the FFA high school barn in Deming: January 7, through January 31, 2023: Game fish: Closed.

(2) Nooksack River, Middle Fork (Whatcom Co.): From the mouth to the former site of the City of Bellingham diversion Dam: January 7, through January 31, 2023: Game fish: Closed.

(3) Nooksack River, North Fork (Whatcom Co.): From the Hwy. 9 Bridge to Nooksack Falls:

January 7, through February 15, 2023: Game fish: Closed.

(4) Nooksack River, South Fork (Whatcom Co.): From mouth to Skookum Creek:

January 7, through January 31, 2023: Game fish: Closed.

[]

WSR 23-03-048
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed January 10, 2023, 11:11 a.m., effective January 11, 2023]

Effective Date of Rule: January 11, 2023.

Purpose: The department is extending the amendment of the rules listed below to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. This rule making extends emergency rules filed consecutively since April 13, 2020, to maintain compliance with blanket waivers issued by the Centers for Medicare and Medicaid Services. The amendments will continue to align state nursing home rules with federal rules that are suspended or amended to help facilitate care during the COVID-19 pandemic. The federal rules were amended to delay the requirement by 30 days to complete preadmission screening and resident review (PASRR) screening prior to admission to a nursing home under WAC 388-97-1915 and 388-97-1975.

The department filed a CR-101 under WSR 21-11-062 and is continuing discussions with stakeholders and staff about adding rules that explain the circumstances and time periods under which suspension of rules was necessary due to COVID[-19].

Citation of Rules Affected by this Order: Amending WAC 388-97-1915 and 388-97-1975.

Statutory Authority for Adoption: RCW 74.42.620.

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 continued threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as long-term care facilities.

PASRR: Current nursing home rules require a PASRR screen, typically performed by hospital staff prior to admission to a nursing home, followed by further evaluation from state agency staff or contractors under certain circumstances. Hospital staff continue to experience an extremely high workload during the pandemic due to the increased number of admissions, coupled with a reduced number of available staff. Additionally, face-to-face evaluation of the transferring resident continues to be restricted in many counties. The PASRR rule will align state nursing home rules with federal rules that were extended to help facilitate care during the COVID-19 outbreak by shortening the transfer time from hospital to nursing home and increasing the flexibility for nursing home staff to be able to prioritize immediate or emergency care needs of incoming residents.

These emergency rules continue to be needed to align state nursing home requirements with suspended or amended federal requirements. Ongoing conversations with stakeholders also support continuation of these emergency rules until a clear timeline for reimplementation, consistent with federal reimplementation, is established.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0,

Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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 2, Repealed 0.

Date Adopted: January 9, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4799.6

AMENDATORY SECTION (Amending WSR 15-18-026, filed 8/25/15, effective 9/25/15)

WAC 388-97-1915 PASRR requirements (~~(prior to admission of)~~) for new residents. (~~(Prior to every)~~) Within 30 days of admission (~~(of a new resident)~~), the nursing facility must:

(1) Complete a PASRR level I screening, or verify that a PASRR level I screening has been completed(~~(, and deny admission until that screening has been completed)~~).

(2) Require a PASRR level II evaluation, or verify that a PASRR level II evaluation has been (~~(completed)~~) requested when the individual's PASRR level I screening indicates that the individual may have serious mental illness and/or intellectual disability or related condition(~~(, and deny admission until that evaluation has been completed, unless all three of the following criteria apply and are documented in the PASRR level I screening:~~

~~(a) The individual is admitted directly from a hospital after receiving acute inpatient care;~~

~~(b) The individual requires nursing facility services for the condition for which he or she received care in the hospital; and~~

~~(c) The individual's attending physician has certified that the individual is likely to require fewer than thirty days of nursing facility services)~~).

