



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- Preproposal Statement of Inquiry was filed as WSR 13-01-094 ; 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).

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

Title of rule and other identifying information: (Describe Subject)

Chapter 246-980 WAC, Home Care Aides, proposing to: establish a scope of practice for all long-term care workers; clarify requirements for nurse delegation of duties to home care aides; and revise the rules for home care aide certification and exemption from certification.

Also proposing to amend WAC 246-10-501 to allow use of the brief adjudicative proceeding for home care aide certification applicants and credential holders who are disqualified from working with vulnerable persons by chapter 74.39A RCW.

Hearing location(s): Department of Health
Point Plaza East, Rooms 152/153
310 Israel Road SE
Olympia, WA 98501

Date: July 9, 2013 Time: 9:00 a.m.

Submit written comments to:

Name: Kendra Pitzler
Address: PO Box 47852
Olympia, WA 98504-7852
e-mail: <http://www3.doh.wa.gov/policyreview/>
fax (360) 236-2901 by (date) 07/09/2013

Assistance for persons with disabilities: Contact

Kendra Pitzler by 06/21/2013

TTY (800) 833-6388 or () 711

Date of intended adoption: 07/16/2013

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposal implements Chapter 164, Laws of 2012 (Engrossed Substitute House Bill 2314) by establishing a scope of practice for all long-term care workers; setting requirements for certain workers to perform duties delegated by nurses; and prohibiting the issuance of a home care aide certification to a person who is disqualified from working with the elderly and people with disabilities ("vulnerable persons") by chapter 74.39A RCW. The rules also incorporate new statutory definitions and certification exemptions; revise the certification application deadline; and no longer require submission of a training certificate to an examination vendor. In addition, references to laws and dates are updated.

Reasons supporting proposal:

The intent of chapter 18.88B RCW is to protect public safety and improve the quality of care to vulnerable persons by establishing competency requirements for workers who provide care to these patients. The proposal clearly defines "long-term care workers," authorizes qualified home care aides to perform certain duties delegated by registered nurses, and prohibits a person who is disqualified by DSHS from working with vulnerable persons from receiving or maintaining a home care aide certification.

Statutory authority for adoption:

Chapter 164, Laws of 2012 (ESHB 2314) & Chapter 18.130 RCW

Statute being implemented:

Chapter 18.88B RCW

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 04, 2013

TIME: 2:59 PM

WSR 13-12-066

DATE 06/04/2013

NAME (type or print)

John Wiesman, DrPH, MPH

SIGNATURE

TITLE

Secretary, Department of Health

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Department of Health

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Kendra Pitzler	111 Israel Rd SE, Tumwater, WA, 98501	(360) 236-4723
Implementation....Kendra Pitzler	111 Israel Rd SE, Tumwater, WA, 98501	(360) 236-4723
Enforcement.....Kendra Pitzler	111 Israel Rd SE, Tumwater, WA, 98501	(360) 236-4723

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: Kendra Pitzler

Address: PO Box 47852

Olympia, WA 98504-7852

phone (360) 236-4723

fax (360) 236-2901

e-mail kendra.pitzler@doh.wa.gov

No: Please explain:

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-010 Definitions. The definitions in this section and in RCW 74.39A.009 apply throughout this chapter unless the context clearly requires otherwise.

(1) "Activities of daily living" means self-care abilities related to personal care such as bathing, body care, bed mobility, eating, locomotion, use of the toilet, personal hygiene, dressing, and transfer. Activities of daily living include instrumental activities of daily living.

(2) "Date of hire" means:

(a) The date of service authorization for individual providers hired by the department of social and health services.

(b) The date the long-term care worker is hired by an employer other than the department of social and health services.

(3) "Department" means the department of health.

(4) "Direct care worker" means a paid caregiver who provides hands-on personal care services to individuals with disabilities or the elderly requiring long-term care.

~~(5) ("Individual provider" means a person, including a personal aide, who has contracted with the department of social and health services to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.~~

~~(6))~~ "Instrumental activities of daily living" means routine activities performed in the home or the community such as meal preparation, shopping, house cleaning, laundry, maintaining employment, travel to medical services, use of the telephone, and management of personal finances.

