

WSR 22-11-077

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed May 17, 2022, 1:10 p.m., effective May 17, 2022, 1:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Developmental disabilities administration (DDA) is amending one section in chapter 388-829 WAC and adding two new sections to chapter 388-829 WAC. These amendments are necessary to establish due dates for training required under chapter 388-829 WAC and to allow DDA to accept on-the-job learning related to COVID-19 to satisfy continuing education requirements.

Citation of Rules Affected by this Order: New WAC 388-829-0086 and 388-829-0087; and amending WAC 388-829-0085.

Statutory Authority for Adoption: RCW 71A.12.030, 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: This is a subsequent filing on these rules, however, the text of the rules have changed. This filing is necessary to keep the emergency rules enacted until DDA can complete the permanent rule-making process. A public hearing for the proposed rules is scheduled for June 7, 2022. Failing to enact these extended training deadlines could result in providers suddenly being out of compliance with training requirements, which would affect client access to qualified service providers.

RCW 74.39A.074 authorizes the department of social and health services to enact rules necessary to allow long-term care workers additional time to complete training requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 1, Repealed 0.

Date Adopted: May 16, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4897.9

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

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

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

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

(i) Registered nurse;

(ii) Licensed practical nurse;

(iii) Nurse technician;

(iv) Advanced registered nurse practitioner; or

(v) Home care aide certified.

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

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

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

(a) Training according to WAC 388-829-0086; and

(b) Continuing education according to WAC 388-829-0087.

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

NEW SECTION

WAC 388-829-0086 When must a direct support professional employed during the COVID-19 public health emergency complete training, including specialty training? (1) A direct support professional employed during the COVID-19 public health emergency must complete training, including specialty training, as follows:

Worker hired during the time frame of:	Must complete 75-hour new employee training no later than:
8/17/2019 to 9/30/2020	10/31/2022
10/1/2020 to 4/30/2021	1/31/2023
5/1/2021 to 3/31/2022	4/30/2023
4/1/2022 to 9/30/2022	8/31/2023
10/1/2022 to 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	9/30/2023 or no more than 120 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	As required under WAC 388-829-0015
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(2) Nothing in this section prevents a direct support professional hired between 8/17/2019 and 9/30/2022 from completing training in advance of the deadlines in subsection (1) of this section.

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NEW SECTION

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

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

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

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

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

(4) The direct support professional may apply the 12 hours of on-the-job training towards continuing education for either 2020 or 2021. The hours must be applied no later than December 31, 2021.

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

(6) The department recognizes that direct support professionals may not have completed training hours in excess of the 12 hours of CE granted in subsection (4) of this section due to the COVID-19 public health emergency. All direct support professionals have until December 31, 2022, or 120 days from the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later, to complete any additional CE that may have become due while training waivers were in place in excess of the 12 hours of CE granted in subsection (4) of this section. For an employee required to complete training by their birthday under WAC 388-101D-0085 (1)(b), the employee will have 120 days from the end of the training waivers to complete the required CE if the employee's birthday is fewer than 120 days after the training waivers are lifted.

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