(3) (~~(Decline to admit any individual whose PASRR level II evaluation determines that he or she does not require nursing facility services or that a nursing facility placement is otherwise inappropriate.~~

~~(4))~~) Coordinate with PASRR evaluators to the maximum extent practicable in order to avoid duplicative assessments and effort, and to ensure continuity of care for nursing facility residents with a serious mental illness and/or an intellectual disability or related condition.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. § 483.100-138. WSR 15-18-026, § 388-97-1915, filed 8/25/15, effective 9/25/15.]

AMENDATORY SECTION (Amending WSR 15-18-026, filed 8/25/15, effective 9/25/15)

WAC 388-97-1975 PASRR requirements after admission of a resident. (~~Following~~) After the 30th day of a resident's admission, the nursing facility must:

(1) Review all level I screening forms for accuracy. If at any time the facility finds that the previous level I screening was incomplete, erroneous, or is no longer accurate, the facility must immediately complete a new screening using the department's standardized level I form, following the directions provided by the department's PASRR program. If the corrected level I screening identifies a possible serious mental illness or intellectual disability or related condition, the facility must notify DDA and/or the mental health PASRR evaluator so a level II evaluation can be conducted.

(2) Record the evidence of the level I screening and level II determinations (and any subsequent changes) in the resident assessment in accordance with the schedule required under WAC 388-97-1000.

(3) Maintain the level I form and the level II evaluation report in the resident's active clinical record.

(4) Immediately complete a level I screening using the department's standardized form if the facility discovers that a resident does not have a level I screening in his or her clinical record, following directions provided by the department's PASRR program. If the level I screening identifies a possible serious mental illness or intellectual disability or related condition, notify the DDA and/or mental health PASRR evaluator so a level II evaluation can be conducted.

~~(5) ((Notify the DDA and/or mental health PASRR evaluator when a resident who was admitted on an exempted hospital discharge appears likely to need nursing facility services for more than thirty days, so a level II evaluation can be performed. This notification must occur as soon as the nursing facility anticipates that the resident may require more than 30 days of nursing facility services, and no later than the twenty-fifth day after admission unless good cause is documented for later notification.~~

~~(6))~~ Notify the DDA and/or mental health PASRR evaluator when a resident who was admitted with an advance categorical determination appears likely to need nursing facility services for longer than the period specified by DDA and/or the mental health PASRR evaluator, so that a full assessment of the individual's need for specialized services can be performed. This notification must occur as soon as the nursing facility anticipates that the resident will require more than the number of days of nursing facility services authorized for the specific advance categorical determination and no later than five days before expiration of the period (three days for protective services) unless good cause is documented for later notification.

~~((7))~~ (6) Immediately notify the DDA and/or mental health PASRR evaluator for a possible resident review when there has been a significant change in the physical or mental condition, as defined in WAC 388-97-1910, of any resident who has been determined to have a serious

mental illness or intellectual disability or related condition. Complete a new level I screening for the significant change.

~~((+8+))~~ (7) Provide or arrange for the provision of any services recommended by a PASRR level II evaluator that are within the scope of nursing facility services. If the facility believes that the recommended service either cannot or should not be provided, the facility must document the reason(s) for not providing the service and communicate the reason(s) to the level II evaluator.

~~((+9+))~~ (8) Immediately complete a new level I screening using the department's standardized form if the facility finds that a resident, not previously determined to have a serious mental illness, develops symptoms of a serious mental illness, and refer the resident to the mental health PASRR evaluator for further evaluation.

~~((+10+))~~ (9) Provide services and interventions that complement, reinforce, and are consistent with any specialized services recommended by the level II evaluator. The resident's plan of care must specify how the facility will integrate relevant activities to achieve this consistency and the enhancement of the PASRR goals.

~~((+11+))~~ (10) Discharge, in accordance with WAC 388-97-0120, any resident with a serious mental illness or intellectual disability or related condition who does not meet nursing facility level of care, unless the resident has continuously resided in the facility for at least ~~((thirty))~~ 30 months and requires specialized services. The nursing facility must cooperate with DDA and/or mental health PASRR evaluator as it prepares the resident for a safe and orderly discharge.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. § 483.100-138. WSR 15-18-026, § 388-97-1975, filed 8/25/15, effective 9/25/15.]

