



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 11, 2024
TIME: 3:44 PM

WSR 24-19-048

Agency: Department of Social and Health Services- Aging and Long-Term Support Administration - HCS

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 24-14-086 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) The Department is planning to amend the following WAC sections related to training and continuing education rules due to SB 5811 (chapter 322 laws of 2024) 388-71-0523, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0890, 388-71-0971, 388-71-0977, 388-71-0991, 388-71-1001, 388-115-0523, and to repeal 388-71-0990.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 5, 2024	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of intended adoption: No later than November 6, 2024, (Note: This is **NOT** the **effective** date)

<p>Submit written comments to:</p> <p>Name DSHS Rules Coordinator</p> <p>Address PO Box 45850, Olympia WA 98504</p> <p>Email DSHSRPAURulesCoordinator@dshs.wa.gov</p> <p>Fax 360-664-6185</p> <p>Other</p> <p>Beginning (date and time) <u>noon on September 18, 2024</u></p> <p>By (date and time) <u>5:00 p.m. on November 5, 2024</u></p>	<p>Assistance for persons with disabilities:</p> <p>Contact Shelley Tencza, Rules Consultant</p> <p>Phone 360-664-6036</p> <p>Fax 360-664-6185</p> <p>TTY 711 Relay Service</p> <p>Email shelley.tencza@dshs.wa.gov</p> <p>Other</p> <p>By (date) <u>5:00 p.m. on October 22, 2024</u></p>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of these changes include:

- Compliance with Senate Bill 5811 passed during the 2024 legislative session;
- Clarification of continuing education requirements related to the date of hire;
- Acknowledgement of the Interstate Nurse Licensure Compact related to training requirements; and
- Combining WAC 388-71-0990 and WAC 388-71-0991 into a single section..

Reasons supporting proposal: The changes to the law related to training and continuing education affect all long-term care workers. Rules must be changed in response to and in compliance with the new laws including Senate Bill 5811 and the Interstate Nurse Licensure Compact. Other edits related to clarity and consistency are also included along with the combining of two very similar sections.

Statutory authority for adoption: RCW 18.88B.010, 18.88B.041, 74.08.090, 74.39A.076, 74.39A.341, and chapter 18.80 RCW

Statute being implemented: RCW 18.88B.010, 18.88B.041, 74.08.090, 74.39A.076, 74.39A.341, and chapter 18.80 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Department of Social and Health Services
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	David Chappell	PO Box 45600, Lacey WA 98504-5600	360-725-2516
Implementation	David Chappell	PO Box 45600, Lacey WA 98504-5600	360-725-2516
Enforcement	David Chappell	PO Box 45600, Lacey WA 98504-5600	360-725-2516

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No
If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name Dave Chappell
- Address PO Box 45600, Lacey WA 98504-5600
- Phone 360-725-2516
- Fax
- TTY
- Email david.chappell@dshs.wa.gov
- Other

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of how the above exemption(s) applies to the proposed rule: Changes to RCW 18.88B.041, 74.39A.076, 74.39A.341, chapter 18.80 RCW require rules changes to reflect new language.

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name Dave Chappell
 Address PO Box 45600, Lacey WA 98504-5600
 Phone 360-725-2516
 Fax
 TTY
 Email david.chappell@dshs.wa.gov
 Other

