



PROPOSED RULE MAKING

CR-102 (October 2017) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: November 07, 2017

TIME: 11:37 AM

WSR 17-23-030

Agency: Department of Social and Health Services, Aging and Long-Term Support Administration

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR**

- Preproposal Statement of Inquiry was filed as WSR 17-07-119 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) The department is proposing to amend the following sections in chapter 388-76 WAC "Adult Family Home Minimum Licensing Requirements": WAC 388-76-10510 "Resident rights--Basic rights", WAC 388-76-10515 "Resident rights--Exercise of rights", WAC 388-76-10522 "Resident rights--Notice--Policy on accepting Medicaid as a payment source", WAC 388-76-10525 "Resident rights--Description", WAC 388-76-10530 "Resident rights--Notice of services", WAC 388-76-10532 "Resident rights--Standardized disclosure of services form", WAC 388-76-10540 "Resident rights--Disclosure of fees and charges--Notice requirements--Deposits", WAC 388-76-10545 "Resident rights--Admitting and keeping residents", WAC 388-76-10560 "Resident rights--Adult family home management of resident financial affairs", WAC 388-76-10561 "Resident rights--Resident security deposit account", WAC 388-76-10585 "Resident rights--Examination of inspection results", WAC 388-76-10595 "Resident rights--Advocacy access and visitation rights", WAC 388-76-10600 "Resident rights--Mail and telephone privacy", WAC 388-76-10615 "Resident rights--Transfer and discharge", WAC 388-76-10685 "Bedrooms", WAC 388-76-10700 "Building official--Inspection and approval", WAC 388-76-10720 "Electronic monitoring equipment--Audio monitoring and video monitoring", WAC 388-76-10750 "Safety and maintenance", WAC 388-76-10765 "Storage", WAC 388-76-10770 "Telephones", WAC 388-76-10784 "Water hazards--Fences, gates, and alarms", WAC 388-76-10795 "Windows", WAC 388-76-10800 "Adult family home located outside of public fire protection", WAC 388-76-10805 "Automatic smoke detectors", WAC 388-76-10810 "Fire extinguishers", WAC 388-76-10830 "Emergency and disaster plan--Required", WAC 388-76-10840 "Emergency food supply", WAC 388-76-10850 "Emergency medical supplies", WAC 388-76-10870 "Resident evacuation capability levels--Identification required", WAC 388-76-10885 "Elements of emergency evacuation floor plan", WAC 388-76-10890 "Posting the emergency evacuation floor plan--required", WAC 388-76-10895 "Emergency evacuation drills--Frequency and participation", WAC 388-76-10900 "Documentation of emergency evacuation drills--Required", and WAC 388-76-10905 "Emergency evacuation-Notification of department required".

The department is also proposing to create a new section, WAC 388-76-10616 "Resident rights-Transfer and discharge notice" and to repeal the following existing sections: WAC 388-76-10520 "Resident rights--General notice", WAC 388-76-10555 "Resident rights--Financial affairs", WAC 388-76-10565 "Resident rights--Adult family home system for management of resident financial affairs", and WAC 388-76-10835 "Elements of an emergency and disaster plan".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 26, 2017	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than December 27, 2017 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: DSHS Rules Coordinator
 Address: PO Box 45850
 Olympia, WA 98504
 Email: DSHSRPAURulesCoordinator@dshs.wa.gov
 Fax: 360-664-6185
 Other:

By (date) 5:00 p.m. on December 26, 2017

Assistance for persons with disabilities:

Contact Jeff Kildahl, DSHS Rules Consultant

Phone: 360-664-6092

Fax: 360-664-6185

TTY: 711 Relay Service

Email: KildaJA@dshs.wa.gov

Other:

By (date) December 12, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Adult family home business owners requested a review of chapter 388-76 WAC in order to clarify the rules governing the adult family home industry. The department is amending and repealing existing sections and creating a new sections in chapter 388-76 WAC as a result of working collaboratively with adult family home business owners and regulatory staff.