WSR 23-03-050
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed January 10, 2023, 1:29 p.m., effective January 10, 2023, 1:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This amendment enables the department of children, youth, and families (DCYF) to take enforcement action in the event a licensee doesn't ensure lifesaving medication is available in emergencies. This rule is intended to save lives. Currently, no other rule allows for this critical function. Further, in July 2022, an identical rule was updated in the licensing requirements for child foster homes (WAC 110-148-1565).

Citation of Rules Affected by this Order: Amending WAC 110-145-1850.

Statutory Authority for Adoption: RCW 74.15.030.

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: Due to the rising number of cases of opioid overdoses in our state, including among foster care children and youth, naloxone (Narcan) must be available to swiftly reverse the effects of an overdose. This rule change ensures life-saving actions can be taken in group care facilities.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: January 10, 2023.

Brenda Villarreal
Rules Coordinator

OTS-4295.1

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1850 What requirements are there for the storage of medications? (1) Prescription and over-the-counter medications must

be kept in a locked container in a manner that minimizes the risks for medication errors.

(2) Human medication and animal medication must be kept separate from each other and in locked containers.

(3) Life-saving medications must be accessible in an emergency.

[WSR 18-14-078, recodified as § 110-145-1850, filed 6/29/18, effective 7/1/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1850, filed 12/11/14, effective 1/11/15.]

WSR 23-03-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-03—Filed January 11, 2023, 1:33 p.m., effective January 12, 2023]

Effective Date of Rule: January 12, 2023.

Purpose: The purpose of this emergency rule is to close sturgeon retention in the Bonneville Pool.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000F; and amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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: This rule is needed to close the recreational white sturgeon retention season in the Bonneville Reservoir. It is projected that the 2023 Bonneville Reservoir harvest guideline of 675 fish may be exceeded if the fishery were to continue beyond January 11. These populations are managed under sustainable harvest guidelines and this action will keep harvest within that guideline. This action is consistent with decisions made by the states of Washington and Oregon during Columbia River compact hearings on November 9, 2022, and January 10, 2023.

The general public welfare is protected with the immediate and limited duration opening of recreational sturgeon fishing. This limited harvest allows for public use of the resource, as well as the maintenance of a sustainable fish population. 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 the 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 1.

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

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

Date Adopted: January 11, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000H Freshwater exceptions to statewide rules—Columbia River. Effective January 12 through April 30, 2023 the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 regarding white sturgeon retention seasons from Bonneville Dam to John Day Dam are as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From Bonneville Dam upstream to The Dalles Dam, including adjacent tributaries:

(a) Effective immediately through April 30, 2023, sturgeon retention is prohibited.

(b) Catch and release angling for sturgeon is permissible on days not open to sturgeon retention.

(2) From The Dalles Dam upstream to John Day Dam, including adjacent tributaries:

(a) Effective immediately through April 30, 2023, it is permissible to retain white sturgeon only on the following dates:

January 14, 16, 18, 21, 23, 25, 28, 30;

February 1, 4, 6, 8, 11, 13, 15, 18, 20, 22, 25, 27; and

March 1, 4, 2023.

(b) Minimum fork length 43 inches. Maximum fork length 54 inches.

(c) Catch and release angling for sturgeon is permissible on days not open to sturgeon retention.

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REPEALER

The following section of Washington Administrative Code is repealed, effective January 12, 2023:

WAC 220-312-06000F Freshwater exceptions to statewide rules—Columbia River. (22-268)

WSR 23-03-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-04—Filed January 11, 2023, 5:10 p.m., effective January 11, 2023, 5:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close commercial crab fishing in crab management Region 2 West on January 14, 2023.

WAC 220-340-45500 closes Puget Sound commercial crab harvest in Crab Management Region 2 West on January 14, 2023, one hour after official sunset time.

