

WSR 12-21-068
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 17, 2012, 5:47 p.m., effective October 17, 2012, 5:47 p.m.]

Effective Date of Rule: Immediately.

Purpose: To implement and clarify the training and the criminal history background check requirements as directed in chapter 74.39A RCW. Permanent implementation has been delayed due to WAC language updates made as a result of ESHB 2314, and continued public comment during the implementation of training and criminal history background check requirements as directed in chapter 74.39A RCW. This emergency filing supersedes the emergency rule filed as WSR 12-13-090, which expires October 17. The department received several comments during the public comment period and public hearing held September 25, 2012. In order to thoughtfully review the comments and make necessary changes, the department is filing this extension.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-71-05665, 388-71-05670, 388-71-05675, 388-71-05680, 388-71-05685, 388-71-05690, 388-71-05695, 388-71-05700, 388-71-05705, 388-71-05710, 388-71-05715, 388-71-05720, 388-71-05725, 388-71-05730, 388-71-05735, 388-71-05740, 388-71-05745, 388-71-05750, 388-71-05755, 388-71-05760, 388-71-05765, 388-71-05770, 388-71-05775, 388-71-05780, 388-71-05785, 388-71-05790, 388-71-05795, 388-71-05799, 388-71-05805, 388-71-05810, 388-71-05815, 388-71-05820, 388-71-05825, 388-71-05830, 388-71-05832, 388-71-05835, 388-71-05840, 388-71-05845, 388-71-05850, 388-71-05860, 388-71-05865, 388-71-05870, 388-71-05875, 388-71-05880, 388-71-05885, 388-71-05890, 388-71-05895, 388-71-05899, 388-71-05905, 388-71-05909, 388-71-0801, 388-71-0806, 388-71-0811, 388-71-0816, 388-71-0821, 388-71-0826, 388-112-0025, 388-112-0030, 388-112-0050, 388-112-0060, 388-112-0065, 388-112-0080, 388-112-0085, 388-112-0090, 388-112-0095, 388-112-0105, 388-112-0230, 388-112-0245, 388-112-02610, 388-112-02615, 388-112-02620, 388-112-02625, 388-112-02630, and 388-112-0375; and amending WAC 388-71-0500, 388-71-0505, 388-71-0510, 388-71-0513, 388-71-0515, 388-71-0520, 388-71-0540, 388-71-0546, 388-71-0551, 388-71-0560, 388-112-0001, 388-112-0005, 388-112-0010, 388-112-0015, 388-112-0035, 388-112-0040, 388-112-0045, 388-112-0055, 388-112-0070, 388-112-0075, 388-112-0110, 388-112-0115, 388-112-0120, 388-112-0125, 388-112-0130, 388-112-0135, 388-112-0140, 388-112-0145, 388-112-0150, 388-112-0155, 388-112-0160, 388-112-0165, 388-112-0195, 388-112-0200, 388-112-0205, 388-112-0210, 388-112-0220, 388-112-0225, 388-112-0235, 388-112-0240, 388-112-0255, 388-112-0260, 388-112-0270, 388-112-0295, 388-112-0300, 388-112-0315, 388-112-0320, 388-112-0325, 388-112-0330, 388-112-0335, 388-112-0340, 388-112-0345, 388-112-0350, 388-112-0355, 388-112-0360, 388-112-0365, 388-112-0370, 388-112-0380, 388-112-0385, 388-112-0390, 388-112-0395, 388-112-0405, and 388-112-0410.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, Washington state 2009-11 budget (ESHB 2314).

Under RCW 34.05.350 the agency for good cause finds 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: Chapter 74.39A RCW requires training for long-term care workers which includes seventy-five hours of entry-level training also requires federal and state criminal history background checks for all long-term care workers. This law increases the basic training hour requirements for long-term care workers from thirty-two hours to seventy-five hours and increases their continuing education hour requirement from ten to twelve hours annually. Initiative 1163, enacted by the people in November 2011, required implementation of these rules effective beginning January 7, 2012 (unless otherwise specified). Permanent rule making has been delayed and subsequent emergency filing is necessary.

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 86, Amended 63, Repealed 77.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, 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 86, Amended 63, Repealed 77.

Date Adopted: October 17, 2012.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-71-0500 What is the purpose of WAC 388-71-0500 through ((~~388-71-05952~~ [~~388-71-05909~~])) 388-71-0562 and 388-71-0836 through 388-71-1006? ((A client/legal representative may choose an individual provider or a home care agency provider.)) The ((intent)) purpose of WAC 388-71-0500 through ((~~388-71-05952~~ [~~388-71-05909~~])) 388-71-0562 and WAC 388-71-0836 through 388-71-1006 is to describe the:

(1) Qualifications of an individual provider, as defined in WAC 388-106-0010;

(2) Qualifications of a long-term care worker employed by a home care agency ((provider)), as defined in WAC 388-106-0010 and chapter 246-336 WAC;

(3) Conditions under which the department or the area agency on aging (AAA) will pay for the services of an individual provider or a home care agency ((provider)) long-term care worker;

(4) Training requirements for an individual provider and home care agency ((provider)) long-term care worker.

(5) Client's options for obtaining a long-term care worker. A client, as described in WAC 388-71-0836 eligible to receive long-term care services, or his/her legal representative on the client's behalf, may choose to receive personal care services in the client's home from an individual provider or a long-term care worker from a home care agency. If the client chooses to receive services from a home care agency, the agency will assign a long-term care worker employed by the agency to provide services to the client. Individual providers and home care agency long-term care workers are "long-term care workers" as defined in RCW 74.39A.009 and are subject to background checks under RCW 74.39A.055 and 43.20.710.

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0505 How does a client hire an individual provider? The client, or legal representative:

- (1) Has the primary responsibility for locating, screening, hiring, supervising, and terminating an individual provider;
- (2) Establishes an employer/employee relationship with the individual provider; and
- (3) May receive assistance from the social worker/case manager or other resources in this process.

AMENDATORY SECTION (Amending WSR 04-16-029, filed 7/26/04, effective 8/26/04)

WAC 388-71-0510 How does a person become an individual provider? In order to become an individual provider, a person must:

- (1) Be eighteen years of age or older;
- (2) Provide the social worker/case manager/designee with:
 - (a) A valid Washington state driver's license or other valid picture identification; and either
 - (b) A Social Security card; or
 - (c) Proof of authorization to work in the United States.
- (3) ~~((Complete and submit to the social worker/case manager/designee the department's criminal conviction background inquiry application, unless the provider is also the parent of the adult DDD client and exempted, per chapter 74.15 RCW;~~
 - (a) ~~Preliminary results may require a thumb print for identification purposes;~~
 - (b) ~~An FBI fingerprint-based background check is required if the person has lived in the state of Washington less than three years.~~
- (4)) Effective January 2, 2012, be screened through Washington state's name and date of birth background check. Preliminary results may require a thumb print for identification purposes.
- (4) Effective January 2, 2012, be screened through the national fingerprint-based background check, as required by chapter 74.39A RCW.
- (5) Results of background checks are provided to the department and the employer or potential employer for the purpose of determining whether the person:

(a) Is disqualified based on a disqualifying crime or negative action; or

(b) Should or should not be employed as an individual provider based on his or her character, competence, and/or suitability.

(6) Disqualifying crimes and negative actions are listed in WAC 388-71-0540 (4), (5) and (6).

(7) For those providers listed in RCW 43.43.837(1), a second national fingerprint-based background check is required if they have lived out of the state of Washington since the first national fingerprint-based background check was completed.

(8) The department may require a long-term care worker to have a Washington state name and date of birth background check or national fingerprint-based background check, or both, at any time.

(9) Sign a home and community-based service provider contract/agreement to provide services to a COPES, MNIW, PACE, WMIP, or medicaid personal care client, or sign a contract as an individual provider to provide services to a New Freedom waiver, WMIP, or PACE client under chapter 388-106 WAC.

NEW SECTION

WAC 388-71-0512 What is included in Washington state's name and date of birth background check and the national fingerprint-based background check? (1) Washington state's name and date of birth background check includes a check of:

- (a) Records contained in databases maintained by the Washington state patrol, including records of:
 - (i) Pending charges; and
 - (ii) criminal conviction.
- (b) Records maintained:
 - (i) By the Washington state department of corrections; and
 - (ii) By the Washington state administrative office of the courts judicial information system.
- (c) Records of negative actions, final findings, or civil adjudication proceedings of any agency or subagency including, but not limited to:
 - (i) DSHS adult protective services;
 - (ii) DSHS residential care services;
 - (iii) DSHS children's protective services;
 - (iv) The Washington state department of health;
 - (v) The nursing assistant registry; and
 - (iv) Any pending charge, criminal conviction, civil adjudicative proceeding and/or negative action disclosed by the applicant.
- (2) The national fingerprint-based background check includes a check of records maintained in the:
 - (a) Federal Bureau of Investigation; and
 - (b) National sex offender's registry.
- (3) A "civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds any agency finding of, domestic violence, abuse, sexual abuse, exploitation, financial exploitation, neglect, abandonment, violation of a child or vulnerable adult under any provision of law, including but not limited to chap-

ters 13.34, 26.44, or 74.34 RCW or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(4) A "negative action" includes the denial, suspension, revocation, or termination of a license, certification, or contract for the care of children, as defined in RCW 26.44.020, or vulnerable adults, as defined in RCW 74.34.020, for non-compliance with any state or federal regulation.

(5) Except as prohibited by federal law, results are shared with the employer or prospective employer and with the department of health as authorized.

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0513 Is a background check required of a long-term care worker employed by a home care agency ((provider)) licensed by the department of health? In order to be a long-term care worker employed by a home care agency ((provider)), a person must ((complete the department's criminal conviction background inquiry application, which is submitted by the agency to the department. This includes an FBI fingerprint-based background check if the home care agency provider has lived in the state of Washington less than three years)):

(1) Effective January 2, 2012, be screened through Washington state's name and date of birth background check. Preliminary results may require a thumb print for identification purposes.

(2) Effective January 2, 2012, be screened through the national fingerprint-based background check, as required by chapter 74.39A RCW.

(3) Results of background checks are provided to the department and the employer or potential employer for the purpose of determining whether the person:

(a) Is disqualified based on a disqualifying crime or negative action; or

(b) Should or should not be employed based on his or her character, competence, and/or suitability.

(4) Disqualifying crimes and negative actions are those listed in WAC 388-71-0540 (4), (5) and (6).

(5) For those providers listed in RCW 43.43.837(1), a second national fingerprint-based background check is required if they have lived out of the state of Washington since the first national fingerprint-based background check was completed.

(6) The department may require a long-term care worker to have a Washington state name and date of birth background check or national fingerprint-based background check, or both, at any time.

(7) The required background checks on long-term care workers employed by home care agencies will be performed at department expense. Home care agencies are not responsible for payment for the required background checks.

NEW SECTION

WAC 388-71-0514 Can an individual provider or licensed home care agency long-term care worker work pending the outcome of the national fingerprint-based background check? An individual provider or licensed home care agency long-term care worker may work up to one hundred twenty days pending the outcome of the national fingerprint-based background check provided that the person is not disqualified as a result of Washington state's name and date of birth background check or for character, competence, or suitability.

AMENDATORY SECTION (Amending WSR 10-06-112, filed 3/3/10, effective 4/3/10)

WAC 388-71-0515 What are the responsibilities of an individual provider ~~((or home care agency provider))~~ when ~~((employed to provide care))~~ providing services to a client? An individual provider ~~((or home care agency provider))~~ must:

(1) Understand the client's plan of care that is signed by the client or legal representative ~~((and social worker/case manager))~~, and which may be translated or interpreted, as necessary, for the client ~~((and the provider))~~;

(2) Provide the services as outlined on the client's plan of care, as ~~((defined))~~ described in WAC 388-106-0010;

(3) Accommodate the client's individual preferences and ~~((differences))~~ unique needs in providing care;

(4) Contact the ~~((client's))~~ client, client's representative and case manager when there are changes ~~((which))~~ that affect the personal care and other tasks listed on the plan of care;

(5) Observe ~~((the client for))~~ and consult with the client or representative, regarding change(s) in health, take appropriate action, and respond to emergencies;

(6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;

(7) Notify the case manager immediately ~~((if))~~ in the event of the ~~((client dies))~~ client's death;

(8) Notify the department or AAA immediately when unable to staff/serve the client; and

(9) Notify the department/AAA when the individual provider ~~((or home care agency))~~ will no longer provide services. ~~((Notification to the client/legal guardian))~~ The individual provider must:

(a) Give at least two weeks' notice, and

(b) ~~((Be))~~ Notify the client or legal guardian in writing.

(10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(11) Comply with all applicable laws and regulations.

~~((12) A home care agency must not bill the department for in-home medicaid-funded personal care or DDD respite services when the agency employee providing care is a family member of the client served, unless approved to do so through an exception to rule under WAC 388-440-0001. For purposes of this section, family member means related by blood, marriage, adoption, or registered domestic partnership.))~~

NEW SECTION

WAC 388-71-0516 What are the responsibilities of home care agency when providing care to a client? In providing care to a client, a home care agency must:

- (1) Ensure that the assigned home care agency long-term care worker(s) understands the client's plan of care that is signed by the client or legal representative, and which may be translated or interpreted, as necessary, for the client;
- (2) Provide services as outlined in a client's plan of care, as described in WAC 388-106-0010;
- (3) Accommodate the client's individual preferences and unique needs in providing care;
- (4) Contact the client, client's representative and case manager when there are changes observed by the assigned home care agency long-term care worker that affect the personal care and other tasks listed on the plan of care;
- (5) Ensure that the assigned home care agency long-term care worker(s) observes the client for and consults with the client or representative, regarding change(s) in health, takes appropriate action, and responds to emergencies;
- (6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;
- (7) Notify the case manager immediately in the event of the client's death;
- (8) Notify the department or AAA immediately when unable to staff/serve the client;
- (9) Notify the department/AAA when the home care agency will no longer provide services. The home care agency must:
 - (a) Give at least two weeks' notice; and
 - (b) Notify the client or legal guardian in writing.
- (10) Complete and keep accurate time sheets that are accessible to the appropriate department or designee staff; and
- (11) Comply with all applicable laws and regulations.

NEW SECTION

WAC 388-71-0523 What are the training/certification requirements for individual providers and home care agency long-term care workers?

Who	Status	Orientation Training	Safety Training	Basic Training	Continuing Education	Certification HCA-C
(1) An individual provider who is a licensed, certified health care professional	RN, LPN, CN-A, and allied health professionals listed in WAC 388-71-0910	Not required	Not required	Not required	Required. Ten hours prior to June 30, 2012 Twelve hours from July 1, 2012 forward per WAC 388-71-0990 and 388-71-0991	Not required
(2) An individual provider or home care agency long term care worker with specific employment history.	Employed as a long term care worker at some point between January 1, 2011 and January 6, 2012 and who completed the basic training requirements in effect on date of his or her hire. WAC 388-71-0901.	Not required	Not required	Not required	Required. Ten hours to June 30, 2012. Twelve hours from July 1, 2012 forward per WAC 388-71-0990 and 388-71-0991.	Not required

NEW SECTION

WAC 388-71-0517 What are the responsibilities of a home care agency when the home care agency long-term care worker is a family member of the client and the client is receiving in-home medicaid-funded personal care or DDD respite services? A home care agency must not bill the department for in-home medicaid-funded personal care or DDD respite services when the agency employee providing care is a family member of the client served, unless approved to do so through an exception to rule under WAC 388-440-0001. For purposes of this section, family member means related by blood, marriage, adoption, or registered domestic partnership.

AMENDATORY SECTION (Amending WSR 09-03-066, filed 1/14/09, effective 2/14/09)

WAC 388-71-0520 (~~Are there~~) What are the training requirements for an individual provider or a home care agency (~~provider of an adult client~~) long-term care worker? An individual provider or a home care agency (~~provider for an adult client~~) long-term care worker, hired on or after January 7, 2012, must meet the training requirements (~~is~~) under WAC (~~388-71-05665~~) 388-71-0836 through (~~388-71-05865 and WAC 388-71-0801 through 388-71-0826~~) 388-71-1006. These training requirements also apply to individual providers or home care agency long-term care workers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work as a long term care worker. These training requirements and certification if required must be met prior to reinstating these individual to work as a long term care worker.

Who	Status	Orientation Training	Safety Training	Basic Training	Continuing Education	Certification HCA-C
(3) Individual provider/home care agency long term care worker.	Contracted with the department OR been hired by a licensed home care agency to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2).	Required. Two hours per WAC 388-71-0860.	Required. three hours per WAC 388-71-0860.	Required. Seventy hours per WAC 388-71-0870 and 388-71-0875.	Required per WAC 388-71-0990 and 388-71-0991.	Required per WAC 388-71-0975.
(4) An individual provider with limited hours.	Contracted individual providing twenty hours or less of care for one person per calendar month and does not meet criteria in (1) or (2).	Required. Two hours per WAC 388-71-0860.	Required. Three hours per WAC 388-71-0860.	Required. Thirty hours per WAC 388-71-0880.	Not required prior to June 30, 2014.	Not required
(5) Parent, step-parent, or adoptive parent as individual provider.	Department paid individual providing care for his or her adult child ONLY and receiving services through the division of developmental disabilities (WAC 388-71-0890) and not exempt under (1) or (2).	Required. Two hours per WAC 388-71-0895.	Required. Three hours per WAC 388-71-0895.	Required. Seven hours per WAC 388-71-0890.	Not required	Not required
(6) Biological, step, or adoptive parent/child as individual provider.	Who is a department paid individual providing care ONLY to his or her child or parent, and does not meet criteria in (5) and is not exempt under (1) or (2).	Required. Two hours per WAC 388-71-0860.	Required. Three hours per WAC 388-71-0860.	Required. Thirty hours per WAC 388-71-0880.	Required per WAC 388-71-0990 and 388-71-0991.	Not required.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 10-06-112, filed 3/3/10, effective 4/3/10)

WAC 388-71-0540 When will the department, AAA, or department designee deny payment for services of an individual provider or home care agency ((provider)) long-term care worker? The department, AAA, or department designee will deny payment for the services of a home care agency provider if the services are provided by an employee of the home care agency who is related by blood, marriage, adoption, or registered domestic partnership to the client.

The department, AAA, or department designee will deny payment for the services of an individual provider or home care agency ((provider)) long-term care worker who:

(1) Is the client's spouse, per 42 C.F.R. 441.360(g), except in the case of an individual provider for a chore services client. Note: For chore spousal providers, the depart-

ment pays a rate not to exceed the amount of a one-person standard for a continuing general assistance grant, per WAC 388-478-0030;

(2) Is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under medicaid personal care;

(3) Is a foster parent providing personal care to a child residing in their licensed foster home;

(4) Has been convicted of a disqualifying crime, under RCW 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in RCW 43.43.830;

(5) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as defined in chapter 74.34 RCW;

(6) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended, revoked, or terminated for noncompliance with state and/or federal regulations;

~~(7) ((Does not successfully complete the training requirements within the time limits required in WAC 388-71-05665 through 388-71-05865;~~

~~(8))~~ Is already meeting the client's needs on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or

~~((9))~~ (8) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider).

(9) Does not successfully complete applicable training requirements, within one hundred twenty days of hire or the begin date of authorization or within the timeframes described in WAC 388-71-0875, 388-71-0880, 388-71-0890, and 388-71-0991. If an individual provider or long-term care worker employed by a home care agency does not complete required training within the required timeframe and:

(a) If the worker is not required to be a certified home care aide, then the long-term care worker may not provide care until the training is completed.

(b) If the worker is required to be a certified home care aide, then the long-term care worker may not provide care until the certification has been granted.

(10) Does not successfully complete the certification or recertification requirements as described under WAC 388-71-0975:

(11) Has had a home care aide certification denied, suspended, or revoked and is not eligible to work until his or her certification has been reissued:

(12) When the client's needs are already being met on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or

(13) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of a home care agency long-term care worker).

In addition, the department, AAA, or department designee may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0543, 388-71-0546, and 388-71-0551(~~and 388-71-0556~~).

NEW SECTION

WAC 388-71-0543 When may the department, AAA, or department designee deny payment for the services of an individual provider? In addition to mandatory denials of payment under WAC 388-71-0540, the department, AAA, or department designee may deny payment for the services of an individual provider:

(1) Who has been convicted of:

(a) Simple assault, theft in third degree, assault in the fourth degree, or prostitution, even though it has been more than three years since the conviction;

(b) Forgery or theft in the second degree, even though it has been more than five years since the conviction;

(c) Any conviction that the department determines is reasonably related to the competency of the person to provide care to a client; or

(d) Any act of violence against a person.

(2) Has engaged in the illegal use of drugs, or excessive use of alcohol or drugs without the evidence of rehabilitation;

(3) Has committed an act of domestic violence toward a family or household member;

(4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused or financially exploited a vulnerable adult, unless such decision requires a denial of payment under this chapter;

(5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, terminated, or not renewed;

(6) Has had any health care provider license, certification or contract denied, suspended, revoked, terminated, even though the license was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;

(7) Has had any residential care facility or health care facility license, certification, contract denied, suspended, revoked, terminated, even though the license, certification or contract was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;

(8) Has been enjoined from operating a facility for the care and services of children or adults;

(9) Has been the subject of a sanction or corrective or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(10) Has obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation;

(11) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license, certification, contract or any data attached to the application, or in any matter involving the department;

(12) Willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview clients or have access to their records.

NEW SECTION

WAC 388-71-0544 When may the department, AAA, or department designee deny payment to a home care agency for the services of a long-term care worker that it employs? In addition to mandatory denials of payment under WAC 388-71-0540, the department, AAA, or department designee may deny payment to a home care agency for services provided to a department client by a home care agency long-term care worker that it employs:

(1) Who has been convicted of:

(a) Simple assault, theft in third degree, assault in the fourth degree, or prostitution, even though it has been more than three years since the conviction;

(b) Forgery or theft in the second degree, even though it has been more than five years since the conviction;

(c) Any conviction that the department determines is reasonably related to the competency of the person to provide care to a client; or

(d) A crime involving a firearm used in commission of a felony or in any act of violence against a person.

(2) Has engaged in the illegal use of drugs, or excessive use of alcohol or drugs without the evidence of rehabilitation;

(3) Has committed an act of domestic violence toward a family or household member;

(4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused or financially exploited a vulnerable adult, unless such decision requires a denial of payment under this chapter;

(5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, terminated, or not renewed;

(6) Has had any health care provider license, certification or contract denied, suspended, revoked, terminated, even though the license was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;

(7) Has had any residential care facility or health care facility license, certification, contract denied, suspended, revoked, terminated, even though the license, certification or contract was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;

(8) Has been enjoined from operating a facility for the care and services of children or adults;

(9) Has been the subject of a sanction or corrective or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(10) Has obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation;

(11) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license, certification, contract or any data attached to the application, or in any matter involving the department;

(12) Willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview clients or have access to their records.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-71-0546 When ~~((can))~~ **may the department, AAA, or ((managed care entity)) department designee reject ((the client's)) your choice of an individual provider?** The department, AAA, or ~~((managed care entity))~~ department designee may reject ~~((a client's))~~ your request to have a family member or other person serve as ~~((his or her))~~ your individual provider if the case manager has a reason-

able, good faith belief that the person is or will be unable to appropriately meet ((the client's)) your needs. Examples of circumstances indicating an inability to meet ~~((the client's)) your needs ((could))~~ include, ~~((without limitation))~~ but are not limited to:

(1) Evidence of alcohol or drug abuse;

(2) A reported history of domestic violence committed by the individual provider, no-contact orders entered against the individual provider, or criminal conduct committed by the individual provider (whether or not the conduct is disqualifying under ~~((RCW 43.43.830 and 43.43.842))~~ WAC 388-71-0540);

(3) A report from ~~((the client's health care provider or other))~~ any knowledgeable person that the ~~((requested))~~ individual provider lacks the ability or willingness to provide adequate care;

(4) The individual provider has other employment or responsibilities that prevent or interfere with the provision of required services;

(5) Excessive commuting distance that would make it impractical for the individual provider to provide services as they are needed and outlined in ((the client's)) your service plan.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-71-0551 When ~~((can))~~ **may the department, AAA, or ((managed care entity)) department designee terminate or summarily suspend an individual provider's contract?** The department, AAA, or ~~((managed care entity))~~ department designee may take action to terminate an individual provider's home and community-based service provider contract/agreement to provide services to a COPES, MNIW, or medicaid personal care client, or terminate a contract to an individual provider to provide services to a New Freedom waiver, WMIP, or PACE client under chapter 388-106 WAC if the provider's:

(1) Home care aide certification has been revoked; or

(2) Inadequate performance or inability to deliver quality care is jeopardizing the client's health, safety, or well-being.

(3) The department, AAA, or ~~((managed care entity))~~ department designee may summarily suspend the contract pending a hearing based on a reasonable, good faith belief that the client's health, safety, or well-being is in imminent jeopardy. Examples of circumstances indicating jeopardy to the client ~~((could))~~ include, ~~((without limitation))~~ but are not limited to:

~~((1))~~ (a) The individual provider has committed domestic violence or abuse, neglect, abandonment, or exploitation of a ((minor)) child, as defined in RCW 26.44.020 or a vulnerable adult, as defined in RCW 74.34.020;

~~((2))~~ Using or being (b) The individual provider uses or is under the influence of alcohol or illegal drugs during working hours;

~~((3))~~ (c) The individual provider engages in other behavior directed toward the client or other persons involved in the client's life that places the client at risk of harm;

~~((4))~~ (d) A report from the client's health care provider that the client's health is negatively affected by inadequate care being provided by the individual provider;

~~((5))~~ (e) A complaint from the client or client's representative that the client is not receiving adequate care from the individual provider;

~~((6))~~ (f) The ~~((absence of))~~ individual provider's failure to engage in essential interventions identified in the service plan, such as medications or medical supplies; and/or

~~((7))~~ (g) The individual provider's failure to respond appropriately to emergencies.

(4) The department, AAA or managed care entity may otherwise terminate the individual provider's contract for default or convenience in accordance with the terms of the contract and to the extent that those terms are not inconsistent with these rules.

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0560 What are the client's rights if the department denies, terminates, or summarily suspends an individual provider's contract? (1) If the department denies, terminates, or summarily suspends the individual provider's contract, the client has the right to:

~~((1-A fair))~~ (a) An administrative hearing to appeal the decision, ~~((per))~~ under chapter 388-02 WAC, and

~~((2))~~ (b) Receive services from another currently contracted individual provider or home care agency ~~((provider))~~ long-term care worker, or ~~((other options))~~ to receive services through other programs the client is eligible for ~~((, if a contract is summarily suspended)).~~

~~((3))~~ (2) The hearing rights ~~((afforded))~~ provided under this section are those of the client, not the individual provider's rights.

NEW SECTION

WAC 388-71-0561 When does an individual provider have the right to an administrative hearing and how can a hearing be requested? (1) An individual provider has the right to an administrative hearing when the department denies payment to the individual provider because:

(a) He or she has not been certified by the department of health as a home care aide within the required timeframe; or

(b) If exempted from certification, he or she has not completed required training within the required timeframe.

(2) An individual provider has the right to an administrative hearing when the department terminates the individual provider's contract, or takes other enforcement measures against the individual provider because:

(a) He or she has not completed required training within the required timeframe.

(b) His or her certification as a home care aide has been revoked by the department of health.

(3) In an administrative hearing challenging DSHS action to deny payment to an individual provider or to terminate the contract of an individual provider, the individual provider may not challenge the action by the department of health affecting the individual provider's certification. Action by the department of health affecting the individual

provider's certification must be challenged in a department of health hearing, as provided in department of health rules.

(4) To request an administrative hearing, an individual provider must send, deliver, or fax a written request to the office of administrative hearings (OAH). OAH must receive the written request within thirty calendar days of the date the department's notice letter is served upon the individual provider.

(5) The individual provider should keep a copy of the request.

(6) Chapters 34.05 and 74.39A RCW, chapter 388-02 WAC, and the provisions of this chapter govern any administrative hearing under this section. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter shall prevail.

NEW SECTION

WAC 388-71-0562 When does a medicaid contracted home care agency have the right to an administrative hearing and how can a hearing be requested? (1) A medicaid contracted home care agency has the right to an administrative hearing when the department terminates its contract or takes other enforcement action related to its contract because the home care agency:

(a) Knowingly employs a long-term care worker who has not completed training within the required timeframe.

(b) Knowingly employs a long-term care worker who does not meet the certification requirements or whose certification has been revoked by the department of health.

(2) In an administrative hearing challenging DSHS action to terminate the contract or challenge some other enforcement against its contract, a medicaid contracted home care agency may not challenge the action by the department of health affecting the home care aide certification of a long-term care worker employed by the home care agency. Action by the department of health affecting the long-term care worker's certification must be challenged in a department of health hearing, as provided in department of health rules.

(3) To request an administrative hearing, a home care agency must send, deliver, or fax a written request to the office of administrative hearings (OAH). OAH must receive the written request within thirty calendar days of the date the department's notice letter is served upon the home care agency.

(4) The home care agency should keep a copy of the request.

(5) Chapters 34.05 and 74.39A RCW, chapter 388-02 WAC, and the provisions of this chapter govern any administrative hearing under this section. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter shall prevail.

NEW SECTION

WAC 388-71-0836 What definitions apply to the long-term care worker training requirements? "Care team" includes the client and everyone involved in his or her care. The care team can include family, friends, doctors, nurses, long-term care workers, social workers and case man-

agers. The role of the care team is to support the well-being of the client, however, the client directs the care plan.

"Certified home care aide" means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

"Challenge test" means a challenge test taken for specialty training, without first taking the class for which the test is designed and can only be used when basic training is not required.

"Client" means an individual receiving in-home services.

"Competency" defines the integrated knowledge, skills, or behavior expected of a long-term care worker after completing training in a required topic area. Learning objectives are associated with each competency.

"Competency testing" is evaluating a trainee to determine if he or she can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training and the specialty trainings. Training programs may integrate competency testing within their approved curriculums.

"DDD" refers to the division of developmental disabilities.

"Department" or **"DSHS"** refers to the department of social and health services.

"Direct care worker" means a paid individual who provides direct, hands-on, personal care services to persons with disabilities or the elderly requiring long-term care.

"Enhancement" is additional time provided for skills practice and additional training materials or classroom activities that help a worker to thoroughly learn the course content and skills. Enhancements can include new student materials, videos or DVDs, on-line materials, and/or additional student activities.

"Functionally disabled person" or **"person who is functionally disabled"** is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living", in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities as they are related to the mental capacity to perform activities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

"Guardian" means an individual as defined in chapter 11.88 RCW.

"Individual provider" means a person who has contracted with the department to provide personal care or respite care services to persons with functional disabilities under medicaid personal care, community options program entry system (COPES), chore services, or respite care program, or to provide respite care or residential services and supports to person with developmental disabilities under

chapter 71A.12 RCW or to provide respite care as defined in RCW 74.13.270.

