



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 & Disability Services Administration

- Preproposal Statement of Inquiry was filed as WSR 08-21-076; 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)
See attachment to CR102 .

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://www.dshs.wa.gov/msa/rpau/docket.html> or by calling 360-664-6094)
 Date: **January 27, 2009** Time: **10:00 am**

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 5:00 pm on January 27, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by January 13, 2009 TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov

Date of intended adoption: Not earlier than January 28, 2009
 (Note: This is **NOT** the **effective** date)

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

- Change of Ownership (CHOW):
- To promote resident well-being;
 - To reduce unnecessary resident anxiety; and
 - To reduce unnecessary boarding home staff turnover/staffing challenges.

Reasons supporting proposal:
 See above.

Statutory authority for adoption: Chapter 18.20 RCW; Chapter 74.34 RCW

Statute being implemented: Chapter 18.20 RCW; Chapter 74.34 RCW

- 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
December 19, 2009

NAME (type or print)
Stephanie Schiller

SIGNATURE
Stephanie E Schiller

TITLE
DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 23, 2008
TIME: 2:15 PM

WSR 09-01-176

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 Erik Henry	P.O. Box 45600, Olympia, WA 98513	(360) 725-2580
Implementation.... Lori Melchiori	P.O. Box 45600, Olympia, WA 98513	(360) 725-2580
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. 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.

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:

Attachment to CR-102

Title of rule and other identifying information

Change of ownership (CHOW)

Amend the following sections from the boarding home licensing chapter regarding CHOW:

WAC 388-78A-2770 (Change in licensee)

WAC 388-78A-2780 (Requirements to change boarding home licensee)

Add the following sections to the boarding home licensing chapter regarding CHOW:

WAC 388-78A-2773 (Change in licensee/change of ownership--When change in licensee not required)

WAC 388-78A-2775 (Change in licensee/change of ownership—Application) WAC 388-78A-2777 (Change in licensee/change of ownership--Revised application)

WAC 388-78A-2783 (Change in licensee/change of ownership—Relinquishment of license)

WAC 388-78A-2785 (Change in licensee/change of ownership—Ninety days notice)

WAC 388-78A-2787 (Change in licensee/change of ownership – Sixty days notice)

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

WAC 388-78A-2770 Change in licensee/change of ownership--When change in licensee is required. ~~((+1+))~~ The licensee of a boarding home must change whenever the following events occur, including, but not limited to:

~~((+a+))~~ (1) The licensee's form of legal organization is changed (e.g., a sole proprietor forms a partnership or corporation);

~~((+b+))~~ (2) The licensee transfers ownership of the boarding home business enterprise to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the boarding home is also transferred;

~~((+c+))~~ (3) The licensee dissolves, or consolidates or merges with another legal organization and the licensee's legal organization does not survive;

~~((+d+))~~ (4) If, during any continuous twenty-four-month period, fifty percent or more of the "licensed entity" is transferred, whether by a single transaction or multiple transactions, to:

~~((+i+))~~ (a) A different person (e.g., new or former shareholders or partners); or

~~((+ii+))~~ (b) A person that had less than a five percent ownership interest in the boarding home at the time of the first transaction.

~~((+e+))~~ (5) Any other event or combination of events that results in a substitution, elimination, or withdrawal of the licensee's control of the boarding home. As used in this section, "control" means the possession, directly or indirectly, of the power to direct the management, operation and/or policies of the licensee or boarding home, whether through ownership, voting control, by agreement, by contract or otherwise.

~~((+2+))~~ The licensee is not required to change when the following, without more, occur:

~~(a) The licensee contracts with a party to manage the boarding home enterprise for the licensee pursuant to an agreement as specified in WAC 388-78A-2590; or~~

~~(b) The real property or personal property assets of the boarding home are sold or leased, or a lease of the real property or personal property assets is terminated, as long as there is not a substitution or substitution of control of the licensee or boarding home.)~~

NEW SECTION

WAC 388-78A-2773 Change in licensee/change of ownership--When

change in licensee not required. The licensee is not required to change when only the following, without more, occur:

(1) The licensee contracts with a party to manage the boarding home enterprise for the licensee pursuant to an agreement as specified in WAC 388-78A-2590; or

(2) The real property or personal property assets of the boarding home are sold or leased, or a lease of the real property or personal property assets is terminated, as long as there is not a substitution or substitution of control of the licensee or boarding home.

NEW SECTION

WAC 388-78A-2775 Change in licensee/change of ownership--Application. (1) The prospective licensee must complete, sign and submit to the department a change of ownership application prior to the proposed date of change in licensee.

(2) The annual boarding home license fee, if a license fee is due, must accompany the change in ownership application.

(3) The prospective licensee must submit the following information that must be submitted along with the change of ownership application:

(a) Evidence of control of the real estate on which the boarding home is located, such as a purchase and sales agreement, lease contract, or other appropriate document; and

(b) Any other information requested by the department.

(4) The prospective licensee must submit the completed application to the department within the applicable timeframes of WAC 388-78A-2785 or 388-78A-2787.

NEW SECTION

WAC 388-78A-2777 Change in licensee/change of ownership--Revised application. The prospective licensee must submit a revised application to the department if:

(1) Any information included on the original application is no longer accurate; or

(2) Requested by the department.

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

WAC 388-78A-2780 ((Requirements to change boarding home licensee)) Change in licensee/change of ownership--Notice to

department and residents. (1) In order to change the licensee of a boarding home, the current licensee must notify the ((department and all residents)) following in writing of the proposed change in licensee ((at least ninety days prior to the proposed date of change, including)):

(a) The department; and

(b) All residents, or resident representatives (if any).

(2) The licensee must include the following information in the written notice:

(a) Name of the present licensee and prospective licensee;

(b) Name and address of the boarding home for which the licensee is being changed;

(c) Date of proposed change; and

(d) If the boarding home contracts with the department or other public agencies that may make payments for residential care on behalf of residents, the anticipated effect, such as discharge from the boarding home, the change of licensee will have on residents whose care and services are supported through these contracts.

~~((2) The prospective licensee must, at least ninety days prior to the proposed date of change:~~

~~(a) Sign the application;~~

~~(b) Submit the annual license fee, if a license fee is due;~~

~~(c) Submit evidence of control of the real estate on which the boarding home is located, such as a purchase and sales agreement, lease contract, or other appropriate document;~~

~~(d) Submit a revised application if any information included on the original application is no longer accurate; and~~

~~(e) Complete and submit a revised application if requested by the department.)~~

~~((3) Send a letter to the department stating the licensee's intent to relinquish the boarding home license on the effective date of change in licensee.)~~

NEW SECTION

WAC 388-78A-2783 Change in licensee/change of ownership--Relinquishment of license. (1) On the effective date of the change in licensee, the current boarding home licensee is required to relinquish their boarding home license.

(2) To relinquish a license, the licensee must mail the department the boarding home license along with a letter, addressed to the department, stating licensee's intent to relinquish the boarding home license to the department.

NEW SECTION

WAC 388-78A-2785 Change in licensee/change of

ownership--Ninety days notice. The current boarding home licensee must provide written notice to the department and residents, or resident representatives (if any), ninety calendar days prior to the date of the change of licensee, if the proposed change of boarding home licensee is anticipated to result in the discharge or transfer of any resident.

NEW SECTION

WAC 388-78A-2787 Change in licensee/change of ownership--Sixty days notice. The current boarding home licensee must provide written notice to the department and residents, or resident representatives (if any), at least sixty calendar days prior to the date of the change of licensee, if the proposed change of boarding home licensee is not anticipated to result in the discharge or transfer of any resident.