WAC 220-340-47000 sets pot limits for all areas with commercial harvest opportunity in Puget Sound. Reduces the pot limit for all areas that are closed to "0."

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500U and 220-340-47000R; and amending WAC 220-340-455 and 220-340-470.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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 sufficient allocation available in Regions 1, 2 West, and subregions 3-1, 3-3, and 3-4 to accommodate continued commercial harvest. This rule closes Region 2 West on January 14, 2023, following the projected harvest of state share on January 14, 2023. These provisions are in conformity with agreed-to management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustment of season structure may be made pending updated harvest data. 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 the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 2.

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

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

Date Adopted: January 11, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500V Commercial crab fishery—Seasons and areas—Puget Sound. Effective immediately, until further notice, the provisions of WAC 220-340-455 regarding open periods for commercial crab harvest within Puget Sound and the geographic definition of the closure area within Marine Fish-Shellfish Management and Catch Reporting Area 21A shall be modified as described below. All other provisions of WAC 220-340-455 not addressed herein remain in effect unless otherwise amended by emergency rule:

(a) Commercial harvest of Dungeness crab in Puget Sound is allowed during the "Open period" indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest on all other days is allowed starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, through March 31, 2023.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, through April 15, 2023.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Closed.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Closed.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through January 14, 2023.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through January 14, 2023.
Subregion 3-1	Immediately, through March 31, 2023.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Closed.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Closed.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed.
Subregion 3-3	Immediately, through April 15, 2023.
Subregion 3-4	Immediately, through April 15, 2023.

(b) The area closed to commercial harvest in WAC 220-340-455 (2) (c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.69730°, -122.60730°) to the old pilings at Stevie's Point (48.77675°, -122.55196°).

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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 220-340-47000S Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas.

Effective immediately, until further notice, the provisions of WAC 220-340-470 regarding Marine Fish-Shellfish Management and Catch Reporting Areas gear limits shall be modified as described below. All other provisions of WAC 220-340-470 not addressed herein remain in effect unless otherwise amended by emergency rule:

(a) Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	30
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	30
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	30
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	30
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	0
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	0
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	30
Subregion 3-4	30

(b) Effective after the "Open Period" listed in amended section of WAC 220-340-455 above, the "Pot Limit" within each "geographical management unit" will be reduced to "0".

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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.

REPEALER

The following sections of the Washington Administrative Code are repealed, effective immediately:

- WAC 220-340-45500U Commercial crab fishery—Seasons and areas—Puget Sound. (23-01)
- WAC 220-340-47000R Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (23-01)

WSR 23-03-066

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed January 12, 2023, 12:28 p.m., effective January 12, 2023, 12:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Establishing alternate certification time frames for individuals working toward certification as a home care aide or nursing assistant-certified (NAC) while testing and training backlogs exist. This includes amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065 and adopting new WAC 246-980-011. Due to impacts from the coronavirus disease 2019 (COVID-19) pandemic, many long-term care workers are still unable to obtain training and certification as home care aides and NACs within statutory time frames. By establishing alternate time frames under ESHB 1120 (chapter 203, Laws of 2021), the department of health (department) will allow workers to remain working while seeking advanced certifications, giving them more time to complete requirements while training and testing capacity issues are being resolved.

These emergency rules combine and continue the effects of two different sets of emergency rules. The first set of emergency rules was developed in collaboration with the department of social and health services (DSHS) and established alternate certification time frames for individuals working toward certification as a home care aide. These rules were initially filed on February 15, 2022, under WSR 22-05-079, then extended on June 15, 2022, under WSR 22-13-105 and on October 13, 2022, under WSR 22-21-069. The second set of emergency rules was developed in collaboration with DSHS and the nursing care quality assurance commission (NCQAC). It established alternate certification time frames for individuals working toward certification as an NAC. These rules were initially filed on September 14, 2022, under WSR 22-19-027.

The newly created rule, WAC 246-980-011, establishes alternate time frames for long-term care workers seeking certification as a home care aide or NAC.