"Learning objectives" are measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

"Long-term care worker" includes all persons providing paid, hands-on, personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title 71 RCW, all direct care workers in state-licensed boarding homes, adult family homes, respite care providers, community residential service providers, and any other direct care staff providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities, and supported living providers.

The following persons are not long-term care workers:

(1) Persons who are:

(a) Providing personal care services to individuals who are not receiving state-funded services; and
(b) The person is not employed by an agency or facility that is licensed by the state.

(2) Persons employed by:

(a) Nursing homes licensed under chapter 18.51 RCW;
(b) Facilities certified under 42 CFR Part 483;
(c) Residential habilitation centers under chapter 71A.20 RCW;
(d) Hospitals or other acute care settings;
(e) Hospice agencies licensed under chapter 70.127 RCW;

(f) Adult day care centers or adult day health centers.

(3) Persons whose services are exclusively limited to assistance with "instrumental activities of daily living," as that term is defined in WAC 388-106-0010.

"Personal care services" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living which is, provided because a person is a functionally disabled person as defined in this chapter.

"Training entity" means an organization, including an independent contractor, who is providing or may provide training under this section using approved curriculum. Training entities may only deliver approved curriculum.

"Training partnership" means a joint partnership or trust that includes the office of the governor and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

ORIENTATION AND SAFETY TRAINING**NEW SECTION**

WAC 388-71-0841 What is orientation? (1) Orientation is a training of two hours regarding the long-term care worker's role as long-term care workers and the applicable terms of employment.

(2) The department must approve orientation curricula and instructors.

(3) There is no challenge test for orientation.

NEW SECTION

WAC 388-71-0846 What content must be included in orientation? Orientation must include introductory information in the following areas:

(1) The care setting and the characteristics and special needs of the population served or to be served;

(2) Basic job responsibilities and performance expectations;

(3) The care plan, including what it is and how to use it;

(4) The care team;

(5) Process, policies, and procedures for observation, documentation and reporting;

(6) Client rights protected by law, including the right to confidentiality and the right to participate in care decisions or to refuse care and how the long-term care worker will protect and promote these rights;

(7) Mandatory reporter law and worker responsibilities; and

(8) Communication methods and techniques that can be used while working with a client or guardian, and other care team members.

One hour of completed classroom instruction or other form of training (such as video or on-line course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

WAC 388-71-0850 What is safety training? (1) Safety training is a training of three hours that includes basic safety precautions, emergency procedures, and infection control.

(2) The department must approve safety training curricula and instructors.

(3) There is no challenge test for safety training.

NEW SECTION

WAC 388-71-0855 What content must be included in safety training? Safety training consists of introductory information in the following areas:

(1) Safety planning and accident prevention, including but not limited to:

(a) Proper body mechanics;

(b) Fall prevention;

(c) Fire safety;

(d) In-home hazards;

(e) Long-term care worker safety; and

(f) Emergency and disaster preparedness.

(2) Standard precautions and infection control, including but not limited to:

(a) Proper hand washing;

(b) When to wear gloves and how to correctly put them on and take them off;

(c) Basic methods to stop the spread of infection;

(d) Protection from exposure to blood and other body fluids;

(e) Appropriate disposal of contaminated/hazardous articles;

(f) Reporting exposure to contaminated articles; and

(g) What to do when sick or injured, including whom to report this to.

(3) Basic emergency procedures, including but not limited to:

(a) Evacuation preparedness;

(b) When and where to call for help in an emergency;

(c) What to do when a client is falling or falls;

(d) Location of any advanced directives and when they are given; and

(e) Basic fire emergency procedures.

One hour of completed classroom instruction or other form of training (such as video or on-line course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

WAC 388-71-0860 Who must complete orientation and safety training and by when? Unless exempted in WAC 388-71-0901 (1) through (12), all long-term care workers must complete orientation and safety training prior to providing care to a client.

BASIC TRAINING**NEW SECTION**

WAC 388-71-0870 What is basic training? (1) Basic training is seventy hours of training that includes:

(a) Core competencies; and

(b) Population specific competencies.

(2) All basic training curriculum must be approved by the department and include qualified instructors.

(3) The DSHS developed revised fundamentals of caregiving (RFOC) learner's guide may be used to teach core basic training but it must include enhancements which must be approved by the department. Enhancements include:

(a) Adding more time for workers to practice skills including:

(i) The mechanics of completing the skill correctly.

(ii) Client centered communication and problem solving associated with performing the skill.

(iii) The different levels of care required for each skill (independent, supervision, limited, extensive, total).

(iv) Working with assistive devices associated with a skill.

(v) Helpful tips or best practices in working through common client challenges associated with a skill.

(vi) Disease specific concerns or challenges associated with a skill.

In most of these examples, additional student materials would be required to ensure the skill enhancements are well planned and documented for students. Materials must be submitted for approval and approved per WAC 388-71-1026.

(b) Augmenting or adding additional materials, student activities, videos or guest speakers that:

(i) More deeply reinforce and fortify the learning outcomes required for basic training.

(ii) Ensure each student integrates and retains the knowledge and skills needed to provide quality basic personal care.

(iii) Prepares workers for the certification testing environment and process.

(c) Enhancements are NOT materials and/or activities that:

(i) Are out of the scope of practice for a LTC worker such as content clearly written for registered nurses.

(ii) Are identical to, or a direct replacement of, those already included in RFOC.

(iii) Do not reinforce Washington state laws associated with client rights and client directed care.

(iv) Long-term care workers are not paid to provide.

(v) Are written above a high school reading level.

(4) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of training.

(5) The training entity must establish a way for the long-term care worker to ask the instructor questions.

(6) There is no challenge test for basic training.

NEW SECTION

WAC 388-71-0875 Who must complete basic training and by when? Unless exempt from training in WAC 388-71-0901 (1) through (12), all long-term care workers must complete core and population specific competencies within one hundred twenty days of:

(1) The date of hire for home care agency long-term care workers; or

(2) From the begin date of the authorization to provide department-paid in-home services for a client for individual providers.

NEW SECTION

WAC 388-71-0880 Who must take the thirty hour training instead of the seventy hour basic training and when must it be completed? Unless exempt from the basic training requirements under WAC 388-71-0901 (1) through (12), the thirty hour basic training under WAC 388-71-0885, must be completed within one hundred twenty days from the begin date of the authorization for provision to provide department paid, in-home services by an individual provider, who is caring only for:

(1) His or her biological, step, or adoptive child or parent.

(2) One department client for twenty hours or less in any calendar month.

NEW SECTION

WAC 388-71-0885 What is the thirty hour training?

The thirty hour training is a subset of the seventy hour basic training that must include core and population specific basic training. Topics completed in the subset must be on topics relevant to the care needs of the client(s). There is no challenge test for the thirty hour training.

NEW SECTION

WAC 388-71-0888 What are the training and certification requirements for an individual provider who is initially hired to provide care for one person, if the authorized monthly hours fluctuate of he or she begins working for more than one department client?

(1) If an individual provider is initially hired to provide care for one client and the authorized hours are for more than twenty hours he or she will have to complete the seventy hours of basic training, become certified and complete continuing education even if the authorized monthly hours are later reduced to twenty hours or fewer.

(2) If the individual provider initially starts working for one client and the authorized monthly hours are twenty or fewer, he or she will have to complete the seventy hours of basic training, become certified, and complete continuing education whenever:

(a) The authorized hours increase to more than twenty hours; or

(b) He or she begins to work for a second department client.

(3) Under these circumstances from the point of this change, the individual provider will:

(a) Have an additional one hundred twenty days to complete the seventy hours of training and additional one hundred fifty days to become certified;

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

(c) Be required to continue to comply with the higher level of training requirements, even if the monthly authorized hours are later reduced to twenty or fewer hours.

NEW SECTION

WAC 388-71-0890 What are the training requirements for parent providers who are individual providers for their adult children through DDD?

Unless exempt from the basic training requirements as defined in WAC 388-71-0901 (1) through (12), a natural, step, or adoptive parent who is the individual provider for his or her adult child receiving services through the DSHS division of developmental disabilities must complete the twelve hour parent provider training, as described in WAC 388-71-0895, within one hundred twenty days from the begin date of the authorization to provide department paid, in-home services.

NEW SECTION

WAC 388-71-0895 What is the twelve hour parent provider training? (1) The twelve hour parent provider training must include five hours of orientation and safety

training as described in WAC 388-71-0841 and 388-71-0850. The remaining seven hours will cover the following topics:

- (a) Medicaid personal care;
 - (b) Assessments completed by the division of developmental disabilities;
 - (c) Community resources;
 - (d) State and federal benefits;
 - (f) Networking; and
 - (g) Client self-determination.
- (2) There is no challenge test for this training.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-71-0901 What long-term care workers are exempt from the basic training requirement? The following long-term care workers are exempt from the basic training requirement:

- (1) A person already employed as a long-term care worker on January 6, 2012, who completed the basic training requirements in effect on the date of his or her hire;
- (2) A person employed as a long-term care worker on January 6, 2012, who completes within one hundred twenty days of hire the basic training requirements in effect on the date of his or her hire;
- (3) A person previously employed as a long-term care worker who completed the basic training requirements in effect on the date of his or her hire, and was employed as a long-term care worker at some point between January 1, 2011 and January 6, 2012;
- (4) An individual provider who worked as a respite provider or who provided care to a minor between January 1, 2011 and January 6, 2012, and who completed the training requirements in effect on the date of his or her hire;
- (5) Registered nurses, licensed practical nurses, nurse technicians, or advanced registered nurse practitioner under chapter 18.79 RCW;
- (6) Nursing assistants-certified under chapter 18.88A RCW;
- (7) Certified counselors under chapter 18.19 RCW;
- (8) Speech language pathologists or audiologists under chapter 18.35 RCW;
- (9) Occupational therapists under chapter 18.59 RCW;
- (10) Physical therapists under chapter 18.74 RCW;
- (11) A home health aide who is employed by a medicare-certified home health agency and has met the requirements of 42 CFR, Part 483.35;
- (12) An individual with special education training and has an endorsement granted by the superintendent of public instruction as described in RCW 28A.300.010;
- (13) Parent providers as described in WAC 388-71-0890; and
- (14) Providers described in WAC 388-71-0880.

NEW SECTION

WAC 388-71-0906 What topics must be taught in the core competencies of basic training? Basic training must

include all of the competencies under WAC 388-71-0911 for the following topics:

- (1) Communication skills;
- (2) Long-term care worker self-care;
- (3) Problem solving;
- (4) Client rights and maintaining dignity;
- (5) Abuse, abandonment, neglect, financial exploitation and mandatory reporting;
- (6) Client directed care;
- (7) Cultural sensitivity;
- (8) Body mechanics;
- (9) Fall prevention;
- (10) Skin and body care;
- (11) Long-term care worker roles and boundaries;
- (12) Supporting activities of daily living;
- (13) Food preparation and handling;
- (14) Medication assistance;
- (15) Infection control, blood-borne pathogens, HIV/AIDS; and
- (16) Grief and loss.

NEW SECTION

WAC 388-71-0911 What are the competencies and learning objectives for the core competencies of basic training? The core competencies describe the behavior and skills that a long-term care worker should exhibit when working with clients. Learning objectives are associated with each competency.

- (1) Regarding communication, communicate effectively and in a respectful and appropriate manner with clients, family members, and care team members:
 - (a) Recognize how verbal and nonverbal cues impact communication with the client and care team;
 - (b) Engage and respect the client through verbal and nonverbal communication;
 - (c) Listen attentively and determine that the client understands what has been communicated;
 - (d) Recognize and acknowledge clients' communication including indicators of pain, confusion, or misunderstanding;
 - (e) Utilize communication strategies to deal with difficult situations; and
 - (f) Recognize common barriers to effective communication and identify how to eliminate them.
- (2) Regarding long-term care worker self-care, take appropriate action to reduce stress and avoid burnout:
 - (a) Identify behaviors, practices and resources to reduce stress and avoid burnout;
 - (b) Recognize common barriers to self-care and ways to overcome them; and
 - (c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout; and the importance of taking action to practice self-care to avoid burnout.
- (3) Regarding the competency of effective problem solving, use effective problem solving skills:
 - (a) Explain why it is necessary to understand and utilize a problem solving method;
 - (b) Implement a problem solving process/method; and

(c) Identify obstacles to effective problem solving and ways to overcome them.

(4) Regarding the competency of client rights and dignity, take appropriate action to promote and protect a client's legal and human rights as protected by federal and Washington state laws including:

(a) Protect a client's confidentiality, including what is considered confidential information, to whom a long-term care worker is allowed or not allowed to give confidential information, and how to respond if a noncare team member asks for confidential information;

(b) Promote dignity, privacy, encourage, and support a client's maximum independence when providing care; and

(c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints. Use common, safe alternatives to restraint use;

(d) Protect and promote the client's right to live free of abuse, neglect, abandonment, and financial exploitation.

(5) Regarding the competency of abuse and mandatory reporting, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:

(a) Describe long-term care workers' responsibilities as a mandatory reporter as defined in RCW 74.34.020 through 74.34.053; and

(b) Identify common signs and symptoms of abuse, abandonment, neglect, and financial exploitation.

(6) Regarding the competency of client directed care, take appropriate action when following a client's direction regarding his or her care:

(a) Describe a worker's role in client directed care including determining, understanding, and supporting a client's choices;

(b) Describe the importance and impact of client directed care on a client's independence, self-determination, and quality of life;

(c) Identify effective problem solving strategies that help balance a client's choice with personal safety; and

(d) Report concerns when a client refuses care or makes choices that present a possible safety concern.

(7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:

(a) Describe how cultural background, lifestyle practices, and traditions can impact care and use methods to determine and ensure that these are respected and considered when providing care.

(8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the care plan.

(9) Regarding the competency on fall prevention, prevent or reduce the risk of falls:

(a) Identify fall risk factors and take action to reduce fall risks for a client; and

(b) Take proper steps to assist when a client is falling or has fallen.

(10) Regarding the competency of skin and body care, use personal care practices that promote and maintain skin integrity:

(a) Explain the importance of observing a client's skin, when to observe it and what to look for including common signs and symptoms of skin breakdown;

(b) Identify risk factors of skin breakdown;

(c) Observe skin at pressure point locations and report any concerns;

(d) Describe what a pressure ulcer is, what it looks like, and what actions to take if a client develops a pressure ulcer;

(e) Describe current best practices that protect and maintain a client's skin integrity including position changes when sitting or lying for extended periods and proper positioning and transfer techniques;

(f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and

(g) Identify when to report skin changes and to whom.

(11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:

(a) Identify when, how, and why to obtain information from appropriate sources about a client's condition or disease for which they are receiving services. Describe how to use this information to provide appropriate, individualized care;

(b) Describe a client's baseline based on information provided in the care plan and explain why it is important to know a client's baseline;

(c) Identify changes in a client's physical, mental, and emotional state;

(d) Report changes from baseline and/or concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements (e.g. coming to work on time) and describe how maintaining these standards are critical to a client's safety and well-being;

(f) Explain the purpose of a care plan and describe how it is created, used and modified;

(g) Use a client's care plan to direct a worker's job tasks and any client directed care tasks;

(h) Identify what is required of a long-term care worker, as described in WAC 388-71-0946, prior to performing a nurse-delegated task;

(i) Describe the role of a care team and a long-term care worker's role in it;

(j) Describe professional boundaries and the importance of maintaining them; and

(k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them.

(12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:

(a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:

(i) Helping an individual walk;

(ii) Transferring an individual from bed to wheelchair;

(iii) Turning and repositioning an individual in bed;

(iv) Providing mouth care;

(v) Cleaning and storing dentures;

- (vi) Shaving a face;
- (vii) Providing fingernail care;
- (viii) Providing foot care;
- (ix) Providing a bed bath;
- (x) Assisting an individual with a weak arm to dress;
- (xi) Putting knee-high elastic stockings on an individual;
- (xii) Providing passive range of motion for one shoulder;
- (xiii) Providing passive range of motion for one knee and ankle;
- (xiv) Assisting an individual to eat;
- (xv) Assisting with peri-care;
- (xvi) Assisting with the use of a bedpan;
- (xvii) Assisting with catheter care;
- (xviii) Assisting with condom catheter care; and
- (xix) Providing medication assistance.

(b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate client preferences, maintain privacy and dignity, support the client's level of ability, and assure their comfort and safety;

(c) Appropriately utilize assistive device(s) specified in the care plan;

(d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a client's bowel and bladder functioning baseline and when to report changes.

(13) Regarding the competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a client's health;

(b) Plan, shop, and prepare meals for a client according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions per the care plan and client preferences;

(c) Describe common signs of poor nutrition and hydration, and when to report concerns and to whom;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a client;

(e) Recognize when a client's food choices vary from specifications on the care plan, describe when and to whom to report concerns;

(f) Describe what causes food borne illness, the risks associated with food borne illness and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including: avoiding cross contamination from one food to another, safe storage requirements for cooling of leftover foods, including depth, types of containers, and temperatures, the need to maintain food at proper temperatures to limit bacterial growth and what are the safe food storage and holding temperatures for both cold and hot foods, best practices for

thawing and re-heating food, and using clean gloves (if possible), and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses and/or symptoms must not prepare food.

Long-term care workers who complete DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250.

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications as described in chapter 246-888 WAC;

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects and when and to whom to report concerns;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a client who refuses to take medications, identifying when and to whom to report when a client refuses medication or there are other medication-related concerns, and identifying what is considered a medication error and when and to whom it must be reported.

(15) Regarding the competency of infection control and blood borne pathogens including HIV/AIDS, implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand washing and gloves;

(d) Demonstrate proper hand washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy micro-organisms on surfaces;

(h) Describe what blood-borne (BB) pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure;

(l) Describe how HIV works in the body;

(m) Explain that testing and counseling for HIV/AIDS is available;

(n) Describe the common symptoms of HIV/AIDS;

(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality and nondiscrimination; and

(p) Explain the importance of emotional issues and support for clients and long-term care workers.

Long-term care workers who complete DSHS-approved basic training meet the four hours of AIDS education as required by the department of health in WAC 246-980-040.

(16) Regarding the competency on grief and loss, support yourself and the client in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a client and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss.

NEW SECTION

WAC 388-71-0916 What topics may be taught in the population specific competencies of basic training? Population specific training may include but is not limited to one or more of the following topics. Which topic(s) to include in population specific training is based on the needs of the population(s) served or to be served.

(1) Dementia;

(2) Mental health;

(3) Developmental disabilities;

(4) Young adults with physical disabilities; and

(5) Aging and older adults.

NEW SECTION

WAC 388-71-0921 What are the population specific competencies? There are no DSHS mandatory competencies or learning objectives for population specific training. The training entity developing the training determines the competencies and learning objectives that best meet the care needs of the population(s) served.

Competencies and learning objectives described for developmental disability specialty training in WAC 388-112-0122, dementia specialty training in WAC 388-112-0132, mental health specialty training in WAC 388-112-0142, aging and older adults in WAC 388-112-0091 and young adults with physical disabilities in WAC 388-112-0083 may be used to develop the population specific training in these topic areas. This is not a requirement.

Competencies and learning objectives used to develop the training must be submitted with the curricula when sent to DSHS for approval as described in WAC 388-71-1026.

NEW SECTION

WAC 388-71-0931 What other methods of training may count towards the seventy hour basic training requirement? On-the-job training, as defined in WAC 388-71-0932, provided after July 1, 2012 may count towards the seventy hour basic training requirement.

ON-THE-JOB TRAINING

NEW SECTION

WAC 388-71-0932 What is on-the-job training? (1) Effective July 1, 2012, on the job training is a method of training when the long-term care worker successfully demonstrates any or all of the personal care or infection control skills included in the core basic training while working with a client versus in a practice training setting.

(2) On-the-job training is provided by a qualified instructor as described in WAC 388-71-1055, who directly observes, coaches, and reinforces skills training for up to two long-term care workers at a time. The instructor providing the on-the-job training:

(a) Does not have to be the instructor who has taught the core competency training;

(b) Cannot be someone whose primary job duty is providing direct care to clients; or

(c) Cannot be the immediate supervisor of the long-term care worker receiving the on-the-job training.

(3) The person overseeing on-the-job training must:

(a) Submit DSHS required forms and become an approved instructor for the core competency of basic training; and

(b) Verify on a DSHS approved skills checklist the long-term care worker's successful completion of the demonstrated skills.

(4) For the person receiving on-the-job training, the hours spent in on the job training may count for up to twelve hours toward the completion of basic training requirements. It is not a requirement to include on-the-job training hours in the basic training hours.

NURSE DELEGATION CORE AND SPECIALIZED DIABETES TRAINING

NEW SECTION

WAC 388-71-0936 What is nurse delegation core training? (1) Nurse delegation core training is the required course a nursing assistant, certified or registered, or certified home care aide must successfully complete before being delegated a nursing task.

(2) Only the curriculum developed by DSHS, "Nurse Delegation for Nursing Assistants" meets the training requirement for nurse delegation core training.

(3) DSHS must approve the instructors for nurse delegation core training prior to an instructor offering a course.

NEW SECTION

WAC 388-71-0941 What is specialized diabetes nurse delegation training? (1) Specialized diabetes nurse delegation training is the required course for nursing assistants, certified or registered, and certified home care aide who will be delegated the task of insulin injections.

(2) The specialized diabetes nurse delegation training consists of three modules which are diabetes, insulin, and injections.

(3) Only the curriculum developed by DSHS, "Nurse Delegation for Nursing Assistants: Special Focus on Diabetes" may be used for the specialized diabetes nurse delegation training.

(4) DSHS approves the instructors for the specialized diabetes nurse delegation training prior to an instructor offering a course.

NEW SECTION

WAC 388-71-0946 Who is required to complete the nurse delegation core training, and when? Before performing any delegated task, a long-term care worker must:

(1) Be a:

(a) Certified home care aide under chapter 18.88B RCW; or

(b) Nursing assistant certified under chapter 18.88A RCW; or

(c) If exempt from the home care aide certification, become a nursing assistant registered and complete the core competencies of basic training, unless the twenty-eight hours of revised fundamentals of care or a department approved alternative was already completed.

(d) If nurse delegation is needed to implement a care plan earlier than home care aide certification can be obtained, become a nursing assistant registered and complete core competencies of basic training.

(2) Successfully complete "Nurse Delegation for Nursing Assistants" training.

NEW SECTION

WAC 388-71-0951 Who is required to complete the specialized diabetes nurse delegation training, and when? Specialized diabetes nurse delegation training is required before a certified home care aide, or a certified or registered nursing assistant, who meets the qualifications under WAC 388-71-0946, may be delegated the task of insulin injections.

NEW SECTION

WAC 388-71-0953 Can nurse delegation core and specialized diabetes training occur in the same year as basic training? Nurse delegation core and specialized diabetes training can occur in the same year as basic training if required to be able to perform delegated tasks. If this occurs, the maximum of twelve hours for this training can be applied towards the continuing education requirement for the following year. Nurse delegation core and specialized diabetes trainings do not apply towards basic training.

NEW SECTION

WAC 388-71-0956 Is competency testing required for the nurse delegation core training and specialized diabetes training? Passing the DSHS competency test is required for successful completion of nurse delegation core training and specialized diabetes training, as provided in WAC 388-71-1106 through 388-71-1130.

DOCUMENTATION REQUIREMENTS

NEW SECTION

WAC 388-71-0970 What documentation is required for completion of each training? Orientation, safety, basic training, including core and population specific, the thirty hour training, the twelve hour parent provider training, on-the-job training, continuing education, and nurse delegation core and specialized diabetes training, must be documented by a certificate(s) or transcript or proof of completion of training issued by a qualified instructor or qualified training entity that includes:

(1) The name of the trainee;

(2) The title of the training as approved by the department;

(3) For continuing education the department assigned curriculum approval code;

(4) The number of hours of the training;

(5) The name and/or identification number of the training entity. The training entity's identification number for basic core training is provided by the department and is issued by the department of health's contractor for the home care aide certification test;

(5) The instructor's name. For basic core training, the instructor's name and identification number. The instructor's identification number of basic core training is provided by the department and is issued by the department of health's contractor for the home care aide certification test;

(6) The instructor's signature or an authorized signature from the training entity the qualified instructor is training on behalf of; and

(7) The completion date of the training.

The long-term care worker must retain the original certificate or transcript for proof of completion of the training. A home care agency must keep a copy of the certificate or transcript on file.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-71-0973 What documentation is required for a long-term care worker to apply for the home care aide certification or recertification? (1) Successful completion of seventy-five hours of training must be documented on a DSHS seventy-five hour training certificate by an approved training entity who has provided or verified that a total of seventy-five hours of training has occurred.

(2) An approved training entity issuing and signing a DSHS seventy-five hour training certificate must verify that the long-term care worker has the certificates or transcript required documenting two hours of DSHS-approved orientation, three hours of DSHS-approved safety training, and seventy hours of DSHS-approved basic training, as described in this chapter. Only a DSHS or training partnership seventy-five hour training certificate or transcript can be submitted by a long-term care worker applying to the department of health for a home care aide certification.

(3) For home care aide recertification, successful completion of twelve hours of DSHS-approved continuing education training must be documented on a DSHS certificate issued by an approved training entity who has provided all twelve hours of continuing education training. If all twelve hours of continuing education were not provided by the same training entity, then an approved training entity must verify that the certified home care aide has certificates or transcripts that add up to twelve hours of DSHS-approved continuing education. Only a DSHS or training partnership twelve-hour continuing education certificate or transcript can be submitted by a certified home care aide applying to the department of health for recertification.

(4) The long-term care worker, certified home care aide, and their employer must retain the original seventy-five hour training certificate or transcript and any twelve-hour continuing education training certificates as long as the worker is employed and up to three years after termination of employment. Training entities must keep a copy of these certificates on file for six years.

HOME CARE AIDE CERTIFICATION

NEW SECTION

WAC 388-71-0975 Who is required to obtain certification as a home care aide, and when? All long-term care workers, who do not fall within the exemptions under the department of health WAC 246-980-070, must obtain certification within one hundred and fifty days of hire or begin date of the authorization to provide department paid in-home services effective January 7, 2012.

NEW SECTION

WAC 388-71-0980 Can a home care agency employ a long-term care worker who has not completed the training and/or certification requirements? A home care agency cannot employ an individual to work as a long-term care worker if the individual has previously worked as a long-term care worker and has not completed applicable training and/or certification requirements within the required timeframe. Such individual may be employed by a home care agency to work as a long-term care worker only after applicable training and/or certification requirements are met. The department is authorized by RCW 74.39A.085 to take enforcement action for noncompliance related to training and/or certification requirements.

CONTINUING EDUCATION

NEW SECTION

WAC 388-71-0985 What is continuing education? Continuing education is additional caregiving-related training designed to keep current a person's knowledge and skills. DSHS must approve continuing education curricula and instructors. The same continuing education course may not be repeated for credit unless it is a new or more advanced training on the same topic. Nurse delegation core and nurse

delegation specialized diabetes training may be used to count towards continuing education.

NEW SECTION

WAC 388-71-0990 How many hours of continuing education are required each year? (1) Until June 30, 2012, individual providers and home care agency long-term care workers must complete ten hours of continuing education each calendar year after the year in which they complete basic training. If the ten hours of continuing education were completed between January 1, 2012 and June 30, 2012, then the continuing education requirements have been met for 2012.

(2) Effective July 1, 2012, certified home care aides must complete twelve hours of continuing education each calendar year after obtaining certification as described in department of health WAC 246-980-110 and 246-112-020(3).

(3) If exempt from certification as described in RCW 18.88B.041, all long-term care workers must complete twelve hours of continuing education per calendar year unless exempt from continuing education as described in WAC 388-71-1001.

(4) A long-term care worker or certified home care aide who did not complete the continuing education requirements by the timeframe described in WAC 388-71-0991 cannot be paid to provide care after that date and cannot be reinstated as a long-term care worker until they complete the continuing education requirements.

(5) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of continuing education. The training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

WAC 388-71-0991 When must a long-term care worker or certified home care aide complete continuing education? (1) Effective July 1, 2012, all long-term care workers and certified home care aides must complete the continuing education requirements described in WAC 388-71-0990 by their birthday.

(2) For long-term care workers who are required to be certified, if the first renewal period is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

NEW SECTION

WAC 388-71-1001 What long-term care workers are exempt from the continuing education requirement? Unless voluntarily certified as a home care aide, continuing education is not required for:

(1) Individual providers caring only for his or her biological, step, or adoptive son or daughter; and

(2) Before June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.

NEW SECTION

WAC 388-71-1006 What kinds of training topics may be covered in continuing education? Continuing education must be on a topic relevant to the care setting, care needs of clients, or long-term care worker career development. Topics may include but are not limited to:

- (1) Client rights;
- (2) Personal care services;
- (3) Mental illness;
- (4) Dementia;
- (5) Developmental disabilities;
- (6) Depression;
- (7) Medication assistance;
- (8) Communication skills;
- (9) Positive client behavior support;
- (10) Developing or improving client-centered activities;
- (11) Dealing with wandering;
- (12) Dealing with challenging client behaviors;
- (13) Medical conditions; and
- (14) Nurse delegation core and specialized diabetes.

CURRICULUM APPROVALNEW SECTION

WAC 388-71-1021 What trainings must be taught with a curriculum approved by DSHS? (1) Orientation, safety, on-the-job, basic training (core and population specific training), the thirty hour basic training, the twelve hour parent provider training, and continuing education must be taught with a curriculum approved by DSHS before use.

(2) The nurse delegation core and diabetes training must use only the DSHS curriculum.

NEW SECTION

WAC 388-71-1026 What must be submitted to DSHS for curriculum approval? DSHS developed curriculum(s) do not require submission to the department for approval unless the curriculum is being modified in any manner by the training entity.

(1) For orientation and/or safety training:

(a) Effective January 7, 2012, submit an outline of what will be covered in each training offered (for example, a table of contents or a class syllabus) showing where the required introductory topics as listed in WAC 388-71-0846 for orientation and WAC 388-71-0855 for safety training are covered in the training. Department required orientation and safety training application forms must be submitted to the department at least forty-five days in advance of when the training is expected to be offered. Training cannot be offered before receiving department curriculum and instructor approval.

(2) For continuing education:

(a) Effective July 1, 2012, submit an outline of what will be covered in the training (for example, a table of contents or the class syllabus), the number of training hours, for on line training courses, also submit a description of how the instructor or training will assess that the students have completed the materials and integrated the information being taught. Department required continuing education training applica-

tion forms must be submitted at least forty-five days in advance of when the training is expected to be offered. The trainings cannot be offered before receiving department curriculum and instructor approval as well as the unique code assigned by the department for each curriculum.

