



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

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

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) See "Attachment 1" (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Respite: Adopt rules to implement Engrossed Second Substitute House Bill 2668 (Chapter 146, Laws of 2008). Adopt new WAC sections: 388-78A-2202 (Respite—General); 388-78A-2204 (Respite - Information); 388-78A-2206 (Respite - Assessment); 388-78A-2208 (Respite - Negotiated service agreement). Adopt amendments to WAC sections: 388-78A-2600 (Policies and procedures). **Plans of correction (POC):** Clarify, streamline and improve usability of plan of correction requirements. Adopt amendments to WAC sections: 388-78A-2730 (Licensee's responsibilities) and 388-78A-3150 (Statements of deficiency). Adopt new WAC section: WAC 388-78A-3152 (Plan of correction - Required).

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-78A-2600; WAC 388-78A-2730; WAC 388-78A-3150
 Suspended: None

Statutory authority for adoption: RCW 18.20.090; E2SHB 2668 (Chapter 146, Laws of 2008)

Other authority: Chapter 18.20 RCW

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as **WSR 08-16-120 on August 5, 2008.**

Describe any changes other than editing from proposed to adopted version: See "Attachment 2".

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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 98504-5600 e-mail: henryte@dshs.wa.gov

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted:

December 15, 2008

NAME (TYPE OR PRINT)

Robin Arnold-Williams

SIGNATURE

Robin Arnold-Williams

TITLE

Secretary, Department of Social and Health Services

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

DEC 15 2008

TIME

MSR

AM

PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>4</u>	Amended	<u>1</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	<u>2</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>5</u>	Amended	<u>3</u>	Repealed	<u>0</u>

ATTACHMENT 1
Rule Making Order CR-103
Chapter 388-78A Boarding Homes

Requested Effective Dates:

31 days for WACs 388-78A-2202; 388-78A-2204; 388-78A-2206; 388-78A-2208; 388-78A-2600; and 388-78A-2730.

5/1/09 for WACs 388-78A-3150; and 388-78A-3152

ATTACHMENT 2
Rule Making Order CR-103
Chapter 388-78A Boarding Homes

Describe any changes other than editing from proposed to adopted version:

WAC 388-78A-3150 Statements of deficiencies and ~~plans of correction.~~ (1) The department ~~must~~ will 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 inspections ~~and or~~ complaint investigations.

~~(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.)~~

WAC 388-78A-3152 Plan of correction--Required. (1) The boarding home must comply with all applicable licensing laws and regulations at all times.

(2) When the department finds the boarding home out of compliance with any licensing law or regulation the department will send the home an inspection report with an attestation of correction statement for each cited deficiency.

(3) The boarding home must complete an attestation of correction for any inspection report as the department requires.

(4) For purposes of this section an "attestation of correction statement" means a statement developed by the department and signed and dated by the home, that the home:

- (a) Has or will correct each cited deficiency; and
 - (b) Will maintain correction of each cited deficiency.
- (5) The home must be able to show to the department, upon request, that, for each deficiency cited, the home has:
- (a) A plan of correction and maintaining correction;
 - (b) Corrected or is correcting each deficiency; and
 - (c) Maintained or is maintaining compliance.
- (6) On each attestation of correction statement, the home must:
- (a) Give a date, approved by the department, showing when the cited deficiency has been or will be corrected; and
 - (b) By signature and date showing that the home has or will correct, and maintain correction, of each deficiency.

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 calendar 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))~~ will 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))~~ or 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 must comply with all applicable licensing laws and regulations at all times.

(2) When the department finds the boarding home out of compliance with any licensing law or regulation the department will send the home an inspection report with an attestation of correction statement for each cited deficiency.

(3) The boarding home must complete an attestation of correction for any inspection report as the department requires.

(4) For purposes of this section an "attestation of correction statement" means a statement developed by the department and signed and dated by the home, that the home:

- (a) Has or will correct each cited deficiency; and
- (b) Will maintain correction of each cited deficiency.

(5) The home must be able to show to the department, upon request, that, for each deficiency cited, the home has:

- (a) A plan of correction and maintaining correction;
- (b) Corrected or is correcting each deficiency; and
- (c) Maintained or is maintaining compliance.

(6) On each attestation of correction statement, the home must:

- (a) Give a date, approved by the department, showing when the cited deficiency has been or will be corrected; and
- (b) By signature and date showing that the home has or will correct, and maintain correction, of each deficiency.

(7) The home must return the inspection report, with completed attestation of correction statements, to the department within ten calendar days of receiving the report.