Date: September 9, 2024	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers? The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers. This includes criteria for those providers working limited hours for one person, caring only for one's child, parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild including when related by marriage or domestic partnership, providing respite services, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, ((CN-A)) NA-C , or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC ((388-71-0990 and)) 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with special education training 12 hours is required for each year worked in long-term care.	Required under chapter 246-980 WAC.
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	12 hours is required for each year worked in long-term care under WAC ((388-71-0990 and)) 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(3) An individual provider or home care agency long-term care worker.	Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC ((388-71-0990 and)) 388-71-0991.	Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
((5)) (5) An individual who provides respite services and works 300 hours or less in any calendar year.	(a) An individual providing respite care who works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section. (b) Individual providing respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Nine hours under WAC 388-71-0890.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(6) An individual provider caring only for the provider's ((biological, step, or adoptive)) adult child.	An individual providing care only for the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.	Required. Two hours ((per)) under WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required until January 1, 2027, then <u>12 hours for each year worked in long-term care under WAC 388-71-0991.</u>	Not required.
((7)) An individual provider caring only for the provider's biological, step, or adoptive child, or parent.	An individual providing care only to the individual's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care for an individual provider caring only for the provider's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for the provider's biological, step, or adoptive child under WAC 388-71-1001.	Not required:))
((8)) (7) An individual provider caring only for the provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.</u>	An individual providing care only for the individual provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership,</u> who is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required until January 1, 2027, then <u>12 hours for each year worked in long-term care under WAC 388-71-0991.</u>	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
((9)) (8) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.	A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under ((WAC 388-71-0990 and)) 388-71-0991.	Not required.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-71-0839 Which long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour basic training requirements? The following long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour basic training requirement:

(1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;

(2) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of hire, and was employed as a long-term care worker at some point between January 1, 2011, and January 6, 2012;

(3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 or 18.80 RCW;

(4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within 120 days of the date of hire and the department of health has issued a nursing assistant certified credential within 200 days of the date of hire;

(5) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;

(6) An individual with special education training who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-71-0875 Who must complete the 70-hour basic training and by when? Unless exempt from training in WAC 388-71-0839(1) through (7), ~~((all))~~ long-term care workers required to complete the 70-hour basic training must complete core and population specific competencies within 120 days of the date of hire as described in WAC 388-71-0837.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-71-0880 Who must complete the 30-hour basic training and by when must it be completed? Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), the following individuals must complete the 30-hour basic training under WAC 388-71-0885 within 120 days of the date of hire as described in WAC 388-71-0837:

(1) An individual provider who only cares for that provider's ~~((÷))~~

~~((a) biological, step, or adoptive))~~ child, ~~((☒))~~ parent ~~((÷☒))~~ ☒

~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; ~~((☒))~~

(2) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs; or

(3) A long-term care worker who provides no more than 20 hours of nonrespite care for one person who is not the individual provider's ~~((÷))~~

~~((a) biological, step, or adoptive))~~ child, ~~((☒))~~ parent ~~((÷☒))~~ ☒

~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-71-0888 When do the 70-hour basic training and certification requirements apply to an individual whose required basic training was previously less than 70 hours? (1) The following individual providers must complete 70 hours of basic training and become a certified home care aide under WAC 388-71-0523:

(a) ~~((Individual providers))~~ An individual provider (IP) who previously provided no more than 20 hours of nonrespite care in any calendar month for one person who is not the provider's:

(i) ~~((biological, step, or adoptive))~~ Child, ~~((☒))~~ parent ~~((÷))~~ ☒

~~((iii))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((iii))~~ (ii) Spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs;

(A) Who continue to work for one unrelated client whose authorized monthly hours fluctuate above 20 hours per month; or

(B) Who begin to work for a second client.

(b) ~~((Individual providers))~~ An IP who ~~((provide))~~ provides respite services and worked more than 300 respite hours in any calendar year;

(c) ~~((Individual providers))~~ An IP who ~~((begin))~~ begins working for an unrelated client who previously only provided personal care to the provider's:

(i) ~~((biological, step, or adoptive))~~ Child, ~~((or))~~ parent~~((or))~~

~~((iii))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((iii))~~ (ii) Spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.

(2) When an IP described in subsection (1) of this section is required to complete the 70-hour basic training and become a certified home care aide, the IP will:

(a) Have 120 days from the date of the change to complete the 70-hour basic training and 200 days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

(3) For the purpose of this section, the date of the change means the date on which the IP:

(a) Began working for a client that is not the individual's:

(i) ~~((biological, step, or adoptive))~~ Child, ~~((or))~~ parent~~((or))~~

~~((iii))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

~~((iii))~~ (ii) Spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

(b) Exceeded 20 hours of work in one month; or

(c) Exceeded 300 respite hours in one calendar year.

(4) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for more than one unrelated client; or

(c) The individual works 300 or fewer respite hours in a calendar year.

