



In-Home Services Agencies Chapter 246-335 WAC Significant Rule Changes October 2018

The in-home services licensing rules, chapter 246-335 WAC, have been updated and were effective April 6, 2018. The rules were thoroughly reviewed, updated with new and revised requirements, and reformatted into new home care, home health, and hospice sections. The department provided licensees a six-month survey-related grace period, ending October 6, 2018, in order to perform necessary administrative updates, and to become familiar with the various new and revised requirements. The purpose of this document is to highlight the “significant” rule changes for licensees. In addition to these changes, there are many other updates throughout the rules. The department encourages applicants and licensees to read the revised rules thoroughly.

1. WAC 246-335-320(1) Orientation class for prospective applicants

Description of new rule:

The new rule requires home care, home health, and hospice applicants to complete a department-sponsored in-home services orientation class before submitting a state licensing application.

Requiring applicants to complete an orientation class before submitting an application will be beneficial in the following ways:

- Applicants will receive information about the in-home services industry that will assist them in determining if they want to pursue this type of licensure.
- Applicants will receive information on the differences between home care, home health, and hospice services that will assist them in selecting an appropriate service category.
- Applicants will receive guidance on how to develop the required policies and procedures and to assemble those into a manual.
- Applicants will receive information on the department’s licensing process that will assist them in completing the necessary steps accurately and timely.

Note: The orientation class is not required for change of ownership applications, agencies adding a service category to their license, or Medicare certified agencies that choose to establish a new state license for a recently approved county through Certificate of Need.

**2. WAC 246-335-320(2)
Business insurance**

Description of revised rule:

The revised rule increases the minimum required business insurance levels from \$200,000 per occurrence for bodily injury, property damage, and contractual liability to \$1,000,000 per occurrence.

Insurance companies have consistently recommend minimum limits of \$1,000,000 per occurrence. Similarly, Washington State Department of Social and Health Services contracted home care agencies are required to have insurance limits at \$1,000,000 per occurrence. Virtually all applicants and licensees over the past few years have voluntarily purchased business insurance at the \$1,000,000 per occurrence level in order to adequately cover the potential risks to their businesses. Requiring applicants and licensees to submit proof of business insurance with higher per occurrence limits will raise the minimum limits to an industry-recommended level and ensure agencies are adequately insured to cover anticipated risks.

**3. WAC 246-335-320(2) and WAC 246-335-325(3)
FTE worksheet**

Description of new rule:

The new rule requires applicants and licensees to complete, sign, and submit a full-time equivalent employee worksheet along with their initial or renewal licensing applications. Historically, applicants and licensees have contacted the department with questions about how to calculate and report their full-time equivalent (FTE) employees on initial and renewal applications. The department developed a simple worksheet that will assist applicants and licensees in accurately calculating their FTEs.

**4. WAC 246-335-325(4), WAC 246-335-425(6), 246-335-525(6), and 246-335-625(6)
Background checks**

Description of revised rule:

The revised rule requires home care, home health, and hospice agencies to request criminal history background checks and disclosure statements for their administrators, directors of clinical services and or supervisors of direct care services every two years and to submit these documents along with their renewal licensing applications. The rules also require agencies to request background checks and disclosure statements every two years for all employees who provide direct care to clients or patients. Home health and hospice agencies must process background checks through the [Washington State Patrol \(WSP\)](#). Private duty home care agencies must process initial hiring checks through [DSHS BCCU](#) and subsequent checks through WSP.

**5. WAC 246-335-330
Change of ownership**

Description of revised rule:

The revised rule adds language to clarify department expectations for what constitutes a “change of ownership.” A change of ownership includes any of the following:

- Transferring ownership, either whole or part, to a new owner;
- Dissolving a partnership or corporation;
- Merging with another entity taking on that entity’s identity;
- Consolidating with another entity, creating a new identity; or
- A change of the Unified Business Identifier Number and or Federal Employer Identification Number.

