



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Social and Health Services, Aging and Disability Services Administration

- Preproposal Statement of Inquiry was filed as WSR 08-10-061; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4).

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

Title of rule and other identifying information: (Describe Subject) **Chapter 388-78A WAC (Boarding home licensing rules)**

Respite: The department is adding new sections to implement E2SHB 2668 (Chapter 146, Laws of 2008): WAC 388-78A-2202 (Respite—In general); WAC 388-78A-2204 (Respite—Respite information); WAC 388-78A-2206 (Respite—Respite assessment); WAC 388-78A-2208 (Respite—Respite service plan). WAC 388-78A-2600 (Policies and procedures) is being amended to implement E2SHB 2668.

Plan of correction (POC): The department is amending WAC 388-78A-2730 (Licensee's responsibilities) and WAC 388-78A-3150 (Statements of deficiency regarding plans of correction) to clarify POC requirements. A new section is being added to clarify POC requirements: WAC 388-78A-3152 (Plan of correction—Required).

Hearing location(s):

Blake Office Park East – Rose Room
4500 – 10th Ave. SE
Lacey, Washington 98503
(One block north of the intersection of Pacific Ave. SE and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling 360-664-6094)

Date: **September 23, 2008** Time: **10:00 a.m.**

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850, Olympia WA, 98504-5850
Delivery: 4500 – 10th Ave. SE, Lacey, Washington 98503
E-mail: DSHSRPAURulesCoordinator@dshs.wa.gov
Fax: (360) 664-6185

by 5 p.m. on September 23, 2008

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by September 16, 2008
TTY (360) 664-6178 or (360) 664-6094 or
by e-mail at johnsjl4@dshs.wa.gov

Date of intended adoption: Not earlier than September 24, 2008 (Note: This is **NOT** the **effective** date)

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

Respite

- To implement E2SHB 2668.
- To make rules consistent with statutory changes created by E2SHB 2668.
- To clarify respite requirements for boarding homes that decide to provide respite care.

Plans of Correction

- To clarify plan of correction requirements for boarding home providers and department staff.
- To enhance readability and usability of plan of correction rule language.
- To improve boarding home compliance with boarding home rules.

Reasons supporting proposal: See above.

Statutory authority for adoption:

RCW 18.20.090

Statute being implemented:

Chapter 18.20 RCW; RCW 18.20.350; RCW 74.41.040

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

DATE

August 1, 2008

NAME (type or print)

Stephanie Schiller

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 05, 2008

TIME: 3:50 PM

WSR 08-16-120

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

None.

Name of proponent: (person or organization) Department of Social and Health Services

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Todd Henry	P.O. Box 45600, Olympia, WA 98513	(360) 725-2580
Implementation.... Lori Melchiori	P.O. Box 45600, Olympia, WA 98513	(360) 725-2404
Enforcement..... Lori Melchiori	P.O. Box 45600, Olympia, WA 98513	(360) 725-2404

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

The department determined that the amendments were no more than "minor costs" as defined in RCW 19.85.030.

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: Todd Henry, Boarding Home Program

Address: P.O. Box 45600, Olympia, WA 98504-5600

phone (360) 725-2580

fax (360) 438-7903

e-mail henryte@dshs.wa.gov

No: Please explain:

Respite

NEW SECTION

WAC 388-78A-2202 Respite--General. A boarding home:

- (1) May provide short term respite care;
- (2) Must limit the length of stay for an individual on respite to thirty days or less; and
- (3) Must not use respite as a placement pending the resident's admission to the boarding home.

NEW SECTION

WAC 388-78A-2204 Respite--Information. When a boarding home provides respite care, before or at the time of admission, the boarding home must obtain sufficient information about the individual to meet the individual's anticipated needs. That information must include at a minimum:

- (1) The resident's legal name;
- (2) The name, phone number and address of the resident's representative, if applicable;
- (3) The name and address of the adult family home, boarding home, or other location where the resident normally lives, with the name of a contact person and the contact person's phone number;
- (4) The name, address, and telephone number of the resident's attending physician, and alternate physician if any;
- (5) Medical and social history, which may be obtained from a respite care assessment and respite service plan performed by a case manager designated by an area agency on aging under contract with the department, and mental and physical assessment data; and
- (6) Physician's orders for diet, medication, and routine care consistent with the resident's status on admission.

NEW SECTION

WAC 388-78A-2206 Respite--Assessment. The boarding home must ensure that any individual on respite has assessments performed, where needed, and if the assessment of the individual shows symptoms of:

- (1) Tuberculosis, follow required tuberculosis testing requirements; and
- (2) Other infectious conditions or diseases, follow the appropriate infection control processes.

NEW SECTION

WAC 388-78A-2208 Respite--Negotiated service agreement. With the participation of the individual, and where appropriate their representative, the boarding home must develop a negotiated service agreement, to maintain or improve the individual's health and functional status during their stay in the boarding home.

AMENDATORY SECTION (Amending WSR 08-05-099, filed 2/15/08, effective 3/17/08)

WAC 388-78A-2600 Policies and procedures. (1) The boarding home must develop and implement policies and procedures in support of services that are provided and are necessary to:

(a) Maintain or enhance the quality of life for residents including resident decision-making rights;

(b) Provide the necessary care and services for residents, including those with special needs;

(c) Safely operate the boarding home; and

(d) Operate in compliance with state and federal law, including, but not limited to, chapters 7.70, 11.88, 11.92, 11.94, 69.41, 70.122, 70.129, and 74.34 RCW, and any rules promulgated under these statutes.