(3) For basic training, the thirty hour basic training, and the twelve hour parent provider training:

(a) If the instructor or training entity wants to use the DSHS developed revised fundamentals of caregiving learner's guide with enhancements, submit the DSHS required form with all required information. Curricula must be submitted to DSHS for approval of one or both sections (core competencies and population specific competencies) of the seventy hours required for basic training, for the thirty hour basic training, and for the twelve hour parent provider training. When submitting one or both sections of the basic training curriculum for DSHS approval, it must at a minimum include:

(i) A completed DSHS curriculum checklist indicating where all of the competencies and learning objectives, described in this chapter, are located in the long-term care worker materials from the proposed curriculum for that course;

(ii) Any materials long-term care workers will receive, such as a textbook or long-term care worker manual, learning activities, audio-visual materials, handouts and books;

(iii) The table of contents or outline of the curriculum including the allotted time for each section;

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-71-0911 (12)(a) and (b), and infection control skills (hand washing and putting on and taking off gloves);

(v) The teacher's guide or manual that includes for each section of the curriculum:

(A) The goals and objectives;

(B) How that section will be taught including teaching methods and learning activities that incorporate adult learning principles;

(C) Methods instructors will use to determine whether each long-term care worker understands the material covered and can demonstrate all skills;

(D) A list of sources or references, that were used to develop the curriculum. If the primary source or reference is not a published citation, the instructor must provide detail on how the content was established as evidence based:

(E) Description of how the curriculum was designed to accommodate long-term care workers with limited English proficiency and/or learning disabilities; and

(F) Description and proof of how input was obtained from consumers and long-term care worker representatives in the development of the curriculum.

(vi) In addition, for curricula being submitted for the core competency section of the basic training as described in WAC 388-71-0911, the curriculum must include how much time long-term care workers will be given to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(vii) Entities submitting curriculum for population specific basic training must submit their own list of competen-

cies and learning objectives used to develop the population specific basic training curriculum.

NEW SECTION

WAC 388-71-1031 What is the curriculum approval process for orientation, safety, basic training (core and population specific training), the thirty hour basic training, the twelve hour parent provider training, and continuing education? (1) Submit the required training application forms and any other materials required for specific curriculums to the department.

(2) After review of the curriculum, DSHS will send a written response to the submitter, indicating approval or disapproval of the curriculum(s).

(3) If curriculum(s) are not approved, the reason(s) for denial will be given and the submitter will be told what portion(s) of the training must be changed and resubmitted for review in order for the curriculum to be approved.

(4) The submitter can make the requested changes and resubmit the curriculum(s) for review.

(5) If after working with the department the reasons why the curriculum is not approved cannot be resolved, the submitter may seek review of the nonapproval decision from the assistant secretary of aging and disability services administration. The assistant secretary's review decision shall be the final decision of DSHS; no other administrative review is available to the submitter.

INSTRUCTOR QUALIFICATIONS, APPROVAL, AND RESPONSIBILITIES

NEW SECTION

WAC 388-71-1045 What are a training entity's responsibilities? The training entity is responsible for:

- (1) Coordinating and teaching classes;
- (2) Assuring that the curriculum used is DSHS-approved and taught as designed;
- (3) Selecting and monitoring qualified guest speakers, where applicable;
- (4) Administering or overseeing the administration of the DSHS competency tests for nurse delegation core and specialized diabetes trainings;
- (5) Maintaining training records including long-term care worker tests and attendance records for a minimum of six years;
- (6) Reporting training data to DSHS in DSHS-identified timeframes; and
- (7) Issuing or reissuing training certificates to long-term care workers.

NEW SECTION

WAC 388-71-1050 Must training entities and their instructors be approved by DSHS? All training entities and their instructor(s) for orientation, safety, and continuing education must meet the minimum qualifications under WAC 388-71-1060. All instructors for basic training (core and population specific training), on-the-job training, nurse delegation core training and nurse delegation specialized diabetes

training must meet the minimum qualifications under WAC 388-71-1055.

(1) DSHS must approve and/or contract with a training entity and their instructor(s) to conduct orientation, safety, basic training (core and population specific training), nurse delegation core training and nurse delegation specialized diabetes training, on-the-job training, and continuing education. DSHS may contract with training entities and their instructor(s) using any applicable contracting procedures.

(2) The training partnership must ensure that its instructors meet the minimum qualifications under this chapter.

NEW SECTION

WAC 388-71-1055 What are the minimum qualifications for an instructor of basic training (core and population specific training), on-the-job training, nurse delegation core training, and nurse delegation specialized diabetes training? An instructor for basic training (core and population specific training), on-the-job training, nurse delegation core training, and nurse delegation specialized diabetes training must meet the following minimum qualifications:

- (1) General qualifications:
 - (a) Twenty-one years of age; and
 - (b) Has not had a professional health care, adult family home, boarding home, or social services license or certification revoked in Washington state.
- (2) Education and work experience:
 - (a) Upon initial approval or hire, an instructor must:
 - (i) Be a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting; or
 - (ii) Have an associate degree or higher degree in the field of health or human services and six months of professional or caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD, or home care setting; or
 - (iii) Have a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD, or home care setting.
 - (3) Teaching experience:
 - (a) Must have one hundred hours of teaching adults in a classroom setting on topics directly related to the basic training; or
 - (b) Must have forty hours of teaching while being mentored by an instructor who meets these qualifications, and must attend a class on adult education that meets the requirements in WAC 388-71-1066.
 - (4) The instructor must be experienced in caregiving practices and capable of demonstrating competency with respect to teaching the course content or units being taught;
 - (5) Instructors who will administer tests must have experience or training in assessment and competency testing; and
 - (6) An instructor for nurse delegation core and specialized diabetes trainings must have a current Washington state RN license in good standing without practice restrictions.

NEW SECTION

WAC 388-71-1060 What are the minimum qualifications for an instructor of orientation, safety, and continuing education? An instructor of orientation, safety, and continuing education must be a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands-on personal care or other relevant services to the elderly or persons with disabilities requiring long-term care.

NEW SECTION

WAC 388-71-1066 What must be included in a class on adult education? A class on adult education must include content, student practice, and evaluation of student skills by the instructor in:

- (1) Adult education theory and practice principles;
- (2) Instructor facilitation techniques;
- (3) Facilitating learning activities for adults;
- (4) Administering competency testing; and
- (5) Working with adults with special training needs (for example, English as a second language or learning or literacy issues).

NEW SECTION

WAC 388-71-1076 What is a guest speaker, and what are the minimum qualifications to be a guest speaker? (1) A guest speaker is a person selected by an approved instructor to teach on a specific topic. A guest speaker:

- (a) May only teach a specific subject in which he or she has expertise, background, and experience that establishes his or her expertise on that specific topic;
 - (b) May not teach the entire course;
 - (c) Must not supplant the primary teaching responsibilities of the instructor; and
 - (d) Must cover the DSHS competencies and learning objectives for the topic he or she is teaching.
- (2) The approved instructor:
- (a) Must ensure the guest speaker meets these minimum qualifications;
 - (b) Maintain documentation of the guest speaker's qualifications and background;
 - (c) Supervise and monitor the guest speaker's performance; and
 - (d) Is responsible for ensuring the required content is taught.
- (3) DSHS does not approve guest speakers.

NEW SECTION

WAC 388-71-1081 What are the requirements for the training partnership to conduct training? (1) The training partnership must:

- (a) Verify, document using the department's attestation process, keep on file, and make available to the department upon request, that all instructors meet the minimum instructor qualifications in WAC 388-71-1055 and 388-71-1060 for the course they plan to teach;

(b) Teach using a complete DSHS-developed or approved curriculum;

(c) When requested by DSHS, notify DSHS in writing of their intent to conduct training prior to providing training, when changing training plans, including:

- (i) Name and schedule of training(s) the partnership will conduct;
- (ii) Name of approved curriculum(s) the partnership will use; and
- (iii) Name of the instructor(s) for only the core basic training.

(d) Ensure that DSHS competency tests are administered when conducting nurse delegation core or specialized diabetes training;

(e) Keep a copy of long-term care worker certificates on file for six years and give the original certificate to the trainee;

(f) Keep attendance records and testing records of long-term care workers trained and tested on file for six years; and

(g) Report training data to DSHS when requested by the department.

(2) The department may conduct a random audit at any time to review training and instructor qualifications.

NEW SECTION

WAC 388-71-1083 Must the department verify that training entities and their community instructors meet the minimum instructor qualifications? The department through its contracting process must verify that the community instructors meet the minimum qualifications as described in WACs 388-71-1055 and 388-71-1060. The department will conduct random audits of the training provided and of the instructor qualifications.

**PHYSICAL RESOURCES AND
STANDARD PRACTICES FOR TRAINING**

NEW SECTION

WAC 388-71-1091 What physical resources are required for classroom training and testing? (1) Classroom facilities used for classroom training must be accessible to trainees and provide adequate space for learning activities, comfort, lighting, lack of disturbance, and tools for effective teaching and learning, such as white boards and flip charts. Appropriate supplies and equipment must be provided for teaching and practice of caregiving skills in the class being taught.

(2) Testing sites for nurse delegation core and specialized diabetes training must provide adequate space for testing, comfort, lighting, lack of disturbance appropriate for the written or skills test being conducted. Appropriate supplies and equipment necessary for the particular test must be provided.

NEW SECTION

WAC 388-71-1096 What standard training practices must be maintained for classroom training and testing?

The following training standards must be maintained for classroom training and testing:

- (1) Training must not exceed eight hours within one day;
- (2) Training provided in short time segments must include an entire unit, skill, or concept;
- (3) Training must include regular breaks; and
- (4) Long-term care workers attending classroom training must not be expected to leave the class to attend job duties, except in an emergency.

**COMPETENCY TESTING FOR NURSE
DELEGATION CORE AND
SPECIALIZED DIABETES TRAINING**

NEW SECTION

WAC 388-71-1106 What components must competency testing include? Competency testing must include the following components:

- (1) Skills demonstration of ability to perform and/or implement specific caregiving approaches, and/or activities as appropriate to the training;
- (2) Written evaluation to show knowledge of the learning objectives included in the training; and
- (3) A scoring guide for the tester with clearly stated scoring criteria and minimum proficiency standards.

NEW SECTION

WAC 388-71-1111 What experience or training must individuals have to be able to perform competency testing? Individuals who perform competency testing must have documented experience or training in assessing competencies.

NEW SECTION

WAC 388-71-1120 How must competency test administration be standardized? To standardize competency test administration, testing must include the following components:

- (1) An instructor for the course who meets all minimum qualifications for the course he or she teaches must oversee all testing; and
- (2) The tester must follow the DSHS guidelines for:
 - (a) The maximum length of time allowed for the testing;
 - (b) The amount and nature of instruction given long-term care workers before beginning a test;
 - (c) The amount of assistance to long-term care workers allowed during testing;
 - (d) The accommodation guidelines for long-term care workers with disabilities; and
 - (e) Accessibility guidelines for long-term care workers with limited English proficiency.

NEW SECTION

WAC 388-71-1125 What form of identification must long-term care workers show before taking a competency test? Long-term care workers must show photo identification before taking a competency test.

NEW SECTION

WAC 388-71-1130 How many times may a competency test be taken? For the trainings under WAC 388-71-0936 and 388-71-0941, competency testing may be taken twice. If the test is failed a second time, the person must retake the course before taking the test for that course again.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-71-05665	What definitions apply to WAC 388-71-05670 through 388-71-05909?
WAC 388-71-05670	What is orientation?
WAC 388-71-05675	What content must be included in an orientation?
WAC 388-71-05680	Is competency testing required for orientation?
WAC 388-71-05685	Is there a challenge test for orientation?
WAC 388-71-05690	What documentation is required for orientation?
WAC 388-71-05695	Who is required to complete orientation, and when must it be completed?
WAC 388-71-05700	What is basic training?
WAC 388-71-05705	Is there an alternative to the basic training for some health care workers?
WAC 388-71-05710	What core knowledge and skills must be taught in basic training?
WAC 388-71-05715	Is competency testing required for basic training?
WAC 388-71-05720	Is there a challenge test for basic training?
WAC 388-71-05725	What documentation is required for successful completion of basic training?
WAC 388-71-05730	Who is required to complete basic training, and when?
WAC 388-71-05735	What is modified basic training?
WAC 388-71-05740	What knowledge and skills must be included in modified basic training?
WAC 388-71-05745	Is competency testing required for modified basic training?

WAC 388-71-05750	Is there a challenge test for modified basic training?	WAC 388-71-05825	What documentation is required for successful completion of nurse delegation core training?
WAC 388-71-05755	What documentation is required for successful completion of modified basic training?	WAC 388-71-05830	Who is required to complete nurse delegation core training, and when?
WAC 388-71-05760	Who may take modified basic training instead of the full basic training?	WAC 388-71-05832	What is safety training?
WAC 388-71-05765	What are the training requirements and exemptions for parents who are individual providers for their adult children receiving services through DDD?	WAC 388-71-05835	What is competency testing?
WAC 388-71-05770	What are the training requirements and exemptions for parents who are individual providers for their adult children who do not receive services through DDD?	WAC 388-71-05840	What components must competency testing include?
WAC 388-71-05775	What is continuing education?	WAC 388-71-05845	What experience or training must individuals have to be able to perform competency testing?
WAC 388-71-05780	How many hours of continuing education are required each year?	WAC 388-71-05850	What training must include the DSHS-developed competency test?
WAC 388-71-05785	What kinds of training topics are required for continuing education?	WAC 388-71-05855	How must competency test administration be standardized?
WAC 388-71-05790	Is competency testing required for continuing education?	WAC 388-71-05860	What form of identification must providers show a tester before taking a competency or challenge test?
WAC 388-71-05795	May basic or modified basic training be completed a second time and used to meet the continuing education requirement?	WAC 388-71-05865	How many times may a competency test be taken?
WAC 388-71-05799	What are the documentation requirements for continuing education?	WAC 388-71-05870	What are an instructor's or training entity's responsibilities?
WAC 388-71-05805	What is nurse delegation core training?	WAC 388-71-05875	Must instructors be approved by DSHS?
WAC 388-71-05810	What knowledge and skills must nurse delegation core training include?	WAC 388-71-05880	Can DSHS deny or terminate a contract with an instructor or training entity?
WAC 388-71-05815	Is competency testing required for nurse delegation core training?	WAC 388-71-05885	What is a guest speaker, and what are the minimum qualifications to be a guest speaker for basic training?
WAC 388-71-05820	Is there a challenge test for nurse delegation core training?	WAC 388-71-05890	What are the minimum qualifications for an instructor for basic, modified basic or nurse delegation core and specialized diabetes training?
		WAC 388-71-05895	What additional qualifications are required for instructors of nurse delegation core training and specialized diabetes nurse delegation training?
		WAC 388-71-05899	What must be included in a class on adult education?

- WAC 388-71-05905 What physical resources are required for basic, modified basic, or nurse delegation core classroom training and testing?
- WAC 388-71-05909 What standard training practices must be maintained for basic, modified basic, or nurse delegation core classroom training and testing?
- WAC 388-71-0801 What is specialized diabetes nurse delegation training?
- WAC 388-71-0806 What knowledge and skills must specialized diabetes nurse delegation training include?
- WAC 388-71-0811 Is competency testing required for the specialized diabetes nurse delegation training?
- WAC 388-71-0816 Is there a challenge test for specialized diabetes nurse delegation training?
- WAC 388-71-0821 What documentation is required for successful completion of specialized diabetes nurse delegation training?
- WAC 388-71-0826 Who is required to complete the specialized diabetes nurse delegation training, and when?

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0001 What ((is)) are the purposes of this chapter? The ((residential long-term care)) purposes of this chapter are to describe the following:

(1) Training and certification requirements that apply to long-term care workers hired on or before January 6, 2012 who completed the basic training requirements within one hundred and twenty days of their date of hire;

(2) The training and certification requirements ((under this chapter apply to:

(1) All adult family homes licensed under chapter 70.128 RCW; and

(2) All boarding homes licensed under chapter 18.20 RCW)) for long-term care workers who were hired:

(a) On or after January 7, 2012; or

(b) Before January 7, 2012, but did not complete their basic training within one hundred and twenty days of their date of hire.

(3) The training requirements for long-term care workers hired on or after January 7, 2012, who are exempt from the seventy-five hour training requirements under RCW 74.39A.076; and

(4) The training and certification requirements, effective January 7, 2012 for:

(a) Assisted living facility administrators or their designee under chapter 388-78A WAC; and

(b) Adult family home applicants, resident managers, and entity representatives under chapter 388-76 WAC.

NEW SECTION

WAC 388-112-0002 To whom do the training requirements apply? (1) The long-term care worker training requirements under this chapter apply to adult family home providers, resident managers, and long-term care workers, and assisted living facility administrators, designees, and long-term care workers, who are hired or begin to provide personal care to individuals on or before January 6, 2012 and who completed their required training within one hundred and twenty days of hire.

(2) Unless exempt under RCW 18.88B.041, the seventy-five hour long-term care worker training described in this chapter applies to the following individuals who were hired on or after January 7, 2012:

(a) All long-term care workers in assisted living facilities licensed under chapter 18.20 RCW and chapter 388-78A WAC;

(b) Assisted living facility administrators (or their designees) in accordance with chapter 388-78A WAC;

(c) All long-term care workers in adult family homes licensed under chapter 70.128 RCW and chapter 388-76 WAC; and

(d) Adult family home applicants, resident managers, and entity representatives in accordance with chapter 388-76 WAC.

(3) Long term care workers hired on or after January 7, 2012 who are exempt from the basic training per RCW 74.39A.074 are required to complete other training described in WAC 388-112-0110, 388-112-0165, 388-112-0195 and 388-112-0205.

(4) The adult family home provider and assisted living facility provider, must ensure that any employee or volunteer used by them receives orientation and training from an instructor, appropriate for their expected duties, even if the person, is not included in the definition of long-term care worker.

NEW SECTION

WAC 388-112-0003 What are the training and certification requirements for long term care workers in adult family homes and assisted living facilities and adult family home applicants? (1) Summary of training and certification requirements for long term care workers in adult family homes and assisted living facilities.

Who	Status	Orientation	Safety / Orientation training	Basic / Population Specific training	Specialty training	Continuing education	Certification HCA-C
(1) Adult family home resident manager, assisted living facility administrator, or long term care worker in adult family home / assisted living facility.	An RN, LPN, NA-C or allied health care professionals listed in WAC 388-112-0076	Required per WAC 388-112-0040 (a) and (b)	Not required	Not required	Required per WAC 388-112-0110	Required per WAC 388-112-0205	Not required
(2) Adult family home resident manager, or assisted living administrator, or long term care worker in adult family home or assisted living facility.	Was employed as a long term care worker on January 6, 2012 and has completed the training requirements in effect on his or her hire date. WAC 388-112-0076	Required per WAC 388-112-0040 (a) and (b)	Not required	Not required	Required per WAC 388-112-0110	Required per WAC 388-112-0205	Not required
(3) Adult family home resident manager, or long term care worker in adult family home or assisted living facility.	Employed in an adult family home or assisted living facility and does not meet criteria in (1) or (2) of this table. WAC 388-112-0005.	Not required	Required. Five hours per WAC 388-112-0040 (2)(a)	Required. Seventy hours per WAC 388-112-0045 and 388-112-0066	Required per WAC 388-112-0110	Required. Twelve hours per WAC 388-112-0205	Required per WAC 388-112-0106
(4) Adult family home provider	A person who has an adult family home license. This requirement applies to an entity representative of a licensed entity, and does not meet criteria in (1) or (2). WAC 388-76-1000.	Not required	Completed prior to licensing	Completed prior to licensing	Completed prior to licensing	Required. Twelve hours per WAC 388-112-0205	Completed prior to licensing
(5) Assisted living facility administrator	A qualified assisted living facility administrator or designee who does not meet criteria in (1) or (2) of this table. WAC 388-112-0005.	Not required	Required. Five hours per WAC 388-112-0040 (2)(a)	Required. Seventy hours per WAC 388-112-0045 and 388-112-0066	Required per WAC 388-112-0110	Required. Twelve hours per WAC 388-112-0205	Required per WAC 388-112-0106
(6) Volunteer staff in adult family home or assisted living facility	An unpaid person	Required per WAC 388-112-0040 (a) and (b)	Not required	Not required	Not required	Not required	Not required

(2) Summary of the training and certification requirements for adult family home applicants.

Who	Status	Orientation and Safety training	Basic / Population Specific training	Specialty training	Continuing education	Certification HCA-C
(1) Adult family home applicant	An RN, LPN, ARNP, NA-C, and other allied health professionals as listed in WAC 388-112-0076	Not required	Not required	Required per WAC 388-112-0110	Not required during application process	Not required
(2) Adult family home applicant	Employed as a long term care worker on January 6, 2012 and has completed the training requirements in effect on the date of his or her hire. WAC 388-112-0076	Not required	Not required	Required per WAC 388-112-0110	Not required during application process	Not required
(3) Adult family home applicant	Seeking a license to operate an adult family home and is not exempt under (1) or (2) of this table. WAC 388-112-0002	Required. Five hours per WAC 388-112-0040 (1)(a)	Required. Seventy hours per WAC 388-112-0045 and 388-112-0066	Required per WAC 388-112-0110	Not required during application process	Required per WAC 388-112-0106
(4) Adult family home resident manager	Employed or designated by the provider to manage an adult family home and is not exempt under (1) or (2) of this table. WAC 388-112-0002.	Required. Five hours per WAC 388-112-0040 (1)(a)	Required. Seventy hours per WAC 388-112-0045 and 388-112-0066	Required per WAC 388-112-0110	Required. Twelve hours per WAC 388-112-0205	Required per WAC 388-112-0106

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-112-0004 What action(s) may the department take for provider noncompliance with the requirements of this chapter? A provider's failure to comply with the requirements of this chapter may be subject to an enforcement action authorized under:

- (1) WAC 388-78A-3170, for assisted living facility providers; or
- (2) WAC 388-76-10960, for adult family home providers.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0005 What definitions apply to this chapter? "Applicant" means an individual, partnership, corporation, or other entity seeking to operate an adult family home.

"Caregiver" means anyone who is subject to the long-term care training requirements under this chapter and who is providing hands-on personal care to another person including but not limited to cuing, reminding, or supervision of residents, on behalf of an adult family home or ((boarding home)) assisted living facility, except volunteers who are directly supervised.

"Care team" includes the resident and everyone involved in his or her care. The care team can include family,

friends, doctors, nurses, long-term care workers, social workers and case managers. The role of the care team is to support the well-being of the resident, however, the resident directs the service plan.

"Certified home care aide" means a person who has obtained and maintains a home care aide certification through the department of health.

"Challenge test" means a competency test taken for specialty training without first taking the class for which the test is designed and can only be used when basic training is not required.

"Client" means a person as defined in WAC 388-101-3000.

"Competency" ((means the minimum level of information and skill trainees are required to know and be able to demonstrate)) defines the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

"Competency testing" including challenge testing, is evaluating a trainee to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training and the specialty trainings. Training programs may integrate competency testing within their approved curriculums.

"DDD" refers to the division of developmental disabilities.

"Designee" means a person in ~~((a boarding home))~~ assisted living facility who supervises ~~((caregivers))~~ long-term care workers and who is designated by ~~((a boarding home))~~ assisted living facility administrator to take the trainings in this chapter required of the ~~((boarding home))~~ assisted living facility administrator. A ~~((boarding home))~~ assisted living facility administrator may have more than one designee.

"Direct care worker" means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care.

"Direct supervision" means oversight by a person who has demonstrated competency in the basic training (and specialty training if required), or who has been exempted from the basic training requirements, is on the premises, and is quickly and easily available to the ~~((caregiver))~~ long-term care worker.

"DSHS" or "department" refers to the department of social and health services.

"Enhancement" is additional time provided for skills practice and additional training materials or classroom activities that help a worker to thoroughly learn the course content and skills. Enhancements can include new student materials, videos or DVDs, on-line materials, and/or additional student activities.

"Entity representative" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

"Functionally disabled person" or "person who is functionally disabled" is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living", in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

"Guardian" means an individual as defined in chapter 11.88 RCW.

"Home" refers to adult family homes and ~~((boarding homes))~~ assisted living facilities.

"Indirect supervision" means oversight by a person who has demonstrated competency in the basic training ~~((and specialty training if required))~~, or who has been exempted from the basic training requirements, and who is quickly and easily available to the ~~((caregiver))~~ long-term care worker, but not necessarily on-site.

"Learning ~~((outcomes))~~ objectives" ~~((means the specific information, skills and behaviors desired of the learner as a result of a specific unit of instruction, such as what they would learn by the end of a single class or an entire course. Learning outcomes are generally identified with a specific lesson plan or curriculum))~~ are measurable, written state-

ments that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum designers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

"Long-term care worker" includes all persons providing paid, personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

The following persons are not long-term care workers:

(1) Persons who are:

(a) Providing personal care services to individuals who are not receiving state-funded services; and

(b) The person is not employed by an agency or facility that is licensed by the state.

(2) Persons employed by:

(a) Nursing homes licensed under chapter 18.51 RCW;

(b) Facilities certified under 42 CFR Part 483;

(c) Residential habilitation centers under chapter 71A.20 RCW;

(d) Hospitals or other acute care settings;

(e) Hospice agencies licensed under chapter 70.127 RCW;

(f) Adult day care centers or adult day health centers.

(3) Persons whose services are exclusively limited to assistance with "instrumental activities of daily living," as that term is defined in WAC 388-106-0010.

"Personal care services" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living which is provided because a person is a functionally disabled person as defined in this chapter.

"Provider" means any person or entity who is licensed by the department to operate an adult family home or assisted living facility, or certified by the department to provide instruction and support services to meet the needs of persons receiving services under title 71A RCW.

"Resident" means a person residing and receiving long-term care services at ~~((a boarding home))~~ an assisted living facility or adult family home. As applicable, the term resident also means the resident's legal guardian or other surrogate decision maker.

"Resident manager" means a person employed or designated by the provider to manage the adult family home who meets the requirements in chapter 388-76 WAC and this chapter.

"Routine interaction" means contact with residents that happens regularly.

"Training entity" means an organization, including an independent contractor, who is providing or may provide training under this section using approved curriculum. Training entities may only deliver approved curriculum.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0010 When do the training requirements go into effect? (1) The long-term care training requirements under this chapter apply to individuals hired before January 7, 2012, if they completed the basic training that was required within one hundred and twenty days of the date they were hired.

(2) The long-term care worker training requirements ~~((of))~~ under this chapter ~~((begin September 1, 2002, or one hundred twenty days from the date of employment, whichever is later, and apply to:~~

(1) Adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who are hired or begin to provide hands-on personal care to residents subsequent to September 1, 2002; and

(2) Existing adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who on September 1, 2002, have not successfully completed the training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130 and this chapter. Existing adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who have not successfully completed the training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130 are subject to all applicable requirements of this chapter. However, until September 1, 2002, nothing in this chapter affects the current training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130)) apply to persons described in WAC 388-112-0002(2), who are hired on or apply on or after January 7, 2012, unless exempt under RCW 18.88B.041.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0015 What is orientation? (1) Individuals who are exempt from certification under RCW 18.88B.041 or volunteer are required to complete long-term care orientation training which provides basic introductory information appropriate to the residential care setting and population served. The department does not approve the specific orientation programs, materials, or trainers. No test is required for this orientation.

(2) For individuals required to complete long-term care worker training who do not meet the criteria under subsection (1) above, orientation ~~((provides basic introductory information appropriate to the residential care setting and population served))~~ is a training of two hours regarding the long-term care worker's role as long-term care workers and the applicable terms of employment.

(a) The department ~~((does not))~~ must approve ~~((specific))~~ this long-term care worker orientation ~~((programs, materials, or trainers for homes))~~ curricula and instructors.

(b) There is no test ~~((is required))~~ for orientation.

NEW SECTION

WAC 388-112-0016 What content must be included in orientation? (1) For those individuals identified in WAC 388-112-0015(1) who must complete long-term care services orientation:

(a) Long-term care services orientation may include the use of videotapes, audiotapes, and other media if the person overseeing the orientation is available to answer questions or concerns for the person(s) receiving the orientation. Orientation must include introductory information in the following areas:

- (i) The care setting;
- (ii) The characteristics and special needs of the population served;
- (iii) Fire and life safety, including:
 - (A) Emergency communication (including phone system if one exists);
 - (B) Evacuation planning (including fire alarms and fire extinguishers where they exist);
 - (C) Ways to handle resident injuries and falls or other accidents;
 - (D) Potential risks to residents or staff (for instance, aggressive resident behaviors and how to handle them); and
 - (E) The location of home policies and procedures.
- (iv) Communication skills and information, including:
 - (A) Methods for supporting effective communication among the resident/guardian, staff, and family members;
 - (B) Use of verbal and nonverbal communication;
 - (C) Review of written communications and/or documentation required for the job, including the resident's service plan;
 - (D) Expectations about communication with other home staff; and
 - (E) Whom to contact about problems and concerns.
- (v) Universal precautions and infection control, including:
 - (A) Proper hand washing techniques;
 - (B) Protection from exposure to blood and other body fluids;
 - (C) Appropriate disposal of contaminated/hazardous articles;
 - (D) Reporting exposure to contaminated articles, blood, or other body fluids; and
 - (E) What staff should do if they are ill.
- (vi) Resident rights, including:
 - (A) The resident's right to confidentiality of information about the resident;
 - (B) The resident's right to participate in making decisions about the resident's care, and to refuse care;
 - (C) Staff's duty to protect and promote the rights of each resident, and assist the resident to exercise his or her rights;
 - (D) How and to whom staff should report any concerns they may have about a resident's decision concerning the resident's care;
 - (E) Staff's duty to report any suspected abuse, abandonment, neglect, or exploitation of a resident;
 - (F) Advocates that are available to help residents (LTC ombudsmen, organizations); and
 - (G) Complaint lines, hot lines, and resident grievance procedures.

(vii) In adult family homes, safe food handling information must be provided to all staff, prior to handling food for residents.

(2) For long-term care worker orientation required of those individuals who do not meet the criteria in WAC 388-112-0015(1):

(a) Long-term care worker orientation is a two hour training that must include introductory information in the following areas:

(i) The care setting and the characteristics and special needs of the population served;

(ii) Basic job responsibilities and performance expectations;

(iii) The care plan, including what it is and how to use it;

(iv) The care team;

(v) Process, policies, and procedures for observation, documentation and reporting;

(vi) Resident rights protected by law, including the right to confidentiality and the right to participate in care decisions or to refuse care and how the long-term care worker will protect and promote these rights;

(vii) Mandatory reporter law and worker responsibilities; and

(viii) Communication methods and techniques that can be used while working with a resident or guardian and other care team members.

