



PROPOSED RULE MAKING

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 23, 2024

TIME: 9:42 AM

WSR 24-15-124

Agency: Department of Social and Health Services, Developmental Disabilities Administration

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

- Preproposal Statement of Inquiry was filed as WSR 24-04-019 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) WAC 388-829-0010 What definitions apply to this chapter?, 388-829-0015 What training is required for individuals hired or contracted to work in DDA community residential settings as a direct support professional or ISS staff on or after January 1, 2016?, 388-829-0020 What is the 75-hour certificate?, 388-829-0035 Who is exempt from the DDA community residential 75-hour training requirement?, 388-829-0040 What are the training requirements for exempt individuals?, 388-829-0050 What is basic training?, 388-829-0055 How are training entities and instructors for DDA community residential settings approved?, 388-829-0060 What are the qualifications for on-the-job training, including client-specific training?, 388-829-0065 What are the requirements for DDA community residential instructors to teach the DDA 40-hour residential training?, 388-829-0075 What is nurse delegation core training?, and 388-101D-0105 Staff training within six months of employment.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 27, 2024	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of intended adoption: No earlier than August 28, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name DSHS Rules Coordinator
 Address PO Box 45850, Olympia WA 98504
 Email DSHSRPAURulesCoordinator@dshs.wa.gov
 Fax 360-664-6185
 Other
 Beginning (date and time) noon on July 24, 2024
 By (date and time) 5:00 p.m. on August 27, 2024

Assistance for persons with disabilities:

Contact Shelley Tencza, Rules Consultant
 Phone 360-664-6036
 Fax 360-664-6185
 TTY 711 Relay Service
 Email shelley.tencza@dshs.wa.gov
 Other
 By (date) 5:00 p.m. on August 13, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: DDA is amending these rules primarily to ensure providers complete the skills-demonstration portion of CPR in accordance with OSHA guidelines. Other changes clarify the content of various training components, use terminology more consistently, and remove unused definitions and update others.

Reasons supporting proposal: These amendments are necessary to clarify that any exemptions made in the past allowing providers to complete CPR training virtually are ending and that skills demonstration portions must occur in-person.

Statutory authority for adoption: RCW 18.88B.041, 71A.12.030, 74.39A.074, and 74.39A.341

Statute being implemented: RCW 74.39A.074

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

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

Name of proponent: (person or organization)
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Chantelle Diaz	PO Box 45310, Olympia WA 98504-5310	360-790-4732
Implementation	Ashley Beckley	PO Box 45310, Olympia WA 98504-5310	360.791.0644
Enforcement	Ashley Beckley	PO Box 45310, Olympia WA 98504-5310	360.791.0644

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

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

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

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

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name Chantelle Diaz
Address PO Box 45310, Olympia WA 98504-5310
Phone 360-790-4732
Fax
TTY
Email chantelle.diaz@dshs.wa.gov
Other

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

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

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

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

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

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
 - [RCW 34.05.310](#) (4)(b)
(Internal government operations)
 - [RCW 34.05.310](#) (4)(c)
(Incorporation by reference)
 - [RCW 34.05.310](#) (4)(d)
(Correct or clarify language)
 - [RCW 34.05.310](#) (4)(e)
(Dictated by statute)
 - [RCW 34.05.310](#) (4)(f)
(Set or adjust fees)
 - [RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

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

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

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

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

- No Briefly summarize the agency’s minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. DDA analyzed these proposed rules and concludes that the proposed changes may impose a cost to small businesses. Some provider employees may have completed CPR training virtually without completing a skills demonstration component in-person. For those employees, DDA will reimburse the provider for a repeat training necessary to comply with the amended rules. DDA has also given providers extended deadlines to complete the retraining in order to comply with the in-person component.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

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

Name Chantelle Diaz
 Address PO Box 45310, Olympia WA 98504-5310
 Phone 360-790-4732
 Fax
 TTY
 Email chantelle.diaz@dshs.wa.gov
 Other

Date: July 18, 2024	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-829-0010 What definitions apply to this chapter? The following definitions apply to this chapter:

~~("Agency orientation" is training provided to introduce a new employee to the agency.)~~

"**AL TSA**" ~~((refers to))~~ means the aging and long-term support administration.

"**Approved training**" is training submitted to and approved by DSHS as evidenced by a curriculum number.

"**Basic training**" is ~~((seventy))~~ 70 hours of required training that includes ~~((forty))~~ 40 hours of DDA residential services curriculum and ~~((thirty))~~ 30 hours of additional topics outlined in this chapter.

