



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: April 25, 2025

TIME: 12:25 PM

WSR 25-10-012

Agency: Department of Health

Original Notice
 Supplemental Notice to WSR
 Continuance of WSR
 Preproposal Statement of Inquiry was filed as WSR _____ ; 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: Home Care Aide Requirements - Expanding who qualifies for exemptions from the requirement to obtain a home care aide certification in chapter 246-980 WAC to implement recent legislation. The Department of Health (department) is implementing Senate Bill (SB) 5811 (chapter 322, Laws of 2024) which expands who qualifies for exemptions from the requirement to obtain home care aide certification. For individuals who provide care to their child or parent, the exemption that specifies that the care recipient be the biological, step, or adoptive child or parent is expanded to include those related by marriage or domestic partnership.

Currently, WAC 246-980-025 reflects the exemptions in statute, which exempts certain long term care workers from having to become a certified home care aide (HCA) including those who provide care to their own child or parent. The new law, which is already in effect, expands this to include relation by marriage or domestic partnership. The department is proposing amendments to this WAC section to incorporate the language of the new statute to reflect the broaden exemptions.

WAC 246-980-110 is amended to reflect Section 3, subsection 4, of SB 5811 which allows long-term care workers who are exempt under RCW 18.88B.041 to voluntarily take continuing education for up to 12 hours annually. The continuing education must be covered and paid for by their consumer directed employer. The requirements in Section 3, subsection 4, of SB 5811 and reflected in the proposed rule expire on January 1, 2027.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 10, 2025	3:00pm	Virtual Link: Register in advance for this webinar: https://us02web.zoom.us/webinar/register/WN_cSpfdg4aTGyu5y72Wyslw After registering, you will receive a confirmation email containing information about joining the webinar.	The meeting will be held in virtual format. Comments may also be received in written format.

Date of intended adoption: June 17, 2025 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Jennifer Osbun

Address PO Box 47852
Olympia, Washington 98504-7852

Assistance for persons with disabilities:

Contact Jennifer Osbun

Phone 360-236-2737

Email homecareaide@doh.wa.gov
Fax
Other <https://fortress.wa.gov/doh/policyreview>
Beginning (date and time) The date and time of this filing
By (date and time) June 10, 2025 at 11:59pm

Fax
TTY 711
Email homecareaide@doh.wa.gov
Other
By (date) June 3, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of these proposed rule amendments is to reflect the new law that expands exemptions for long term care workers or individual providers who are exempt from obtaining a home care aide certification. For individuals who provide care to their child or parent, the exemption that specifies that the care recipient be the biological, step, or adoptive child or parent is expanded to include those related by marriage or domestic partnership. The expanded exemptions are intended to increase the workforce. This rule proposal mirrors these changes in law.

Section 3 of SB 5811 also requires long-term care workers who voluntarily take continuing education training to receive up to 12 hours of continuing education paid for by their consumer directed employer. The coverage set out in Section 3 of SB 5811 expires on January 1, 2027.

Reasons supporting proposal: The recent changes to chapter 18.88B RCW expands exemptions for long-term care workers who provide aide and care to parents or children when related by marriage or domestic partnerships. The rule amendments to WAC 246-980-025 are necessary to ensure the rule is in alignment with the statute.

Amendments to WAC 246-980-110 also align the rule with statute, clarifying that long-term care workers may obtain up to 12 hours of continuing education that is paid for by consumer directed employers.

Statutory authority for adoption: RCW 18.88B041, 43.70.280, and Senate Bill (SB) 5811 (chapter 322, Laws of 2024)

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:

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

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting Jennifer Osbun	111 Israel Road SE, Tumwater, WA 98501	360-236-2737
Implementation Tracie Drake	111 Israel Road SE, Tumwater, WA 98501	360-480-7479
Enforcement Tracie Drake	111 Israel Road SE, Tumwater, WA 98501	360-480-7479

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
Address
Phone

Fax
TTY 711
Email
Other

No: Please explain: This rulemaking is exempt from needing a cost-benefit analysis under RCW 34.05.328(5)(b)(iii) because it adopts without material change Washington state law.

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:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> 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: The rule implements Washington state statute, chapter 18.88B RCW. The proposed amendments incorporate requirements in rule directly from the statute. These same amendments also only affect provider licenses and do not affect small businesses.

(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.

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
Address
Phone

Fax
TTY
Email
Other

Date: April 25, 2025

Name: Todd Mountin, PMP for Jessica Todorovich, MS

Title: Deputy Chief of Policy for Acting Secretary of Health

Signature:

A handwritten signature in black ink, appearing to read "Todd Mountin".

WAC 246-980-025 Individuals 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 shall successfully pass the entry level training required by RCW 74.39A.074 and meet the requirements of WAC 246-980-040.

(a) An individual provider caring only for a biological, step, or adoptive child or parent, including when related by marriage or domestic partnership.

(b) An individual provider caring only for a sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, ((+)) including when related by marriage or domestic partnership((+)).

(c) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States Department of Veterans Affairs home and community-based programs.

(d) An individual provider who provides 20 hours or less of care for one person in any calendar month.

(e) An individual employed by a community residential service business.

(f) 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.

(g) A direct care worker who is not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(h) A person working as an individual provider who only provides ((respite)) nonrespite services and works less than 300 hours in any calendar year.

(i) Any direct care worker exempt under RCW 18.88B.041(1).

(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 meet the requirements of WAC 246-980-040. The training requirements under RCW 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.

(b) A home health aide who 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 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 120 calendar days of the date of hire and that the nursing assistant-certified credential has been issued within 200 calendar days of the date of hire.

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

(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 completed all of the train-

ing requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for three consecutive years.

(i) The department may require the exempt long-term care worker who was employed as a long-term care worker 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.

(ii) 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.

AMENDATORY SECTION (Amending WSR 24-15-025, filed 7/9/24, effective 8/9/24)

WAC 246-980-110 Continuing education. (1) A home care aide shall demonstrate completion of 12 hours of continuing education per year as required by RCW 74.39A.341. The required continuing education must be obtained during the period between renewals. Continuing education is subject to the provisions of WAC 246-12-170 through 246-12-240.

(2) Verification of completion of the continuing education requirement is due upon renewal of an active credential. 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.

(3) No continuing education is required for renewal of a credential that has been expired five years or less.

(4) An individual provider who is exempt from certification as a home care aide may voluntarily take continuing education under RCW 18.88B.041. Until January 1, 2027, continuing education hours must be paid for by the individual provider's consumer directed employer, up to 12 hours annually.