One hour of completed classroom instruction or other form of training (such as a video or on line course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

WAC 388-112-0018 What is safety training? (1)

Safety is part of the long-term care worker training requirements. It is a training of three hours that includes basic safety precautions, emergency procedures, and infection control.

(2) The department must approve safety training curricula and instructors.

(3) There is no test for safety training.

NEW SECTION

WAC 388-112-0019 What content must be included in safety training? Safety training consists of introductory information in the following areas:

(1) Safety planning and accident prevention, including but not limited to:

(a) Proper body mechanics;

(b) Fall prevention;

(c) Fire safety;

(d) In home hazards;

(e) Long term care worker safety; and

(f) Emergency and disaster preparedness.

(2) Standard precautions and infection control, including but not limited to:

(a) Proper hand washing;

(b) When to wear gloves and how to correctly put them on and take them off;

(c) Basic methods to stop the spread of infection;

(d) Protection from exposure to blood and other body fluids;

(e) Appropriate disposal of contaminated/hazardous articles;

(f) Reporting exposure to contaminated articles; and

(g) What to do when the worker or the resident is sick or injured, including whom to report this to.

(3) Basic emergency procedures, including but not limited to:

(a) Evacuation preparedness;

(b) When and where to call for help in an emergency;

(c) What to do when a resident is falling or falls;

(d) Location of any advance directives if available; and

(e) Basic fire emergency procedures.

One hour of completed classroom instruction or other form of training (such as video or on line course) equals one hour of training. The training entity must establish a way for the long-term care worker to ask the instructor questions. In adult family homes, safe food handling information must be provided to all staff, prior to handling food for residents.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0035 What documentation is required for orientation and safety training? The adult family home or assisted living facility must maintain documentation of the completion of orientation and, if required, safety training, issued by the ~~((home))~~ instructor as described in WAC 388-112-0383, that includes:

(1) The ~~((trainee's))~~ name of the trainee;

(2) A list of the specific information taught;

(3) The number of hours of the training;

(4) The signature of the ~~((person overseeing))~~ instructor providing orientation ~~((, indicating completion of the required information))~~ and safety training;

~~((4))~~ (5) The trainee's date of employment;

~~((5))~~ (6) The name and identification number of the home or service provider giving the orientation and safety training; and

~~((6))~~ (7) The date(s) of orientation and safety training.

(8) The home must keep a copy as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for boarding homes).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0040 Who ~~((is required to))~~ must complete orientation and safety training, and by when ~~((must it be completed))~~? ~~((Adult family home))~~

(1) ~~((All paid or volunteer staff in adult family homes who begin work September 1, 2002 or later must complete orientation before having routine interaction with residents. Orientation must be provided by appropriate adult family home staff.~~

Boarding home

~~((2) Boarding home administrators (or their designees), caregivers, and all paid or volunteer staff who begin work September 1, 2002 or later must complete orientation before having routine interaction with residents. Orientation must be~~

provided by appropriate staff)) The following individuals must complete long-term care training orientation requirements:

(a) Adult family homes - All volunteer staff and all long term care workers who are exempt from certification under RCW 18.88B.041 must complete orientation before having routine interaction with residents. Orientation must be provided by appropriate adult family home staff.

(b) Assisted living facilities - Assisted living facility administrators (or their designees) and all long term care workers who are exempt from certification under RCW 18.88B.041, and volunteer staff must complete orientation before having routine interaction with residents. Orientation must be provided by appropriate staff.

(2) The following individuals must complete long-term care worker orientation and safety training requirements:

(a) All long-term care workers who are not exempt from certification under RCW 18.88B.041 hired on or after January 7, 2012 must complete two hours of orientation and three hours of safety training before providing care to residents/clients. This orientation and safety training must be provided by qualified instructors as described in WAC 388-112-0383.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0045 What is basic training? (1) Basic training for individuals required to complete long-term care worker training is a training of seventy hours which includes ((the)):

(a) The core ((knowledge)) competencies and skills that ((caregivers)) long-term care workers need in order to provide personal care services effectively and safely;

(b) Practice and demonstration of skills;

(c) Population specific competencies.

(2) DSHS must approve basic training curricula.

(3) Effective July 1, 2012, no more than twelve of the seventy hours may be applied for on-the-job training;

(4) The DSHS developed revised fundamentals of care-giving (RFOC) learner's guide may be used to teach core basic training but it must include enhancements which must be approved by the department. Enhancements include:

(a) More time for workers to practice skills including:

(i) The mechanics of completing the skill correctly.

(ii) Client centered communication and problem solving associated with performing the skill.

(iii) The different levels of care required for each skill (independent, supervision, limited, extensive, total).

(iv) Working with assistive devices associated with a skill.

(v) Helpful tips or best practices in working through common client challenges associated with a skill.

(vi) Disease specific concerns or challenges associated with a skill. In most of these examples, additional student materials would be required to ensure the skill enhancements are well planned and documented for students. Materials must be submitted for approval and approved per WAC 388-112-0325.

(b) Augmenting or adding additional materials, student activities, videos or guest speakers that:

(i) More deeply reinforce and fortify the learning outcomes required for basic training.

(ii) Ensure each student integrates and retains the knowledge and skills needed to provide quality basic personal care.

(iii) Prepares workers for the certification testing environment and process.

(c) Enhancements are NOT materials and/or activities that:

(i) Are out of the scope of practice for a LTC worker such as content clearly written for registered nurses.

(ii) Are identical to, or a direct replacement of, those already included in RFOC.

(iii) Fail to reinforce Washington state laws associated with client rights and client directed care.

(iv) LTC workers are not paid to provide.

(v) Are written above a high school reading level.

(5) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of training.

(6) The training entity must establish a way for the long-term care worker to ask the instructor questions.

(7) There is no challenge test for basic training.

NEW SECTION

WAC 388-112-0053 What topics must be taught in the core competencies of basic training for long-term care workers? Basic training for long-term care workers must include all of the competencies under WAC 388-112-0055 for the following topics:

(1) Communication skills;

(2) Long-term care worker self-care;

(3) Problem solving;

(4) Resident rights and maintaining dignity;

(5) Abuse, abandonment, neglect, financial exploitation and mandatory reporting;

(6) Resident directed care;

(7) Cultural sensitivity;

(8) Body mechanics;

(9) Fall prevention;

(10) Skin and body care;

(11) Long-term care worker roles and boundaries;

(12) Supporting activities of daily living;

(13) Food preparation and handling;

(14) Medication assistance;

(15) Infection control, blood-borne pathogens, HIV/AIDS; and

(16) Grief and loss.

NEW SECTION

WAC 388-112-0054 What knowledge and skills must be taught in basic training for individuals required to complete long-term care worker training? (1) The basic training knowledge and skills must include all of the learning outcomes and competencies published by the department for the following core knowledge and skills:

(a) Understanding and using effective interpersonal and problem solving skills with the resident, family members, and other care team members;

(b) Taking appropriate action to promote and protect resident rights, dignity, and independence;

(c) Taking appropriate action to promote and protect the health and safety of the resident and the caregiver;

(d) Correctly performing required personal care tasks while incorporating resident preferences, maintaining the resident's privacy and dignity, and creating opportunities that encourage resident independence;

(e) Adhering to basic job standards and expectations.

(2) The basic training learning outcomes and competencies may be obtained from the DSHS aging and disability services administration.

(3) Passing the DSHS competency test is required for successful completion of basic training as provided under WAC 388-112-0290 through 388-112-0315.

(4) For licensed adult family home providers and employees, successfully completing basic training includes passing the safe food handling section or obtaining a valid food handler permit.

(5) Individuals may take the DSHS challenge test instead of the required training. If a person does not pass a challenge test on the first attempt, they may not retake the challenge test and must attend a class.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0055 What ~~((knowledge and skills must be taught in))~~ are the core competencies and learning objectives for long-term care worker basic training?

~~((1))~~ The ~~((basic training knowledge and skills must include all of the learning outcomes and competencies published by the department for the following core knowledge and skills:~~

(a) Understanding and using effective interpersonal and problem solving skills with the resident, family members, and other care team members;

(b) Taking appropriate action to promote and protect resident rights, dignity, and independence;

(c) Taking appropriate action to promote and protect the health and safety of the resident and the caregiver;

(d) Correctly performing required personal care tasks while incorporating resident preferences, maintaining the resident's privacy and dignity, and creating opportunities that encourage resident independence;

(e) Adhering to basic job standards and expectations.

(2) The basic training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration)) core competencies describe the behavior and skills that a long-term care worker must exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding communication, communicate effectively and in a respectful and appropriate manner with residents, family members, and care team members:

(a) Recognize how verbal and non-verbal cues impact communication with the resident and care team;

(b) Engage and respect the resident through verbal and non-verbal communication;

(c) Listen attentively and determine that the resident understands what has been communicated;

(d) Recognize and acknowledge residents' communication including indicators of pain, confusion, or misunderstanding;

(e) Utilize communication strategies to deal with difficult situations; and

(f) Recognize common barriers to effective communication and identify how to eliminate them.

(2) Regarding long-term care worker self-care, take appropriate action to reduce stress and avoid burnout:

(a) Identify behaviors, practices and resources to reduce stress and avoid burnout;

(b) Recognize common barriers to self-care and ways to overcome them; and

(c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout; and the importance of taking action to practice self-care to avoid burnout.

(3) Regarding the competency of effective problem solving, use effective problem solving skills:

(a) Explain why it is necessary to understand and utilize a problem solving method;

(b) Implement a problem solving process/method; and

(c) Identify obstacles to effective problem solving and ways to overcome them.

(4) Regarding the competency of resident rights and dignity, take appropriate action to promote and protect a resident's legal and human rights as protected by federal and Washington state laws, including:

(a) Protect a resident's confidentiality including what is considered confidential information, to whom a long-term care worker is allowed or not allowed to give confidential information, and how to respond if a noncare team member asks for confidential information;

(b) Promote dignity, privacy, encourage and support a resident's maximum independence when providing care; and

(c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints. Use common, safe alternatives to restraint use;

(d) Protect and promote the resident's right to live free of abuse, neglect, abandonment, and financial exploitation.

(5) Regarding the competency of abuse and mandatory reporting, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:

(a) Describe long-term care workers' responsibilities as a mandatory reporter as described under RCW 74.34.020 through 74.34.053; and

(b) Identify common symptoms of abuse, abandonment, neglect, and financial exploitation.

(6) Regarding the competency of resident directed care, take appropriate action when following a resident's direction regarding his or her care:

(a) Describe a worker's role in resident directed care including determining, understanding, and supporting a resident's choices;

(b) Describe the importance and impact of resident directed care on a resident's independence, self-determination, and quality of life;

(c) Identify effective problem solving strategies that help balance a resident's choice with personal safety; and

(d) Report concerns when a resident refuses care or makes choices that present a possible safety concern.

(7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:

(a) Describe how cultural background, lifestyle practices, and traditions can impact care and use methods to determine and ensure that these are respected and considered when providing care.

(8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the service plan.

(9) Regarding the competency on fall prevention, prevent or reduce the risk of falls:

(a) Identify fall risk factors and take action to reduce fall risks for a resident; and

(b) Take proper steps to assist a resident who is falling or has fallen.

(10) Regarding the competency of skin and body care, use personal care practices that promote and maintain skin integrity:

(a) Explain the importance of observing a resident's skin, when to observe it and what to look for including common signs and symptoms of skin breakdown;

(b) Identify risk factors of skin breakdown;

(c) Observe skin at pressure point locations and report any concerns;

(d) Describe what a pressure ulcer is, what it looks like, and what to take if a resident develops a pressure ulcer;

(e) Describe current best practices that protect and maintain a resident's skin integrity including position changes when sitting or lying for extended periods and proper positioning and transfer techniques;

(f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and

(g) Identify when to report skin changes and to whom.

(11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:

(a) Identify when, how, and why to obtain information from appropriate sources about a resident's condition or disease for which they are receiving services. Describe how to use this information to provide appropriate, individualized care;

(b) Describe a resident's baseline based on information provided in the service plan and explain why it is important to know a resident's baseline;

(c) Identify changes in a resident's physical, mental, and emotional state through observation;

(d) Report changes from baseline and/or concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements (e.g. coming to work on time) and describe how maintaining these standards are critical to a resident's safety and well-being;

(f) Explain the purpose of a service plan and describe how it is created, used, and modified;

(g) Use a resident's service plan to direct a worker's job tasks and any resident directed care tasks;

(h) Identify what is required of a long-term care worker, as described in WAC 388-112-0195, prior to performing a nurse-delegated task;

(i) Describe the role of a care team and a long-term care worker's role in it;

(j) Describe professional boundaries and the importance of maintaining them; and

(k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them.

(12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:

(a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:

(i) Helping a resident walk;

(ii) Transferring a resident from a bed to a wheelchair;

(iii) Turning and repositioning a resident in bed;

(iv) Providing mouth care;

(v) Cleaning and storing dentures;

(vi) Shaving a face;

(vii) Providing fingernail care;

(viii) Providing foot care;

(ix) Providing a bed bath;

(x) Assisting a resident with a weak arm to dress;

(xi) Putting knee-high elastic stockings on a resident;

(xii) Providing passive range of motion for one shoulder;

(xiii) Providing passive range of motion for one knee and

ankle;

(xiv) Assisting a resident to eat;

(xv) Assisting with peri-care;

(xvi) Assisting with the use of a bedpan;

(xvii) Assisting with catheter care;

(xviii) Assisting with condom catheter care; and

(xix) Providing medication assistance.

(b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate resident preferences, maintain privacy and dignity, support the resident's level of ability, and assure their comfort and safety;

(c) Appropriately utilize assistive device(s) specified on the service plan;

(d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a resident's bowel and bladder functioning baseline and when to report changes.

(13) Regarding the competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a resident's health;

(b) Plan, shop, and prepare meals for a resident according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions per the service plan and resident preferences;

(c) Describe common signs of poor nutrition and hydration, and when to report concerns and to whom;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a resident;

(e) Recognize when a resident's food choices vary from specifications on the care plan, describe when and to whom to report concerns;

(f) Describe what causes food borne illness, the risks associated with food borne illness and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including: avoiding cross contamination from one food to another, safe storage requirements for cooling of leftover foods, including depth, types of containers, and temperatures, the need to maintain food at proper temperatures to limit bacterial growth and what are the safe food storage and holding temperatures for both cold and hot foods, best practices for thawing and re-heating food, and using clean gloves (if possible) and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses and/or symptoms must not prepare food.

Long-term care workers who complete a DSHS-approved basic training meet the training requirements for adult family homes in RCW 70.128.250.

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications as described in chapter 246-888 WAC;

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects and when and to whom to report concerns;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a resident who refuses to take medications, identifying when and to whom to report when a resident refuses medication or there are other medication-related concerns, and identifying what is considered a medication error and when and to whom it must be reported.

(15) Regarding the competency of infection control and blood borne pathogens including HIV/AIDS, implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand washing and gloves;

(d) Demonstrate proper hand washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy micro-organisms on surfaces;

(h) Describe what BB pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure;

(l) Describe how HIV works in the body;

(m) Explain that testing and counseling for HIV/AIDS is available;

(n) Describe the common symptoms of HIV/AIDS;

(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality and nondiscrimination; and

(p) Explain the importance of emotional issues and support for residents and long-term care workers.

Long-term care workers who complete a DSHS-approved basic training meet the four hours of AIDS education as required by the department of health in WAC 246-980-040.

(16) Regarding the competency on grief and loss, support yourself and the resident in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a resident and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss.

NEW SECTION

WAC 388-112-0062 What is on-the-job training? (1)

Effective July 1, 2012, on-the-job training is a method of training when the long-term care worker successfully demonstrates any or all of the personal care or infection control skills included in the core basic training while working with a client versus in a practice training setting.

(2) On-the-job training is provided by a qualified instructor as defined in WAC 388-112-0380 who directly observes, coaches, and reinforces skills training for up to two long-term care workers at a time. The instructor providing the on-the-job training:

(a) Does not have to be the instructor who has taught the core competency training;

(b) Cannot be someone whose primary job duty is providing direct care to clients; or

(c) Cannot be the immediate supervisor of the long-term care worker receiving the on-the-job training.

(3) The person overseeing on-the-job training must:

(a) Submit DSHS required forms and become an approved instructor for the core competency of basic training; and

(b) Verify on a DSHS approved skills checklist the long-term care worker's successful completion of the demonstrated skills.

(4) For the person receiving on-the-job training, the hours spent in on-the-job training may count for up to twelve hours toward the completion of basic training requirements. It is not a requirement to include on-the-job training hours in the basic training hours.

NEW SECTION

WAC 388-112-0066 What is the population specific component of basic training? Population specific basic training is training on topics that are unique to the care needs of the population that the home or provider is serving. Topics can include but are not limited to:

- (1) Dementia;
- (2) Mental health;
- (3) Developmental disabilities;
- (4) Young adults with physical disabilities; and
- (5) Aging and older adults.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0070 What documentation is required ~~((for successful))~~ to show completion of basic training, including core competencies and population specific competencies? (1) Long-term care worker basic training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (a) The name of the trainee;
- (b) The name of the training;
- (c) The name of the home or training entity giving the training;

(d) The instructor's name and signature; and

(e) The date(s) of training.

(2) Long-term care worker basic training must be documented by a certificate(s) or transcript of ~~((successful))~~ completion of training, issued by the instructor or training entity, that includes:

- (a) The name of the trainee;
- (b) The name of the training;
- (c) The number of hours of the training;
- (d) The name and the identification number of the instructor for core competencies, and the home or training entity giving the training;

~~((d))~~ (e) The instructor's ~~((name and))~~ signature; and

~~((e))~~ (f) The completion date~~((s))~~ of the training.

~~((z))~~ (g) The trainee must be given an original certificate(s) or transcript for proof of completion of the training. ~~((A home))~~ The training entity and/or provider must keep a copy of the certificate or transcript on file as described in WAC 388-76-10198 (for adult family homes) and as

described in WAC 388-78A-2450 (for assisted living facilities).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0075 Who is required to complete basic training, and when, unless exempt as described in WAC 388-112-0076? Adult family homes

(1) Adult family home ~~((providers (including entity representatives as defined under chapter 388-76 WAC)))~~ applicants must complete basic training ~~((and demonstrate competency))~~ before ~~((operating an))~~ licensure of the adult family home.

(2) Adult family home entity representatives and resident managers must complete basic training and demonstrate competency before ~~((providing services in an))~~ assuming the duties of the position in the adult family home.

(3) Caregivers or long-term care workers in adult family homes must complete basic training within one hundred twenty days of ~~((when they begin providing hands-on personal care or within one hundred twenty days of September 1, 2002, whichever is later))~~ employment. Until competency in the basic training has been demonstrated, caregivers may not provide hands-on personal care without ~~((indirect))~~ direct supervision. Until completion of the basic training long-term care workers may not provide personal care without direct supervision.

~~((Boarding homes))~~ Assisted living facilities

(4) ~~((Boarding home))~~ Assisted living facility administrators (or their designees), except administrators with a current nursing home administrator license, must complete basic training ~~((and demonstrate competency))~~ within one hundred twenty days of employment ~~((or within one hundred twenty days of September 1, 2002, whichever is later))~~.

(5) ~~((Caregivers))~~ Long-term care workers must complete basic training within one hundred twenty days of ~~((when they begin providing hands-on personal care or within one hundred twenty days of September 1, 2002, whichever is later))~~ employment. Until competency in the basic training has been demonstrated, caregivers may not provide ~~((hands-on))~~ personal care without direct supervision. Until completion of the basic training, long-term care workers may not provide personal care without direct supervision.

NEW SECTION

WAC 388-112-0076 What long-term care workers are exempt from the basic training requirement? The following long-term care workers are exempt from the basic training requirement:

(1) A person already employed as a long-term care worker on January 6, 2012, who completed the basic training requirements in effect on the date of his or her hire;

(2) A person employed as a long-term care worker on January 6, 2012, who completes within one hundred twenty days of hire, the basic training requirements in effect on the date of his or her hire;

(3) A person previously employed as a long-term care worker who completed the basic training requirements in

effect on the date of his or her hire, and was employed as a long-term care worker at some point between January 1, 2011 and January 6, 2012;

(4) Registered nurses, licensed practical nurses, nurse technicians, or advanced registered nurse practitioner under chapter 18.79 RCW;

(5) Nursing assistants-certified under chapter 18.88A RCW;

(6) Certified counselors under chapter 18.19 RCW;

(7) Speech language pathologists or audiologists under chapter 18.35 RCW;

(8) Occupational therapists under chapter 18.59 RCW;

(9) Physical therapists under chapter 18.74 RCW;

(10) A home health aide who is employed by a medicare-certified home health agency and has met the requirements of 42 CFR, Part 483.35; and

(11) An individual with special education training and an endorsement granted by the superintendent of public instruction as described in RCW 28A.300.010.

NEW SECTION

WAC 388-112-0078 What curriculum may be used in the population specific component of the basic training?

Homes or providers may use the following DSHS-developed or approved curriculum to meet all or some of the population specific component of basic training depending on the needs of the population served:

(1) Dementia specialty training;

(2) Mental health specialty training; and

(3) Developmental disabilities specialty training.

NEW SECTION

WAC 388-112-0079 What are the requirements for using basic training to meet the specialty training requirements as described in WAC 388-112-0122, 388-112-0132 and 388-112-0142? When basic training is used to meet the specialty training requirements:

(1) It must include the department developed competencies and learning objectives as described in WAC 388-112-0122, 388-112-0132, or 388-112-0142. Homes or providers may enhance the specialty training component by adding additional competencies, learning objectives, content, or activities. If the department approves the enhancements and an increased number of training hours, the worker's training hours will apply to the seventy hour training requirement.

(2) Long-term care workers must pass a department competency test under WAC 388-112-0300 to meet the applicable licensing requirements for adult family homes and assisted living facilities for all specialty training.

NEW SECTION

WAC 388-112-0081 What topics may the training on young adults with physical disabilities include? The training on young adults with physical disabilities may include all of the competencies and learning objectives under WAC 388-112-0083 for the following topics:

(1) Introduction to physical disabilities;

(2) Common physical disabilities and ability limitations;

- (3) Supporting residents living with chronic conditions;
- (4) Independent living and resident-directed care; and
- (5) Social connections and sexual needs of adults living with disabilities.

NEW SECTION

WAC 388-112-0083 What are the competencies and learning objectives for the training on young adults with physical disabilities? The competencies define the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training on young adults with physical disabilities. Learning objectives are associated with each competency.

(1) Regarding the competency on young adults with physical disabilities, work effectively with young adults with physical disabilities based upon a basic understanding of disability:

(a) Identify basic information regarding physical disabilities, injuries, and illnesses that are more common in young adults;

(b) Describe the impact of changing and fluctuating abilities;

(c) Identify stereotypes, biases, and misconceptions regarding the perception of young adults with physical disabilities;

(d) Describe how biases, stereotypes, and misconceptions can influence care to young adults with physical disabilities;

(e) Identify and explain the Americans with Disabilities Act and rights for adults with physical disabilities; and

(f) Describe the value of personalizing care and support to the specific resident with a disability.

(2) Regarding the competency on common physical disabilities and ability limitations, provide individualized care based upon a basic understanding of common physical disabilities and their impact on functioning:

(a) Describe common physical disabilities, including paraplegia and quadriplegia, diabetes, multiple sclerosis, and pulmonary disease.

(b) Describe the characteristics and functional limitations of residents with these specific disabilities.

(3) Regarding the competency on supporting residents living with chronic conditions, provide appropriate care by recognizing chronic secondary conditions that impact functioning:

(a) Identify how common chronic medical conditions affect physical disability;

(b) Describe how chronic medical conditions influence and impact care for a young resident with a physical disability;

(c) Describe how to support a resident with a physical disability and multiple chronic conditions; and

(d) Describe how to support the resident's dignity while providing personal care.

(4) Regarding the competency on independent living and resident-directed care, support independent living and self-determination for the resident living with a disability:

(a) Define the independent living philosophy and describe what it might look like;

(b) Describe barriers to independent living, including accessibility and attitudes;

(c) Describe ways to support independent living and self-determination with the resident living with a disability;

(d) Describe resident-directed support;

(e) Identify ways to promote resident-directed support; and

(f) Identify resources that promote independence and self-determination for a resident living with a disability.

(5) Regarding the competency of social connections and sexual needs of young adults living with a physical disability, provide optimum support to a resident living with a disability in his or her expression of social and sexual needs:

(a) Describe and explain the importance of full, appropriate, and equal participation of resident's living with a physical disability;

(b) Identify ways to support social connections and activities;

(c) Describe and explain the importance of honoring the resident as a sexual being with diverse sexual needs, desires, and orientation; and

(d) Identify ways to support expression of sexual needs in a respectful, professional, and confidential manner.

NEW SECTION

WAC 388-112-0088 What topics may the training on aging and older adults include? Training on aging and older adults may include all of the competencies and learning objectives under WAC 388-112-0091 for the following core knowledge and skills:

(1) Introduction to aging;

(2) Age-associated physical changes;

(3) Cultural impacts on aging;

(4) Ageism and supporting resident dignity;

(5) Supporting residents living with a chronic condition;

(6) Dealing with death, grief, and loss; and

(7) Supporting health and wellness.

NEW SECTION

WAC 388-112-0091 What are the competencies and learning objectives for training on aging and older adults? The competencies define the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training on aging and older adults. Learning objectives are associated with each competency.

(1) Regarding the competency on an introduction to aging, draw upon a basic understanding of the aging process and demonstrate awareness of the unique needs of older adults:

(a) Describe basic information on the aging process, including the difference between age-related changes and a disease process;

(b) List typical changes that occur with aging;

(c) Identify common stereotypes, biases, myths, and misconceptions regarding aging, ageism, and older adults;

(d) Describe how ageism, biases, myths, and misconceptions can influence care to older residents;

(e) Describe how aging affects the resident's needs and behaviors; and

(f) Describe the value of adapting caregiving to the age-related concerns of the resident.

(2) Regarding the competency on age-associated physical changes, provide individualized care by understanding physical changes that are experienced in aging:

(a) Identify common physical changes experienced in the aging process;

(b) Describe common sensory changes that occur in aging and their impact on an older adult's activities;

(c) Describe the difference between age-associated physical changes versus a disease process; and

(d) Describe how age-related physical changes can impact functioning and the ability to perform personal care.

(3) Regarding the competency on cultural impacts of aging, provide culturally compassionate care by utilizing a basic understanding of issues related to culture and aging:

(a) Describe how race/ethnicity, poverty, and class influence the aging process;

(b) Describe how race/ethnicity, poverty, and class influence an older adult's help-seeking behavior; and

(c) Describe a culturally sensitive approach to working with older adults that demonstrates shared decision-making and mutual respect.

(4) Regarding the competency on ageism and supporting resident dignity, overcome ageism and support resident dignity by understanding stereotypes and myths regarding aging:

(a) Describe the concept of "ageism" and its possible impact on working with older adults;

(b) Identify his or her perceptions about aging and how these perceptions may contribute to "ageism";

(c) Describe how "ageism" can influence resident dignity; and

(d) Describe strategies for overcoming "ageism" and supporting resident dignity.

(5) Regarding the competency on supporting residents living with chronic medical conditions, provide appropriate care by recognizing how chronic conditions impact functioning:

(a) Describe how chronic medical conditions can influence and impact care for older adults;

(b) Describe strategies for working with an older adult with multiple chronic medical conditions;

(c) Describe proactive ways to support an older adult living with chronic medical conditions; and

(d) Describe how to help support the older adult's dignity while providing care.

(6) Regarding the competency on dealing with death, grief and loss, respond appropriately to a resident experiencing loss:

(a) Describe common examples of losses encountered in the aging process;

(b) Describe common reactions to loss of significant roles;

(c) Describe strategies for dealing with loss;

(d) Describe the value of promoting social engagement for the older adult;

(e) Identify strategies and opportunities for promoting social engagement; and

(f) Identify actions and resources that can be used to help an older adult work through feelings of grief and loss.

(7) Regarding the competency on supporting optimum health and wellness, support the optimum health and wellness of older adults:

- (a) Identify key factors that support resident health and wellness;
- (b) Identify strategies for promoting resident optimum health while aging;
- (c) Identify strategies and opportunities to support an older adult to engage in healthy life style choices; and
- (d) Describe his or her role in promoting optimum health and wellness for older residents.

NEW SECTION

WAC 388-112-0092 What learning objectives may be included in the curriculum for young adults with physical disabilities and/or for aging and older adults? Homes or providers may develop a curriculum for young adults with physical disabilities and/or for aging and older adults using the learning objectives in WACs 388-112-0083 and WAC 388-112-0091 or any other relevant learning objectives for these populations and submit it for approval by the department.

NEW SECTION

WAC 388-112-0106 Who is required to obtain certification as a home care aide, and when? Unless exempt under WAC 246-980-070, the following must be certified by the department of health as a home care aide within the required timeframes:

- (1) All long-term care workers, within one hundred and fifty days of hire;
- (2) Adult family home applicants, before licensure;
- (3) Adult family home entity representatives and resident managers, before assuming the duties of the position; and
- (4) Assisted living facility administrators or their designee within one hundred and fifty days of hire.

NEW SECTION

WAC 388-112-0107 Can an adult family home or assisted living facility, employ an individual to work as a long-term care worker if the individual has not completed the training and/or certification requirements? An adult family home or assisted living facility cannot employ an individual to work as a long-term care worker if the individual has previously worked as a long-term care worker and has not completed applicable training and/or certification requirements within the specific time limits. Such individual may be employed by an adult family home or assisted living facility to work as a long-term care worker only after applicable training and/or certification requirements are met. The department is authorized by RCW 70.128.160 to take enforcement action against an adult family home provider for noncompliance related to training and/or certification requirements. The department is authorized by RCW 18.20.-190 to take enforcement action against a assisted living facility provider for noncompliance related to training and/or certification requirements.

NEW SECTION

WAC 388-112-0108 What documentation is required for a long-term care worker to apply for the home care aide certification or recertification? (1) Successful completion of seventy-five hours of training must be documented on a DSHS seventy-five hour training certificate by an approved training entity who has provided or verified that a total of seventy-five hours of approved training have occurred.

(2) An approved training entity issuing and signing a DSHS seventy-five hour training certificate must verify that the long-term care worker has the certificates or transcript required documenting two hours of DSHS-approved orientation, three hours of DSHS-approved safety training, and seventy hours of DSHS-approved basic training, as described in this chapter. Only a DSHS or training partnership seventy-five hour training certificate can be submitted by a long-term care worker applying to the department of health for a home care aide certification.

(3) For home care aide recertification, successful completion of twelve hours of DSHS-approved continuing education training must be documented on a DSHS certificate issued by an approved training entity who has provided all twelve hours of continuing education training. If all twelve hours of continuing education were not provided by the same training entity, then an approved training entity must verify that the certified home care aide has certificates or transcripts that add up to twelve hours of DSHS-approved continuing education. Only a DSHS or a training partnership twelve-hour continuing education certificate can be submitted by a certified home care aide applying to the department of health for recertification.