Amendments to WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065 create cross-references to WAC 246-980-011 and, where applicable, to DSHS rules that establish alternate time frames for training and testing.

Citation of Rules Affected by this Order: New WAC 246-980-011; and amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065.

Statutory Authority for Adoption: RCW 18.88B.021; ESHB 1120 (chapter 203, Laws of 2021).

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: This emergency rule is necessary to avoid a critical shortage of long-term care workers as a result of the COVID-19 pandemic.

During the COVID-19 pandemic, both training and testing were unavailable for several months in 2020 before resuming at limited capacity. This created a large backlog of long-term care workers unable to become certified as a home care aide or NAC within statutory time

frames. During the COVID-19 declared emergency, thousands of workers seeking certification were allowed to continue working under Governor's Proclamations 20-52 and 20-65 (waivers), which waived credentialing requirements. However, now that the waivers have been rescinded, uncertified workers will no longer be able to work and will still be unable to readily access the training and testing necessary for certification. Losing these workers would exacerbate the existing workforce shortage, forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings.

SHB 1120, passed in 2021, gives the department authority to allow long-term care workers additional time to become certified if a pandemic or other declared state of emergency impacts their ability to complete certification in a timely manner. Pursuant to SHB 1120, the department collaborated with DSHS and NCQAC to develop alternate, extended time frames for long-term care workers seeking certification as a home care aide or NAC. These alternate time frames will create a path to certification for uncertified home care aides and NACs and allow workers to continue caring for clients while the testing and training backlog is being resolved.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 4, 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 1, Amended 4, Repealed 0.

Date Adopted: January 12, 2023.

Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-3558.5

NEW SECTION

WAC 246-980-011 Long-term care workers working or hired during the COVID-19 public health emergency. (1) Unless exempt from certification as described in WAC 246-980-025, a long-term care worker affected by the coronavirus disease 2019 (COVID-19) public health emergency who is required to be certified as a home care aide must obtain certification as follows:

Hired or rehired during the time frame of:	Shall be certified no later than:
August 17, 2019, to September 30, 2020	January 19, 2023

Hired or rehired during the time frame of:	Shall be certified no later than:
October 1, 2020, to April 30, 2021	April 21, 2023
May 1, 2021, to March 31, 2022	July 19, 2023
April 1, 2022, to September 30, 2022	November 19, 2023
October 1, 2022, to December 31, 2022	December 19, 2023
Beginning January 1, 2023	Standard training

The above chart provides additional time for a long-term care worker to be certified, as either a home care aide or nursing assistant.

(2) "Hired" and "rehired" as used in this section mean the date of hire as defined in WAC 246-980-010. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in subsection (1) of this section.

(3) If a long-term care worker or home care aide is limited-English proficient, the worker may request an additional 60 days to obtain certification under WAC 246-980-065.

(4) Nothing in this section prevents a long-term care worker hired between August 17, 2019, and September 30, 2022, from completing training or obtaining certification in advance of the deadlines stipulated in subsection (1) of this section.

[]

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

WAC 246-980-025 Individuals exempt from obtaining a home care aide certification. (1) The following individuals are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the entry level training required by RCW 74.39A.074 and meet the requirements of WAC 246-980-040 (1)(b) and (c).

(a) An individual provider caring only for a biological, step, or adoptive child or parent.

(b) An individual provider who provides (~~(twenty)~~) 20 hours or less of care for one person in any calendar month.

(c) An individual employed by a community residential service business.

(d) An individual employed by a residential habilitation center licensed under chapter 71A.20 RCW or a facility certified under 42 C.F.R. Part 483.

(e) A direct care worker who is not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(f) A person working as an individual provider who only provides respite services and works less than (~~(three hundred)~~) 300 hours in any calendar year.

(g) Any direct care worker exempt under RCW 18.88B.041(1).

(2) The following long-term care workers are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must meet the requirements of WAC 246-980-040 (1)(b) and (c). The training requirements under RCW 74.39A.074(1) are not required.