(5) The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) (~~(biological, step, or adoptive)~~) Parent, (~~(or)~~) adult child, (~~(b)~~) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(~~(e)~~) (b) Spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0890 What are the training requirements for parent providers who are individual providers for their adult children through DDA? Unless exempt from the basic training requirements as defined in WAC 388-71-0839 (1) through (7), a (~~(biological, step, or adoptive)~~) parent, including when related by marriage or domestic partnership, who is the individual provider for (~~(his or her)~~) their adult child receiving services through the DSHS developmental disabilities administration must complete the (~~(twelve)~~) 12-hour parent provider training, as described in WAC 388-71-0895, within (~~(one hundred twenty)~~) 120 days from the begin date of the authorization to provide department paid, in-home services.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0971 Prior to hiring a long-term care worker, what training and certification requirements must be reviewed by the home care agency or department? Before hiring a long-term care worker, the home care agency or the department acting on behalf of the client, as defined under RCW 74.39A.009; or the consumer directed employer (CDE) under chapter 74.39A RCW; must review and verify the highest level of training or certification achieved by the individual.

(1) When the individual is a home care aide certified under chapter 18.88B RCW, the home care agency, CDE, or department must:

(a) Verify that the individual's home care aide certification is current and in good standing; and

(b) Confirm and document that the individual either holds current home care aide certification, or if not required to obtain certification, is in compliance with continuing education as required under (~~(WACs 388-71-0990 and)~~) WAC 388-71-0991 only for the compliance year in which they are hired.

(2) When the individual is exempt from the 70-hour home care aide training and certification requirements under WAC 388-71-0839, the home care agency, CDE, or department must review and verify the following:

(a) Documents demonstrating the individual's exemption status from training and certification which may include:

(i) Washington state provider active credential number, showing that the individual's license or certification is current and in good standing;

(ii) A letter from a former or current employer documenting work history during the exemption period described in WAC 388-71-0839;

(iii) Employment history records from the Washington state employment security department documenting work history information during the exemption period;

(iv) Federal tax statements documenting work history information during the exemption period; or

(v) Documentation showing completion of the basic training as required under WAC 388-71-0839;

(b) For the year in which they are hired, documentation of completion of 12 hours of continuing education, or information on when the continuing education must be completed, that complies with (~~WAC 388-71-0990 and~~) WAC 388-71-0991.

(3) Individuals who have worked as long-term care workers in the past, but who did not complete the basic training or certification required at the time, may be eligible to have the date of hire reset in accordance with this section and WAC 388-71-0980.

(a) Individuals who are eligible to reset their date of hire as provided in WAC 388-71-0980 must submit a new application and fee to the department of health and adhere to the training or certification requirement under this chapter.

(b) Individuals who are not eligible to reset the date of hire as provided in WAC 388-71-0980 must not be paid to provide personal care assistance until they complete required training and become certified as a long-term care worker.

(4) The home care agency, or the department acting on behalf of the client, as defined under RCW 74.39A.009; or the (~~consumer directed employer~~) CDE under chapter 74.39A RCW must comply with continuing education documentation requirements under WAC 388-71-0970.

(a) Individuals (~~who worked in the previous year in a long-term care setting during the previous calendar year,~~) are held accountable for continuing education completion by their new employer on the date of hire and shall provide at new hire, documentation of their continuing education compliance (~~during~~) for the calendar year hired; or

(b) Individuals who work for multiple employers or move between employers shall on the date of hire, provide documentation of continuing education compliance for the calendar year in which they are hired, if hired after their birthdate.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status?

(1) If an individual is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

- (b) The individual no longer works for a second unrelated client;
or
- (c) The individual works 300 respite hours or less in a calendar year.
- (2) The training and certification requirements for an individual that met the criteria in subsection (1) of this section does not apply when the individual returns to work only for the individual's:
- (a) ~~((biological, step, or adoptive))~~ Parent, ~~((or))~~ adult child~~((or))~~, ~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- ~~((e))~~ (b) Spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0991 ((When)) Who is required to complete continuing education training and when must a long-term care worker or certified home care aide complete continuing education? (1) All long-term care workers who are certified home care aides must comply with the continuing education requirements under chapter 246-980 WAC.