**6. WAC 246-335-420(1), 246-335-520(1), and 246-335-620(1)
48-hour notice before discharge**

Description of revised rules:

The revised rules require home care, home health, and hospice agencies to develop and operationalize policies and procedures that describe giving clients and patients at least a 48-hour written or verbal notice before discharging them from services. The rule also allows agencies to discharge sooner than 48 hours for a variety of legitimate reasons (e.g. worker safety, significant client noncompliance; failure to pay for services rendered).

**7. WAC 246-335-420(3), 246-335-520(3), and 246-335-620(3)
Starting services with seven days**

Description of new rules:

The new rules require home care, home health, and hospice agencies to develop and operationalize policies and procedures that describe the starting of client or patient services within seven calendar days. Certain exceptions can be documented, such as a client or patient requesting a longer time frame or challenges contacting the client, which would allow agencies additional time to start services.

**8. WAC 246-335-420(8), 246-335-520(11), and 214-335-620(12)
Back-up care**

Description of new rules:

The new rules require home care, home health, and hospice agencies to develop and operationalize policies and procedures that describe the delivery of back-up care to clients or patients when services cannot be provided as scheduled. The rule requires minimum credentialing of any agency employee (including supervisors and those in administration) who intends to provide back-up care to clients or patients who require

assistance with “activities of daily living” or health services as documented in the plan of care. Noncredentialed staff may provide back-up care only when assisting a client with “instrumental activities of daily living” or in emergency situations. ADLs and IADLs are defined in WAC 246-335-310(1) and (18) respectively.

**9. WAC 246-335-420(11), 246-335-520(13), and 246-335-620(14)
Physician order for life-sustaining treatment (POLST)**

Description of new rules:

The new rules require home care, home health, and hospice agencies to develop and operationalize policies and procedures that describe actions to be taken if a client or patient has a signed physician order for life-sustaining treatment (POLST) form. A POLST form helps individuals with advanced life-limiting illnesses communicate their treatment decisions by creating a portable medical order form. In the event of an emergency, the POLST form provides emergency medical personnel information that helps to determine what treatments they should provide to a patient.

**10. WAC 246-335-415(10), 246-335-515(10), and 246-335-615(10)
Emergency preparedness**

Description of revised rules:

The revised rules require home care, home health, and hospice agencies to expand their existing emergency preparedness policies and procedures to address the following:

- Risk assessment and emergency planning
- Communication plan
- Coordination of service delivery with emergency personnel to meet emergent needs of clients
- Staff training

**11. WAC 246-335-425(7), 246-335-525(7), and 246-335-625(7)
Character, competence, and suitability determinations**

Description of new rules:

The new rules require home care, home health, and hospice agencies to develop and operationalize policies and procedures that describe character, competence, and suitability determinations conducted for personnel, contractors, volunteers, and students whose background check results reveal non-disqualifying convictions, pending charges, or negative actions.

12. WAC 246-335-420(12)**Assisting clients with taking their vital signs****Description of new rule:**

The new rule requires home care agencies to develop and operationalize policies and procedures that describe assisting clients with taking their vital signs. Agencies can provide assistance with taking vital signs when the client is interested in monitoring their health status (for informational purposes only). If assistance with vital signs is requested by a health care practitioner and is needed to determine when to take or exclude prescribed medications or what dosage of medication to take, agencies must contract with a registered nurse to see if delegation is appropriate.

13. WAC 246-335-420(13)**Assistance with client passive range of motion exercises****Description of new rule:**

The new rule requires home care agencies to develop and operationalize policies and procedures that describe assistance with client passive range of motion exercises for maintenance purposes only, and must include copies of current exercise plans from a physical therapist, an occupational therapist, or a qualified registered nurse. Home care agencies are not permitted to assist with passive range of motion if needed for restorative purposes.