"**Client-specific training**" prepares ~~((the LTCW))~~ a person to provide individual support services to the client served by the community residential service business (CRSB).

"**Community residential service business**" or "**CRSB**" has the same meaning as defined in RCW 74.39A.009.

"**Competency**" or "**core competency**" means the integrated knowledge, skills, or behavior expected of a ~~((LTCW))~~ person after completing the training in a required topic area. Learning objectives are associated with each competency.

"**DDA**" ~~((refers to))~~ means the developmental disabilities administration.

"**DDA community residential setting**" within the scope of this chapter ~~((refers to))~~ means any setting where supported living, DDA group home, group training home, licensed staffed residential, companion home, or alternative living services occur.

"**DSHS-approved trainer**" means an individual approved by DSHS to sign the ~~((seventy-five))~~ 75-hour certificate.

"**Direct support professional**" or "**DSP**" means any person who supports an individual with a developmental disability to implement the individual's individual support plan/person-centered service plan (ISP/PCSP). This includes staff who provide instruction and support services (ISS).

"**DOH**" ~~((refers to))~~ means the department of health.

"**DSHS**" or "**department**" ~~((refers to))~~ means the department of social and health services.

"**Habilitation**" means services defined to assist participants in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.

"**Home care aide-certified**" or "**HCA-C**" means a person who has been certified by the department of health as a home care aide.

"**Letter of exemption**" means a letter from a provider that exempts DDA community residential staff from the ~~((seventy-five))~~ 75 hours of training as required under chapter 74.39A RCW for staff hired prior to January 1, 2016.

~~("Long-term care worker" or "LTCW" has the same meaning as defined in RCW 74.39A.009.)~~

"**Peer coach**" means a person who has been trained in ~~((twelve))~~ 12 hours of coaching skills and who works with new employees to coach them on working with individuals and their support needs.

"Population-specific" (~~refers to~~) means topics applicable to the unique needs of the population served.

"Training entity" means a DSHS-contracted organization or independent entity that provides training using DSHS-approved curriculum.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0015 What training is required for individuals hired or contracted to work in DDA community residential settings as a direct support professional (DSP) or ISS staff on or after January 1, 2016? (1) Required training for individuals hired or contracted to work in DDA community residential settings as a direct support professional or ISS staff on or after January 1, 2016, consists of ~~(seventy-five hours of training as follows)~~:

~~((1))~~ (a) Five hours of orientation and safety training as described in WAC 388-829-0045 prior to providing client care or support;
~~(and)~~

~~((2))~~ (b) Seventy hours of basic training as described in WAC 388-829-0050 must be completed within ~~(one hundred twenty)~~ 120 days of date of hire~~(-)~~ ;

(c) First aid training, which must be completed no more than 60 days after date of hire and kept current;

(d) Cardiopulmonary resuscitation (CPR), which must be completed no more than 60 days after the date of hire and kept current;

(d) Bloodborne pathogen training, which must be completed in accordance WAC 296-823-120 and renewed annually; and

(e) Continuing education under WAC 388-829-0085.

(2) Beginning February 1, 2024, direct support professionals and ISS staff must complete CPR training that meets occupational safety and health administration (OSHA) guidelines for hands-on skills development. For an employee hired before February 1, 2024, who is CPR-certified but did not participate in hands-on skills development, the employee must complete CPR training in accordance with OSHA guidelines no later than December 1, 2024, regardless of when the certification expires.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0020 What is the ~~((seventy-five))~~ 75-hour certificate? The ~~((seventy-five))~~ 75-hour certificate is a combination of orientation, safety, and basic training that when completed adds up to ~~((seventy-five))~~ 75 hours. The certificate covers:

(1) Five hours of orientation and safety training as described in WAC 388-829-0045; and

(2) Seventy hours of basic training as described in WAC 388-829-0050, which includes:

(a) Forty hours of DDA-developed residential services curriculum;
and

(b) Thirty hours of ((additional)) population-specific training as described in WAC 388-829-0050.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0035 Who is exempt from the DDA community residential ((seventy-five)) 75-hour training requirement? Beginning January 1, 2016, the following individuals are exempt from the DDA community residential ((seventy-five)) 75-hour training requirement:

