

**WSR 23-21-065
EMERGENCY RULES****DEPARTMENT OF HEALTH**

[Filed October 12, 2023, 3:22 p.m., effective October 12, 2023, 3:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Emergency rules that temporarily remove the requirement for home care aide applicants to become certified within two years of completing training.

WAC 246-980-100 Examination and reexamination for home care aide certification, in chapter 246-980 WAC, Home care aide rules. WAC 246-980-100 (5)(c) requires that home care aide certification testing occur within two years of training. This emergency rule removes the two-year limit on the validity of training.

Lasting impacts from the coronavirus disease 2019 (COVID-19) pandemic have impacted the home care aide workforce by creating backlogs that limit access to training and testing. Continuing to require testing within two years of training would require many uncertified individuals to repeat training, delaying and possibly preventing them from becoming credentialed as a home care aide. This would negatively impact the individuals working toward a credential, the home care aide workforce, and the clients for whom they provide care.

These rules continue emergency rules initially filed on October 17, 2022, under WSR 22-21-102 and continued on February 14, 2023, under WSR 23-05-083, and on June 13, 2023, under WSR 23-13-068. They are being continued while permanent rule making is in progress to consider training timelines for home care aides.

Citation of Rules Affected by this Order: Amending WAC 246-980-100.

Statutory Authority for Adoption: RCW 18.88B.021.

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 home care aides, to support the clients who rely on home care aides, and to avoid increasing existing training and testing backlogs.

During the COVID-19 pandemic, the home care aide training, testing, and certification pipeline was severely impacted. Early 2020 closures and capacity restrictions created long-lasting backlogs, preventing individuals from becoming credentialed within statutory time frames. While certification requirements were temporarily waived by governor's proclamations, individuals working toward home care aide certification now need to meet requirements in chapter 246-980 WAC despite backlogs. If the two-year limit on the validity of training remains in place, individuals trained earlier in the pandemic will be required to repeat training. This could have negative impacts, including (1) certification delays while individuals wait for training availability and then repeat training; (2) increased training backlogs; (3) loss of potential home care aides, as individuals who repeat training may then be unable to meet certification time frames; and (4) forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings or hospitals.

Removing this limit by emergency rule will support the home care aide workforce and the public health by (1) removing a barrier to certification while still requiring that home care aides receive appropriate training; (2) enabling more vulnerable individuals to receive care in their homes rather than needing to obtain care in residential care settings; and (3) helping to create a smooth transition away from regulation through pandemic emergency measures and back to statutory time frames.

These emergency rules will be continued as permanent rule making considers how training timelines should function in the long term.

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 1, Repealed 0.

Date Adopted: October 12, 2023.

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

OTS-4130.1

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

WAC 246-980-100 Examination and reexamination for home care aide certification. (1) The certification examination will consist of both a written knowledge test and a skills demonstration.

(2) The certification examination will test the core competencies, including but not limited to:

- (a) Communication skills;
- (b) Worker self-care;
- (c) Problem solving;
- (d) Maintaining dignity;
- (e) Consumer directed care;
- (f) Cultural sensitivity;
- (g) Body mechanics;
- (h) Fall prevention;
- (i) Skin and body care;
- (j) Home care aide roles and boundaries;
- (k) Supporting activities of daily living; and
- (l) Food preparation and handling.

(3) An applicant must apply to take the examination by completing the application for both certification and the examination and returning it to the department. The department will notify the examination contractor once an applicant meets all requirements to take the certification examination.

(4) The examination contractor will notify an applicant of the date, time, and place of the examination.

(5) The examination contractor will notify both the department and an applicant of the examination results.

(a) An applicant who does not successfully pass any portion of the examination can follow the examination contractor's procedures for review and appeal.

(b) An applicant who does not successfully pass any portion of the examination may retake that portion of the examination two times.

(i) To retake the examination, an applicant must submit an application for reexamination, along with the required reexamination fee directly to the examination contractor.

(ii) An application for reexamination may be submitted any time after an applicant receives notice of not successfully completing any portion of the certification examination.

(c) An applicant who does not successfully pass both portions of the certification examination (~~(within two years of successfully completing the required training or who does not successfully pass both portions of the certification examination)~~) after completing the certification examination three consecutive times:

(i) Must retake and successfully complete the core competencies portion of the entry-level training as required by RCW 74.39A.074 before retaking both portions of the certification examination; and

(ii) Cannot continue to provide care as a long-term care worker until the certification has been issued.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-100, 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, § 246-980-100, filed 9/18/13, effective 10/19/13. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-100, filed 7/20/10, effective 1/1/11.]