(4) The long-term care worker and certified home care aide must retain the original seventy-five hour training certificate and any twelve-hour continuing education training certificates as long as they are employed and up to three years after termination of employment. Training entities must keep a copy of the certificates on file for six years.

AMENDATORY SECTION (Amending WSR 06-16-072, filed 7/28/06, effective 8/28/06)

WAC 388-112-0110 What is specialty training and who is required to take specialty training? (1) Specialty or "special needs" training(~~(, including caregiver specialty training,))~~) provides instruction in caregiving skills that meet the special needs of people living with mental illness, dementia, or developmental disabilities. Specialty trainings are different for each population served and are not interchangeable. Specialty training may be integrated with basic training if the complete content of each training is included. DSHS must approve specialty training curricula for managers, caregivers, and ~~((caregivers, except for adult family home caregiver specialty training))~~ long-term care workers.

(2) Manager specialty training is required for ~~((boarding home))~~ assisted living facility administrators (or designees), adult family home applicants or providers ~~((and)),~~ resident managers, and entity representatives who are affiliated with homes that serve residents who have one or more of the following special needs: developmental disabilities, dementia,

or mental health. The managers described in subsection (2) of this section must take one or more of the following specialty trainings:

(a) Developmental disabilities specialty training, under WAC 388-112-0120(~~(-is the required training on that specialty for adult family home providers and resident managers, and for boarding home administrators (or designees-))~~);

(b) Manager dementia specialty training, under WAC 388-112-0125(~~(-);~~); and

(c) Manager mental health specialty training, under WAC 388-112-0135(~~(-are the required trainings on those specialties for adult family home providers and resident managers, and for boarding home administrators (or designees-))~~)).

(3) ~~((Caregiver specialty training for boarding homes))~~
All long-term care workers including those who are exempt from basic training and who work in an assisted living facility or adult family home, serving residents/clients with the special needs described in subsection (2) of this section, must take caregiver or long-term care worker specialty training. The long-term care worker specialty training is as follows:

(a) Developmental disabilities specialty training, under WAC 388-112-0120(~~(-is the required training on that specialty for boarding home caregivers))~~).

(b) Caregiver or long-term care worker dementia specialty training, under WAC 388-112-0130(~~(-);~~); and ~~((caregiver))~~

(c) Caregiver or long-term care worker mental health specialty training, under WAC 388-112-0140(~~(-are the required trainings on those specialties for boarding home caregivers))~~).

(4) ~~((Caregiver specialty training for adult family homes: The provider or resident manager who has successfully completed the manager specialty training, or a person knowledgeable about the specialty area, trains adult family home caregivers in the specialty needs of the individual residents in the adult family home, and there is no required curriculum))~~
Specialty training may be used to meet the requirements for the basic training population specific component if completed within one hundred and twenty days of employment.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0115 What specialty training(~~(-including caregiver specialty training-))~~ is required if a resident has more than one special need? If ~~((an individual))~~ a resident has needs in more than one of the special needs areas, the home must determine which of the specialty trainings will most appropriately address the overall needs of the person and ensure that the specialty training that addresses the overall needs is completed as required. If additional training beyond the specialty training is needed to meet all of the resident's needs, the home must ensure that additional training is completed.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0120 What ~~((knowledge and skills))~~ topics must ~~((manager and caregiver))~~ developmental disabilities specialty trainings include? (1) ~~((Manager and~~

~~caregiver developmental disabilities specialty trainings))~~
Developmental disabilities specialty training must include all of the ~~((learning outcomes and competencies published by DSHS))~~ competencies and learning objectives described under WAC 388-112-0122 for the following ~~((core knowledge and skills))~~ topics:

(a) Overview of developmental disabilities;

(b) Values of service delivery;

(c) Effective communication;

(d) Introduction to interactive planning;

(e) Understanding behavior;

(f) Crisis prevention and intervention; and

(g) Overview of legal issues and ~~((individual))~~ resident rights.

(2) For adult family homes, the division of developmental disabilities (DDD) will provide in-home technical assistance to the adult family home upon admission of the first resident eligible for services from DDD and, thereafter, as determined necessary by DSHS.

~~((3) The manager and caregiver developmental disabilities specialty training learning outcomes and competencies may be obtained from the DSHS division of developmental disabilities-))~~

NEW SECTION

WAC 388-112-0122 What are the competencies and learning objectives for the long-term care worker developmental disability specialty training? The developmental disabilities specialty competencies describe the behavior and skills a long-term care worker should exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding the competency on an overview of developmental disabilities, draw upon a basic understanding of developmental disabilities and demonstrate awareness of the unique needs of residents with developmental disabilities:

(a) Define developmental disability and describe intellectual disability, cerebral palsy, epilepsy, and autism;

(b) Identify common myths and misconceptions about developmental disabilities;

(c) Describe the negative effects of using labels such as "retarded" or "handicapped" to represent people and positive alternatives; and

(d) Differentiate between developmental disabilities and mental illness.

(2) Regarding the competency on values of service delivery, promote and support a resident's self-determination:

(a) Identify the principle of normalization and its significance to the work of caregivers or long-term care workers;

(b) Explain how understanding each resident's needs leads to better services and supports, which lead to better outcomes for the resident;

(c) Describe each of the residential services guidelines and identify how the values represented in the guidelines are important in the lives of people with developmental disabilities;

(d) Describe the principle of self-determination; and

(e) Identify positive outcomes for residents with developmental disabilities when they are connected to the community they live in.

(3) Regarding the competency on communication, provide culturally compassionate and individualized care by utilizing a basic understanding of a resident or resident's history, experience, and cultural beliefs:

(a) List the key elements of effective communication;

(b) Describe the impact communication has on the lives of residents with developmental disabilities;

(c) Explain the impact a caregiver's or long-term care worker's behavior can have on eliciting communication;

(d) Explain the impact of a resident's physical environment on their ability to communicate;

(e) Describe methods of communication, other than verbal, that caregivers or long-term care workers might use when supporting residents with developmental disabilities; and

(f) List tips for communication with residents with developmental disabilities.

(4) Regarding the competency on interactive planning, use person-centered and interactive planning when working with residents with developmental disabilities:

(a) Identify the benefits of using a person-centered planning process rather than the traditional planning methods used to develop supports for people with developmental disabilities;

(b) Identify key elements involved in interactive planning;

(c) Identify ways to include people with developmental disabilities and their families in the planning process; and

(d) Identify the required planning document for the setting and list ways to have a positive impact on the plan.

(5) Regarding the competency on challenging behaviors, use a problem solving approach and positive support principles when dealing with challenging behaviors:

(a) Identify the essential components of the concept of positive behavioral supports;

(b) Define the "ABCs" and describe how to use that process to discover the function of behavior;

(c) Explain why it is critical to understand the function of behavior before developing a support plan;

(d) Define reinforcement and identify ways to utilize it as a tool to increase a resident's ability to be successful;

(e) Identify the problems with using punishment to manage behavior;

(f) Identify behavior management techniques that are not allowed under DSHS policies and applicable laws;

(g) Identify factors that can positively and negatively influence the behavior of residents with developmental disabilities; and

(h) List steps to be taken when crisis or danger to people is immediate.

(6) Regarding the competency on crisis prevention, support a resident experiencing a crisis and get assistance when needed:

(a) Identify behaviors in people with developmental disabilities that might constitute "normal stress";

(b) Define "crisis";

(c) Differentiate the behaviors a resident who is in crisis exhibits from mental illness;

(d) Identify the principles of crisis prevention and intervention;

(e) Identify what types of situations require outside assistance and at what point it becomes necessary; and

(f) Name several ways to provide support to a resident experiencing a crisis.

(7) Regarding the competency on legal rights, promote and protect the legal and resident rights of residents with developmental disabilities:

(a) Explain how the rights of residents with disabilities compare to those of the general population;

(b) List the rights of residents living in adult family homes and assisted living facilities and the laws that support those rights;

(c) Describe how caregivers or long-term care workers can help residents to exercise their rights;

(d) List ways a caregiver or long-term care worker must safeguard each resident's confidentiality;

(e) Describe the three types of guardianship a resident with developmental disabilities might be subject to and why;

(f) List less restrictive alternatives to guardianship;

(g) Describe the responsibilities, powers, and limitations of a guardian; and

(h) Describe the relationship between caregivers or long-term care workers and guardians/families.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0125 What knowledge and skills must manager dementia specialty training include? (1) Manager dementia specialty training must include all the learning ~~((outcomes))~~ objectives and competencies published by DSHS for the following core knowledge and skills:

(a) Introduction to the dementias;

(b) Differentiating dementia, depression, and delirium;

(c) Caregiving goals, values, attitudes and behaviors;

(d) Caregiving principles and dementia problem solving;

(e) Effects of cognitive losses on communication;

(f) Communicating with people who have dementia;

(g) Sexuality and dementia;

(h) Rethinking "problem" behaviors;

(i) Hallucinations and delusions;

(j) Helping with activities of daily living (ADLs);

(k) Drugs and dementia;

(l) Working with families;

(m) Getting help from others; and

(n) Self-care for caregivers or long-term care workers.

~~((2) The manager dementia specialty training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.))~~

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0130 What ~~((knowledge and skills))~~ topics must ((caregiver)) long-term care worker dementia specialty training include? ~~((+))~~ Caregiver or long-term care worker dementia specialty training must include all the

~~((learning outcomes and competencies published by DSHS))
competencies and learning objectives under WAC 388-112-0132 for the following ((core knowledge and skills)) topics:~~

- ~~((a)) (1) Introduction to the dementias;
((b)) (2) Dementia, depression, and delirium;
((c) Resident-based caregiving;
(d)) (3) Dementia caregiving principles;
((e)) (4) Communicating with people who have dementia;~~

~~and
((f)) (5) Sexuality and dementia;
((g)) (6) Rethinking "problem" behaviors;
((h)) (7) Hallucinations and delusions;
((i)) (8) Helping with activities of daily living (ADLs);~~

~~and
((j)) (9) Working with family and friends.
((2) The learning outcomes and competencies for caregiver dementia training may be obtained from the DSHS aging and adult services administration.)~~

NEW SECTION

WAC 388-112-0132 What are the competencies and learning objectives for the long-term care worker dementia specialty training? The dementia specialty competencies describe the behavior and skills a caregiver or long-term care worker should exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding the competency on an introduction to dementia, draw upon a basic understanding of dementia and demonstrate awareness of the unique needs of residents with dementia:

- (a) Identify basic information on dementia, including causes and treatments;
- (b) Describe how dementia affects resident needs and behaviors;
- (c) List typical behaviors and symptoms a resident with dementia would most likely experience;
- (d) Describe the differences that might be seen based on the type of dementia a resident has.

(2) Regarding the competency on dementia, depression, and delirium, respond appropriately to residents who have dementia, delirium, and/or depression:

- (a) Identify and differentiate between dementia, depression, and delirium;
- (b) Describe common symptoms of dementia, depression, and delirium and list possible causes;
- (c) Compare and contrast among common symptoms of dementia, depression, and delirium; and
- (d) Identify what symptom changes require immediate professional attention and how to access professional help.

(3) Regarding the competency on dementia caregiving principles, incorporate current best practices when providing dementia care:

- (a) Identify current best practices in dementia caregiving;
- (b) Describe current best practices in caregiving;
- (c) Demonstrate the ability to support the resident's strengths using caregiving techniques to support those strengths; and

(d) Describe how to use cultural and life information to develop and enhance care provided to residents with dementia.

(4) Regarding the competency on communicating with people who have dementia, communicate in a respectful and appropriate manner with residents with dementia:

- (a) Describe common dementia-caused cognitive losses and how those losses can affect communication;
- (b) Identify appropriate and inappropriate nonverbal communication skills and discuss how each impacts a resident's behavior;
- (c) Describe how to effectively initiate and conduct a conversation with a resident who has dementia; and
- (d) Identify communication strategies to work with residents who have dementia.

(5) Regarding the competency on sexuality and dementia, protect a resident or resident's rights when dealing with issues of sexuality and appropriately manage unwanted or inappropriate sexual behavior:

- (a) Identify ways in which dementia affects sexuality and sexual behaviors;
- (b) Identify a resident's rights as they relate to sexuality and sexual behavior and discuss ways to support these rights; and
- (c) Describe how to respond using nonjudgmental caregiving skills to residents' appropriate and inappropriate sexual behaviors.

(6) Regarding the competency on dealing with challenging behaviors, use a problem-solving approach when dealing with challenging behaviors:

- (a) Describe how to use a problem-solving method to intervene in challenging behaviors or situations;
- (b) Describe some possible common causes of challenging behaviors, including aggression, catastrophic reactions, wandering, and inappropriate sexual behavior and explore their causes;
- (c) Describe how to implement a problem-solving process when working with a resident who has dementia; and
- (d) Describe how to respond appropriately to a resident who is expressing a challenging behavior.

(7) Regarding the competency on hallucinations and delusions, respond appropriately when a resident is experiencing hallucinations or delusions:

- (a) Define and differentiate between hallucinations and delusions;
- (b) List different types of dementia-related hallucinations; and
- (c) Describe how to appropriately and safely respond to a resident with dementia who is experiencing hallucinations and delusions.

(8) Regarding the competency on activities of daily living, make activities of daily living pleasant and meaningful:

- (a) Identify and describe ways in which to support making activities of daily living pleasant for residents with dementia; and
- (b) Describe strategies that support meaning and utilize an individualized approach when assisting a resident with dementia with activities of daily living.

(9) Regarding the competency on working with family and friends, respond respectfully, appropriately, and with

compassion when interacting with families and friends of residents with dementia:

- (a) Identify common concerns friends and family have when a loved one has dementia;
- (b) Describe ways to be supportive and compassionate in interactions with family and friends of the resident with dementia;
- (c) Identify how to find local resources for family support needs; and
- (d) Describe a method to gather cultural and life history information from a resident and/or representative(s).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0135 What knowledge and skills must manager mental health specialty training include? (1) Manager mental health specialty training must include all the learning ~~((outcomes))~~ objectives and competencies published by DSHS for the following core knowledge and skills:

- (a) Introduction to mental illness;
 - (b) Culturally compassionate care;
 - (c) Respectful communications;
 - (d) Understanding mental illness - major mental ~~((disorders))~~ illnesses;
 - (e) Understanding mental illness - baseline, decompensation, and relapse planning; responses to hallucinations and delusions;
 - (f) Understanding and interventions for behaviors perceived as problems;
 - (g) Aggression;
 - (h) Suicide;
 - (i) Medications;
 - (j) Getting help from others; and
 - (k) Self-care for caregivers or long-term care workers.
- ~~(((2) The manager mental health specialty training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.))~~

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0140 What ~~((knowledge and skills))~~ topics must ~~((caregiver))~~ the long-term care worker mental health specialty training include? (1) ~~((Caregiver))~~ The long-term care worker mental health specialty training must include all the ~~((learning outcomes and competencies published by DSHS))~~ competencies under WAC 388-112-0142 for the following ~~((core knowledge and skills))~~ topics:

- (a) Understanding major mental ~~((disorders))~~ illnesses;
 - (b) ~~((Individual))~~ Resident background, experiences and beliefs;
 - (c) ~~((Responding to))~~ Respectful communication;
 - (d) Creative approaches to challenging behaviors;
 - (e) Decompensation((;)) and relapse((;)) planning;
 - (f) Responding to hallucinations and delusions;
 - ~~(((d) Interventions for behaviors perceived as problems;~~
 - ~~(e)))~~ (g) Crisis intervention and dealing with aggression;
- and
- ~~(((f)))~~ (h) Suicide prevention.

~~(((2) The learning outcomes and competencies for caregiver mental health training may be obtained from the DSHS aging and adult services administration.))~~

NEW SECTION

WAC 388-112-0142 What are the competencies and learning objectives for the long-term care worker mental health specialty training? The mental health specialty competencies describe the behavior and skills a caregiver or long-term care worker should exhibit when working with residents. Learning objectives are associated with each competency.

(1) Regarding the competency on understanding major mental illnesses, draw upon a basic understanding of mental illness and demonstrate awareness of the unique needs of residents with mental illness:

- (a) Define and describe main symptoms of depression, bipolar schizophrenia, and anxiety disorder, and list treatment options for each;
- (b) Describe causes of mental illness;
- (c) Describe the progression of mental illness;
- (d) Identify common myths and misinformation about mental illness; and
- (e) Define stigma and identify how stigma can impact caregiving.

(2) Regarding the competency on resident background, experiences and beliefs, provide culturally compassionate and individualized care by utilizing a basic understanding of the resident's history, experience, and cultural beliefs:

- (a) Demonstrate a method for gathering cultural, lifestyle, and personal value information from a resident;
- (b) Identify why obtaining cultural information from a resident is important;
- (c) Describe the importance of being sensitive to cultural differences when providing care;
- (d) Differentiate how cultural beliefs and symptoms may be misinterpreted as mental illness; and
- (e) Identify how the caregiver's or long-term care worker's culture might affect caregiving.

(3) Regarding the competency on communication and mental illness, communicate respectfully and appropriately with residents with a mental illness:

- (a) Identify what is considered respectful and disrespectful communication when interacting with a resident with a mental illness;
- (b) Identify what is judgmental communication toward a resident with a mental illness and ways to ensure communication is nonjudgmental;
- (c) Identify examples of verbal and nonverbal communication and describe how each impacts communication; and
- (d) Describe how to effectively initiate and conduct a respectful conversation with a resident who has a mental illness.

(4) Regarding the competency on creative approaches to challenging behaviors, use a problem-solving approach when dealing with challenging behaviors:

- (a) Define and differentiate between inappropriate learned behaviors and symptoms of a mental illness;

(b) Identify possible common causes of challenging behaviors in a resident with a mental illness;

(c) Differentiate how challenging behaviors may be misinterpreted as mental illness; and

(d) Describe intervention strategies that can be used to reduce or prevent challenging behaviors.

(5) Regarding the competency on responding to de-compensation and relapse, respond appropriately when a resident is decompensating to help prevent a relapse:

(a) Define the terms baseline, de-compensation, and relapse;

(b) Identify common causes and symptoms of de-compensation and relapse;

(c) Describe the term "relapse plan" and review an example of a relapse plan; and

(d) Identify how a caregiver or long-term care worker can support and use the relapse plan.

(6) Regarding the competency on responding to hallucinations and delusions, respond appropriately to a resident experiencing hallucinations or delusions:

(a) Define the terms hallucination and delusion;

(b) Identify common triggers (including stress) of delusions and hallucinations;

(c) Identify and describe appropriate intervention strategies for a resident experiencing a hallucination or delusion; and

(d) Describe how to accurately document a resident's behavioral symptoms, interventions, and outcomes.

(7) Regarding the competency on crisis intervention and dealing with aggression, intervene early when dealing with aggressive behavior to increase emotional stability and ensure safety:

(a) Define the term aggression;

(b) Identify the difference between aggressive behaviors and aggressive feelings;

(c) List de-escalation "do's" and "don'ts" as they relate to working with a resident expressing aggressive behavior;

(d) Describe appropriate de-escalation techniques when working with a resident expressing aggressive behavior; and

(e) Differentiate between nonimmediate and immediate danger and at what point additional assistance may be needed.

(8) Regarding the competency on suicide prevention, respond appropriately to a resident at risk of suicide:

(a) Identify and list signs a resident is possibly suicidal;

(b) Describe how to respond appropriately to a resident experiencing suicidal thoughts, including:

(i) How, where, and when to refer a resident who is experiencing suicidal thoughts and/ or planning; and

(ii) Methods to keep a suicidal resident safe and ensure the safety for others.

(c) Describe strategies to help cope with a resident's suicide.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0145 ((4s)) Who is required to complete competency testing ((required)) for specialty training((-including caregiver specialty training))? Passing the

DSHS competency test, as provided under WAC 388-112-0295 through 388-112-0315 is required for successful completion of specialty training for:

(1) All adult family home applicants or providers ((and)), resident managers, ((and for)) entity representatives, and long-term care workers; and

(2) All ((boarding home)) assisted living facility administrators (or designees) ((and caregivers, as provided under WAC 388-112-0290 through 388-112-0315. Competency testing is not required for adult family home)), caregivers and long-term care workers.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0150 Is there a challenge test for specialty training((-including ((caregiver)) the manager and long-term care worker specialty trainings))? There is a challenge test for ((AH)) each of the specialty trainings((-including caregiver specialty trainings, except the adult family home caregiver training)). Individuals may take the DSHS challenge test instead of required specialty training. A person who does not pass a challenge test on the first attempt must attend the class.

NEW SECTION

WAC 388-112-0152 Is competency testing required for population specific trainings on young adults with physical disabilities, or aging and older adults? No, there is no competency testing required for the population specific trainings on young adults with physical disabilities, or aging and older adults.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0155 What documentation is required for successful completion of specialty training((-including caregiver specialty training))? Specialty training((-including caregiver specialty training;)) as applicable, must be documented by a certificate or transcript of successful completion of training, issued by the instructor or training entity((-;)) that includes:

(1) The ((trainee's)) name of the trainee;

(2) The name of the training;

(3) The number of hours of the training;

(4) The name and identification number of the home or training entity giving the training;

((4)) (5) The instructor's name and signature; and

((5)) (6) The date(s) of training.

((6)) The trainee must be given an original certificate.

The home must keep a copy of the certificate on file as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for assisted living facilities).

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0160 Who is required to complete manager specialty training, and when? Adult family homes

(1) Adult family home applicants, providers ~~((including))~~, entity representatives ~~((as defined under chapter 388-76 WAC))~~ and resident managers must complete manager specialty training and demonstrate competency before ~~((admitting and serving residents))~~ the home is licensed or before a new resident manager is hired in order to admit or serve residents who have special needs related to mental illness, dementia, or a developmental disability.

(2) If a resident develops special needs while living in a home without a specialty designation, the provider, entity representative, and resident manager have one hundred twenty days to complete manager specialty training and demonstrate competency.

((Boarding homes)) Assisted living facilities

(3) If ~~((a boarding home))~~ an assisted living facility serves one or more residents with special needs, the ~~((boarding home))~~ assisted living facility administrator (or designee) must complete manager specialty training and demonstrate competency within one hundred twenty days of employment ~~((or within one hundred twenty days of September 1, 2002, whichever is later))~~. ~~((A boarding home))~~ An assisted living facility administrator with a current nursing home administrator license is exempt from this requirement, unless the administrator will train ~~((their facility caregivers))~~ the facility's long-term care workers in a ~~((caregiver))~~ specialty.

(4) If a resident develops special needs while living in ~~((a boarding home))~~ an assisted living facility, the ~~((boarding home))~~ assisted living facility administrator (or designee) has one hundred twenty days to complete manager specialty training and demonstrate competency. ~~((A boarding home))~~ An assisted living facility administrator with a current nursing home administrator license is exempt from this requirement, unless the administrator will train ~~((their facility caregivers))~~ the facility's long-term care workers in a ~~((caregiver))~~ specialty.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0165 Who is required to complete ((caregiver)) long-term care worker specialty training, and when? ((Adult family homes))

~~((If an adult family home serves one or more residents with special needs, all caregivers must receive training regarding the specialty needs of individual residents in the home. The provider or resident manager knowledgeable about the specialty area may provide this training.))~~

((Boarding homes))

If ~~((a boarding home))~~ an assisted living facility or adult family home serves one or more residents with special needs, ~~((caregivers))~~ long-term care workers in those settings must complete ~~((caregiver))~~ specialty training and demonstrate competency.

(1) If the ~~((caregiver))~~ specialty training is integrated with basic training, ~~((caregivers))~~ long-term care workers

must complete the ~~((caregiver))~~ specialty training within one hundred twenty days of ~~((when they begin providing hands-on personal care to a resident having special needs or within one hundred twenty days of September 1, 2002, whichever is later))~~ hire.

(2) ~~((If the caregiver specialty training is not integrated with basic training, caregivers))~~ Long-term care workers who are exempt from basic training must complete the relevant ~~((caregiver))~~ specialty training within ninety days of ~~((completing basic training))~~ hire.

(3) Until competency in the ~~((caregiver))~~ specialty training has been demonstrated, ~~((caregivers))~~ long-term care workers may not provide hands-on personal care to a resident with special needs without direct supervision in an assisted living facility or in an adult family home.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0195 Who is required to complete nurse delegation core training and nurse delegation specialized diabetes training, and when? ((Adult family homes))

(1) Before performing any delegated nursing task, long-term care workers in adult family ~~((home staff))~~ homes and assisted living facilities must:

(a) Successfully complete DSHS-designated nurse delegation core training, "Nurse Delegation for Nursing Assistants";

(b) Be a:

(i) Certified home care aide under chapter 18.88B RCW ~~((nursing assistant registered))~~; or

(ii) Nursing assistant certified under chapter 18.88A RCW; ~~((and))~~ or

(iii) If exempt from the home care aide certification under WAC 246-980-070, become a nursing assistant registered and complete the core competencies of basic training, unless the twenty eight hours of revised fundamentals of care or a department approved alternative was already completed.

(iv) If nurse delegation is needed to implement a care plan earlier than home care aide certification can be obtained, become a nursing assistant registered and complete core competencies of basic training.

~~((e) If a nursing assistant registered, successfully complete basic training.~~

Boarding homes

(2) Before performing ~~((any delegated nursing task, boarding home staff))~~ the task of insulin injections, long-term care workers in adult family homes and assisted living facilities must:

(a) ~~((Successfully complete DSHS-designated nurse delegation core training))~~ Meet the requirements in subsections (1)(a) and (b) of this section; and

(b) ~~((Be a nursing assistant registered or certified under chapter 18.88A RCW; and~~

~~((e) If a nursing assistant registered, successfully complete basic training))~~ Successfully complete DSHS-designated specialized diabetes nurse delegation training.

NEW SECTION

WAC 388-112-0197 Can nurse delegation core and specialized diabetes training occur in the same year as basic training? Nurse delegation core and specialized diabetes training can occur in the same year as basic training if required to be able to perform delegated tasks. If this occurs, the maximum of twelve hours for this training can be applied towards the continuing education requirement for the following year. Nurse delegation core and specialized diabetes trainings do not apply towards the population specific training.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0200 What is continuing education?

(1) Continuing education is additional caregiving-related training designed to increase and keep current a person's knowledge and skills. DSHS ((does not preapprove)) must approve continuing education ((programs or instructors)) curricula and instructors. The same continuing education course may not be repeated for credit unless it is a new or more advanced training on the same topic. The exception to this would be:

(a) CPR training.

(b) First aid training.

(c) Food handling training.

(d) When the assisted living facility or adult family home can demonstrate or document a need for retraining.

(2) Nurse delegation core and nurse delegation specialized diabetes training may be used to count towards continuing education.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0205 Who is required to complete continuing education training, and how many hours of continuing education are required each year? Adult family homes

(1) ((Individuals subject to a continuing education requirement)) Until June 30, 2012, adult family home providers, entity representatives, resident managers, and long-term care workers must complete ((at least)) ten hours of continuing education each calendar year ((January 1 through December 31)) after the year in which they ((successfully)) complete basic ((or modified basic)) training. If the ten hours of continuing education were completed between January 1, 2012 and June 30, 2012, then the continuing education requirements have been met for 2012.

(2) Effective July 1, 2012, certified home care aides must complete twelve hours of continuing education each calendar year after obtaining certification as described in department of health WAC 246-980-110.

(3) If exempt from certification as described in RCW 18.88B.040, all long-term care workers must complete twelve hours of continuing education per calendar year. Continuing education must include one-half hour per year on safe food handling in adult family homes.

Assisted living facilities

(4) Until June 30, 2012, assisted living facility administrators (or their designees) and long-term care workers must complete ten hours of continuing education each calendar year after the year in which they complete basic training. If the ten hours of continuing education were completed between January 1, 2012 and June 30, 2012, then the continuing education requirements have been met for 2012.

(5) Effective July 1, 2012, certified home care aides must complete twelve hours of continuing education each calendar year after obtaining certification as described in department of health WAC 246-980-110 and 246-12-020(3).

(6) If exempt from certification as described in RCW 18.88.040, all long-term care workers must complete twelve hours of continuing education per calendar year. An assisted living facility administrator with a current nursing home administrator license is exempt from this requirement.

(7) A long-term care worker or certified home care aide who did not complete the continuing education requirements by the timeframe described in WAC 388-112-0207 cannot be paid to provide care after that date and cannot be reinstated as a long-term care worker until they complete the continuing education requirements.

(8) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of continuing education. The training entity must establish a way for the long-term care worker to ask the instructor questions.

NEW SECTION

WAC 388-112-0207 When must a long-term care worker or certified home care aide complete continuing education? (1) Effective July 1, 2012, all long-term care workers and certified home care aides must complete the continuing education requirements described in WAC 388-112-0205 by their birthday.

(2) For long term care workers who are required to be certified as a home care aide, if the first renewal period is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0210 What kinds of training topics ((are required for)) may be covered in continuing education? Continuing education must be on a topic relevant to the care setting ((and)), care needs of residents, ((including)) or long-term care worker career development. Topics or courses may include but are not limited to:

(1) Resident rights, such as freedom from abuse, neglect, abandonment and financial exploitation;

(2) Personal care (((such as transfers or skin care))) services;

(3) Mental illness;

(4) Dementia;

(5) Developmental disabilities;

(6) Depression;

(7) Medication assistance;

(8) Communication skills;

- (9) Positive resident behavior support;
- (10) Developing or improving resident centered activities;
- (11) Dealing with wandering or aggressive resident behaviors;
- (12) Medical conditions; ~~((and))~~
- (13) ~~((In adult family homes,))~~ Safe food handling, CPR and First aid under WAC 388-112-0255 and 388-112-0260; and
- (14) Nurse delegation core and specialized diabetes.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0220 May basic ~~((or modified basic))~~ training be completed a second time and used to meet the continuing education requirement? Retaking basic ~~((or modified basic))~~ training may not be used to meet the continuing education requirement.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0225 May specialty training be used to meet continuing education requirements? Manager specialty training and ~~((caregiver))~~ long-term care worker specialty training, except any specialty training completed through a challenge test, may be used to meet continuing education requirements.

