

WSR 23-23-126

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 16, 2023, 1:52 p.m., effective November 16, 2023, 1:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This extension of emergency rules deals with WAC

388-71-0876 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training including required specialty training? and 388-112A-0081 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training including required specialty training? The department of social and health services (department) is requiring that long-term care workers (LTCWs) complete training and certification by certain dates in response to the COVID-19 public health emergency. The department divided the group of LTCWs into cohorts based on the employee's date of hire or rehire. The rule requires each cohort to complete the requirements by deadlines in rule with the "oldest" LTCWs having the first deadline and then working through the groups chronologically. The department is working in concert with the department of health and will defer to their emergency rules related to extending certification deadlines. The current long term certification deadline for the last hire group is April 30, 2025. A CR-102 was filed under WSR 23-18-069 and a public hearing was held. Permanent rule making is in the process but will not be completed by the time the current emergency rule is set to expire.

Citation of Rules Affected by this Order: Amending WAC

388-71-0876 and 388-112A-0081.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, and 74.39A.074.

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: LTCWs hired or rehired during the COVID-19 public health emergency are required to complete certain training and certification requirements within specific deadlines. Stakeholders have reported that the number of workers in multiple cohorts still needing training and certification far exceeds the number that can be trained and tested by the current deadlines. This will result in LTCWs failing to complete the requirements in time and create risk to clients being able to access a qualified worker for provision of their personal care services. To prevent this, to avoid duplication and potential conflict of emergency rules, and to allow sufficient time for permanent rules to be in place, an additional emergency will be necessary.

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 2, 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 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 14, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4951.7

AMENDATORY SECTION (Amending WSR 22-12-081, filed 5/31/22, effective 7/1/22)

WAC 388-71-0876 When must long-term care workers who were working or hired during or immediately after the COVID-19 public health emergency complete training, including required specialty training?

(1) Unless exempt from training as described in WAC 388-71-0839 or ((WAC)) 388-112A-0090, a long-term care worker affected by the COVID-19 public health emergency must complete training, including required specialty training, as follows:

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
8/17/2019 to 9/30/2020	((10/31/2022)) <u>1/31/2023</u>
10/1/2020 to 4/30/2021	((1/31/2023)) <u>4/30/2023</u>
5/1/2021 to 3/31/2022	((4/30/2023)) <u>7/31/2023</u>
4/1/2022 to 9/30/2022	((8/31/2023)) <u>10/31/2023</u>
10/1/2022 - ((12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>6/30/2023</u>	((9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>11/30/2023</u>
((After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later)) <u>Beginning 7/1/2023</u>	Standard training requirement of 120 days <u>from hire date</u>

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification ((as follows:)) according to WAC 246-980-011.

((Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
8/17/2019 to 9/30/2020	<u>1/19/2023</u>

((Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
10/1/2020 to 4/30/2021	4/21/2023
5/1/2021 to 3/31/2022	7/19/2023
4/1/2022 to 9/30/2022	11/19/2023
10/1/2022 – 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later	Standard training))

(3) "Hired" and "rehired" as used in this section mean the date of hire as defined in chapter 246-980 WAC. 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.

(4) If a long-term care worker is limited-English proficient, the worker may request an additional 60 days to obtain certification.

(5) Nothing in this section prevents a long-term care worker hired between 8/17/2019 and 9/30/2022 from completing training or obtaining certification in advance of the deadlines stipulated in subsections (1) or (2) of this section.

AMENDATORY SECTION (Amending WSR 22-12-081, filed 5/31/22, effective 7/1/22)

WAC 388-112A-0081 When must long-term care workers who were working or hired during or immediately after the COVID-19 public health emergency complete training, including required specialty training? (1) Unless exempt from training as described in WAC 388-71-0839 or ((WAC)) 388-112A-0090, a long-term care worker affected by the COVID-19 public health emergency must complete training, including required specialty training, as follows:

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
8/17/2019 to 9/30/2020	((10/31/2022)) 1/31/2023
10/1/2020 to 4/30/2021	((1/31/2023)) 4/30/2023
5/1/2021 to 3/31/2022	((4/30/2023)) 7/31/2023
4/1/2022 to 9/30/2022	((8/31/2023)) 10/31/2023
10/1/2022 - ((12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) 6/30/2023	((9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) 11/30/2023

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
((After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later)) Beginning 7/1/2023	Standard training requirement of 120 days from hire date

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification ((as follows:)) according to WAC 246-980-011.

((Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
8/17/2019 to 9/30/2020	1/19/2023
10/1/2020 to 4/30/2021	4/21/2023
5/1/2021 to 3/31/2022	7/19/2023
4/1/2022 to 9/30/2022	11/19/2023
10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later	Standard training))

(3) "Hired" and "rehired" as used in this section mean the date of hire as defined in chapter 246-980 WAC. 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.

(4) If a long-term care worker is limited-English proficient, the worker may request an additional 60 days to obtain certification.

(5) Nothing in this section prevents a long-term care worker hired between 8/17/2019 and 9/30/2022 from completing training or obtaining certification in advance of the deadlines stipulated in subsections (1) or (2) of this section.