(a) An individual who holds an active credential by the department as a:

(i) Registered nurse, a licensed practical nurse, or advanced registered nurse practitioner under chapter 18.79 RCW; or

(ii) Nursing assistant-certified under chapter 18.88A RCW.

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

(c) A person who is in an approved training program for certified nursing assistant under chapter 18.88A RCW, provided that the training program is completed within (~~one hundred twenty~~) 120 calendar days of the date of hire and that the nursing assistant-certified credential has been issued within (~~two hundred~~) 200 calendar days of the date of hire, or that the training and certification are completed in compliance with the deadlines in WAC 246-980-011.

(d) An individual with special education training and an endorsement granted by the superintendent of public instruction under RCW 28A.300.010 and is approved by the secretary.

(e) An individual employed as a long-term care worker on January 6, 2012, or who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, and who completed all of the training requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for three consecutive years.

(i) The department may require the exempt long-term care worker who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, to provide proof of that employment. Proof may include a letter or similar documentation from the employer that hired the long-term care worker between January 1, 2011, and January 6, 2012, indicating the first and last day of employment, the job title, a job description, and proof of completing training requirements. Proof of training will also be accepted directly from the approved instructor or training program, if applicable.

(ii) For an individual provider reimbursed by the department of social and health services, the department will accept verification from the department of social and health services or the training partnership.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-025, filed 9/28/18, effective 10/29/18.]

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

WAC 246-980-030 Working while obtaining certification as a home care aide. (1) A long-term care worker may provide care before receiving certification as a home care aide if all the following conditions are met:

(a) Before providing care, the long-term care worker must complete the training required by RCW 74.39A.074 (1)(d)(i)(A) and (B).

(b) The long-term care worker must submit an application for home care aide certification to the department within ~~((fourteen))~~ 14 calendar days of hire. An application is considered to be submitted on the date it is post-marked or, for applications submitted in person or online, the date it is accepted by the department.

(2) Except as provided in WAC 246-980-011, a long-term care worker is no longer eligible to provide care without a credential under the following circumstances:

(a) The long-term care worker does not successfully complete all of the training required by RCW 74.39A.074(1) within ~~((one hundred twenty calendar days from their date of hire))~~ the timelines in WAC 388-71-0876 or 388-112A-0081;

(b) The long-term care worker has not obtained their certification within ~~((two hundred))~~ 200 calendar days from their date of hire, or ~~((two hundred sixty))~~ 260 calendar days if granted a provisional certificate under RCW 18.88B.041.

(3) This section does not apply to long-term care workers exempt from certification under WAC 246-980-025.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-030, filed 9/28/18, effective 10/29/18. Statutory Authority: Chapters 18.88B and 18.130 RCW, 2012 c 164, and 2013 c 259. WSR 13-19-087, § 246-980-030, filed 9/18/13, effective 10/19/13. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-030, filed 7/20/10, effective 1/1/11.]

AMENDATORY SECTION (Amending WSR 21-02-002, filed 12/23/20, effective 1/23/21)

WAC 246-980-040 Certification requirements. (1) To qualify for certification as a home care aide, except as provided in WAC 246-980-011, the applicant must:

(a) Successfully complete all training required by RCW 74.39A.074(1) within ~~((one hundred twenty calendar days of the date of hire as a long-term care worker))~~ the timelines in WAC 388-71-0876 or 388-112A-0081;

(b) Successfully pass the home care aide certification examination, after completing training; and

(c) Become certified within ~~((two hundred))~~ 200 days of date of hire, or ~~((two hundred sixty))~~ 260 days if granted a provisional certificate under RCW 18.88B.041.

(2) An applicant for certification as a home care aide must submit to the department:

(a) A completed application for both certification and the examination on forms provided by the department;

(b) The exam fee set by the examination vendor and required fees under WAC 246-980-990; and

(c) A certificate of completion from an approved training program indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.074. The certificate of completion or other official verification may also be submitted directly from the approved instructor or training program.