~~((7) "Long-term care worker" means all persons who are long-term care workers for the elderly or persons with disabilities, including, but not limited to, 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 boarding homes, assisted living facilities, and adult family homes; respite care providers; community residential service providers; and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities. "Long-term care worker" does not include:~~

~~(a) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW; hospitals or other~~

~~acute care settings; residential habilitation centers under chapter 71A.20 RCW; facilities certified under 42 C.F.R., Part 483; hospice agencies subject to chapter 70.127 RCW; adult day care centers; and adult day health care centers; or~~

~~(b) Persons who are not paid by the state or by a private agency or facility licensed by the state to provide personal care services.~~

~~(8) "Personal care services" means physical or verbal assistance with activities of daily living and instrumental activities of daily living provided because of a person's functional disability.~~

~~(9) "Supported living provider" means a person or entity certified as a supported living provider by the department of social and health services, including the state operated living alternative (SOLA) program, who delivers services and support to meet a client's identified needs. Supported living providers provide instruction, support, and services under chapter 388-101 WAC to clients in their own home to help them live independently.)~~

AMENDATORY SECTION (Amending WSR 12-08-043, filed 3/30/12, effective 4/4/12)

WAC 246-980-020 Who must be certified as a home care aide?

(1) Any person who is hired on or after January 7, 2012, as a long-term care worker for the elderly or persons with disabilities, regardless of the employment title, must obtain certification as a home care aide. This includes, but is not limited to:

(a) An individual provider of home care services who is reimbursed by the state;

(b) A direct care employee of a home care agency;

(c) A provider of home care services to persons with developmental disabilities under Title 71A RCW;

(d) A direct care worker in a state licensed (~~(boarding home)~~) assisted living facility;

(e) A direct care worker in a state licensed adult family home;

(f) A respite care provider who is reimbursed by the state or employed by a private agency or facility licensed by the state to provide personal care services; and

(g) (~~(A community residential service provider who is reimbursed by the state or employed by a private agency or facility licensed by the state to provide personal care service; and~~

~~(h))~~) Any other direct care workers providing home or community-based services to the elderly or persons with developmental disabilities.

(2) A long-term care worker(~~(s)~~) who meets the (~~(above criteria)~~) requirements in subsection (1) of this section but (~~(are exempted)~~) is exempt under WAC 246-980-070 (~~(are)~~) is not required to obtain certification.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-030 Can a nonexempt long-term care worker work before obtaining certification as a home care aide? (1) A nonexempt long-term care worker may provide care before receiving certification as a home care aide if all the following conditions are met:

(a) Before providing care, the long-term care worker must complete the training required by RCW (~~(74.39A.073 (4)(a) and (b))~~) 74.39A.074 (1)(d)(i)(A) and (B).

(b) The long-term care worker must submit an application for home care aide certification to the department within (~~three~~) fourteen days of hire. An application is considered to be submitted on the date it is post-marked or, for applications submitted in person or on-line, the date it is accepted by the department.

(2) The long-term care worker may not work for more than one hundred fifty calendar days from their date of hire without obtaining certification.

AMENDATORY SECTION (Amending WSR 12-08-043, filed 3/30/12, effective 4/4/12)

WAC 246-980-040 What must a nonexempt long-term care worker do to be eligible for a home care aide certification and what documentation is required? (1) To qualify for certification as a home care aide, the applicant must:

(a) Successfully complete the entry level training required by RCW (~~(74.39A.073)~~) 74.39A.074(1) before taking the examination;

(b) Successfully pass the home care aide certification examination; and

(c) Complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8. This is included in the basic training requirements in WAC 388-71-0906 and 388-112-0053.

(2) An applicant(~~(s)~~) must submit directly to the examination contractor:

(a) A completed application for examination provided by the examination contractor; and

(b) The fee required by the examination contractor(~~(; and~~

~~(c) A certificate of completion signed by an instructor approved by the department of social and health services. The certificate must indicate that the applicant has successfully~~

~~completed the entry level training required by RCW 74.39A.073. The certificate of completion may also be submitted directly from the approved instructor or training program).~~

(3) An applicant(~~(s)~~) must submit to the department:

(a) A completed application for certification on forms provided by the department;

(b) The required fee; and

(c) A certificate of completion from an approved training program indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.073. The certificate of completion or other official verification may also be submitted directly from the approved instructor or training program.

