



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 08-16-104 ; 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)

The department is amending WAC 388-110-140- Assisted living services facility structural requirements.

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: **August 4, 2009** 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. August 4, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by July 21, 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 August 5, 2009

(Note: This is **NOT** the effective date)

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

The department is proposing amendments to this section to:

- Include kitchen sink requirements for assisted living resident units in boarding homes;
- Clarify rule language; and
- Delete unnecessary or redundant language.

Reasons supporting proposal:

- Rectify an inadvertent omission of a physical requirement that occurred during a previous rulemaking;
- Provide clarity to architects, building contractors, boarding home administrators, and Department of Health Construction Review staff, and department staff regarding assisted living facility physical requirements;
- Clarify the type of sink that is required in the kitchen area of a resident unit; and
- Make rules more user-friendly/easier to understand.

Statutory authority for adoption:

RCW 74.39A.010; RCW 18.20.090

Statute being implemented:

Chapter 74.39A RCW; Chapter 18.20 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

June 17, 2009

NAME

Stephanie Schiller

SIGNATURE

TITLE DSHS Rules Coordinator

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: June 29, 2009

TIME: 3:00 PM

WSR 09-14-077

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.....Judy Johnson.	P.O. Box 45600, Olympia, WA 98513	(360) 725-2591
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. 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 costs only apply to new boarding home construction. 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: Judy Johnson, Boarding Home Program

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

phone (360) 725-2591

fax (360) 438-7903

e-mail johnsjm1@dshs.wa.gov

No: Please explain:

AMENDATORY SECTION (Amending WSR 04-16-063 and 04-18-001, filed 7/30/04 and 8/19/04, effective 9/19/04)

WAC 388-110-140 Assisted living services facility
~~((structural))~~ physical requirements. (1) ~~((In a boarding home with an assisted living services contract,))~~ Licensed boarding homes with an assisted living services contract are required to:

(a) Meet the physical requirements that were in effect at the time of initial contracting; or

(b) If there is a break in contract, meet the requirements in effect at the time of the new contract.

(2) The contractor must ensure each resident has a private apartment-like unit ((meeting the requirements of a type 'B' dwelling unit as defined by the International Code Council A117.1 as adopted by the Washington State Building Code Council. Except as provided in subsection (3) of this section,)). Each unit must have at least the following:

(a) A minimum area of ((one hundred eighty square feet in an existing boarding home, and)) two hundred twenty square feet ((in a new boarding home)). The minimum area may include counters, closets and built-ins, but must exclude the bathroom;

(b) A ((separate)) private bathroom((, which includes)). The private bathroom must be equipped with a sink, a toilet, and a shower or bathtub. ~~((In a new boarding home, the contractor must provide a minimum of))~~ At least one wheelchair accessible bathroom with a roll-in shower that is at least forty-eight inches by thirty inches must be provided for every two residents whose care is partially or fully funded ((by the department)) through the assisted living contract;

(c) A lockable entry door;

(d) A kitchen area. The kitchen area must be equipped with:

(i) A refrigerator((,));

(ii) A microwave oven, range or ((stovetop, and a counter or table for food preparation. In a new boarding home, the kitchen area must also be equipped with)) cooktop;

(iii) A counter mounted kitchen sink, with inside dimensions of at least twenty-one inches by fifteen inches, and a minimum depth of seven inches;

(iv) A storage space for utensils and supplies((,)); and

(v) A work counter surface, with a minimum usable surface area of thirty inches ((wide)) in length by twenty-four inches ((in depth)) deep, a maximum height of thirty-four inches, ((and a)) and having a clear knee space beneath at least twenty-seven inches in height and thirty inches in length; and

(e) A living area wired for telephone and, where available in the geographic location, wired for television service.

~~((2)) (a) For purposes of this section, a new boarding home is:~~

~~(i) A new building to be used as a boarding home or part of a boarding home, for which plans are submitted to the department of health for construction review on or after June 8, 1996; or~~

~~(ii) An addition, modification, or alteration to an existing~~

~~licensed boarding home, for which plans are submitted to the department of health for construction review on or after June 8, 1996.~~

~~(A) The department may, in consultation with the office of construction review services in the department of health, exempt from selected new boarding home contract construction requirements, a limited addition, modification, or alteration to an existing licensed boarding home that will improve the quality of life for residents, if compliance with all new boarding home contract construction requirements would otherwise make the limited addition, modification, or alteration cost prohibitive. A limited addition, modification, or alteration means any physical change to an existing licensed boarding home that does not affect the structural integrity of the building, does not affect fire and life safety, and does not increase the boarding home's maximum facility capacity as defined in WAC 388-78A-2020.~~

~~(B) A major addition, modification, or alteration to an existing licensed boarding home must meet new boarding home contract construction requirements for applicable portions of the building. A major addition, modification, or alteration means any physical change within a room or area in an existing licensed boarding home that results in reconstruction to structural or other building systems .))~~

~~((b) All boarding homes that are not new boarding homes under subsection (2)(a) of this section, are existing boarding homes. An existing building, or portion thereof, that is converted to boarding home use must be considered an existing boarding home unless there is an addition, modification or alteration to the existing building.~~

~~(3) If a boarding home submitted plans to the department of health for construction review on or after June 8, 1996, and the boarding home had an assisted living contract as of September 1, 2004, then the boarding home is "grandfathered" under the contracting rules for structural requirements that were in effect at the time of contracting and is considered to meet the assisted living structural requirements of subsection (1) of this section. However, if the same boarding home submits plans to the department of health for construction review for an addition, modification or alteration of the boarding home after September 1, 2004, then the boarding home must meet the current new boarding home requirements of subsection (1) for the applicable portions of the building.))~~

~~((4)) (3) Married couples may share an apartment-like unit under an assisted living contract if:~~

~~(a) Both residents understand they are each entitled to live in a separate private unit; and~~

~~(b) Both residents mutually request to share a single apartment-like unit.~~

~~((5)) (4) ((In a new boarding home,)) The contractor must provide a private accessible mailbox ((in which the resident may receive mail)) for each resident whose care is partially or fully funded through the assisted living contract.~~

~~((6)) (5) The contractor must provide homelike smoke-free common areas with sufficient space for socialization designed to meet resident needs. Common areas must be available for resident use at any time provided such use does not disturb the health or safety of other residents. The contractor must make access to~~

outdoor areas available to all residents.

~~((7))~~ (6) The contractor must provide a space for residents to meet with family and friends outside the resident's living unit.

~~((8))~~ (7) The department may grant an exemption to the requirements of this section ~~((as they apply to a specified resident when it is in the best interest of the specific resident))~~ in accordance with WAC 388-78A-2820.