



# RULE-MAKING ORDER

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

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

- Permanent Rule  
 Emergency Rule

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.  
 Other (specify) \_\_\_\_\_ (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:** The department is adopting amendments to WAC 388-78A-2770 (Change in licensee) and WAC 388-78A-2780 (Requirements to change boarding home license) and new sections regarding change of licensee/ownership: WAC 388-78A-2773 (When change in licensee not required); WAC 388-78A-2775 (Application); WAC 388-78A-2777(Revised application); WAC 388-78A-2783 (Relinquishment of license); WAC 388-78A-2785 (Ninety days notice) and WAC 388-78A-2787 (Sixty days notice).

**Citation of existing rules affected by this order:**

Repealed: None  
 Amended: WAC 388-78A-2770 and 388-78A-2780  
 Suspended: None

**Statutory authority for adoption:** Chapter 18.20 RCW

**Other authority:** N/A

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 09-01-176 on December 23, 2008.  
 Describe any changes other than editing from proposed to adopted version: None.

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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**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:**

February 27, 2009

**NAME (TYPE OR PRINT)**

Stan Marshburn

**SIGNATURE**

**TITLE**

Interim Secretary, Department of Social and Health Services

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

DATE: March 02, 2009  
 TIME: 7:27 AM

**WSR 09-06-063**

**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:**

|   |     |          |         |          |          |          |
|---|-----|----------|---------|----------|----------|----------|
| <b>Federal statute:</b>                 | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| <b>Federal rules or standards:</b>      | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| <b>Recently enacted state statutes:</b> | New | <u>0</u> | Amended | <u>0</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> |
|-----|----------|---------|----------|----------|----------|

**The number of sections adopted in the agency's own initiative:**

|     |          |         |          |          |          |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |          |         |          |          |          |
|-----|----------|---------|----------|----------|----------|
| New | <u>2</u> | Amended | <u>6</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

**The number of sections adopted using:**

|                                       |     |          |         |          |          |          |
|---------------------------------------|-----|----------|---------|----------|----------|----------|
| <b>Negotiated rule making:</b>        | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| <b>Pilot rule making:</b>             | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| <b>Other alternative rule making:</b> | New | <u>2</u> | Amended | <u>6</u> | Repealed | <u>0</u> |

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.