(4) An applicant(~~(s)~~) must submit to a state and federal background check as required by RCW (~~(74.39A.055)~~) 74.39A.056.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-050 How long does a nonexempt long-term care worker have to complete the home care aide training and certification requirements? (1) Training:

(a) A long-term care worker must successfully complete all training required by RCW (~~(74.39A.073)~~) 74.39A.074(1) within one hundred twenty calendar days of the date of hire as a long-term care worker.

(b) A long-term care worker who has not completed the training within one hundred twenty calendar days is no longer eligible to provide care until certification as a home care aide has been granted.

(2) Certification: A long-term care worker who has not been issued a home care aide certification within one hundred fifty days of the date of hire must stop providing care until the certification has been granted.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-060 How does a nonexempt home care aide renew a certification or reinstate an expired certification? (1) To renew a home care aide certification:

(a) Certificates must be renewed every year by the home care aide's birthday as provided in chapter 246-12 WAC, Part 2.

(b) Verification of twelve hours of continuing education as

required by RCW (~~(74.39A.340)~~) 74.39A.341 and WAC 246-980-110 must accompany the certification renewal.

(2) To reinstate an expired certification:

(a) If the certification has been expired for less than three years, the applicant must submit proof of twelve continuing education hours as required by RCW (~~(74.39A.340)~~) 74.39A.341 and WAC 246-980-110 for each year it has been expired, and meet the requirements of chapter 246-12 WAC, Part 2.

(b) If the certification has been expired for (~~more than~~) three years or more, the applicant must successfully repeat the training and examination requirements in WAC 246-980-040 and meet the requirements of chapter 246-12 WAC, Part 2.

AMENDATORY SECTION (Amending WSR 12-08-043, filed 3/30/12, effective 4/4/12)

WAC 246-980-070 Who is exempt from obtaining a home care aide certification? (1) The following individuals are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the entry level training required by RCW (~~(74.39A.073)~~) 74.39A.074, successfully complete the home care aide certification examination and meet all other requirements of WAC 246-980-080(1).

~~(a) ((An individual who is employed by a nursing home subject to chapter 18.51 RCW, hospital, or other acute care setting; hospice agency subject to chapter 70.127 RCW; adult day care center; or adult day health center, and who does not hold a current health care credential described under subsection (2)(a) of this section.~~

~~(b))~~ An individual provider caring only for a biological, step, or adoptive child or parent.

~~((c))~~ (b) An individual hired prior to (~~June 30~~) July 1, 2014, as an individual provider who provides twenty hours or less of care for one person in any calendar month. An individual provider~~((s))~~ hired after (~~June 30~~) July 1, 2014, will be required to complete the required training and obtain certification.

~~((d))~~ (c) An individual employed by a (~~supported living~~) community residential service provider.

~~((e))~~ (d) An individual employed by a residential habilitation center licensed under chapter 71A.20 RCW or a facility certified under 42 C.F.R., Part 483.

~~((f))~~ (e) A direct care employee~~((s))~~ who (~~are~~) is not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(2) The following long-term care workers are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the home

care aide certification examination and meet all other requirements of WAC 246-980-080(2). The training requirements under RCW ((74.39A.073)) 74.39A.074(1) are not required.

(a) An individual who holds an active credential by the department as a:

(i) Registered nurse, a licensed practical nurse, or advanced registered nurse practitioner under chapter 18.79 RCW; or

(ii) Nursing assistant-certified under chapter 18.88A RCW(~~(~~

~~iii) Certified counselor or advisor under chapter 18.19 RCW;~~

~~(iv) Speech language pathologist assistant or audiologist under chapter 18.35 RCW;~~

~~(v) Occupational therapist under chapter 18.59 RCW; or~~

~~(vi) Physical therapist assistant under chapter 18.74 RCW)).~~

(b) A home health aide who ((~~is~~)) was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Part ((~~483.35~~)) 484.36.