(2) The boarding home must develop, implement and train staff persons on policies and procedures to address what staff persons must do:

(a) Related to suspected abandonment, abuse, neglect, exploitation, or financial exploitation of any resident;

(b) When there is reason to believe a resident is not capable of making necessary decisions and no substitute decision maker is available;

(c) When a substitute decision maker is no longer appropriate;

(d) When a resident stops breathing or a resident's heart appears to stop beating, including, but not limited to, any action staff persons must take related to advance directives and emergency care;

(e) When a resident does not have a personal physician or health care provider;

(f) In response to medical emergencies;

(g) When there are urgent situations in the boarding home requiring additional staff support;

(h) In the event of an internal or external disaster, consistent with WAC 388-78A-2700;

- (i) To supervise and monitor residents, including accounting for residents who leave the premises;
 - (j) To appropriately respond to aggressive or assaultive residents, including, but not limited to:
 - (i) Actions to take if a resident becomes violent;
 - (ii) Actions to take to protect other residents; and
 - (iii) When and how to seek outside intervention.
 - (k) To prevent and limit the spread of infections consistent with WAC 388-78A-2610;
 - (l) To manage residents' medications, consistent with WAC 388-78A-2210 through 388-78A-2290; sending medications with a resident when the resident leaves the premises;
 - (m) When services related to medications and treatments are provided under the delegation of a registered nurse consistent with chapter 246-840 WAC;
 - (n) Related to food services consistent with chapter 246-215 WAC and WAC 388-78A-2300;
 - (o) Regarding the safe operation of any boarding home vehicles used to transport residents, and the qualifications of the drivers;
 - (p) To coordinate services and share resident information with outside resources, consistent with WAC 388-78A-2350;
 - (q) Regarding the management of pets in the boarding home, if permitted, consistent with WAC 388-78A-2620; ~~((and))~~
 - (r) When receiving and responding to resident grievances consistent with RCW 70.129.060; and
 - (s) Related to providing respite care services consistent with RCW 18.20.350, if respite care is offered.
- (3) The boarding home must make the policies and procedures specified in subsection (2) of this section available to staff persons at all times and must inform residents and residents' representatives of their availability and make them available upon request.

AMENDATORY SECTION (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

- WAC 388-78A-2730 Licensee's responsibilities.** (1) The boarding home licensee is responsible for:
- (a) The operation of the boarding home;
 - (b) Complying at all times with the requirements of this chapter, chapter 18.20 RCW, and other applicable laws and rules; and
 - (c) The care and services provided to the boarding home residents.
- (2) The licensee must:
- (a) Maintain the occupancy level at or below the licensed resident bed capacity of the boarding home;
 - (b) Maintain and post in a size and format that is easily read, in a conspicuous place on the boarding home premises:
 - (i) A current boarding home license, including any related conditions on the license;
 - (ii) The name, address and telephone number of:

- (A) The department;
- (B) Appropriate resident advocacy groups; and
- (C) The state and local long-term care ombudsman with a brief description of ombudsman services.

(iii) A copy of the report, including the cover letter, and plan of correction of the most recent full inspection conducted by the department.

(c) Ensure any party responsible for holding or managing residents' personal funds is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident funds; and provides proof of bond or insurance to the department.

(3) The licensee must not delegate to any person responsibilities that are so extensive that the licensee is relieved of responsibility for the daily operations and provisions of services in the boarding home.

(4) The licensee must act in accord with any department-approved management agreement, if the licensee has entered into a management agreement.

(5) The licensee must appoint the boarding home administrator consistent with WAC 388-78A-2520.

AMENDATORY SECTION (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

WAC 388-78A-3150 Statements of deficiencies (~~and plans of correction~~). ~~((1))~~ The department must give the administrator or the administrator's designee a written ~~(statement of deficiencies)~~ report specifying any violations of chapters 18.20, ~~((or))~~ 70.129, or 74.34 RCW ~~((or))~~, this chapter, or any other applicable laws or rules that the department found during ~~((on-site))~~ any inspection~~((s))~~ and complaint investigation~~((s))~~.

~~((2))~~ The licensee must respond to a statement of deficiencies by submitting to the department within a time acceptable to the department, a signed written plan of correction for each deficiency stated in the report. The licensee must include in the plan of correction, for each cited deficiency:

~~(a) A specific plan of what will be or was done to correct the problem;~~

~~(b) A description of what will be done to prevent future problems of this type;~~

~~(c) Who will be responsible for monitoring the corrections to ensure the problems do not recur; and~~

~~(d) The date by which lasting correction will be achieved.)~~

NEW SECTION

WAC 388-78A-3152 Plan of correction--Required. (1) The boarding home is required to be in compliance with all of the

licensing laws and regulations at all times.

(2) When the department finds the boarding home out of compliance:

(a) The department will send the home an inspection report which includes an attestation statement after each cited deficiency stating:

(i) That all of the deficiencies are or will be corrected; and

(ii) The home will stay in compliance with the licensing requirements.

(b) The home must:

(i) Develop a plan on how the home will correct each deficiency and maintain correction;

(ii) Correct each cited deficiency;

(iii) Provide a date on the attestation statement, acceptable with the department, by which cited deficiency has been or will be corrected;

(iv) Sign and date each attestation statement certifying that the home has or will correct each deficiency; and

(v) Return the inspection report to the department within ten days of receiving the report from the department.