

## WSR 23-09-052

## EMERGENCY RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed April 17, 2023, 5:56 p.m., effective April 17, 2023, 5:56 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: 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 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 extending the deadlines to allow more time to complete training and certification. Permanent rule making is in the rule development phase of the permanent process. This emergency rule supersedes the emergency rule filed as WSR 23-04-055.

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 by the current deadline. This will result in LTCWs failing to complete the requirements in time and create risk to clients being able to access qualified workers for provision of their personal care services. To prevent this, the department is extending the training and certification deadlines. These changes must take effect before the current emergency rule expires because there is a group of workers who will suddenly be out of compliance and unable to work if they have not completed training by the current deadlines. For that reason, getting new dates in place is critical.

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: April 17, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-4951.6**

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 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:

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

<b>Worker hired or rehired during the time frame of:</b>	<b>Must be certified as a home care aide no later than:</b>
8/17/2019 to 9/30/2020	(( <del>1/19/2023</del> ) <u>5/31/2023</u> )
10/1/2020 to 4/30/2021	(( <del>4/21/2023</del> ) <u>8/28/2023</u> )

Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
5/1/2021 to 3/31/2022	<del>((7/19/2023))</del> <u>11/27/2023</u>
4/1/2022 to 9/30/2022	<del>((11/19/2023))</del> <u>2/27/2024</u>
10/1/2022 - <del>((12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later))</del> <u>6/30/2023</u>	<del>((12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later))</del> <u>3/28/2024</u>
<del>((After the end of the COVID-19 training waivers established by gubernatorial proclamation or))</del> <u>Beginning ((1/1/2023, whichever is later)) 7/1/2023</u>	<del>((Standard training))</del> <u>Standard certification requirement of 200 days from hire date</u>

(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.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 22-12-081, § 388-71-0876, filed 5/31/22, effective 7/1/22.]

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 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	<del>((10/31/2022))</del> <u>1/31/2023</u>
10/1/2020 to 4/30/2021	<del>((1/31/2023))</del> <u>4/30/2023</u>
5/1/2021 to 3/31/2022	<del>((4/30/2023))</del> <u>7/31/2023</u>
4/1/2022 to 9/30/2022	<del>((8/31/2023))</del> <u>10/31/2023</u>

<b>Worker hired or rehired during the time frame of:</b>	<b>Must complete basic training no later than:</b>
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)) Beginning <u>7/1/2023</u>	Standard training requirement of <u>120 days 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:

<b>Worker hired or rehired during the time frame of:</b>	<b>Must be certified as a home care aide no later than:</b>
8/17/2019 to 9/30/2020	((1/19/2023)) <u>5/31/2023</u>
10/1/2020 to 4/30/2021	((4/21/2023)) <u>8/28/2023</u>
5/1/2021 to 3/31/2022	((7/19/2023)) <u>11/27/2023</u>
4/1/2022 to 9/30/2022	((11/19/2023)) <u>2/27/2024</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>	((12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>3/28/2024</u>
((After the end of the COVID-19 training waivers established by gubernatorial proclamation or)) Beginning ((1/1/2023, whichever is later)) <u>7/1/2023</u>	((Standard training)) Standard certification requirement of <u>200 days from hire date</u>

(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.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 22-12-081, § 388-112A-0081, filed 5/31/22, effective 7/1/22.]