(c) A person who is in an approved training program for certified nursing assistant under chapter 18.88A RCW, provided that the training program is completed within one hundred twenty days of the date of hire and that the nursing assistant-certified credential has been issued within one hundred fifty days of the date of hire.

((~~(c)~~)) (d) An individual with special education training and an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.

((~~(d)~~)) (e) An individual employed as a long-term care worker on January 6, 2012, or who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, and who ((~~completes~~)) completed all of the training requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for over three years.

((~~(i)~~)) The department may require the exempt long-term care worker who is employed between January 1, 2011, and January 6, 2012, to provide proof of that employment. Proof may include a letter or similar documentation from the employer that hired the long-term care worker between January 1, 2011, and January 6, 2012, indicating the first and last day of employment, the job title, a job description, and proof of completing training requirements. Proof of training will also be accepted directly from the approved instructor or training program, if applicable. For an individual provider reimbursed by the department of social and health services, the department will accept verification from the department of social and health services or the Training Partnership.

((~~(ii)~~)) ~~A long-term care worker who is employed on or before January 6, 2012, but has not completed all of his or her training requirements in effect the day he or she was hired, must complete the training within one hundred twenty days of the date of hire to qualify for this exemption.)~~

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-080 How does an exempt individual apply for certification as a home care aide? (1) An individual exempt from certification under WAC 246-980-070(1) may apply for certification as a home care aide as follows:

(a) To qualify for certification as a home care aide, the applicant must:

(i) Successfully complete entry level training as required by RCW 74.39A.073 before taking the examination;

(ii) Successfully pass the home care aide certification examination; and

(iii) Complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8. This is included in the basic training requirements in WAC 388-71-0906 and 388-112-0053.

(b) An applicant((s)) must submit directly to the examination contractor:

(i) A completed application for examination provided by the examination contractor; and

(ii) The fee required by the examination contractor(~~;~~and
~~(iii) A certificate of completion signed by a department of social and health services approved instructor. The certificate must indicate that the applicant has successfully completed entry level training required by RCW 74.39A.073. The certificate of completion may also be submitted directly from the approved instructor or training program).~~

(c) An applicant((s)) must submit to the department:

(i) A completed application for certification on forms provided by the department;

(ii) The required fee; and

(iii) A certificate of completion from an approved training program signed by a department of social and health services approved instructor. The certificate must indicate that the applicant has successfully completed the entry level training as required by RCW ((~~74.39A.073~~)) 74.39A.074(1). The certificate of completion may also be submitted directly from the approved instructor or training program.

(d) An applicant((s)) must submit to a state and federal background check as required by RCW ((~~74.39A.055~~)) 74.39A.056.

(2) A long-term care worker exempt from certification under WAC 246-980-070(2) may apply for certification as a home care aide as follows:

(a) To qualify for certification as a home care aide, the applicant must:

(i) Successfully complete the home care aide certification examination; and

(ii) Complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8. This is included in the basic training requirements in WAC 388-71-0906 and 388-112-0053.

(b) An applicant((s)) must submit directly to the examination contractor a completed application for examination and the fee

required by the examination contractor.

(c) An applicant~~((s))~~ must submit to the department:

(i) A completed application for certification on forms provided by the department; and

(ii) Proof the individual qualifies for exemption under WAC 246-840-070(2); and

(iii) The required fee.

(d) An applicant~~((s))~~ must submit to a state and federal background check as required by RCW ~~((74.39A.055))~~ 74.39A.056.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-090 How does an exempt home care aide renew a home care aide certification or reinstate an expired home care aide certification? (1) To renew a home care aide certification:

(a) Certificates must be renewed every year by the home care aide's birthday as provided in chapter 246-12 WAC, Part 2.

(b) Verification of twelve hours of continuing education as required by RCW ~~((74.39A.340))~~ 74.39A.341 and WAC 246-980-110 must accompany the certification renewal.

(2) To reinstate a certification that has been expired for less than three years, the applicant must submit proof of twelve continuing education hours as required by RCW ~~((74.39A.340))~~ 74.39A.341 and WAC 246-980-110 for each year it has been expired, and meet the requirements of chapter 246-12 WAC, Part 2.