~~((1)) If one or more specialty trainings are completed in the same year as basic or modified basic training, the specialty training hours may be applied toward the continuing education requirement for up to two calendar years following the year of completion of the basic and specialty trainings.~~

~~((2)) If ~~((one or more))~~ a different specialty training ~~((s are))~~ is completed in a different year than the year when basic ~~((or modified basic))~~ training was taken, the specialty training hours may be applied toward the continuing education requirement for the calendar year in which ~~((the))~~ this other specialty training is taken ~~((and the following calendar year))~~.~~

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0235 May residential care administrator training be used to meet continuing education requirements? Residential care administrator training under WAC 388-112-0275 may be used to meet ~~((ten hours of))~~ the continuing education requirements described in WAC 388-112-0205.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0240 What are the documentation requirements for continuing education? (1) The adult family home or ~~((boarding home))~~ assisted living facility must maintain ~~((documentation of continuing education including))~~ written documentation of continuing education in the form of a certificate or transcript:

- (a) The ~~((trainee's))~~ name of the trainee;

(b) The title ~~((or content))~~ of the training as approved by DSHS;

(c) The number of hours of the training;

(d) The DSHS assigned curriculum approval code;

(e) The DSHS approved instructor's name ~~((;))~~ and signature;

(f) The name of the DSHS approved home or training entity giving the training ~~((; or the name of the video, on-line class, professional journal, or equivalent instruction materials completed)); and~~

~~((d))~~ The number of hours of training; and)

~~((e))~~ (g) The date(s) of training.

(2) The trainee must be given an original certificate or other documentation of continuing education. The adult family home or assisted living facility must keep a copy of the certificate or transcript on file as described in WAC 388-76-10198 (for adult family homes) and as described in WAC 388-78A-2450 (for assisted living facilities).

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0255 What is first-aid training? First-aid training is training that meets the guidelines established by the Occupational Safety and Health Administration (OSHA) and ~~((listed))~~ described at www.osha.gov. Under OSHA guidelines, training must include hands-on skills development through the use of mannequins or trainee partners. Topics include:

(1) General program elements, including:

- (a) Responding to a health emergency;
- (b) Surveying the scene;
- (c) Basic cardiopulmonary resuscitation (CPR);
- (d) Basic first aid intervention;
- (e) Standard precautions;
- (f) First aid supplies; and
- (g) Trainee assessments.

(2) Type of injury training, including:

- (a) Shock;
- (b) Bleeding;
- (c) Poisoning;
- (d) Burns;
- (e) Temperature extremes;
- (f) Musculoskeletal injuries;
- (g) Bites and stings;
- (h) Confined spaces; and
- (i) Medical emergencies; including heart attack, stroke, asthma attack, diabetes, seizures, and pregnancy.

(3) Site of injury training, including:

- (a) Head and neck;
- (b) Eye;
- (c) Nose;
- (d) Mouth and teeth;
- (e) Chest;
- (f) Abdomen; and
- (g) Hand, finger and foot.

(4) Successful completion of first aid training, following the OSHA guidelines, also serves as proof of the CPR training.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0260 What are the CPR and first-aid training requirements? Adult family homes

(1) Adult family home applicants, providers, entity representatives, and resident managers must possess a valid CPR and first-aid card or certificate prior to (~~providing care for residents~~) obtaining a license, and must maintain valid cards or certificates.

(2) Licensed nurses working in adult family homes must possess a valid CPR card or certificate within thirty days of employment and must maintain a valid card or certificate. If the licensed nurse is an adult family home provider or resident manager, the valid CPR card or certificate must be obtained prior to providing care for residents.

(3) Adult family home (~~caregivers~~) long-term care workers must obtain and maintain a valid CPR and first-aid card or certificate:

(a) Within thirty days of beginning to provide care for residents, if the provision of care for residents is directly supervised by a fully qualified (~~caregiver~~) long-term care worker who has a valid first-aid and CPR card or certificate; or

(b) Before providing care for residents, if the provision of care for residents is not directly supervised by a fully qualified (~~caregiver~~) long-term care worker who has a valid first-aid and CPR card or certificate.

(Boarding homes) Assisted living facilities

(4) (~~Boarding home~~) Assisted living facility administrators who provide direct care, and (~~caregivers~~) long-term care workers must possess a valid CPR and first-aid card or certificate within thirty days of employment, and must maintain valid cards or certificates. Licensed nurses working in (~~boarding homes~~) assisted living facility must possess a valid CPR card or certificate within thirty days of employment, and must maintain a valid card or certificate.

AMENDATORY SECTION (Amending WSR 07-01-045, filed 12/14/06, effective 1/14/07)

WAC 388-112-0270 Who must take the forty-eight hour adult family home residential care administrator training and when? (~~Providers licensed prior to December 31, 2006: Before operating more than one adult family home, the provider (including an entity representative as defined under chapter 388-76 WAC) must successfully complete the department approved forty-eight hour residential care administrator training.~~

~~Prospective providers applying for a license after January 1, 2007: Before a license for an adult family home is granted, the prospective provider~~) All applicants submitting an application for an adult family home license must successfully complete the department approved forty-eight hour residential care administrator training for adult family homes before a license for an adult family home will be issued.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0295 What components must competency testing include? Competency testing must include the following components:

(1) Skills demonstration of ability to perform and/or implement specific caregiving approaches, and/or activities as appropriate for the training;

(2) Written evaluation to show level of comprehension and knowledge of the learning (~~outcomes~~) objectives for the training; and

(3) A scoring guide for the tester with clearly stated criteria and minimum proficiency standards.

(4) Instructors who conduct competency testing must have experience or training in assessing competencies.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0300 What training must include the DSHS-developed competency test? (~~Basic, modified basic, manager specialty, caregiver specialty, and nurse delegation core training must include the DSHS-developed competency test~~) The following trainings must include the DSHS-developed competency test:

(1) Manager dementia specialty training;

(2) Manager mental health specialty training;

(3) Long-term care worker dementia specialty training;

(4) Long-term care worker mental health specialty training;

(5) Developmental disabilities specialty training;

(6) Nurse delegation core training; and

(7) Nurse delegation specialized diabetes training.

AMENDATORY SECTION (Amending WSR 06-01-046, filed 12/15/05, effective 1/15/06)

WAC 388-112-0315 How many times may a competency test be taken? (1) A competency test that is part of a course may be taken twice. If the test is failed a second time, the person must retake the course before any additional tests are administered. (~~Licensed adult family providers and employees who fail the food handling section of the basic training competency test a second time, must obtain a valid food worker permit.~~)

(2) If a challenge test is available for a course, it may be taken only once. If the test is failed, the person must take the classroom course.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0320 What trainings must be taught with a curriculum approved by DSHS? (1) The following trainings must be taught (~~using the DSHS~~) with a curriculum (~~or other curriculum~~) approved by DSHS before use:

(a) Basic training (core and population specific training);

(b) (~~Modified basic~~) Orientation under WAC 388-112-0015(2), safety, on-the-job, and continuing education;

(c) Manager mental health, dementia, and developmental disabilities specialty training;

(d) ~~((Caregiver))~~ Long-term care worker mental health, dementia, and developmental disabilities specialty training ~~((in boarding homes))~~; and

(e) Any training that integrates basic training with a ~~((manager or caregiver))~~ specialty training.

(2) The residential care administrator training must use a curriculum approved by DSHS.

(3) The nurse delegation core and diabetes training must use only the DSHS curriculum.

(4) ~~((A curriculum other than the DSHS curriculum must be approved before it is used. An attestation that the curriculum meets all requirements under this chapter will be sufficient for initial approval. Final))~~ Approval will be based on curriculum review, as described under WAC 388-112-0330.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0325 ~~What ((are the minimum components that an alternative curriculum must include in order to be approved)) must be submitted to DSHS for curriculum approval?~~ ~~((In order to be approved, an alternative curriculum must at a minimum include:~~

~~(1) All the DSHS-published learning outcomes and competencies for the course;~~

~~(2) Printed student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio visual materials, handouts, and books;~~

~~(3) The recommended sequence and delivery of the material;~~

~~(4) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:~~

~~(a) The expected learning outcomes;~~

~~(b) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;~~

~~(c) Practice of skills to increase competency;~~

~~(d) Feedback to the student on knowledge and skills;~~

~~(e) An emphasis on facilitation by the teacher; and~~

~~(f) An integration of knowledge and skills from previous lessons to build skills.~~

~~(5) A list of the sources or references, if any, used to develop the curriculum;~~

~~(6) Methods of teaching and student evaluation for students with limited English proficiency and/or learning disabilities; and~~

~~(7) A plan for updating material. Substantial changes to a previously approved curriculum must be approved before they are used))~~ DSHS developed curriculum(s) do not require submission to the department for approval unless the curriculum is being modified in any manner by the training entity.

(1) For orientation and/or safety training:

Effective January 7, 2012, submit an outline of what will be covered in each training offered (for example, a table of contents or a class syllabus) showing where the required introductory topics as listed in WAC 388-112-0016 for orientation and WAC 388-112-0855 for safety training are cov-

ered in the training. Department required orientation and safety training application forms must be submitted to the department at least forty-five days in advance of when the training is expected to be offered. Training cannot be offered before receiving department curriculum and instructor approval.

(2) For continuing education:

Effective July 1, 2012, submit an outline of what will be covered in the training (for example, a table of contents or the class syllabus), the number of training hours, and a description of how the training is relevant to the care setting, care needs of residents, or long-term care worker career development. For on line training courses, also submit a description of how the instructor or training will assess that the students have integrated the information being taught. Department required continuing education training application forms must be submitted at least forty five days in advance of when the training is expected to be offered. The trainings cannot be offered before receiving department curriculum and instructor approval.

(3) For basic training:

(a) If the instructor or training entity wants to use the DSHS developed revised fundamentals of caregiving learner's guide with enhancements, submit the DSHS required form with all required information. Otherwise, the following must be submitted to DSHS for approval of one or both sections (core competencies and population specific competencies) of the seventy hours required for basic training. When submitting one or both sections of basic training curriculum for DSHS approval, it must at a minimum include:

(i) A completed DSHS curriculum checklist indicating where all of the competencies and learning objectives, described in this chapter, are located in the long-term care worker materials from the proposed curriculum for that course;

(ii) Any materials long-term care workers will receive, such as a textbook or long-term care worker manual, learning activities, audio-visual materials, handouts, and books;

(iii) The table of contents or outline of the curriculum, including the allotted time for each section;

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-112-0055 (12)(a) and (b), and infection control skills (hand washing and putting on and taking off gloves);

(v) The teachers guide or manual that includes for each section of the curriculum:

(A) The goals and objectives;

(B) How that section will be taught, including teaching methods and learning activities that incorporate adult learning principles;

(C) Methods instructors will use to determine whether each long-term care worker understands the materials covered and can demonstrate all skills;

(D) A list of the sources or references that were used to develop the curriculum. If the primary source or reference is not a published citation, the instructor must provide detail on how the content was established as evidence based;

(E) Description of how the curriculum was designed to accommodate long-term care workers with limited English proficiency and/or learning disabilities; and

(F) Description and proof of how input was obtained from consumer and long-term care worker representatives in the development of the curriculum.

(b) In addition, for curricula being submitted for the core competency section of basic training as described in WAC 388-112-0055, the curriculum must include how much time students will be given to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(c) Entities submitting curriculum for population specific basic training must submit their own list of competencies and learning objectives used to develop the population specific basic training curriculum.

(4) For specialty training:

For specialty training that is not the DSHS developed curriculum or other department approved curriculum, submit the required specialty training application form and any additional learning objectives added to the competency and learning objectives checklist, the enhancements that have been added, and additional student materials or handouts. In order to be approved, an alternative curriculum must at a minimum include:

(a) All the DSHS-published learning outcomes and competencies for the course;

(b) Printed student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio-visual materials, handouts, and books;

(c) The recommended sequence and delivery of the material;

(d) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:

(i) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;

(ii) Practice of skills to increase competency;

(iii) Feedback to the student on knowledge and skills;

(iv) An emphasis on facilitation by the teacher; and

(v) An integration of knowledge and skills from previous lessons to build skills.

(e) A list of the sources or references, if any, used to develop the curriculum;

(f) Methods of teaching and student evaluation for students with limited English proficiency and/or learning disabilities;

(g) A plan for updating material;

(h) Substantial changes to a previous approved curriculum must be approved before they are used.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0330 What is the curriculum approval process for orientation, safety, basic training (core and population specific training), and continuing education? ~~((1) An alternative curriculum must be submitted to DSHS for approval with:~~

~~(a) Identification of where each DSHS published required learning outcome and competency is located in the alternate curriculum;~~

~~(b) All materials identified in WAC 388-112-0325; and~~

~~(c) A letter from the boarding home administrator or adult family home provider attesting that the training curriculum addresses all of the training competencies identified by DSHS;~~

~~(2) DSHS may approve a curriculum based upon the attestation in (1)(c) above, until it has been reviewed by DSHS;~~

~~(3) If, upon review by DSHS, the curriculum is not approved, the alternative curriculum may not be used until all required revisions have been submitted and approved by DSHS.~~

~~(4)) In order to obtain the department's approval of the curriculum for orientation, safety, basic training (core and population specific training), and continuing education:~~

~~(1) Submit the required training application forms and any other materials required for specific curriculums to the department.~~

~~(2) After review of the ((alternative)) curriculum, DSHS will send a written response to the submitter, indicating approval or disapproval of the curriculum(s) ((and if disapproved, the reasons for denial;)).~~

~~((5)) (3) If curriculum(s) are not approved, the reason(s) for denial will be given and the submitter will be told what portion(s) of the training must be changed and resubmitted for review in order for the curriculum to be approved.~~

~~(4) The submitter can make the requested changes and resubmit the curriculum(s) for review.~~

~~(5) If after working with the department the ((alternative curriculum is not approved, a revised curriculum may be resubmitted to DSHS for another review)) reasons why the curriculum is not approved cannot be resolved, the submitter may seek a review of the nonapproval decision from the assistant secretary of aging and disability services administration (ADSA). The assistant secretary's review decision shall be the final decision of DSHS. No other administrative review is available to the submitter.~~

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0335 What are the requirements for ((a boarding home)) an assisted living facility or adult family home that wishes to conduct orientation, safety, basic, ((modified basic, manager specialty, or caregiver)) on-the-job training, continuing education, or long-term care worker specialty training? (1) ((A boarding home)) An assisted living facility provider or adult family home provider wishing to conduct orientation, safety, basic, ((modified basic, manager specialty)) on-the-job training, continuing education, or ((caregiver)) long-term care worker specialty training ((for boarding home caregivers)) may do so if the ((home)) provider:

(a) Verifies ((and)), documents using the department's attestation process, keeps on file, and makes available to the department upon request that all instructors meet ((each of))

the minimum instructor qualifications in WAC 388-112-0370 through 388-112-0395 for the course they plan to teach;

(b) Teaches using a complete DSHS-developed or approved (~~(alternative)~~) curriculum.

(c) Notifies DSHS in writing of the (~~(home's)~~) provider's intent to conduct staff training prior to providing the (~~(home's)~~) provider's first training, and when changing training plans, including:

(i) (~~(Home)~~) The provider's name;

(ii) Name of training(s) the (~~(home)~~) provider will conduct;

(iii) Name of approved curriculum(s) the (~~(home)~~) provider will use;

(iv) Name of lead instructor and instructor's past employment in (~~(boarding homes and)~~) assisted living facility or adult family homes; and

(v) Whether the (~~(home)~~) provider will train only the (~~(home's)~~) provider's staff, or will also train staff from other (~~(homes)~~) providers. If training staff outside the home or corporation, the instructor must become a DSHS-contracted community instructor;

(d) Ensures that DSHS competency tests are administered as required under this chapter;

(e) Provides a certificate or transcript of completion of training to all staff that successfully complete the entire course(~~, including:~~

~~(i) The trainee's name;~~

~~(ii) The name of the training;~~

~~(iii) The name of the home giving the training;~~

~~(iv) The instructor's name and signature; and~~

~~(v) The date(s) of training);~~

(f) Keeps a copy of (~~(student)~~) long-term care worker certificates on file for six years, and gives the original certificate to the trainee;

(g) Keeps attendance records and testing records of (~~(students)~~) long-term care workers trained and tested on file for six years; and

(h) Reports training data to DSHS (~~(in DSHS-identified time frames)~~) when requested by the department.

(2) (~~(An adult family home wishing to conduct caregiver specialty training that is taught by the provider, resident manager, or person knowledgeable about the specialty area, as required under WAC 388-112-0110 subsection (3), must document the specialty training as provided under WAC 388-112-0155)~~) The department may conduct a random audit at any time to review training and instructor qualifications.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0340 (~~(Do homes need)~~) Is department approval required to provide continuing education (~~(for their staff)~~)? Homes or entities may provide continuing education for (~~(their staff without)~~) long-term care workers prior approval of the training curricula (~~(or)~~) and instructors by the department under WAC 388-112-0335.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0345 When can DSHS prohibit a home from conducting its own training? DSHS may prohibit a home from providing its own basic, (~~(modified basic,))~~ population specific, specialty, (~~(or caregiver specialty))~~ training when:

(1) DSHS determines that the training fails to meet the standards under this chapter;

(2) The home fails to notify DSHS of changes in the curriculum content prior to teaching the curriculum;

(3) The home provides false or misleading information to long-term care workers or the public concerning the courses offered or conducted;

(4) The home's instructor does not meet the applicable qualifications under WAC (~~(388-112-0375))~~ 388-112-0370 through 388-112-0395; or

(~~(5))~~ (5) The home's instructor has been a licensee, (~~(boarding home))~~ assisted living facility administrator, or adult family home resident manager, as applicable, of any home subject to temporary management or subject to a revocation or summary suspension of the home's license, a stop placement of admissions order, a condition on the license related to resident care, or a civil fine of five thousand dollars or more, while the instructor was the licensee, administrator, or resident manager; or

(~~(6))~~ (6) The home has been operated under temporary management or has been subject to a revocation or suspension of the home license, a stop placement of admissions order, a condition on the license related to resident care, or a civil fine of five thousand dollars or more, within the previous (~~(twelve))~~ eighteen months.

(~~(7))~~ (7) Nothing in this section shall be construed to limit DSHS' authority under chapters 388-76 (~~(or)~~) 388-78A, or 388-101 WAC to require the immediate enforcement, pending any appeal, of a condition on the home license prohibiting the home from conducting its own training programs.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0350 What trainings must be taught by an instructor who meets the applicable minimum qualifications under this chapter? (~~(+))~~ The following trainings must be taught by an instructor who meets the applicable minimum qualifications as described in WAC 388-112-0380, 388-112-0383 and 388-112-0385 through 388-112-0395 for that training: Orientation, safety training, basic training(~~(; modified basic training;)), young adults with physical disabilities, aging and older adults, manager and long-term care worker mental health, dementia, (~~(and))~~ developmental disability specialty training(~~(; and caregiver specialty training that is not taught by the boarding home administrator (or designee) or adult family home provider or resident manager), on-the-job training, continuing education, and nurse delegation core, and specialized diabetes training.~~~~

(~~(2) Nurse delegation training and residential care administrator training must be taught by an instructor who is approved by DSHS.)~~)

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0355 What are ~~((an instructor's or))~~ a training entity's responsibilities? The ~~((instructor or))~~ training entity is responsible for:

- (1) Coordinating and teaching classes~~((;))~~;
- (2) Assuring that the curriculum used is taught as designed~~((;))~~;
- (3) Selecting qualified guest speakers where applicable~~((;))~~;
- (4) Administering or overseeing the administration of DSHS competency and challenge tests~~((;))~~;
- (5) Maintaining training records including ~~((student))~~ long-term care worker tests, certificates and attendance records for a minimum of six years~~((;))~~;
- (6) Reporting training data to DSHS ~~((in DSHS identified time frames,))~~ when requested by the department; and
- (7) Issuing or reissuing training certificates to ~~((students))~~ long-term care workers.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0360 Must training entities and their instructors be approved by DSHS? (1) DSHS-contracted ~~((instructors))~~ training entities:

(a) DSHS must approve ~~((any))~~ and/or contract with a training entity and their instructor(s) ~~((under contract with DSHS))~~ to conduct orientation, safety, basic, ~~((modified basic,))~~ population specific, residential care administrator, manager and long-term care worker specialty, ~~((or))~~ nurse delegation core and specialized diabetes training ~~((classes using the training curricula developed by DSHS)), on-the-job training, and continuing education~~.

(b) DSHS may select ~~((contracted instructors through a purchased services contract procurement pursuant to chapter 236-48 WAC or through other))~~ training entities using any applicable contracting procedures. Contractors must meet the minimum qualifications for instructors under this chapter and any additional qualifications established through ~~((a request for qualifications and quotations (RFQQ) or other applicable))~~ the contracting procedure.

(2) Homes conducting their own training ~~((Homes conducting their own training))~~ programs using the training curricula developed by DSHS or ~~((alternative))~~ another curricula approved by DSHS must ensure, through an attestation process, that their instructors meet the minimum qualifications for instructors under this chapter.

(3) ~~((Other instructors))~~

DSHS must approve all other training entities and their instructor(s) not described in subsection (1) and (2) of this section.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0365 Can DSHS deny or terminate a contract ~~((with))~~ or rescind approval of an instructor or training entity? (1) DSHS may ~~((determine not to accept a bid or other offer by))~~ deny a person or organization seeking

a contract with or approval by DSHS to conduct orientation, safety, basic, ~~((modified basic,))~~ population specific, residential care administrator, specialty, continuing education, or nurse delegation core or specialized diabetes training ~~((classes using the training curricula developed by DSHS. The protest procedures under chapter 236-48 WAC, as applicable, are a bidder's exclusive administrative remedy))~~. No administrative remedies are available to dispute DSHS' decision not to ~~((accept an offer that is not governed by chapter 236-48 WAC))~~ contract with or approve of a person or organization, except as may be provided through the contracting process.

(2) DSHS may terminate ~~((any))~~ an existing training contract in accordance with the terms of the contract. The contractor's administrative remedies shall be limited to those specified in the contract.

(3) DSHS may terminate an existing training approval of a person or entity to conduct orientation, safety, basic, modified basic, population specific, residential care administrator, specialty, continuing education, or nurse delegation core or diabetes training.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0370 What is a guest speaker, and what are the minimum qualifications to be a guest speaker for basic and developmental disabilities specialty training? (1) A guest speaker ~~((s for basic and developmental disabilities specialty training))~~ is a person selected by an approved instructor to teach a specific topic. A guest speaker:

(a) May only teach a specific subject in which they have expertise, ~~((under the supervision of the instructor. A guest speaker must have as minimum qualifications, an appropriate))~~ and background and experience that demonstrates that the guest speaker has expertise on the topic he or she will teach.

(b) May not teach the entire course;

(c) Must not supplant the primary teaching responsibilities of the primary instructor; and

(d) Must cover the DSHS competencies and learning objectives for the topic he or she is teaching.

(2) The approved instructor:

(a) Must select guest speakers that meet the minimum qualifications~~((, and))~~;

(b) Maintain documentation of ~~((this))~~ the guest speaker's background and qualifications;

(c) Supervise and monitor the guest speaker's performance; and

(d) Is responsible for insuring the required content is taught.

(3) DSHS does not approve guest speakers.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0380 What are the minimum qualifications for ~~((an instructor for basic or modified basic))~~ an instructor for basic, population specific, on-the-job training, residential care administrator, and nurse delegation

core and specialized diabetes training? An instructor for basic ~~((or modified basic)), population specific, on-the-job training, residential care administrator, nurse delegation core and nurse delegation specialized diabetes~~ training must meet the following minimum qualifications ~~((in addition to the general instructor qualifications in WAC 388-112-0375))~~:

(1) Twenty-one years of age; and
 (2) Has not had a professional health care, adult family home, assisted living facility, or social services license or certification revoked in Washington state.

(3) Education and work experience:

(a) Upon initial approval or hire, must ~~((have))~~:

(i) Be a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting; or

(ii) Have an associate degree or higher degree in the field of health or human services and six months professional or caregiving experience within the last five years in a community based setting or an adult family home, assisted living facility, supported living through DDD, or home care setting; or

(iii) Have a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, ~~((boarding home))~~ assisted living, supported living through DDD ~~((per chapter 388-820 WAC)), or home care setting~~((; or~~~~

~~((ii))~~ An associate degree in a health field and six months professional or caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD per chapter 388-820 WAC, or home care setting).

~~((2))~~ (4) Teaching experience:

(a) Must have one hundred hours of experience teaching adults in an appropriate setting on topics directly related to the basic training; or

(b) Must have forty hours of teaching while being mentored by an instructor who meets these qualifications, and must attend a class ~~((in))~~ on adult education that meets the requirements of WAC 388-112-0400.

~~((3))~~ (5) The instructor must be experienced in caregiving practices and capable of demonstrating competency with respect to teaching the course content or units being taught;

~~((4))~~ (6) Instructors who will administer tests must have experience or training in assessment and competency testing; and

~~((5))~~ If required under WAC 388-112-0075 or 388-112-0105, instructors must successfully complete basic or modified basic training prior to beginning to train others.)

(7) In addition, an instructor for nurse delegation core and diabetes training must have a current Washington state RN license in good standing without practice restrictions.

NEW SECTION

WAC 388-112-0383 What are the minimum qualifications for an instructor for orientation, safety, and continuing education? An instructor for orientation, safety, and continuing education must be a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands-on personal care or other rel-

evant services to the elderly or persons with disabilities requiring long-term care.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0385 What are the minimum qualifications for instructors for manager and ~~((caregiver)) long-term care worker mental health specialty training?~~

(1) ~~((Instructors for manager mental health specialty training:))~~ The minimum qualifications for instructors for manager mental health specialty, in addition to the general qualifications in WAC ~~((388-112-0375))~~ 388-112-0380 (1) and (2) include:

(a) The instructor must be experienced in mental health caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or in college classes, in subjects directly related to mental health, such as, but not limited to, psychology. (One year of education equals twenty-four semester hours, thirty-six quarter hours, or at least one hundred ninety-two hours of seminars, conferences, and continuing education.)

(ii) If required under WAC 388-112-0160, successful completion of the mental health specialty training, prior to beginning to train others.

(c) Work experience - Two years full-time equivalent direct work experience with people who have a mental illness; and

(d) Teaching experience:

(i) Two hundred hours experience teaching mental health or closely related subjects; and

(ii) Successful completion of an adult education class ~~((or train the trainer as follows))~~:

(A) For instructors teaching alternate curricula, a class in adult education that meets the requirements of WAC 388-112-0400 ~~((; or a train the trainer class for the curriculum they are teaching:))~~.

(B) For instructors teaching ~~((DSHS developed))~~ mental health specialty training, successful completion of the DSHS ~~((-developed train the trainer))~~ instructor qualification/demonstration process.

(e) Instructors who will administer tests must have experience or training in assessment and competency testing.

(2) Instructors for ~~((caregiver))~~ long-term care worker mental health specialty training:

(a) ~~((Caregiver))~~ Long-term care worker mental health specialty may be taught by ~~((a boarding home))~~ an assisted living facility administrator (or designee), adult family home provider, or corporate trainer, who has successfully completed the manager mental health specialty training and has been approved by the department as a community instructor. A qualified instructor under this subsection may teach ~~((caregiver))~~ specialty to ~~((caregivers))~~ long-term care workers employed at other home(s) licensed by the same licensee.

(b) ~~((Caregiver))~~ Long-term care worker mental health specialty taught by a person who does not meet the require-

ments in subsection (2)(a) must meet the same requirements as the instructors for manager mental health specialty in subsection (1).

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0390 What are the minimum qualifications for instructors for manager and ~~((caregiver))~~ long-term care worker dementia specialty? (1) The minimum qualifications for instructors for manager dementia specialty, in addition to the general qualifications under WAC ~~((388-112-0375,))~~ 388-112-0380 (1) and (2) include:

(a) The instructor must be experienced in dementia caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education or college classes, in dementia or subjects directly related to dementia, such as, but not limited to, psychology. (One year of education equals twenty-four semester hours, thirty-six quarter hours, or at least one hundred ninety-two hours of seminars, conferences, or continuing education.)

(ii) If required under WAC 388-112-0160, successful completion of the dementia specialty training, prior to beginning to train others.

(c) Work experience - Two years full-time equivalent direct work experience with people who have dementia; and

(d) Teaching experience:

(i) Two hundred hours experience teaching dementia or closely related subjects; and

(ii) Successful completion of an adult education class ~~((or train the trainer))~~ as follows:

(A) For instructors teaching alternate curricula, a class in adult education that meets the requirements of WAC 388-112-0400 ~~((, or a train the trainer class for the curriculum they are teaching:))~~.

(B) For instructors teaching DSHS-developed dementia specialty training, successful completion of the DSHS ~~((-developed train the trainer))~~ instructor qualification/demonstration process.

~~((d))~~ (e) Instructors who will administer tests must have experience or training in assessment and competency testing.

(2) Instructors for ~~((caregiver))~~ long-term care worker dementia specialty training:

(a) ~~((Caregiver))~~ Long-term care worker dementia specialty may be taught by ~~((a boarding home))~~ an assisted living facility administrator (or designee), adult family home provider, or corporate trainer, who has successfully completed the manager dementia specialty training and has been approved by the department as a community instructor. A qualified instructor under this subsection may teach ~~((caregiver))~~ specialty to ~~((caregivers))~~ long-term care workers employed at other home(s) licensed by the same licensee.

(b) ~~((Caregiver))~~ Long-term care worker dementia specialty taught by a person who does not meet the requirements

in subsection (2)(a) must meet the same requirements as the instructors for manager dementia specialty in subsection (1).

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0395 What are the minimum qualifications for instructors for ~~((manager and caregiver))~~ long-term care worker developmental disabilities specialty? (1) The minimum qualifications for instructors for ~~((manager))~~ developmental disabilities specialty, in addition to the general qualifications under WAC ~~((388-112-0375))~~ 388-112-0380 (1) and (2), include:

(a) The instructor must be experienced in developmental disabilities caregiving practices and capable of demonstrating competency in the entire course content, including the administration of competency testing:

(b) Education and work experience:

(i) Bachelor's degree with at least two years of full-time work experience in the field of disabilities; or

(ii) High school diploma or equivalent, with four years full time work experience in the field of developmental disabilities, including two years full time direct work experience with people who have a developmental disability.

~~((b))~~ (c) Successful completion of the eighteen hour developmental disabilities specialty training under WAC 388-112-0120; and

~~((e))~~ (d) Teaching experience:

(i) Two hundred hours of teaching experience; and

(ii) Successful completion of an adult education ~~((or train the trainer as follows:~~

~~((A))~~ for instructors teaching alternative curricula, a class in adult education that meets the requirements of WAC 388-112-0400 ~~((, or a train the trainer class for the curriculum they are teaching;~~

~~((B))~~ For instructors teaching DSHS-developed developmental disabilities specialty training, successful completion of the DSHS-developed ~~train the trainer~~.

(d) Instructors who will administer tests must have experience in assessment and competency testing.

(2) Instructors for ~~((caregiver))~~ developmental disabilities specialty training:

(a) ~~((Caregiver))~~ Developmental disabilities specialty may be taught by ~~((a boarding home))~~ an assisted living facility administrator (or designee), adult family home provider, or corporate trainer, who has successfully completed the ~~((manager developmental disabilities specialty training))~~ mental health or manager dementia specialty course, the eighteen hour developmental disabilities specialty training, and has successfully completed the instructor qualification/demonstration process. A qualified instructor under this subsection may teach ~~((caregiver))~~ developmental disabilities specialty to ~~((caregivers))~~ long-term care workers employed at other home(s) licensed by the same licensee.

