



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: June 28, 2024

TIME: 12:23 PM

WSR 24-14-083

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
- No
- If Yes, explain:

Purpose: The Department of Social and Health Services (department) is amending WAC sections 388-71-0523, 388-71-0880, 388-71-0888, 388-71-0890, 388-71-0977, and 388-115-0523. The purpose of these changes is to bring rules into compliance with Senate Bill 5811 (chapter 322, Laws of 2024) passed during the 2024 legislative session. This rulemaking expands the definition of individual provider. Permanent rules are in process.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 388-71-0523, 388-71-0880, 388-71-0888, 388-71-0890, 388-71-0977, and 388-115-0523
- Suspended:

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

Other authority:

EMERGENCY RULE

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.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Emergency rules are necessary because there is insufficient time to put permanent rules in place before certain changes in law are effective June 5, 2024.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New		Amended	<u>6</u>	Repealed	

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended 6 Repealed 0

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

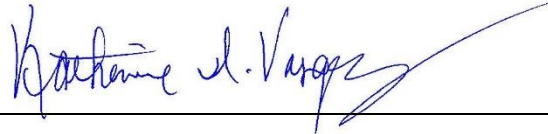
The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	____	Repealed	____

Date Adopted: June 25, 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, 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.	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</u> , including when related by marriage or domestic partnership.	An individual providing care only for the individual provider's <u>parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild</u> , including when related by marriage or domestic partnership, 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.	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 388-71-0880 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, or parent ~~((; or))~~ ~~((b))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(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, ~~((or))~~ parent ~~((; or))~~ ~~((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 train-

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

~~((☒))~~ (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 who provide respite services and worked more than 300 respite hours in any calendar year;

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

(i) ~~((biological, step, or adoptive))~~ child, ~~((☒))~~ parent ~~((☒))~~, ~~((☒))~~ sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

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

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

~~((or))~~ (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 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 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 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.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(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.
(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.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(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.	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 <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, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</u>	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.
((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.