(3) To reinstate a certification that has been expired for three years or more ~~((than three years))~~:

(a) A long-term care worker exempt from certification under WAC 246-980-070(1) must:

(i) Submit proof that the applicant has worked at least eight hours as a long-term care worker within the last three years and submit twelve hours of continuing education per year as required by RCW ~~((74.39A.340))~~ 74.39A.341 and WAC 246-980-110; or

(ii) Successfully repeat the training and examination requirements in WAC 246-980-080(1).

(b) A long-term care worker exempt from certification under WAC 246-980-070(2) must:

(i) Submit proof that the applicant has worked at least eight hours as a long-term care worker within the past three years and submit twelve hours of continuing education per year as required by RCW ~~((74.39A.340))~~ 74.39A.341 and WAC 246-980-110; or

(ii) Successfully repeat the certification examination requirements in WAC 246-980-080(2).

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-100 Examination and reexamination for home care aide certification. (1) The certification examination will consist of both a written knowledge test and a skills demonstration.

(2) The certification examination will test the core competencies, including but not limited to, communication skills, worker self-care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, home care aide roles and boundaries, supporting activities of daily living, and food preparation and handling.

(3) ~~((The))~~ An applicant must apply directly to the examination contractor to take the examination.

(4) The examination contractor will notify ~~((the))~~ an applicant of the date, time, and place of the examination.

(5) The examination contractor will notify both the department and ~~((the))~~ an applicant of the examination results.

(a) An applicant who does not successfully pass any portion of the examination can follow the examination contractor's procedures for review and appeal.

(b) An applicant who does not successfully pass any portion of the examination may retake that portion of the examination two times.

(i) To retake the examination, an applicant must submit an application for reexamination, along with the required reexamination fee directly to the examination contractor.

(ii) An application for reexamination may be submitted any time after ~~((the))~~ an applicant receives notice of not successfully completing any portion of the certification examination.

(c) An applicant who does not successfully pass both portions of the certification examination within two years of successfully completing the required training or who does not successfully pass both portions of the certification examination after completing the certification examination three times:

(i) Must retake and successfully complete the core competencies portion of the entry-level training as required by RCW ~~((74.39A.073))~~ 74.39A.074; and

(ii) Cannot continue to provide care as a long-term care worker until the certification has been issued.

AMENDATORY SECTION (Amending WSR 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-110 Continuing education. (1) A home care aide~~((s))~~ must demonstrate completion of twelve hours of continuing education per year as required by RCW ~~((74.39A.340))~~ 74.39A.341.

The required continuing education must be obtained during the period between renewals. Continuing education is subject to the provisions of chapter 246-12 WAC, Part 7.

(2) Verification of completion of the continuing education requirement is due upon renewal. 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 10-15-103, filed 7/20/10, effective 1/1/11)

WAC 246-980-120 Home care aide--Application--Conviction data--Criteria for denial or conditional license. (1) An applicant~~((s))~~ who ~~((have))~~ has any criminal history may be denied certification or may be granted certification with conditions pursuant to RCW 18.130.055.

(2) In determining whether to deny certification or grant certification with conditions due to ~~((the))~~ an applicant's criminal history, the department may consider the following factors:

(a) The severity of the crime as classified under law;

(b) The number of convictions and whether the applicant has exhibited a pattern of criminal conduct;

(c) The amount of time elapsed since the date of conviction or the date of offense;

(d) The amount of time the applicant has spent in the community after release from custody;

(e) Whether any conviction is listed by the department of social and health services as a disqualifying crime, including those offenses listed in RCW 43.43.830 (5), (6), or (7);

(f) Whether the applicant has complied with court-ordered conditions such as treatment, restitution, or other remedial or rehabilitative measures;

(g) Other remediation or rehabilitation by the applicant subsequent to the conviction date;

(h) Whether the applicant disclosed the conviction on the certification application; and

(i) Any other factor relating to the applicant's ability to practice as a home care aide with reasonable skill and safety.

(3) A long-term care worker disqualified from working with vulnerable persons under chapter 74.39A RCW may not be certified as a home care aide.

NEW SECTION

WAC 246-980-130 Provision for delegation of certain tasks to a home care aide. (1) A home care aide-certified may perform tasks delegated by a registered nurse for patients in community-based care settings or in-home care settings each as defined in RCW 18.79.260 (3)(e).