(2) Long-term care workers, who are exempt from home care aide certification as described in RCW 18.88B.041, unless exempt from continuing education as described under WAC 388-71-1001 must complete and provide documentation of 12 hours of continuing education within 45 calendar days of being hired or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(a) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(b) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(3) If the renewal period following initial certification as a home care aide or nursing assistant (NA-C), is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(4) ~~((For))~~ Unless exempt under WAC 388-71-1001, long-term care workers who are caring for a ((biological, step, or adoptive)) parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs, continuing education must be completed on or before their birthday in the year after basic training was completed. ((If these long-term care workers have not worked in long-term care for a calendar year or longer, the worker can complete the continuing education requirement as provided in subsection (2) of this section.))

(5) A certified home care aide or long-term care worker exempt from home care aide certification as described in RCW 18.88B.041 who

did not complete the continuing education requirements by the time frame described in this section must not be paid to provide care after that date.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-71-1001 Which long-term care workers are exempt from the continuing education requirement? (1) Until January 1, 2025, continuing education is not required for individual providers caring for only the provider's:

(a) Biological, step, or adoptive child, or

(b) Sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(2) Beginning January 1, 2025, and until January 1, 2027, ((Continuing)) continuing education is not required for ((any of the following:

(1) Individual)) individual providers caring only for the provider's ((:

(a) biological, step, or adoptive)) parent, child((; or

(b)) , sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

((2) Individual)) (3) Continuing education is not required for individual providers that:

(a) Provide no more than 20 hours of nonrespite care in any calendar month to only one person who is not the provider's((:

(i) biological, step, or adoptive)) child((; or) ,

((ii)) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership((;)) , or

(b) Provide respite services and work 300 hours or less of respite in any calendar year((;)) .

((3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and))

(4) ((Registered)) Continuing education is not required for registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(5) Beginning January 1, 2025, individual providers covered under this section may voluntarily take continuing education and be paid for up to 12 hours of continuing education annually.

AMENDATORY SECTION (Amending WSR 24-05-003, filed 2/8/24, effective 3/10/24)

WAC 388-115-0523 What are the training and certification requirements for individual providers? The following chart provides a summary of the training and certification requirements for individual providers. This includes criteria for those providers working limited

hours for one person, caring only for one's child, parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild including when related by marriage or domestic partnership, providing respite services, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider (or home care agency long-term care worker) with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC ((388-71-0990 and)) 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with special education training, 12 hours is required for each year worked in long-term care.	Required under chapter 246-980 WAC.
(2) An individual provider with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the worker's date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	12 hours is required for each year worked in long-term care under WAC ((388-71-0990 and)) 388-71-0991.	Not required.
(3) An individual provider.	Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC ((388-71-0990 and)) 388-71-0991.	Required under chapter 246-980 WAC.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(4) An individual provider who works limited hours for one person.	An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(5) An individual who provides respite services and works 300 hours or less in any calendar year.	(a) An individual providing respite care and works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section. (b) An individual providing respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Nine hours under WAC 388-71-0890.	Not required.	Not required.
(6) An individual provider caring only for the provider's ((biological, step, or adoptive)) adult child.	An individual providing care only for the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.	Required. Two hours ((per)) under WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required until January 1, 2027, then 12 hours for each year worked in long-term care under WAC 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
((7)) An individual provider caring only for the provider's biological, step, or adoptive child, or parent.	An individual providing care only to the provider's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care for an individual provider caring only for the individual's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for the individual's biological, step, or adoptive child under WAC 388-71-1001.	Not required.))
((8)) (7) An individual provider caring only for the individual provider's parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.	An individual providing care only for the individual provider's parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required until January 1, 2027, then 12 hours for each year worked in long-term care under WAC 388-71-0991.	Not required.
((9)) (8) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.	A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC ((388-71-0990 and)) 388-71-0991.	Not required.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-71-0990 Who is required to complete continuing education training, how many hours are required each year, and under what circumstances may the long-term care worker not be paid?