(3) An applicant must submit to a state and federal background check as required by RCW 74.39A.056.

(4) An applicant exempt from certification under WAC 246-980-025(2) who voluntarily chooses to be certified must provide documentation of qualification for the exemption. The applicant is not required to take the training required in subsection (1)(a) of this section or provide proof of training completion to the department.

[Statutory Authority: RCW 18.19.050, 18.29.130, 18.29.210, 18.34.120, 18.46.060, 18.55.095, 18.84.040, 18.88B.060, 18.89.050, 18.130.050, 18.138.070, 18.155.040, 18.200.050, 18.205.060, 18.215.040, 18.230.040, 18.240.050, 18.250.020, 18.290.020, 18.360.030, 18.360.070, 70.41.030, 70.230.020, 71.12.670, and 18.108.085. WSR 21-02-002, § 246-980-040, filed 12/23/20, effective 1/23/21. Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-040, filed 9/28/18, effective 10/29/18. Statutory Authority: Chapters 18.88B and 18.130 RCW, 2012 c 164, and 2013 c 259. WSR 13-19-087, § 246-980-040, filed 9/18/13, effective 10/19/13. Statutory Authority: 2012 c 1 (Initiative 1163) and chapter 18.88B RCW. WSR 12-08-043, § 246-980-040, filed 3/30/12, effective 4/4/12. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-040, filed 7/20/10, effective 1/1/11.]

AMENDATORY SECTION (Amending WSR 16-09-004, filed 4/7/16, effective 5/8/16)

WAC 246-980-065 Home care aide provisional certification. (1)

The department may issue a provisional certification to a long-term care worker who is limited-English proficient and submits:

- (a) A request for a provisional certification; and
- (b) Verification of his or her date of hire as a long-term care worker, as follows:
 - (i) For individual providers, verification of the applicant's date of hire submitted directly by the department of social and health services; or
 - (ii) For all other applicants, a form supplied by the department and completed by the employer who hired the applicant as a long-term care worker, verifying the applicant's date of hire.
- (2) A provisional certification will be issued only once.
- (3) Except as provided in WAC 246-980-011, a provisional certification will take effect ((two hundred)) 200 days from the applicant's date of hire as a long-term care worker, as defined in WAC 246-980-010(2).
- (4) Except as provided in WAC 246-980-011, a provisional certification will expire ((two hundred sixty)) 260 days from the applicant's date of hire as a long-term care worker. The applicant must stop working on the ((two hundred sixtieth)) 260th day of employment if the certification has not been granted for any reason.
- (5) A request for provisional certification may be denied pursuant to chapter 18.130 RCW, the Uniform Disciplinary Act, or based on RCW 18.88B.080.
- (6) For the purposes of this section, "limited-English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

[Statutory Authority: RCW 18.88B.060. WSR 16-09-004, § 246-980-065, filed 4/7/16, effective 5/8/16. Statutory Authority: 2013 c 259 and

RCW 18.88B.035. WSR 14-09-002, § 246-980-065, filed 4/3/14, effective 5/4/14.]

WSR 23-03-094

RESCISSION OF EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed January 17, 2023, 9:32 a.m.]

This memo serves as notice that, effective January 11, 2023, the department of health (department) is rescinding the emergency rule-making order CR-103E for WAC 246-335-510, 246-335-545, 246-335-610, and 246-335-645 for in-home services agencies, which was filed November 23, 2022, and published as WSR 22-23-166.

The department is rescinding this CR-103E because its purpose was to maintain emergency rule amendments while permanent rule making was in progress. The associated permanent rules were adopted on December 11, 2022, under WSR 23-01-032 and became effective on January 11, 2022. Because the permanent rules have superseded the emergency rules, the department is rescinding WSR 22-23-166.

Individuals requiring information on this rule should contact John Hilger by email john.hilger@doh.wa.gov or phone 360-236-2929.

Tami M. Thompson
Regulatory Affairs Manager