

**WSR 23-09-040**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Developmental Disabilities Administration)  
[Filed April 14, 2023, 12:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-06-054.

Title of Rule and Other Identifying Information: 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?

Hearing Location(s): On May 23, 2023, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street [S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/drivingdirections-office-bludg-2> [<https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>]; or virtually. Due to COVID-19 pandemic, hearings are held virtually, see the DSHS website <https://www.dshs.wa.gov/office-of-the-secretary/filings-and-rules> for the most current information.

Date of Intended Adoption: Not earlier than May 24, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax 360-664-6185, by May 23, 2023, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email [shelley.tencza@dshs.wa.gov](mailto:shelley.tencza@dshs.wa.gov), by May 9, 2023, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is amending WAC 388-829-0087 to extend due dates for continuing education credits required under chapter 388-829 WAC.

Reasons Supporting Proposal: Direct service providers hired during the COVID-19 public health emergency (PHE) were required to complete 12 hours of continuing education annually. As a result of the PHE, the number of training programs available to provide department-approved continuing education significantly diminished. Changing rules, standards, and a sudden shift to electronic training resulted in both a delay in available training and an increased demand. Providers have reported that there are still a significant number of workers who need to complete continuing education hours that were due while PHE-related training waivers were in place. This is affecting their ability to meet requirements for current renewal cycles because hours must be applied to the older renewal cycles first. Without an extension, direct service providers could end up out of compliance, which could limit client access to qualified providers.

Statutory Authority for Adoption: RCW 74.39A.341.

Statute Being Implemented: RCW 74.39A.341.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: This extension was requested by providers required to comply with chapter 388-829 WAC, private.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementa-

tion and Enforcement: Sarah Blanchette, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1540.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504, phone 360-790-4732, fax 360-407-0955, TTY 1-800-833-6388, email chantelle.diaz@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(5).

Explanation of exemptions: DDA prepared an analysis under RCW 34.05.328, which revealed that there are no new costs imposed. While providers do pay for their staff to attend trainings, continuing education training reimbursement is built into provider rates.

Scope of exemption for rule proposal:

Is fully exempt.

April 12, 2023  
Katherine I. Vasquez  
Rules Coordinator

## SHS-4973.2

AMENDATORY SECTION (Amending WSR 22-14-062, filed 6/29/22, effective 7/30/22)

**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.

(a) 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,)) August 31, 2023, to complete any additional CE that may have become due ((while training waivers were in place)) between January 1, 2020, and February 28, 2023, in excess of the 12 hours of CE granted in subsection (4) of this section.

(b) For an employee required to complete training by their birthday under WAC ((388-101D-0085)) 388-829-0085 (1)(b), the employee ((will have 120 days from the end of the training waivers)) has until August 31, 2023, to complete ((the required CE if the employee's birthday is fewer than 120 days after the training waivers are lifted)) any additional CE that may have become due between January 1, 2020, and February 28, 2023, in excess of the 12 hours of CE granted in subsection (4) of this section.

[Statutory Authority: RCW 74.39A.074 and 71A.12.030. WSR 22-14-062, § 388-829-0087, filed 6/29/22, effective 7/30/22.]