



# RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 27, 2022

TIME: 8:19 AM

WSR 22-04-048

**Agency:** Department of Social and Health Services, Developmental Disabilities Administration (DDA)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) February 4, 2022

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

- Yes
  - No
- If Yes, explain:

**Purpose:** DDA is amending one section in Chapter 388-829 WAC and adding two new sections to Chapter 388-829 WAC. These amendments are necessary to establish due dates for training required under Chapter 388-829 WAC and to allow DDA to accept on-the-job learning related to COVID-19 to satisfy continuing education requirements.

**Citation of rules affected by this order:**

- New: WAC 388-829-0086, WAC 388-829-0087
- Repealed:
- Amended: WAC 388-829-0085
- Suspended:

**Statutory authority for adoption:** RCW 71A.12.030, RCW 74.39A.074

**Other authority:** ()

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this finding:** This is a subsequent filing on these rules. This filing is necessary to keep the emergency rules enacted until DDA can complete the permanent rulemaking process. DDA is currently collecting feedback on the draft rules from external stakeholders. **RCW 74.39A.074 authorizes DSHS to enact rules necessary to allow long-term care workers additional time to complete training requirements.**

Failing to enact these extended training deadlines could result in providers suddenly being out of compliance with training requirements, which would affect client access to qualified service providers. The department filed a CR 101 under WSR 21-20-130 and is working with stakeholders on language for permanent adoption.

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

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

**The number of sections adopted in order to comply with:**

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New \_\_\_\_ Amended \_\_\_\_ Repealed \_\_\_\_

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

New 2 Amended 1 Repealed \_\_\_\_

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

New \_\_\_\_ Amended \_\_\_\_ Repealed \_\_\_\_

**The number of sections adopted using:**

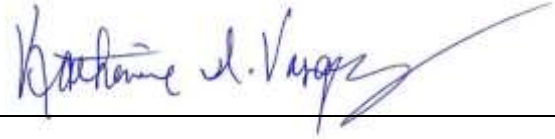
Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	2	Amended	<u>1</u>	Repealed	____

**Date Adopted:** January 25, 2022

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



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

**WAC 388-829-0085 How many hours of continuing education must DDA community residential staff complete each year?** (1) Effective January 1, 2016, (~~service providers~~) direct support professionals must complete (~~twelve~~) 12 hours of continuing education (CE) each year, except in the calendar year they complete the one-time basic training requirement.

(2) (~~Service providers~~) A direct support professional who (~~are~~) is not credentialed through the department of health (DOH) must complete their CE by the end of the calendar year.

(3) (~~Service providers~~) A direct support professional must complete DOH-required CE (such as home care aide certification) by their birth date each year.

(4) A direct support professional employed during the COVID-19 public health emergency must complete:

- (a) Training according to WAC 388-829-0086; and
- (b) Continuing education according to WAC 388-829-0087.

NEW SECTION

**WAC 388-829-0086 When must a direct support professional employed during the COVID-19 public health emergency complete training?**

(1) A direct support professional employed during the COVID-19 public health emergency must complete training as follows:

<b>Worker hired during the time frame of:</b>	<b>Must complete 75-hour new employee training no later than:</b>
8/17/2019 to 9/30/2020	4/30/2022
10/1/2020 to 4/30/2021	6/30/2022
5/1/2021 to 3/31/2022	8/31/2022
After 3/31/2022	As required under WAC 388-829-0015

(2) Nothing in this section prevents a direct support professional hired between 11/17/2019 and 3/31/2022 from completing training in advance of the deadlines in subsection (1) of this section.

NEW SECTION

**WAC 388-829-0087 What continuing education credit is granted to direct support professionals employed during the pandemic and when must continuing education be completed?** (1) The department finds that direct support professionals employed during the COVID-19 pandemic between March 1, 2020, and February 28, 2021, required emergent and intensive on-the-job training. Direct support professionals received critical, ongoing training in such topics as:

- (a) Donning and doffing personal protective equipment (PPE);

- (b) Hand hygiene;
- (c) Disinfection of high-touch surfaces;
- (d) Managing visitations and physical distancing;
- (e) Responding to newly infected residents;
- (f) Promotion of vaccination;
- (g) Protocols for quarantine;
- (h) Use of cloth face coverings;
- (i) Personal protection outside of the work environment; and
- (j) How to reduce exposure and spread.

(2) This on-the-job training was required of all service providers under WAC 388-829-0005. Instruction included infection control and the availability and distribution of personal protective equipment. Recognition of this training as a valid learning experience, in its various forms, was agreed upon with input from consumer and worker representatives, as the content was based on guidelines established by the Centers for Disease Control (CDC) and other federal, state, and local health care authorities.

(3) During this time, direct support professionals required ongoing critical training because guidance from the CDC, department of labor and industries, and other health authorities changed as more was learned about the SARS-CoV-2 virus. The department finds that this unprecedented on-the-job training comprised of at least 12 hours of continuing education between March 1, 2020, and February 28, 2021, and that this training:

(a) Is not considered to be repeated training as described in WAC 388-829-0100; and

(b) Satisfies the 12 hours of annual continuing education training.

(4) The direct support professional may apply the 12 hours of on-the-job training towards continuing education for either 2020 or 2021.

(5) All direct support professionals employed during the dates in subsection (3) of this section are granted 12 hours of DSHS-approved continuing education credit for the training entitled "COVID-19 On-The-Job Training Protocols," bearing the DSHS approval code CE2135218. No physical certificate for this training will be issued or required.

(6) The department recognizes that direct support professionals may not have completed training hours in excess of the 12 hours of CE granted in subsection (4) of this section due to the COVID-19 public health emergency. All direct support professionals have 120 days from the end of the federal public health emergency to complete any additional CE that may have become due while training waivers were in place in excess of the 12 hours of CE granted in subsection (4) of this section.