Reasons supporting proposal: These changes will ensure that the rules are clarified to protect the rights and safety of residents, and that residents will receive care and services as assessed in a clean, sanitary, and homelike environment.

Statutory authority for adoption: Chapter 70.128 RCW

Statute being implemented:

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

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:	Sherise Baltazar	P.O. Box 45600, Olympia, WA 98504	360-725-3204
Implementation:	Candace Goehring	P.O. Box 45600, Olympia, WA 98504	360-725-2401
Enforcement:	Bett Schlemmer	P.O. Box 45600, Olympia, WA 98504	360-725-2404

Is a school district fiscal impact statement required under RCW 28A.305.135?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: Not a significant rule.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.030.

Explanation of exemptions, if necessary: The department has analyzed the proposed rule and concluded that no new costs will be imposed on small businesses affected by them. The preparation of a comprehensive SBEIS is not required under RCW 19.85.030.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

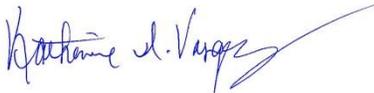
If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: November 3, 2017	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10510 Resident rights—Basic rights. The adult family home must ensure that each resident:

- (1) Receives appropriate services, as identified in the assessment and negotiated care plan;
- (2) Is treated with courtesy, dignity, and respect;
- (3) Continues to enjoy basic civil and legal rights;
- (4) Has the ~~((chance))~~ opportunity to exercise reasonable control over life decisions, such as choice, participation, and privacy;
- (5) Is provided the opportunity to engage in religious, political, civic, recreational, and other social activities of their choice;
- (6) Is cared for in a manner ~~((and in an environment))~~ that ~~((promotes maintenance or enhancement of each))~~ enhances or maintains the resident's quality of life ((including a));
- (7) Is cared for in an environment that is safe, clean, comfortable, and homelike ((environment)); and
- ~~((7) Is allowed)~~ (8) Has the freedom to use ((his or her)) their personal belongings to the extent possible.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10515 Resident rights—Exercise of rights. The adult family home must:

- (1) Protect each resident's right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the home;
- (2) Protect and promote the rights of each resident and assist the resident to exercise ~~((his or her))~~ their rights as a resident of the home ~~((, as a citizen or resident of the United States))~~ and the state of Washington.
- (3) Be free of interference, coercion, discrimination, and ~~((re-prisal))~~ retaliation from the home in exercising ~~((his or her))~~ the resident's rights; and
- (4) Ensure the resident's right to choose a representative who may exercise the resident's rights to the extent provided by law.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10522 Resident rights—Notice—Policy on accepting medicaid as a payment source. The adult family home must fully disclose the home's policy on accepting medicaid payments. The policy must:

- (1) Clearly state the circumstances under which the adult family home provides care for medicaid eligible residents and for residents who become eligible for medicaid after admission;

(2) Be provided both orally and in writing in a language ((that)) the resident understands;

(3) Be provided to all prospective residents, before they are admitted to the home;

(4) Be provided to any current residents who were admitted before this requirement took effect or who did not receive copies prior to admission;

(5) Be written on a page that is separate from other documents and ((be written)) in a type font that is at least fourteen point; and

(6) Be signed and dated by the resident and ((be)) kept in the resident record after signature.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10525 Resident rights—((Description)) Postings. The adult family home must ((give each resident a written description of resident's rights that includes a)) post the following in a common use area where they can be easily viewed by the resident, resident representatives, the department, and visitors:

(1) ((Description of how the home will protect personal funds)) The name, address, and telephone number for the home's regional residential care services licensing office;

(2) ((Posting of names, addresses, and telephone numbers of the:

(a) State survey and certification agency;

(b) State licensing office;

(c) State ombuds program; and

(d) Protection and advocacy systems.)) State hotline poster that includes the telephone number for the state ombuds program; and