(2) Before performing any delegated task a home care aide-certified must show the certificate of completion of the core delegation training from the department of social and health services to the registered nurse delegator.

(3) A home care aide-certified who is performing nurse delegation tasks must comply with all applicable requirements of the nursing care quality assurance commission in WAC 246-840-910 through 246-840-970.

(4) A home care aide-certified who may be performing insulin injections must show a certificate of completion of diabetic training from the department of social and health services to the registered nurse delegator.

(5) A home care aide-certified must meet any additional training requirements identified by the department of social and health services.

(6) For the purposes of this section, delegated nursing care tasks must be performed:

(a) Only for the specific patient for whom those tasks are delegated;

(b) Only with the patient's consent; and

(c) In compliance with all applicable requirements in WAC 246-840-910 through 246-840-970.

(7) A home care aide-certified may consent or refuse to consent to perform a delegated nursing care task. The home care aide-certified is responsible for his or her own actions with the decision to consent or refuse to consent and the performance of the delegated nursing care task.

(8) A home care aide-certified must not accept delegation of, or perform, the following nursing care tasks:

(a) Administration of medication by injection, with the exception of insulin injections;

(b) Sterile procedures;

(c) Central line maintenance;

(d) Acts that require nursing judgment.

(9) A person who is working as long-term care workers but has not received a home care aide certification must have either a nursing assistant-certified or nursing assistant-registered credential and comply with WAC 246-841-405.

NEW SECTION

WAC 246-980-140 Scope of practice for long-term care workers.

(1) A long-term care worker performs activities of daily living or activities of daily living and instrumental activities of daily living. A person performing only instrumental activities of daily living is not acting under the long-term care worker scope of practice.

(a) Activities of daily living means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. This may include fall prevention, skin and body care.

(b) Instrumental activities of daily living means activities in the home and community including cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) A long-term care worker documents observations and tasks completed, as well as communicates observations on the day they were performed to clients, family, and supervisors.

(3) A long-term care worker may perform medication assistance as described in chapter 246-888 WAC.

(4) A long-term care worker may perform nurse delegated tasks, to include medication administration, if he or she meets and follows the requirements in WAC 246-980-130.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-10-501 Application of brief adjudicative proceedings.

(1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination whether an applicant for a professional, business, or facility license meets the minimum criteria for an unrestricted license and the department proposes to deny such a license or to issue a restricted license;

(b) An application to approve a water system plan under WAC 246-290-100;

(c) An application to approve a project report under WAC 246-290-110;

(d) An application for source approval under WAC 246-290-130;

(e) An application to approve construction documents under WAC 246-290-120;

(f) An application to approve an existing Group A water system under WAC 246-290-140;

(g) An application for source approval under WAC 246-291-100 or 246-291-110;

(h) An application to approve a design report under WAC 246-291-120;

(i) An application to approve an existing Group B water system under WAC 246-291-130;

(j) An application to approve a water system plan under WAC 246-291-140;

(k) A decision under WAC 246-293-190;

(l) A decision with respect to service area conflicts under WAC 246-293-430;

(m) An application for approval as a satellite management agency under WAC 246-295-040;

(n) A civil penalty imposed under RCW 70.119A.040 when the amount of the civil penalty does not exceed two thousand five hundred dollars;

(o) A request to bank nursing home beds under RCW 70.38.111(8) and 70.38.115(13);

(p) A determination as to whether a person is in compliance with the terms and conditions of a final order previously issued by the department;

(q) Any approval of a school or curriculum when such approval by the department is required or authorized by statute or rule;

(r) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for license renewal; (~~or~~)

(s) A decision to deny, modify, or impose conditions upon an operating permit under WAC 246-294-050; or

(t) A decision to deny or revoke certification as a home care aide when a long-term care worker is disqualified from working with vulnerable persons under chapter 74.39A RCW.

(2) If an adjudicative proceeding is requested, in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted in the discretion of the presiding officer when it appears that protection of the public interest does not require that the department provide notice and an opportunity to participate to persons other than the parties and:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief proceeding.