(b) ~~((Caregiver))~~ Developmental disabilities specialty taught by a person who does not meet the requirements in subsection (2)(a) must meet the same requirements as the instructors for ~~((manager))~~ developmental disabilities specialty in subsection (1).

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0405 What physical resources are required for ~~((basic, modified basic, specialty, or nurse delegation core))~~ classroom training and testing? (1) Classroom ~~((space used for basic, modified basic, specialty, or nurse delegation core classroom training))~~ facilities must be accessible to trainees and provide adequate space for learning activities, comfort, lighting, lack of disturbance, and tools for effective teaching and learning such as white boards and flip charts. Appropriate supplies and equipment must be provided for teaching and practice of caregiving skills in the class being taught.

(2) Testing sites must provide adequate space for testing, comfort, lighting, and lack of disturbance appropriate for the written or skills test being conducted. Appropriate supplies and equipment necessary for the particular test must be provided.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0410 What standard training practices must be maintained for ~~((basic, modified basic, specialty, or nurse delegation core))~~ classroom training and testing? The following training standards must be maintained for ~~((basic, modified basic, specialty or nurse delegation core))~~ classroom training and testing:

(1) Training ~~((, including all breaks,))~~ must not exceed eight hours within one day;

(2) Training provided in short time segments must include an entire unit, skill or concept;

(3) Training must include regular breaks; and

(4) ~~((Students))~~ Long-term care workers attending a classroom training must not be expected to leave the class to attend to job duties, except in an emergency.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-112-0025 Is competency testing required for orientation?
- WAC 388-112-0030 Is there a challenge test for orientation?
- WAC 388-112-0050 Is there an alternative to the basic training for some health care workers?
- WAC 388-112-0060 Is competency testing required for basic training?
- WAC 388-112-0065 Is there a challenge test for basic training?

- WAC 388-112-0080 What is modified basic training?
- WAC 388-112-0085 What knowledge and skills must be included in modified basic training?
- WAC 388-112-0090 Is competency testing required for modified basic training?
- WAC 388-112-0095 Is there a challenge test for modified basic training?
- WAC 388-112-0105 Who may take modified basic training instead of the full basic training?
- WAC 388-112-0230 May nurse delegation core training or nurse delegation specialized diabetes training be used to meet continuing education requirements?
- WAC 388-112-0245 Who is required to complete continuing education training, and when?
- WAC 388-112-02610 What is HIV/AIDS training?
- WAC 388-112-02615 Is competency testing required for HIV/AIDS training?
- WAC 388-112-02620 Is there a challenge test for HIV/AIDS training?
- WAC 388-112-02625 What documentation is required for completion of HIV/AIDS training?
- WAC 388-112-02630 Who is required to complete HIV/AIDS training, and when?
- WAC 388-112-0375 What are the minimum general qualifications for an instructor teaching a DSHS curriculum or DSHS-approved alternate curriculum as defined under chapter 388-112 WAC?

**WSR 12-22-003
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)**

[Filed October 25, 2012, 3:26 p.m., effective October 25, 2012, 3:26 p.m.]

Effective Date of Rule: Immediately.

Purpose: The department is creating emergency WAC to support ESHB 2592 Extended foster care services. ESHB 2592 authorizes children's administration to provide

extended foster care services to youth age eighteen up to twenty-one years who are eligible to receive foster care services authorized under RCW 74.13.031 to complete secondary education, a secondary education equivalency program, a post-secondary education program, or a post-secondary vocational program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-25-0110 and 388-148-0010.

Statutory Authority for Adoption: RCW 74.13.031.

Other Authority: 2012 ESHB 2592, RCW 74.13.020 and 13.34.267.

Under RCW 34.05.350 the agency for good cause finds 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: ESHB 2592 enables Washington state to access a federal match of funds under 2008 federal legislation "Fostering Connections to Success and Increasing Adoptions Act." The act provides an option permitting states to use Title IV-E foster care funds for youth who wish to pursue secondary or post-secondary education programs from age eighteen up to twenty-one years old. ESHB 2592 authorizes continued extended foster care services for youth ages eighteen to twenty-one years to complete a post-secondary academic or post-secondary vocational education program. Because of the range and complexity of delivering foster care and legal services relating to this program, children's administration has collaborated with advocates, judicial officers, legal counsel for children and the department, service providers, youth, foster parents, JRA, DDD, [and] others in developing the proposed WACs to govern the program.

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 2, Repealed 0.

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

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

Date Adopted: October 23, 2012.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0110 What is the effective date for termination of foster care payments? (1) The department ends payment on the day before the child actually leaves the foster home or facility. The department does not pay for the last day that a child is in a foster care home or facility.

(2) The department terminates family foster care payments for children in family foster care effective the date:

(a) The child no longer needs foster care; or

(b) The child no longer resides in foster care except as provided in WAC 388-25-0180; or

(c) The child reaches the age of eighteen.

(i) If the child continues to attend, but has not finished, high school or an equivalent educational program at the age of eighteen and has a need for continued family foster care services, the department may continue payments until the date the child completes the high school program or equivalent educational or vocational program. The department must not extend payments for a youth in care beyond age twenty.

(ii) If the child has applied and demonstrates he or she intends to timely enroll, or is enrolled and participating in a post-secondary education program, or a post-secondary vocational program at the age of eighteen and has a need for continued family foster care services, the department may continue payments until the date the child reaches his or her twenty-first birthday or is no longer enrolled in and participating in a post secondary program, whichever is earlier.

(3) The department must terminate foster care payments for children in the behavior rehabilitative services program effective the date:

(a) The child no longer needs rehabilitative services; or

(b) The child is no longer served through contracted rehabilitative services program except as provided in WAC 388-25-0030; or

(c) The child reaches the age of eighteen and continues to attend, but has not finished, high school or an equivalent educational program and has a need for continued rehabilitative treatment services, the department may continue payments until the date the youth completes the high school program or equivalent educational or vocational program. The department must not extend payments for a youth in care beyond age twenty.

NEW SECTION

WAC 388-25-0500 What is the legal basis of the extended foster care program? The legal authorities for the program are:

(1) Revised Code of Washington: RCW 74.13.031 and RCW 13.34.267;

(2) United States Code: 42 USC sec. 671-675; and

(3) The U.S. Department of Health and Human Services (DHHS) policy guidelines for states to use in determining a child's eligibility for participation in extended foster care programs.

NEW SECTION

WAC 388-25-0502 What is the purpose of the extended foster care program? The extended foster care program provides an opportunity for young adults in foster care at age eighteen to voluntarily agree to continue receiving foster care services, including placement services, while the youth completes a secondary or post-secondary academic or vocational program.

NEW SECTION**WAC 388-25-0504 What is extended foster care?**

Extended foster care is a program offered to young adults, age eighteen up to twenty-one, who turn eighteen while in foster care, to enable them to complete:

- (1) A high school diploma or general equivalency diploma;
- (2) Post secondary or vocational education.

NEW SECTION

WAC 388-25-0506 Who is eligible for extended foster care? To be eligible for the extended foster care program a youth, on his or her eighteenth birthday, must:

- (1) Be dependent under chapter 13.34 RCW;
- (2) Be placed in foster care (as defined in WAC 388-25-0508) by children's administration, and:
 - (a) Be enrolled (as described in WAC 388-25-0512) in a high school or secondary education equivalency program; or
 - (b) Be enrolled (as described in WAC 388-25-0512) in a post secondary academic or vocational education program; or
 - (c) Have applied for and can demonstrate intent to timely enroll in a post secondary academic or vocational education program (as described in WAC 388-25-0514).

NEW SECTION

WAC 388-25-0508 When is a youth considered to be "in foster care"? For the purpose of determining initial eligibility for the extended foster care program, a youth is in foster care if the youth is under children's administration (CA) placement and care authority, is placed by CA in out of home care, in relative care, licensed foster home, licensed group care, or other suitable person placement. Provided:

- (1) A youth who is temporarily away from a foster care placement in:
 - (a) A hospital;
 - (b) A drug/alcohol treatment facility;
 - (c) A mental health treatment facility; or
 - (d) For less than thirty days in a county detention center is considered to be in foster care.
- (2) A youth who is temporarily away from his or her foster care placement without permission of the case worker or care giver, but who is expected to return to foster care within twenty days, is considered to be in foster care for purposes of determining initial eligibility.
- (3) A youth who is committed to juvenile rehabilitation administration custody and who resides in a foster home, group home, or community facility, as defined in RCW 74.15.020 (1)(a).

NEW SECTION

WAC 388-25-0510 When is a youth not "in foster care"? For the purposes of determining initial eligibility for the extended foster care program, a youth is not in foster care if the youth is:

- (1) Placed with a parent;
- (2) In a dependency guardianship or chapter 13.36 RCW;

(3) Committed to and residing in a juvenile rehabilitation administration (JRA) institution (as defined in RCW 13.30.020(12)) or to the department of corrections; or

(4) Absent from his/her foster care placement without permission of the case worker or care giver for more than twenty consecutive days.

NEW SECTION

WAC 388-25-0512 How does a youth demonstrate enrollment in school? Enrollment in school is shown by documented registration or acceptance in:

- (1) **Secondary** - a high school, secondary education equivalency program, or a state accredited on-line or other approved secondary education program.
- (2) **Post secondary** - post secondary academic or vocational program.

NEW SECTION

WAC 388-25-0514 How does a youth demonstrate he/she has applied for and intends to timely enroll in a post-secondary program? (1) Applied for intends to timely enroll in a post-secondary program is demonstrated by the youth:

- (a) Completing and submitting an application to a post secondary academic or vocational program; or
- (b) Providing proof of Free Application for Federal Student Aid (FAFSA) submission.
- (2) **Timely enroll** means participation in a post secondary program in the next reasonably available school term.

NEW SECTION

WAC 388-25-0516 What if an eligible youth does not want to participate in the extended foster care program at age eighteen? Youth may elect to participate in the extended foster care program beginning on their eighteenth birthday. The law recognizes an eligible youth may need time beyond the eighteenth birthday to consider if they want continued foster care services. It provides a six-month grace period or a time for "trial independence", from date of youth's eighteenth birthday, to give the youth an opportunity to change their mind.

NEW SECTION

WAC 388-25-0518 What is the trial independence or grace period? Trial independence is a period of time, up to six months, during which an eligible youth who did not elect to participate in extended foster care on their eighteenth birthday, may change their mind and participate in the program. During this period, the youth is not in extended foster care, but dismissal of the dependency action is postponed and children's administration is relieved of all supervisory and placement responsibility for the youth. If the youth does not request to participate in the extended foster care program within the six-month trial independence period, the dependency is dismissed and extended foster care is no longer available to the youth.

NEW SECTION

WAC 388-25-0520 Does an eligible youth who elects to participate in extended foster care on his or her eighteenth birthday receive a trial independence period? No, the trial independency period is only available to eligible youth who have not yet elected to participate in extended foster care on their eighteenth birthday.

NEW SECTION

WAC 388-25-0522 When does the six-month trial independence period end? The trial independence period ends six months after the eligible youth's eighteenth birthday, or when the youth elects to participate in the extended foster care program.

NEW SECTION

WAC 388-25-0524 If a youth does not remain enrolled in school during the trial independence period may the youth still elect to participate in the program? Yes, as long as the youth is enrolled (as described in WAC 388-25-0512 and or 388-25-0514) in an applicable education program at the time the youth elects to participate in extended foster care.

NEW SECTION

WAC 388-25-0526 Does a youth have to agree to participate in extended foster care program? Yes, a youth must agree to participate in extended foster care. A youth who reaches the age of eighteen years old is not required to continue to receive foster care services.

NEW SECTION

WAC 388-25-0528 How does a youth agree to participate in extended foster care program? An eligible dependent youth can agree to participate by:

- (1) Signing an extended foster care agreement; or
- (2) For developmentally delayed youth, remaining in the foster care placement and continuing in an appropriate educational program.

NEW SECTION

WAC 388-25-0530 Where do youth obtain information about how to participate in the program? Youth can contact:

- (1) Youth's attorney/CASA/GAL.
- (2) Youth's social worker.
- (3) Local children's administration office.
- (4) www.independence.wa.gov.
- (5) 1-866-END-HARM.

NEW SECTION

WAC 388-25-0532 Can a youth participating in the extended foster care program to complete a secondary education or equivalency program continue to receive extended foster care services to participate in a post sec-

ondary education program? Yes, if at the time the secondary program is completed, the youth is enrolled in, or has applied to, and can demonstrate they intend to timely enroll in, a post secondary academic or vocational program.

NEW SECTION

WAC 388-25-0534 Is there a trial independence period for a youth who completes his or her secondary education program while participating in extended foster care and before the youth enters a post secondary program? No, if a youth completes a secondary education program while in extended foster care, the dependency will be dismissed and foster care services will end, unless the youth has enrolled in, or applied to and can demonstrate an intent to timely enroll in, a post secondary academic or vocational program.

NEW SECTION

WAC 388-25-0536 What are CA's responsibilities to a youth who is participating in extended foster care? Children's administration (CA) is required to have placement and care authority over the youth and to provide foster care services, including transition planning and independent living services, medical assistance through medicaid, and case management. Case management includes findings or approving a foster care placement for the youth, convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the youth, caseworker visits, and court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the youth is progressing toward independence within state and federal mandates. CA has responsibility to inform the court of the status of the child (including health, safety, welfare, education status and continuing eligibility for extended foster care program).

NEW SECTION

WAC 388-25-0538 What is the CA's responsibility for the youth during the six-month trial independence period? Children's administration is relieved of all supervisory and placement responsibility for the youth during the trial independence period until the youth elects to participate in extended foster care or the dependency is dismissed.

NEW SECTION

WAC 388-25-0540 How does CA determine a youth's continuing eligibility for extended foster care program? At least every six months, children's administration will determine if youth continues to:

- (1) Agree to participate in the extended foster care program.
- (2) Be enrolled in an education program.
- (3) Continue to reside in approved placement.
- (4) Comply with youth's responsibilities in WAC 388-25-0546.

NEW SECTION**WAC 388-25-0542 What are the legal rights of a dependent youth in extended foster care to travel out of state, buy a car or engage in other activities as an adult?**

The youth is a "child" for the purposes of the dependency and must comply with responsibilities in WAC 388-25-0546, otherwise the youth has the legal status and legal rights of an adult. The youth is responsible for their actions, including responsibility for purchases, driving, traveling or financial obligations related to the activities they participate in.

NEW SECTION**WAC 388-25-0544 What are the youth's rights in the extended foster care program?** Youth have a right to:

- (1) An approved foster care placement.
- (2) Foster care services including medical assistance through medicaid.
- (3) Participate in the court process as a party to the case.
- (4) Have an attorney appointed for them in dependency proceedings.
- (5) End their participation in the program at any time.
- (6) Referrals to community resources as appropriate.

NEW SECTION**WAC 388-25-0546 What must the youth do to remain in the extended foster care program?** Unless otherwise authorized by court order the youth must:

- (1) Agree to participate in the program as expressed in the written extended foster care agreement;
- (2) Maintain standard of eligibility as set by the youth's academic program;
- (3) Participate in the case plan, including monthly health and safety visits;
- (4) Acknowledge that children's administration (CA) has responsibility for the youth's care and placement by authorizing CA to have access to records related to court-ordered medical, mental health, drug/alcohol treatment services, educational records needed to determine continuing eligibility for the program, and for additional necessary services; and
- (5) Remain in the approved foster care placement and follow placement rules. This means the youth will:
 - (a) Stay in placement identified by CA or approved by the court;
 - (b) Obtain approval from case worker and notify caregiver for extended absence from the placement of more than three days; and
 - (c) Comply with court orders and any specific rules developed in collaboration by the youth, caregiver and social worker.

NEW SECTION**WAC 388-25-0548 When is a youth no longer eligible for the extended foster care program?** A youth is no longer eligible for the extended foster care program and department will ask the court to dismiss the dependency when the youth:

- (1) Graduates from high school or equivalency program, and has not enrolled in, or applied for and demonstrated an

intent to timely enroll in a post secondary academic or vocational program;

(2) Graduates from a post secondary education or vocational program;

(3) Reaches their twenty-first birthday;

(4) Is no longer participating or enrolled in high school, equivalency program, post secondary or vocational program;

(5) No longer agrees to participate in foster care services;

(6) Fails or refuses to comply with youth responsibilities outlined in WAC 388-25-0546; or

(7) Is incarcerated in an adult detention facility on a criminal conviction.

AMENDATORY SECTION (Amending WSR 06-22-030, filed 10/25/06, effective 11/25/06)

WAC 388-148-0010 What definitions do I need to know to understand this chapter? The following definitions are for the purpose of this chapter and are important to understand these rules:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or mistreatment of a child where the child's health, welfare and safety are harmed.

"Agency" is defined in RCW 74.15.020(1).

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

"Capacity" means the maximum number of children that a home or facility is licensed to care for at a given time.

"Care provider" means any licensed or certified person or organization or staff member of a licensed organization that provides twenty-four-hour care for children.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child. Case managers are responsible for implementing the child's case plan, assisting in achieving those goals, and assisting with day-to-day problem solving.

"Certification" means:

(1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that it meets the minimum licensing requirements; or

(2) Department licensing of a child-placing agency to certify that a foster home meets licensing requirements.

"Children" or "youth," for this chapter, means individuals who are:

(1) Under eighteen years old, including expectant mothers under eighteen years old; or

(2) Up to twenty-one years of age and pursuing a high school, equivalent course of study (GED), or vocational program or post secondary academic or post secondary vocational program;

(3) Up to twenty-one years of age with developmental disabilities; or

(4) Up to twenty-one years of age if under the custody of the Washington state juvenile rehabilitation administration.

"Child-placing agency" means an agency licensed to place children for temporary care, continued care or adoption.

"Crisis residential center (CRC)" means an agency under contract with DSHS that provides temporary, protec-

tive care to children in a foster home, regular (semi-secure) or secure group setting.

"Compliance agreement" means a written licensing improvement plan to address deficiencies in specific skills, abilities or other issues of a fully licensed home or facility in order to maintain and/or increase the safety and well-being of children in their care.

"DCFS" means the division of children and family services.

"DDD" means division of developmental disabilities.

"Department" means the department of social and health services (DSHS).

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"DLR" means the division of licensed resources.

"Firearms" means guns or weapons, including but not limited to the following: BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, and shotguns.

"Foster-adopt" means placement of a child with a foster parent(s) who intends to adopt the child, if possible.

"Foster home or foster family home" means person(s) licensed to regularly provide care on a twenty-four-hour basis to one or more children in the person's home.

"Full licensure" means an entity meets the requirements established by the state for licensing or approved as meeting state minimum licensing requirements.

"Group care facility for children" means a location maintained and operated for a group of children on a twenty-four-hour basis.

"Group receiving center" or **"GRC"** means a facility providing the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or fewer days. A group receiving center is considered a group care program and must comply with the group care facility licensing requirements.

"Hearing" means the administrative review process.

"I" refers to anyone who operates or owns a foster home, staffed residential home, and group facilities, including group homes, child-placing agencies, maternity homes, day treatment centers, and crisis residential centers.

"Infant" means a child under one year of age.

"License" means a permit issued by the department affirming that a home or facility meets the minimum licensing requirements.

"Licensor" means:

(1) A division of licensed resources (DLR) employee at DSHS who:

(a) Approves licenses or certifications for foster homes, group facilities, and child-placing agencies; and

(b) Monitors homes and facilities to ensure that they continue to meet minimum health and safety requirements.

(2) An employee of a child-placing agency who:

(a) Attests that foster homes supervised by the child-placing agency meets licensing requirements; and

(b) Monitors those foster homes to ensure they continue to meet the minimum licensing standards.

"Maternity service" as defined in RCW 74.15.020.

"Medically fragile" means the condition of a child who has a chronic illness or severe medical disabilities requiring

regular nursing visits, extraordinary medical monitoring, or on-going (other than routine) physician's care.

"Missing child" means:

(1) Any child up to eighteen years of age for whom Children's Administration (CA) has custody and control (not including children in dependency guardianship) and:

(a) The child's whereabouts are unknown; and/or

(b) The child has left care without the permission of the child's caregiver or CA.

(2) Children who are missing are categorized under one of the following definitions:

(a) **"Taken from placement"** means that a child's whereabouts are unknown, and it is believed that the child is being or has been concealed, detained or removed by another person from a court-ordered placement and the removal, concealment or detainment is in violation of the court order;

(b) **"Absence not authorized, whereabouts unknown"** means the child is not believed to have been taken from placement, did not have permission to leave the placement, and there has been no contact with the child and the whereabouts of the child is unknown; or

(c) **"Absence not authorized, whereabouts known"** means that a child has left his or her placement without permission and the social worker has some contact with the child or may periodically have information as to the whereabouts of the child.

"Multidisciplinary teams (MDT)" means groups formed to assist children who are considered at-risk youth or children in need of services, and their parents.

"Nonambulatory" means not able to walk or traverse a normal path to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Probationary license" means a license issued as part of a disciplinary action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies to minimum licensing requirements.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, antidepressants and anti-anxiety medications.

"Relative" means a person who is related to the child as defined in RCW 74.15.020 (4)(a)(i), (ii), (iii), and (iv) only.

"Respite" means brief, temporary relief care provided to a child and his or her parents, legal guardians, or foster parents with the respite provider fulfilling some or all of the functions of the care-taking responsibilities of the parent, legal guardian, or foster parent.

"Secure facilities" means a crisis residential center that has locking doors and windows, or secured perimeters intended to prevent children from leaving without permission.

"Service plan" means a description of the services to be provided or performed and who has responsibility to provide or perform the activities for a child or child's family.

"Severe developmental disabilities" means significant disabling, physical and/or mental condition(s) that cause a child to need external support for self-direction, self-support and social participation.

"Social service staff" means a clinician, program manager, case manager, consultant, or other staff person who is an employee of the agency or hired to develop and implement the child's individual service and treatment plans.

"Staffed residential home" means a licensed home providing twenty-four-hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence.

"Standard precautions" is a term relating to procedures designed to prevent transmission of bloodborne pathogens in health care and other settings. Under standard precautions, blood or other potentially infectious materials of all people should always be considered potentially infectious for HIV and other pathogens. Individuals should take appropriate precautions using personal protective equipment like gloves to prevent contact with blood or other bodily fluids.

"Washington state patrol fire protection bureau" or **"WSP/FPB"** means the state fire marshal.

"We" or **"our"** refers to the department of social and health services, including DLR licensors and DCFS social workers.

"You" refers to anyone who operates a foster home, staffed residential home, and group facilities, including group homes, maternity programs, day treatment programs, crisis residential centers, group receiving centers, and child-placing agencies.

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; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The department is proceeding with the permanent rule process. The department filed a CR-101 as WSR 12-20-076 on October 3, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: October 25, 2012.

Katherine I. Vasquez
Rules Coordinator

WSR 12-22-009

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 26, 2012, 1:26 p.m., effective October 28, 2012]

Effective Date of Rule: October 28, 2012.

Purpose: The department is amending rules to revise the assessment process for allocating personal care hours as a result of the Washington state supreme court decision in *Samantha A. v. Department of Social and Health Services*. Authorization for additional personal care hours for clients who have off-site laundry and living more than forty-five minutes from essential services is reinstated. The department is in the process of adopting these rules as permanent rules.

Citation of Existing Rules Affected by this Order: Amending WAC 388-106-0010 and 388-106-0130.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

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

AMENDATORY SECTION (Amending WSR 11-22-043, filed 10/27/11, effective 11/27/11)

WAC 388-106-0010 What definitions apply to this chapter? "Ability to make self understood" means how you make yourself understood to those closest to you; express or communicate requests, needs, opinions, urgent problems and social conversations, whether in speech, writing, sign language, symbols, or a combination of these including use of a communication board or keyboard:

(a) Understood: You express ideas clearly;

(b) Usually understood: You have difficulty finding the right words or finishing thoughts, resulting in delayed responses, or you require some prompting to make self understood;

(c) Sometimes understood: You have limited ability, but are able to express concrete requests regarding at least basic needs (e.g. food, drink, sleep, toilet);

(d) Rarely/never understood((-)); At best, understanding is limited to caregiver's interpretation of client specific sounds or body language (e.g. indicated presence of pain or need to toilet((-));

(e) Age appropriate: The level of communication is within the range of what is appropriate for a child of that age.

Refer to the developmental milestones in WAC 388-106-0130.

"**Activities of daily living (ADL)**" means the following:

(a) Bathing: How you take a full-body bath/shower, sponge bath, and transfer in/out of tub/shower.

(b) Bed mobility: How you move to and from a lying position, turn side to side, and position your body while in bed, in a recliner, or other type of furniture.

(c) Body care: How you perform with passive range of motion, applications of dressings and ointments or lotions to the body and pedicure to trim toenails and apply lotion to feet. In adult family homes, contracted assisted living, enhanced adult residential care, and enhanced adult residential care-specialized dementia care facilities, dressing changes using clean technique and topical ointments must be performed by a licensed nurse or through nurse delegation in accordance with chapter 246-840 WAC. Body care excludes:

(i) Foot care if you are diabetic or have poor circulation; or

(ii) Changing bandages or dressings when sterile procedures are required.

(d) Dressing: How you put on, fasten, and take off all items of clothing, including donning/removing prosthesis.

(e) Eating: How you eat and drink, regardless of skill. Eating includes any method of receiving nutrition, e.g., by mouth, tube or through a vein.

(f) Locomotion in room and immediate living environment: How you move between locations in your room and immediate living environment. If you are in a wheelchair, locomotion includes how self-sufficient you are once in your wheelchair.

(g) Locomotion outside of immediate living environment including outdoors: How you move to and return from more distant areas. If you are living in a boarding home or nursing facility (NF), this includes areas set aside for dining, activities, etc. If you are living in your own home or in an adult family home, locomotion outside immediate living environment including outdoors, includes how you move to and return from a patio or porch, backyard, to the mailbox, to see the next-door neighbor, etc.

(h) Walk in room, hallway and rest of immediate living environment: How you walk between locations in your room and immediate living environment.

(i) Medication management: Describes the amount of assistance, if any, required to receive medications, over the counter preparations or herbal supplements.

(j) Toilet use: How you use the toilet room, commode, bedpan, or urinal, transfer on/off toilet, cleanse, change pad, manage ostomy or catheter, and adjust clothes.

(k) Transfer: How you move between surfaces, i.e., to/from bed, chair, wheelchair, standing position. Transfer does not include how you move to/from the bath, toilet, or vehicle.

(l) Personal hygiene: How you maintain personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, washing/drying face, hands (including nail care), and perineum (menses care). Personal hygiene does not include hygiene in baths and showers.

"**Age appropriate**" means that the level of a child's proficiency and need for assistance for the identified task is within the range of what is expected of a child that age. Refer to the developmental milestones in WAC 388-106-0130.

"**Aged person**" means a person sixty-five years of age or older.

"**Agency provider**" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to you in your own home.

"**Application**" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant must submit the request on a form prescribed by the department.

"**Assessment details**" means a summary of information that the department entered into the CARE assessment describing your needs.

"**Assessment or reassessment**" means an inventory and evaluation of abilities and needs based on an in-person interview in your own home or your place of residence, using CARE.

"**Assistance available**" means the amount of (~~informal support~~) assistance available for a task if (~~the need~~) status is coded:

(a) Partially met due to availability of other support; or
(b) Shared benefit. The department determines the amount of the assistance available using one of four categories:

~~((a))~~ (i) Less than one-fourth of the time;
~~((b))~~ (ii) One-fourth to one-half of the time;
~~((c))~~ (iii) Over one-half of the time to three-fourths of the time; or
~~((d))~~ (iv) Over three-fourths but not all of the time.

"**Assistance with body care**" means you need assistance with:

- (a) Application of ointment or lotions;
- (b) Trimming of toenails;
- (c) Dry bandage changes; or
- (d) Passive range of motion treatment.

"**Assistance with medication management**" means you need assistance managing your medications. You are scored as:

(a) Independent if you remember to take medications as prescribed and manage your medications without assistance.

(b) Assistance required if you need assistance from a nonlicensed provider to facilitate your self-administration of a prescribed, over the counter, or herbal medication, as defined in chapter 246-888 WAC. Assistance required includes reminding or coaching you, handing you the medication container, opening the container, using an enabler to assist you in getting the medication into your mouth, alteration of a medication for self-administration, and placing the medication in your hand. This does not include assistance with intravenous or injectable medications. You must be aware that you are taking medications.

(c) Self-directed medication assistance/administration if you are a person with a functional disability who is capable of

and who chooses to self-direct your medication assistance/administration.

(d) Must be administered if you must have medications placed in your mouth or applied or instilled to your skin or mucus membrane. Administration must either be performed by a licensed professional or delegated by a registered nurse to a qualified caregiver (per chapter 246-840 WAC). Intravenous or injectable medications may never be delegated. Administration may also be performed by a family member or unpaid caregiver if facility licensing regulations allow.

"Authorization" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

"Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act. See WAC 388-475-0100 and chapter 388-513 WAC.

"Child" means an individual less than eighteen years of age.

"Chronic care management" means programs that provide care management and coordination activities for medical assistance clients receiving long-term care services and supports determined to be at risk for high medical costs.

"Health action plan" means an individual plan which identifies health-related problems, interventions and goals.

"Client" means an applicant for service or a person currently receiving services from the department.

"Current" means a behavior occurred within seven days of the CARE assessment date, including the day of the assessment. Behaviors that the department designates as current must include information about:

(a) Whether the behavior is easily altered or not easily altered; and

(b) The frequency of the behavior.

"Decision making" means your ability and actual performance in making everyday decisions about tasks or activities of daily living. The department determines whether you are:

(a) Independent: Decisions about your daily routine are consistent and organized; reflecting your lifestyle, choices, culture, and values.

(b) Modified independence/difficulty in new situations: You have an organized daily routine, are able to make decisions in familiar situations, but experience some difficulty in decision making when faced with new tasks or situations.

(c) Moderately impaired/poor decisions; unaware of consequences: Your decisions are poor and you require reminders, cues and supervision in planning, organizing and correcting daily routines. You attempt to make decisions, although poorly.

(d) Severely impaired/no or few decisions: Decision making is severely impaired; you never/rarely make decisions.

(e) Age appropriate: The level of decision making is within the range of what is appropriate for a child of that age.

Refer to the developmental milestones in WAC 388-106-0130.

"Department" means the state department of social and health services, aging and disability services administration or its designee.

"Designee" means area agency on aging.

"Developmental milestones" means a set of functional skills that most children achieve during a certain age range. Refer to the developmental milestones in WAC 388-106-0130.