14. WAC 246-335-425(12), 246-335-525(15), and 246-335-625(14)**Infection control, communicable disease testing and vaccinations****Description of revised rules:**

The revised rules require home care, home health, and hospice agencies to expand their existing infection control practices, and communicable disease testing and vaccinations policies and procedures, related to the following:

- Standard precautions (e.g. hand hygiene, respiratory hygiene and cough etiquette, personal protective equipment).
- Availability of personal protective equipment.
- Tuberculosis (TB) infection control program, to include initial and annual risk assessments for employees and employee training.
- Actions to take when personnel, volunteers, contractors, or clients exhibit or report symptoms of a communicable disease in an infectious stage in accordance with chapters 246-100 WAC and 246-101 WAC;
- Exposure to blood-borne pathogens (e.g. Hepatitis B and HIV) and other potentially infectious materials in compliance with the Department of Labor and Industries chapter 296-823 WAC. This includes determining if employees have occupational exposure, and offering the Hepatitis B vaccination for those employees determined to be at high risk.

- Document an annual review of applicable state and federal health authority recommendations related to infection control practices, communicable disease testing, and vaccinations, and update trainings and policies and procedures as necessary.

15. WAC 246-335-435, 246-335-535, and 246-335-635
Bill of Rights

Description of revised rules:

The revised rules require home care, home health, and hospice agencies to list newly required policies and procedures (e.g. POLST; 48-hours discharge; back-up care) in their client / patient “bill of rights,” and to review those policies and procedures with clients and patients during the admissions process. The revised rules also adds a requirement to list the DSHS 866-END-HARM hotline number on the bill of rights.

16. WAC 246-335-440(4)
Inform supervisor about changes in the client's condition

Description of revised rule:

The revised rule requires home care agencies to develop and implement a system for caregiving staff to inform the supervisor of direct care services about changes in the client's condition and needs. Certain changes may trigger a need for the supervisor to meet with the client and update their plan of care.

17. WAC 246-335-445(3), 246-335-545(3), and 246-335-645(3)
10 hours of annual training for supervisors and directors

Description of new rules:

The new rules require home care, home health, and hospice agencies to ensure their supervisor of direct care services and director of clinical services complete a minimum of 10 hours of training annually related to supervision or the delivery of care services. The rule is written broadly to allow agencies to utilize a wide range of existing community events, activities, and educational opportunities their supervisors and directors already participate in and to count them towards the 10 hours of training.

18. WAC 246-335-525(10)
NARs becoming NACs within 12 months

Description of new rule:

The new rule requires home health agencies to develop and operationalize policies and procedures that describe personnel and contractors holding a nursing assistant registration (NAR) to become credentialed as a nursing assistant certified (NAC) within

12 months of the date of hire. The rule does not require certification for agency employees hired before March 1, 2018 who held a nursing assistant registration and have maintained their registration and employment with that agency.

19. WAC 246-335-440(3), 246-335-540(3), and 246-335-640(3)
Plan of care – new documentation

Description of new rules:

The new rules require home care, home health, and hospice agencies to indicate on the plan of care if a client or patient has a signed POLST form. The rules also require home health and hospice agencies to identify palliative care and telehealth services on the patient plan of care if those services are being offered.

20. WAC 246-335-440(6)
DSHS “CARE” assessment in lieu of plan of care

Description of new rules:

The new rules allow home care agencies that have a contract with the AAA to provide home care services to Medicaid eligible clients to use the DSHS CARE assessment details and service summary, or successor assessment tool, as the plan of care if it covers all items in WAC 246-335-440(3).

21. WAC 246-335-430(8), 246-335-530(10), and 246-335-630(9)
Food preparation and related training

Description of revised rules:

The revised rules require home care, home health, and hospice agencies to document that staff have been trained on safe food preparation. Proof of training can be a current food worker card per chapter 246-215 WAC or training equivalent to the United States Food and Drug Administration. For home care agencies, certified Home care aides have food safety as part of the credentialing training and therefore no additional training is required.

22. WAC 246-335-320(4)
Applicants have nine months to become licensed

Description of new rules:

The new rules require home care, home health, and hospice applicants to become licensed within nine months of the date of submitting their application. Applicants that fail to complete all steps required for licensure within nine months will have their applications closed and no refunds will be issued.