(3) ((Statement informing the resident that he or she may file a complaint with the appropriate state licensing agency concerning alleged abandonment, abuse, neglect, or financial exploitation)) The disability rights of Washington poster.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10530 Resident rights—Notice of rights and services. (1) The adult family home must provide each resident ((notice in writing)) written notification of the resident's rights and services provided in the home in a language the resident understands and before ((admission, and)) the resident is admitted to the home. The notification must be reviewed at least once every twenty-four months after ((admission of)) the resident's admission and must include the following:

((1)) (a) Information regarding resident rights, including rights under chapter 70.129 RCW;

(b) A complete description of the services, items, and activities customarily available in the home or arranged for by the home as permitted by the license;

~~((2))~~ (c) A complete description of the charges for those services, items, and activities including charges for services, items, and activities not covered by the home's per diem rate or applicable public benefit programs; (and

~~(3))~~ (d) Rules of the ((home's operations)) home that must not violate resident rights in chapter 70.129 RCW;

(e) How the resident can file a complaint concerning alleged abandonment, abuse, neglect, or financial exploitation with the state hotline; and

(f) If the home will be managing the resident's funds, a description of how the home will protect the resident's funds.

(2) The home must ensure the resident and a representative of the home sign and date an acknowledgement stating that the resident has received the notice of rights and services as outlined in this section. The home must retain a copy of the notice of rights and services and acknowledgement.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10532 Resident rights—~~Department standardized disclosure ((of services form)) forms.~~ (1) The adult family home is required to complete the department's standardized disclosure of services form.

~~((1))~~ The home must:

(a) List on the form the scope of care and services available in the home;

(b) Send the completed form to the department; and

(c) Provide an updated form to the department thirty days prior to changing services, except in emergencies, when the scope of care and services is changing.

(2) ~~The ((form does not:~~

~~(a) Replace the notice of services required when a resident is admitted to the adult family home as directed in chapter 388-76-10530 WAC.~~

~~(b) Replace any other form or policy as required in chapter 388-76 WAC))~~ adult family home must complete the disclosure of charges form as provided by the department and provide a copy to each resident who is admitted to the home and upon resident request.

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10540 Resident rights—~~Disclosure of fees and charges—Notice requirements—Deposits.~~ (1) ~~((The adult family home must complete the department's disclosure of charges form and provide a copy to each resident admitted to the home.~~

~~(2))~~ If the adult family home requires an admission fee, deposit, prepaid charges, or any other fees or charges, by or on behalf of a person seeking admission, the home must give the resident full dis-

closure in writing in a language the resident understands prior to its receipt of any funds.

~~((3))~~ (2) The disclosure must include:

(a) A statement of the amount of any admissions fees, security deposits, prepaid charges, minimum stay fees, or any other fees or charges specifying what the funds are paid for and the basis for retaining any portion of the funds if the resident dies, is hospitalized, transferred, or discharged from the home;

(b) The home's advance notice or transfer requirements; and

(c) The amount of the security deposits, admission fees, prepaid charges, minimum stay fees, or any other fees or charges that the home will refund to the resident if the resident leaves the home.

~~((4))~~ (3) The home must ensure that the resident and home sign and date an acknowledgement in writing stating that the resident has received a disclosure required under subsection ~~((2))~~ (1) of this section. The home must retain a copy of the disclosure and acknowledgement.

~~((5))~~ (4) If the home does not provide the disclosures in subsection ~~((3))~~ (2) of this section to the resident, the home must not keep the resident's security deposits, admission fees, prepaid charges, minimum stay fees, or any other fees or charges.

~~((6))~~ (5) If a resident dies, is hospitalized, or is transferred to another facility for more appropriate care and does not return to the home, the adult family home:

(a) Must refund any deposit or charges paid by the resident less the home's per diem rate for the days the resident actually resided, reserved, or retained a bed in the home regardless of any minimum stay policy or discharge notice requirements;

(b) May keep an additional amount to cover its reasonable and actual expenses incurred as a result of a private-pay resident's move, not to exceed five days per diem charges, unless the resident has given advance notice in compliance with the home's admission agreement; and

(c) Must not require the resident to obtain a refund from a placement agency or person.