"Difficulty" means how difficult it is or would be for you to perform an instrumental activity of daily living (IADL). This is assessed as:

(a) No difficulty in performing the activity;

(b) Some difficulty in performing the activity (e.g., you need some help, are very slow, or fatigue easily); or

(c) Great difficulty in performing the activity (e.g., little or no involvement in the activity is possible).

"Disabling condition" means you have a medical condition which prevents you from self performance of personal care tasks without assistance.

"Estate recovery" means the department's process of recouping the cost of medicaid and long-term care benefit payments from the estate of the deceased client. See chapter 388-527 WAC.

"Home health agency" means a licensed:

(a) Agency or organization certified under medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(b) Home health agency, certified or not certified under medicare, contracted and authorized to provide:

(i) Private duty nursing; or

(ii) Skilled nursing services under an approved medicaid waiver program.

"Income" means income as defined under WAC 388-500-0005.

"Individual provider" means a person employed by you to provide personal care services in your own home. See WAC 388-71-0500 through 388-71-05909.

"Disability" is described under WAC 388-511-1105.

"Informal support" means a person or resource that is available to provide assistance without home and community program funding. The person or resource providing the informal support must be age 18 or older. Examples of informal supports include but are not limited to: family members, friends, neighbors, school, childcare, after school activities, adult day health, church or community programs.

"Institution" means medical facilities, nursing facilities, and institutions for the mentally retarded. It does not include correctional institutions. See medical institutions in WAC 388-500-0005.

"Instrumental activities of daily living (IADL)" means routine activities performed around the home or in the community and includes the following:

(a) Meal preparation: How meals are prepared (e.g., planning meals, cooking, assembling ingredients, setting out food, utensils, and cleaning up after meals). NOTE: The department will not authorize this IADL to plan meals or

clean up after meals. You must need assistance with actual meal preparation.

(b) Ordinary housework: How ordinary work around the house is performed (e.g., doing dishes, dusting, making bed, tidying up, laundry).

(c) Essential shopping: How shopping is completed to meet your health and nutritional needs (e.g., selecting items). Shopping is limited to brief, occasional trips in the local area to shop for food, medical necessities and household items required specifically for your health, maintenance or well-being. This includes shopping with or for you.

(d) Wood supply: How wood is supplied (e.g., splitting, stacking, or carrying wood) when you use wood as the sole source of fuel for heating and/or cooking.

(e) Travel to medical services: How you travel by vehicle to a physician's office or clinic in the local area to obtain medical diagnosis or treatment-includes driving vehicle yourself, traveling as a passenger in a car, bus, or taxi.

(f) Managing finances: How bills are paid, checkbook is balanced, household expenses are managed. The department cannot pay for any assistance with managing finances.

(g) Telephone use: How telephone calls are made or received (with assistive devices such as large numbers on telephone, amplification as needed).

"Long-term care services" means the services administered directly or through contract by the aging and disability services administration and identified in WAC 388-106-0015.

"Medicaid" is defined under WAC 388-500-0005.

"Medically necessary" is defined under WAC 388-500-0005.

"Medically needy (MN)" means the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"New Freedom consumer directed services (NFCDS)" means a mix of services and supports to meet needs identified in your assessment and identified in a New Freedom spending plan, within the limits of the individual budget, that provide you with flexibility to plan, select, and direct the purchase of goods and services to meet identified needs. Participants have a meaningful leadership role in:

(a) The design, delivery and evaluation of services and supports;

(b) Exercising control of decisions and resources, making their own decisions about health and well being;

(c) Determining how to meet their own needs;

(d) Determining how and by whom these needs should be met; and

(e) Monitoring the quality of services received.

"New Freedom consumer directed services (NFCDS) participant" means a participant who is an applicant for or currently receiving services under the NFCDS waiver.

"New Freedom spending plan (NFSP)" means the plan developed by you, as a New Freedom participant, within the limits of an individual budget, that details your choices to purchase specific NFCDS and provides required federal medicaid documentation.

"Own home" means your present or intended place of residence:

(a) In a building that you rent and the rental is not contingent upon the purchase of personal care services as defined in this section;

(b) In a building that you own;

(c) In a relative's established residence; or

(d) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Past" means the behavior occurred from eight days to five years of the assessment date. For behaviors indicated as past, the department determines whether the behavior is addressed with current interventions or whether no interventions are in place.

"Personal aide" is defined in RCW 74.39.007.

"Personal care services" means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) due to your functional limitations. Assistance is evaluated with the use of assistive devices.

"Physician" is defined under WAC 388-500-0005.

"Plan of care" means assessment details and service summary generated by CARE.

"Provider or provider of service" means an institution, agency, or person:

(a) Having a signed department contract to provide long-term care client services; and

(b) Qualified and eligible to receive department payment.

"Reasonable cost" means a cost for a service or item that is consistent with the market standards for comparable services or items.

"Representative" means a person who you have chosen, or has been appointed by a court, whose primary duty is to act on your behalf to direct your service budget to meet your identified health, safety, and welfare needs.

"Residential facility" means a licensed adult family home under department contract or licensed boarding home under department contract to provide assisted living, adult residential care or enhanced adult residential care.

"Self performance for ADLs" means what you actually did in the last seven days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period and does not include support provided as defined in WAC 388-106-0010. Your self performance level is scored as:

(a) Independent if you received no help or oversight, or if you needed help or oversight only once or twice;

(b) Supervision if you received oversight (monitoring or standby), encouragement, or cueing three or more times;

(c) Limited assistance if you were highly involved in the activity and given physical help in guided maneuvering of limbs or other nonweight bearing assistance on three or more occasions. For bathing, limited assistance means physical help is limited to transfer only;

(d) Extensive assistance if you performed part of the activity, but on three or more occasions, you needed weight bearing support or you received full performance of the activ-

ity during part, but not all, of the activity. For bathing, extensive assistance means you needed physical help with part of the activity (other than transfer);

(e) Total dependence if you received full caregiver performance of the activity and all subtasks during the entire seven-day period from others. Total dependence means complete nonparticipation by you in all aspects of the ADL; or

(f) Activity did not occur if you or others did not perform an ADL over the last seven days before your assessment. The activity may not have occurred because:

- (i) You were not able (e.g., walking, if paralyzed);
- (ii) No provider was available to assist; or
- (iii) You declined assistance with the task.

"Self performance for IADLs" means what you actually did in the last thirty days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the thirty-day period. Your self performance is scored as:

(a) Independent if you received no help, set-up help, or supervision;

(b) Set-up help/arrangements only if on some occasions you did your own set-up/arrangement and at other times you received help from another person;

(c) Limited assistance if on some occasions you did not need any assistance but at other times in the last thirty days you required some assistance;

(d) Extensive assistance if you were involved in performing the activity, but required cueing/supervision or partial assistance at all times;

(e) Total dependence if you needed the activity fully performed by others; or

(f) Activity did not occur if you or others did not perform the activity in the last thirty days before the assessment.

"Service summary" is CARE information which includes: Contacts (e.g. emergency contact), services the client is eligible for, number of hours or residential rates, personal care needs, the list of formal and informal providers and what tasks they will provide, a provider schedule, referral needs/information, and dates and agreement to the services.

"Shared benefit" means:

(i) A client and their paid caregiver both share in the benefit of an IADL task being performed; or

(ii) Two or more clients in a multi-client household benefit from the same IADL task(s) being performed.

"SSI-related" is defined under WAC 388-475-0050.

"Status" means the ~~((amount))~~ type and/or level of ((informal support)) assistance available for a task from informal supports, through shared benefit, or related to the developmental milestones as defined in WAC 388-106-0130. The department determines whether the ADL or IADL is:

(a) Met, which means the ADL or IADL will be fully provided by an informal support;

(b) Unmet, which means an informal support will not be available to provide assistance with the identified ADL or IADL;

(c) Partially met, which means an informal support will be available to provide some assistance, but not all, with the identified ADL or IADL; ~~((or))~~

(d) Shared benefit, which means:

(i) A client and their paid caregiver both share in the benefit of an IADL task being performed; or

(ii) Two or more clients in a multi-client household benefit from the same IADL task(s) being performed.

(e) Age appropriate, which means that the level of proficiency and need for assistance for the identified task is within the range of what is expected of a child of that age. Refer to the developmental milestones in WAC 388-106-0130; or

(f) Client declines, which means you do not want assistance with the task.

"Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

"Support provided" means the highest level of support provided (to you) by others in the last seven days before the assessment, even if that level of support occurred only once.

(a) No set-up or physical help provided by others;

(b) Set-up help only provided, which is the type of help characterized by providing you with articles, devices, or preparation necessary for greater self performance of the activity. (For example, set-up help includes but is not limited to giving or holding out an item or cutting food);

(c) One-person physical assist provided;

(d) Two- or more person physical assist provided; or

(e) Activity did not occur during entire seven-day period.

"You/your" means the client.

AMENDATORY SECTION (Amending WSR 11-11-024, filed 5/10/11, effective 6/10/11)

WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care? (1) The department assigns a base number of hours to each classification group as described in WAC 388-106-0125.

(2) The department will ~~((deduct from the))~~ adjust base hours to account for informal supports, shared benefit, and age appropriate functioning (as those terms are defined in WAC 388-106-0010), ~~((or))~~ and other paid services that meet some of an individual's need for personal care services, including adult day health, as follows:

(a) The CARE tool determines the ~~((adjustment for))~~ status of informal supports ~~((by determining))~~, shared benefit, and age appropriate functioning; determines the amount of assistance available ~~((to meet your needs))~~; assigns ~~((#))~~ a numeric ~~((percentage))~~ value to those assessed indicators; and ~~((reduces))~~ adjusts the base hours assigned to the classification group by the numeric ~~((percentage))~~ value. The department has assigned the following numeric values for the amount of assistance available for each ADL and IADL:

Meds	Self ((Performance)) Administration	Status	Assistance Available	Value ((Percentage))
((Self administration of medications)) Medication Management	The rules to the right apply for all Self Performance codes ((apply)) except independent which is not counted as a qualifying ADL	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.9
1/4 to 1/2 time	.7			
1/2 to 3/4 time	.5			
>3/4 time	.3			
Unscheduled ADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Bed mobility, transfer, walk in room, eating, toilet use	The rules to the right apply for all Self Performance codes except: Did not occur/client not able and Did not occur/no provider = 1; Did not occur/client declined and independent are not counted((-)) as <u>qualifying ADLs</u>	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.9
1/4 to 1/2 time	.7			
1/2 to 3/4 time	.5			
>3/4 time	.3			
Scheduled ADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Dressing, personal hygiene, bathing	The rules to the right apply for all Self Performance codes except: Did not occur/client not able and Did not occur/no provider = 1; Did not occur/client declined and independent which are not counted((-)) as <u>qualifying ADLs</u>	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.75
1/4 to 1/2 time	.55			
1/2 to 3/4 time	.35			
>3/4 time	.15			
IADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Meal preparation, Ordinary housework, Essential shopping	The rules to the right apply for all Self Performance codes ((apply)) except independent is not counted((-)) as a <u>qualifying IADL</u>	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met or Shared benefit	<1/4 time	.3
1/4 to 1/2 time	.2			
1/2 to 3/4 time	.1			
>3/4 time	.05			

IADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Travel to medical	<u>The rules to the right apply</u> for all <u>Self Performance</u> codes (((apply))) except independent <u>which</u> is not counted(((:))) as <u>a qualifying IADL</u> .	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.9
		1/4 to 1/2 time	.7	
		1/2 to 3/4 time	.5	
		>3/4 time	.3	
Key: > means greater than < means less than				

(b) To determine the amount ~~((of reduction))~~ adjusted for informal support, shared benefit and/or age appropriate functioning, the ~~((value percentages))~~ numeric values are totaled and divided by the number of qualifying ADLs and IADLs needs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is value C. Value A and Value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to your classification group and the result is the number of adjusted in-home hours ~~((reduced for informal supports))~~. Values are rounded to the nearest hundredths (e.g., .862 is rounded to .86).

~~(3) ((Also, the department will adjust in-home base hours when:~~

~~(a) There is more than one client receiving ADSA paid personal care services living in the same household, the status~~

~~under subsection (2)(a) of this section must be met or partially met for the following IADLs:~~

- ~~(i) Meal preparation;~~
- ~~(ii) Housekeeping;~~
- ~~(iii) Shopping; and~~
- ~~(iv) Wood supply.~~

~~(b) You are under the age of eighteen, your assessment will be coded according to age guidelines codified in WAC 388-106-0213.~~

~~(4)) Effective July 1, 2012, after ((deductions)) adjustments are made to your base hours, as described in ((subsections (2) and (3))) subsection (2), the department may add on hours based on ((your living environment)) offsite laundry, living more than forty-five minutes from essential services, and wood supply:~~

Condition	Status	Assistance Available	Add On Hours
Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done. <u>The status used for the rules to the right is for house-keeping.</u>	((N/A)) <u>Unmet</u>	N/A	8
	<u>Met</u>	<u>N/A</u>	<u>0</u>
	<u>Declines</u>	<u>N/A</u>	<u>0</u>
	<u>Age appropriate</u>	<u>N/A</u>	<u>0</u>
	<u>Partially met or Shared benefit:</u>	<1/4 time	8
		<u>between 1/4 to 1/2 time</u>	<u>6</u>
		<u>between 1/2 to 3/4 time</u>	<u>4</u>
		<u>>3/4 time</u>	<u>2</u>

Condition	Status	Assistance Available	Add On Hours	
Client is >45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market). <u>The status used for the rules to the right is essential shopping.</u>	Unmet	N/A	5	
	Met	N/A	0	
	<u>Declines</u>	<u>N/A</u>	<u>0</u>	
	<u>Age appropriate</u>	<u>N/A</u>	<u>0</u>	
	<u>Partially met or Shared benefit</u>	<1/4 time		5
		between 1/4 to 1/2 time		4
between 1/2 to 3/4 time			((2)) 3	
>3/4 time			2	
Wood supply used as sole source of heat.	Unmet	N/A	8	
	Met	N/A	0	
	Declines	N/A	0	
	<u>Age appropriate</u>	<u>N/A</u>	<u>0</u>	
	<u>Partially met or Shared benefit</u>	<1/4 time		8
		between 1/4 to 1/2 time		6
between 1/2 to 3/4 time			4	
>3/4 time			2	

~~((5))~~ (4) In the case of New Freedom consumer directed services (NFCDS), the department determines hours as described in WAC 388-106-1445.

~~((6))~~ (5) The result of actions under subsections (2), (3), and (4) is the maximum number of hours that can be used to develop your plan of care. The department must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to ~~((meet))~~ address your identified needs. In the case of New Freedom consumer directed services (NFCDS), a New Freedom spending plan (NFSP) is developed in place of a plan of care.

~~((7))~~ (6) You and your case manager will work to determine what services you choose to receive if you are eligible. The hours may be used to authorize:

(a) Personal care services from a home care agency provider and/or an individual provider.

(b) Home delivered meals (i.e. a half hour from the available hours for each meal authorized) per WAC 388-106-0805.

(c) Adult day care (i.e. a half hour from the available hours for each hour of day care authorized) per WAC 388-106-0805.

(d) A home health aide ~~((if you are eligible))~~ (i.e., one hour from the available hours for each hour of home health

aide authorized) per WAC 388-106-0300 ~~((or 388-106-0500))~~.

(e) A private duty nurse (PDN) if you are eligible per WAC 388-71-0910 and 388-71-0915 or WAC 388-551-3000 (i.e. one hour from the available hours for each hour of PDN authorized).

(f) The purchase of New Freedom consumer directed services (NFCDS).

(7) If you are a child applying for personal care services:

(a) The department will complete a CARE assessment and use the developmental milestones table below when assessing your ability to perform personal care tasks.

(b) Your status will be coded as age appropriate when your self performance is at a level expected for persons in your assessed age range, as indicated by the developmental milestones table, unless the circumstances in subpart (c) apply.

(c) The department may code status as other than age appropriate for an ADL or IADL, despite your self performance falling within the expected developmental milestones for your age, if the department determines during your assessment that your level of functioning is not primarily due to your age and the frequency and/or the duration of assistance required for a personal care task is not typical for a person of your age.

<u>Developmental Milestones for Activities of Daily Living (ADLS)</u>		
<u>ADL</u>	<u>Self-Performance</u>	<u>Assessed Age Range</u>
<u>Medication Management</u>	<u>Independent</u> <u>Self-Directed</u> <u>Assistance Required</u> <u>Must Be Administered</u>	<u>Birth through the 17th year</u>
<u>Locomotion in Room</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 3rd year</u>
	<u>Total</u>	<u>Birth through the 1st year</u>

<u>Developmental Milestones for Activities of Daily Living (ADLS)</u>		
<u>ADL</u>	<u>Self-Performance</u>	<u>Assessed Age Range</u>
<u>Locomotion Outside Room</u>	<u>Independent Supervision</u>	<u>Birth through the 5th year</u>
	<u>Limited Extensive</u>	<u>Birth through the 3rd year</u>
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Walk in Room</u>	<u>Independent Supervision</u>	<u>Birth through the 3rd year</u>
	<u>Limited Extensive</u>	
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Bed Mobility</u>	<u>Independent Supervision</u>	<u>Birth through the 2nd year</u>
	<u>Limited Extensive</u>	
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Transfers</u>	<u>Independent Supervision</u>	<u>Birth through the 2nd year</u>
	<u>Limited Extensive</u>	
	<u>Total</u>	
<u>Toilet Use</u>	<u>Independent Supervision</u>	<u>Birth through the 7th year</u>
	<u>Limited Extensive</u>	
	<u>Total</u>	<u>Birth through the 3rd year</u>
<u>Eating</u>	<u>Independent Supervision</u>	<u>Birth through the 2nd year</u>
	<u>Limited Extensive</u>	
	<u>Total</u>	
<u>Bathing</u>	<u>Independent Supervision</u>	<u>Birth through the 11th year</u>
	<u>Physical help/Transfer only</u> <u>Physical help/part of bathing</u>	<u>Birth through the 7th year</u>
	<u>Total</u>	<u>Birth through the 4th year</u>
<u>Dressing</u>	<u>Independent Supervision</u>	<u>Birth through the 11th year</u>
	<u>Limited Extensive</u>	<u>Birth through the 7th year</u>
	<u>Total</u>	<u>Birth through the 4th year</u>
<u>Personal Hygiene</u>	<u>Independent Supervision</u>	<u>Birth through the 11th year</u>
	<u>Limited or extensive</u>	<u>Birth through the 7th year</u>
	<u>Total</u>	<u>Birth through the 4th year</u>

Developmental Milestones for Instrumental Activities of Daily Living		
<u>IADL</u>	<u>Self Performance</u>	<u>Assessed Age</u>
<u>Telephone</u> <u>Transportation</u> <u>Essential</u> <u>Shopping</u> <u>Wood Supply</u> <u>Housework</u> <u>Finances</u> <u>Meal Preparation</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u> <u>Total</u>	<u>Birth through the 17th year</u>

Additional Developmental Milestones coding		
<u>CARE panel</u>	<u>Selection</u>	<u>Assessed Age</u>
<u>Speech/Hearing:</u> <u>Comprehension</u>	<u>By others client is= Age Appropriate</u>	<u>Birth through the 2nd year</u>
<u>Psych Social:</u> <u>MMSE</u>	<u>Can MMSE be administered?=No</u>	<u>Birth through the 17th year</u>
<u>Psych Social:</u> <u>Memory/Short Term</u>	<u>Recent memory= Age appropriate</u>	<u>Birth through the 11th year</u>
<u>Psych Social:</u> <u>Memory/Long Term</u>	<u>Long Term memory= Age appropriate</u>	<u>Birth through the 11th year</u>
<u>Psych Social:</u> <u>Depression</u>	<u>Interview= unable to obtain</u>	<u>Birth through the 11th year</u>
<u>Psych Social:</u> <u>Decision Making</u>	<u>Rate how client makes decision=Age appropriate</u>	<u>Birth through the 11th year</u>
<u>Bladder/Bowel:</u>	<u>Bladder/Bowel Control:</u> <u>Continent</u> <u>Usually Continent</u> <u>Occasionally Incontinent</u> <u>Frequently Incontinent</u>	<u>Birth through the 11th year</u>
<u>Bladder/Bowel:</u>	<u>Bladder/Bowel Control:</u> <u>Incontinent all or most of the time</u>	<u>Birth through the 5th year</u>
<u>Bladder/Bowel:</u>	<u>Appliance and programs= Potty Training</u>	<u>Birth through the 3rd year</u>

(8) If you are a child applying for personal care services and your self performance is not age appropriate as determined under subsection (7), the department will assess for any informal supports or shared benefit available to assist you with each ADL and IADL.

(a) The department will code status as met if your assessment shows that your need for assistance with personal care tasks is fully met by informal supports.

(b) The department will presume that you have informal supports available to assist you with your ADLs and IADLs over three-fourths but not all of the time. This presumption may be rebutted if you provide specific information during your assessment to indicate why you do not have support available three-fourths or more of the time to assist you with a particular ADL or IADL.

(c) Informal supports for school-age children include supports actually available through a school district, regardless of whether you take advantage of those available supports.

(d) When you are living with your legally responsible parent(s), the department will take into account their legal obligation to care for you when determining the availability of informal supports. Legally responsible parents include natural parents, step-parents, and adoptive parents. Generally, a legally responsible parent will not be considered unavailable to meet your personal care needs simply due to other obligations such as work or additional children because such obligations do not decrease the parent's legal responsibility to care for you regardless of your disabilities. However, the department will consider factors that cannot reasonably be avoided and that prevent a legally responsible parent from providing for your personal care needs when determining the amount of informal support available to you.

WSR 12-23-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-262—Filed November 8, 2012, 9:22 a.m., effective November 13, 2012, 12:01 p.m.]

Effective Date of Rule: November 13, 2012, 12:01 p.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000J; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 8, 2012.

Philip Anderson
 Director

NEW SECTION

WAC 220-56-36000J Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. November 15 through 11:59 p.m. November 17, 2012, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. November 13 through 11:59 p.m. November 17, 2012, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

3. Effective 12:01 p.m. November 16 through 11:59 p.m. November 17, 2012, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

4. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 18, 2012:

WAC 220-56-36000J Razor clams—Areas and seasons.

WSR 12-23-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-264—Filed November 8, 2012, 3:08 p.m., effective November 10, 2012, 7:00 a.m.]

Effective Date of Rule: November 10, 2012, 7:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000R and 220-52-04600A; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Current pot limits were instituted in order to slow the early season landings and maintain a manageable supply to area buyers. The need to limit this flow has eased in some areas, which allows for an increase in pots from seventy-five pots per license to one hundred pots per license in Region 3-2. Additionally, this regulation continues the closure of Region 2 West, where the Puget Sound State commercial fishery has reached its initial allocation. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes. There is insufficient time to adopt permanent regulations.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 8, 2012.

Lori Preuss
for Philip Anderson
Director

NEW SECTION

WAC 220-52-04000S Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. Notwithstanding the provisions of WAC 220-52-040:

(1) Additional area gear limits. The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel, and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits:

(a) No commercial gear is allowed in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123° 7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(2) Effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Regions 2 East and sub-area 3-1. These regions include Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 24A, 24B, 24C, 24D and 26AE.

(3) Effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 75 pots per license per buoy tag number in Crab Management Region 1, which includes Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(4) The remaining buoy tags per license per region must be onboard the designated vessel and available for inspection.

NEW SECTION

WAC 220-52-04600B Puget Sound crab fishery— Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

(1) Effective immediately, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina, and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line

projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern-most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(d) Port Gardner: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo, projected to the green #3 buoy at the mouth of the Snohomish River, and west of a line projected from that #3 buoy southward to the oil boom pier on the shoreline.

(e) Possession Point to Glendale: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line that extends true north from the green #1 buoy at Possession Point to Possession Point, and west of a line from the green #1 buoy at Possession Point extending northward along the 200-foot depth contour to the Glendale dock.

(f) Langley: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 24C shoreward of the 400-foot depth contour within an area described by two lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) Crab Management Region 2 West. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and 26AW.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123° 7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(c) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected true north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 7:00 a.m. November 10, 2012:

WAC 220-52-04000R	Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. (12-253)
WAC 220-52-04600A	Puget Sound crab fishery— Seasons and areas. (12-253)

WSR 12-23-012
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-263—Filed November 8, 2012, 3:11 p.m., effective November 8, 2012, 3:11 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-31100Y; and amending WAC 220-47-311.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Current in-season run-size models are showing the nontreaty allocation has been caught so an emergency rule is needed to close Salmon Management and Catch Reporting Areas 10 and 11 to commercial purse seines. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 8, 2012.

Lori Preuss
for Philip Anderson
Director

NEW SECTION

WAC 220-47-31100Y Purse seines—Open periods. Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to fish for commercial purposes with purse seine gear in Salmon Management and Catch Reporting Areas 10 and 11.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 21, 2012:

WAC 220-47-31100Y Purse seines—Open periods.

WSR 12-23-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-265—Filed November 9, 2012, 4:42 p.m., effective November 9, 2012, 4:42 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-41100N.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: There is enough nontreaty allocation to allow a gillnet fishery next week in Salmon Management and Catch Reporting Areas 12, 12B and 12C. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 9, 2012.

Lori Preuss
for Philip Anderson
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-47-41100N Gillnet—Open periods. (12-261)

WSR 12-23-018
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-268—Filed November 9, 2012, 4:45 p.m., effective November 9, 2012, 4:45 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-41100P; and amending WAC 220-47-411.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: The allocation has been caught, so an emergency rule is needed to close Salmon Management and Catch Reporting Areas 10 and 11 to commercial gillnets. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 9, 2012.

Lori Preuss
for Philip Anderson
Director

NEW SECTION

WAC 220-47-41100P Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to fish for commercial purposes with gillnet gear in Salmon Management and Catch Reporting Areas 10 and 11.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 22, 2012:

WAC 220-47-41100P Gillnets—Open periods.

WSR 12-23-019

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 12-266—Filed November 9, 2012, 4:55 p.m., effective November 14, 2012]

Effective Date of Rule: November 14, 2012.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900C; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.045, and 77.04.020.

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: Hatchery cutthroat trout and hatchery steelhead in excess of hatchery broodstock needs are available for harvest, providing additional fishing opportunity. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 9, 2012.

Lori Preuss
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900C Exceptions to statewide rules—Blue Creek. Notwithstanding the provisions of WAC 232-28-619, effective November 14, through November 30, 2012, it is permissible to fish for trout in waters of Blue Creek from the mouth upstream to the posted sign just above the rearing pond outlet. Daily limit of 5 trout. Minimum size is 12 inches but a person can take no more than two over 20 inches. Release wild cutthroat and wild steelhead. Release all salmon. Night fishing closure and anti-snagging rule is in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2012:

WAC 232-28-61900C Exceptions to statewide rules—Blue Creek.

WSR 12-23-042

**RESCISSION OF EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed November 15, 2012, 10:40 a.m.]

Please rescind emergency rules filed as WSR 12-21-016 for chapter 388-78A WAC, effective November 18, 2012. Permanent rules filed as WSR 12-21-070 become effective on November 18, 2012.

Katherine I. Vasquez
Rules Coordinator

WSR 12-23-052

**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 12-270—Filed November 16, 2012, 3:13 p.m., effective November 16, 2012, 3:13 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial sea cucumber diving rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100W; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Harvestable amounts of sea cucumbers are available in the sea cucumber district listed. Prohibition of all diving from licensed sea cucumber harvest vessels within two days of scheduled openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 16, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-52-07100W Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective November 16, 2012, at 3:59 p.m., until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes, except as provided in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 on Monday through Friday of each week.

(2) In Sea Cucumber District 5, it is unlawful to dive for any purpose from a commercially licensed sea cucumber fishing vessel on Saturday and Sunday of each week, except by written permission from the Director.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 16, 2012, at 3:59 p.m.:

WAC 220-52-07100V Sea cucumbers—Commercial open districts and periods

WSR 12-23-055

**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 12-271—Filed November 16, 2012, 5:01 p.m., effective November 16, 2012, 5:01 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-42800G; and amending WAC 220-47-428.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Nontreaty share is available.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 16, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-47-42800G Beach seine—Open periods.

Notwithstanding the provisions of WAC 220-47-428, effective immediately until further notice, it is unlawful to fish for commercial purposes with beach seine gear in Salmon Management and Catch Reporting 12C, except as follows:

(1) That portion of Area 12C within 2,000 feet of the western shore between the dock at Glen Ayr Recreational Vehicle Park and the Hoodspout Marina dock - Open for beach seines daily 6:00 a.m. to 5:00 p.m., Sunday, November 18, 2012, and Tuesday, November 20, 2012.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:01 p.m. November 20, 2012:

WAC 220-47-42800G Beach seine—Open periods.

**WSR 12-23-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 12-272—Filed November 19, 2012, 4:49 p.m., effective November 19, 2012, 4:49 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100X, 220-47-31100Z and 220-47-41100Q; and amending WAC 220-47-311 and 220-47-411.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: We are repealing WAC 220-47-31100X to revert to the department's permanent rules, because there is a harvestable number of chum remaining in Hood Canal. We are closing Puget Sound Salmon Management and Catch Reporting Area 8D in WAC 220-47-311 and 220-47-411, because the Tulalip Hatchery has not reached its egg-take goal.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 3.

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 0, Amended 0, Repealed 0.

Date Adopted: November 19, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-47-31100Z Purse seine—Open periods.

Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to fish for commercial purposes with purse seine gear in Puget Sound Salmon Management and Catch Reporting Area 8D.

NEW SECTION

WAC 220-47-41100Q Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to fish for commercial purposes with gillnet gear in Puget Sound Salmon Management and Catch Reporting Area 8D.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-47-31100X Purse seine—Open periods.

The following section of the Washington Administrative Code is repealed effective November 24, 2012:

WAC 220-47-31100Z Purse seine—Open periods.

The following section of the Washington Administrative Code is repealed effective November 24, 2012:

WAC 220-47-41100Q Gillnet—Open periods.

WSR 12-23-089
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-273—Filed November 20, 2012, 4:35 p.m., effective November 26, 2012, 12:01 p.m.]

Effective Date of Rule: November 26, 2012, 12:01 p.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-56-36000K; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2, and those portions of Razor Clam Area 3 being opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to adopt permanent rules.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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 0, Amended 0, Repealed 0.

Date Adopted: November 20, 2012.

Joe Stohr
 for Philip Anderson
 Director

NEW SECTION

WAC 220-56-36000K Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. November 29, 2012, through 11:59 p.m. December 1, 2012, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. November 26, 2012, through 11:59 p.m. December 1, 2012, razor clam digging is allowed

in Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

3. Effective 12:01 p.m. November 30, 2012, through 11:59 p.m. December 1, 2012, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

4. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach, or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. December 2, 2012:

WAC 220-56-36000K	Razor clams—Areas and seasons.
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