- (1) DDA community residential staff who have:
 - (a) Been continuously employed since December 31, 2015;
 - (b) Completed training requirements that were in place when ((he or she was)) hired;
 - (c) Completed the training requirements by February 29, 2016; and
 - (d) Proof that ((twelve)) 12 hours of continuing education were completed during the previous year;
- (2) Under RCW 18.88B.041, an individual with special education training and an endorsement granted by the superintendent of public instruction; and
- (3) Registered nurses, licensed practical nurses, nurse technicians, advanced registered nurse practitioners as defined in chapter 18.79 RCW, and nursing assistants-certified ((+CAN+)) as defined in chapter 18.88A RCW.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0040 What are the training requirements for exempt individuals ((hired on or after January 1, 2016))? ((Exempt individuals hired on or after January 1, 2016,)) An individual exempt under WAC 388-829-0035 must meet the following ((the)) training requirements:

- (1) Staff hired with a ((seventy-five)) 75-hour certificate or letter of exemption must take:
 - (a) ((Agency)) Five-hour orientation and safety training; and
 - (b) ((Client)) Thirty-hour population-specific training.
- (2) The hiring or contracting entity must verify that staff hired with an HCA-C from areas outside of DDA have completed the training required in subsection (1) of this section and:
 - (a) DDA-developed specialty training; or
 - (b) Forty hours of DDA residential services curriculum.
- (3) ((All)) Exempt community residential staff must maintain current CPR and first aid training certificates as required under WAC 388-829-0050. ((This training must be completed in person and within sixty days of hire.))
- (4) ((All)) Exempt community residential staff must complete ((twelve)) 12 hours of continuing education per year.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0050 What is basic training? (1) Basic training is ~~((seventy))~~ 70 hours of required training that must include:
~~((1))~~ (a) Forty hours of DDA residential services curriculum ~~((which includes:))~~ ; and
(b) Thirty hours of population-specific training.
(2) The 40-hour DDA residential services curriculum includes
~~((a) Blood-borne pathogen requirements under WAC 296-823-12005;~~
and
~~(b))~~ DDA specialty training requirements ~~((; and))~~ .
~~((2) Thirty hours of additional topics related to))~~ (3) The 30-
hour population-specific training includes one or more of the follow-
ing:
(a) ((Population-specific training;
(b) Capable caregiver)) Specialty training under ((chapter
388-112)) WAC 388-112A-0450 related to mental health or WAC
388-112A-0440 dementia((;)) .
~~((e) CPR and)) (b) First aid training and certification ((as de-~~
~~scribed in WAC 388-829-0040; or))~~ .
~~((d))~~ (c) Cardiopulmonary resuscitation (CPR) training and cer-
tification.
(d) On-the-job training hours, including client-specific train-
ing, when the instructor is a trained peer coach as described in WAC
388-829-0060.
(e) Other curriculum approved by DDA.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0055 How are training entities and instructors for DDA community residential settings approved? The training entities and instructors for DDA community residential settings are approved as follows:
(1) Supported living and group home providers are approved as training entities through a contract exhibit.
(2) Supported living and group home providers must ensure their employed or contracted instructors meet the instructor criteria described in this chapter and in:
(a) ((Chapter 388-112)) WAC 388-112A-1240 for DDA community resi-
dential instructors to teach the DDA ((forty-hour)) 40-hour resi-
dential training; and
(b) ((RCW 74.39A.112)) Chapter 74.39A RCW for five-hour orienta-
tion and safety training and ((thirty)) 30 hours of ((elient)) popula-
tion-specific training.
(3) Other training entities must be approved by DDA or ALTSA and entities must ensure their instructors meet the criteria described in chapter ((388-112)) 388-112A WAC.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0060 What are the qualifications for on-the-job training, including client-specific training? Instructors who provide on-the-job training, including client-specific training, must:

- (1) Meet the instructor qualifications for basic training described in (~~chapter 388-112~~) WAC 388-112A-1240; and
- (2) Complete at least (~~twelve~~) 12 hours of department approved peer coaching.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0065 What are the requirements for DDA community residential instructors to teach the DDA (~~forty-hour~~) 40-hour residential training? DDA community residential instructors who want to instruct staff on the DDA (~~forty-hour~~) 40-hour residential training curriculum must:

- (1) Meet the instructor qualifications described in (~~chapter 388-112~~) WAC 388-112A-1240;
- (2) Complete the train the trainer course using DDA-developed curriculum;
- (3) Be approved as an instructor and receive an instructor code through DDA; and
- (4) Use the (~~forty-hour~~) 40-hour DDA residential services curriculum to teach the course.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

WAC 388-829-0075 What is nurse delegation core training? Nurse delegation core training is described in (~~chapter 388-112~~) WAC 388-112A-0500 through 388-112A-0590.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-101D-0105 Staff training within six months of employment.