

Aging and Long-Term Support Administration
December 11, 2019

TO: Interested Persons

FROM: Jeanette K. Childress

SUBJECT: **CONCISE EXPLANATORY STATEMENT** (*per RCW 34.05.325*)
For Significant Legislative Rules

Proposed as WSR 19-14-100

SUBJECT MATTER AND WAC NO.: Physical plant requirements for Assisted living facility licensing rules under WAC 388-78A.

REASON FOR ADOPTION (Include information on what the rule will do, who is affected or must comply, and what is the impact of the rule on those affected):

These rules have not been updated in fourteen years. DSHS developed the rules to clarify language that was unclear, ambiguous, and inaccurate. The rules needed to be coordinated with the national building code standards for assisted living facilities which are updated every three years. The Department of Health (DOH), Construction Review Services division collaborated with DSHS to review and develop requirements for the physical environment described in chapter 388-78A WAC Assisted Living Facility Licensing Rules.

These rules needed updating to meet the national building code standards for licensed healthcare facilities of this type. With a moratorium on rule development, DSHS has not been able to keep the rules up to date in concert with the changes in building codes, energy efficiency standards, and the structural enhancements associated with this facility type across the nation. The regulatory amendments encompass the technological advances in building design, and the healthcare industry. This has a positive impact on the developers, architects, facility owners, and residents in new and currently licensed facilities to meet licensing requirements and building code requirements with updated safety standards. The rules have not been updated in ten or more years and are unclear, ambiguous, and inaccurate. The building code is updated every three years.

DESCRIPTION OF HOW THE RULE IMPLEMENTS A LEGISLATIVE DIRECTIVE OR INTENT:

This chapter is written to implement chapter 18.20 RCW, to promote the safety and well-being of assisted living facility residents, to specify standards for assisted living facility operators, and to further establish requirements for the operation of assisted living facilities.

STATUTES AUTHORIZING THE ADOPTION OF RULES ON THIS SUBJECT:

Chapter 18.20 RCW, Chapter 74.39A RCW

DESCRIPTION OF THE PROCESS TO INVOLVE PUBLIC STAKEHOLDERS IN THIS RULE'S DEVELOPMENT:

An advisory committee was established to provide advisory opinion to transform policy decisions into action, build rules through collaboration and voting, give the community a forum for participating in rule development, and to provide a fair and transparent rule development process with a balance of expertise included in the decisions. The advisory committee consisted of representatives impacted by these ALF rules including representation of both for-profit and non-profit partners for each of the following: developers, architects, associations, facility administrators, and privately owned facilities. As well as representation from the Ombuds Office and the Department of Health, Construction Review Services. The Department posted provider letters online to inform providers and stakeholders about the filing of the CR-102 and proposed amendments, including information about the hearing and ability to provide written comments. A public hearing was held on August 27, 2019.

CHANGES MADE SINCE THE RULE WAS PROPOSED: (check one)

- The rule text being adopted and Cost-Benefit Analysis do not differ from proposal.
- The rule text being adopted and/or Cost-Benefit Analysis contain only editorial changes from the proposal.
- The text of the adopted rule and/or Cost-Benefit Analysis vary from the proposal. The changes, other than editing changes, follow:

The changes were made because:

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
Concerns have been expressed in regards to the alternative area for outdoor space 'on each floor' that serves residents with dementia in secured units.	<p>The Department currently requires an outdoor space 'on each floor' of a secure unit that serves memory care residents. Research supports the therapeutic need for residents to have access to such a space. The request from stakeholders was to remove the required outdoor space on each floor which is readily accessible to the resident without staff assistance.</p> <p>With the increased development of multilevel facilities in urban areas with restricted construction</p>

	for outdoor space ‘on each floor’, the Department compromised on the outdoor requirement for an alternative referenced as a ‘dedicated viewing area’ that is not obstructed by other uses, equipment or furniture. The ‘dedicated viewing area’ is essentially for unobstructed window space. A hallway cannot be utilized for a ‘dedicated viewing area’ due to building code and fire standards. Currently other designated spaces for purposes such as dining areas, activities, and a healthcare services are utilized for multiple purposes. Adding another use to the same space would overutilize the same space and therefore diminish the viability of the space being accessible for and used as a ‘dedicated viewing area’.
References in section 2381 to subsections are unclear	Minor edits to section WAC 388-78A-2381 to clarify references to subsections
Spelling error	Correction of misspelled word in section WAC 388-78A-2851 from ‘healing’ to ‘heating’
Grammar error	Correction of grammar to section WAC 388-78A-2930
Correction to reference	Correction of reference in WAC 388-78A-2371(4) ‘rules’ to ‘laws’.
Removal of word	Correction of grammar to section WAC 388-78A-2852(e) ‘satisfaction’

cc: DSHS Rules Coordinator