~~((7))~~ (6) The adult family home must not retain funds for reasonable wear and tear by the resident or for any basis that would violate RCW 70.129.150.

~~((8))~~ (7) The adult family home must provide the resident with any and all refunds due to ~~((him or her))~~ them within thirty days from the resident's date of discharge from the home.

~~((9))~~ (8) Nothing in this section applies to provisions in contracts negotiated between a home and a certified health plan, health or disability insurer, health maintenance organization, managed care organization, or similar entities.

~~((10))~~ (9) The home must ensure that any resident admission agreement is consistent with the requirements of this section, chapters 70.128, 70.129, and 74.34 RCW, and other applicable state and federal laws.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10545 Resident rights—Admitting and keeping residents. The adult family home must:

(1) Only admit or keep individuals whose needs the home can safely serve in the home:

(a) With ~~((appropriate))~~ qualified available staff; and

(b) Through the provision of reasonable accommodations required by state and federal law~~((-))~~;

(2) Not admit an individual before obtaining ~~((a thorough))~~ an assessment of the resident's needs and preferences, except in cases of a genuine emergency;

(3) Not admit an individual on a trial basis;

(4) Ensure that the admission of the individual does not negatively affect the ability of the home to meet the needs of or endangers the safety of other residents; and

~~((4))~~ (5) Comply with all applicable federal and state requirements regarding nondiscrimination.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10560 Resident rights—Adult family home management of resident financial affairs. (1) Each resident has the right to manage their own financial affairs. The adult family home must not require any resident to deposit their personal funds with the home.

(2) If the adult family home agrees to manage a resident's personal funds, the home must ~~((do all of the following))~~:

~~((1) Hold, safeguard, manage, and account for the personal funds of the resident deposited with the home));~~

~~((2))~~ (a) Have a written authorization from the resident;

(b) Develop and maintain a system that assures a full, complete, and separate accounting of each resident's personal funds given to the home on the resident's behalf;

(c) Ensure the resident's funds are not mixed with the home's funds or with the funds of any person other than another resident. If funds are pooled accounts, there must be a separate accounting for each resident's share;

~~((3))~~ (d) Deposit a resident's personal funds in excess of one hundred dollars in an interest-bearing ~~((account or accounts))~~ account(s) separate from any of the home's operating accounts~~((-))~~ and that credits all interest earned on residents' funds to that account;

~~((4) If funds are pooled accounts, there must be a separate accounting for each resident's share; and))~~ (e) Notify the resident in writing of the name, address, and location of the depository.

~~((5))~~ (f) Keep a resident's personal funds that do not exceed one hundred dollars in a noninterest-bearing account, interest-bearing account, or petty cash fund; and

(g) Provide an individual financial record when requested by the resident or the resident's legal representative.

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

WAC 388-76-10561 Resident rights—Resident security deposit account. (~~Any~~) (1) Funds in excess of one hundred dollars that are paid to an adult family home as a security deposit or as prepayment for charges beyond the first month's residency(~~(+~~

~~1))~~ must be deposited by the adult family home in an interest bearing account that is separate from any of the home's operating accounts and credits all interest earned on the resident's funds to that account.

(2) The adult family home must:

(a) Ensure that a record of the account is available upon the request of the resident or their representative;

(b) Not commingle resident funds from these accounts with the adult family home's funds or with the funds of any person other than another resident(~~(-)~~) and if resident funds are commingled, the home must provide each resident with a separate accounting for their share;

(c) Ensure that the (~~account or accounts~~) account(s) are held, and remain until a resident refund occurs, in a financial institution as defined in (~~(RCW 30.22.041,)~~) RCW 30A.22.040; and

(d) Notify (~~each~~) the resident in writing of the name, address, and location of the depository.

AMENDATORY SECTION (Amending WSR 10-14-058, filed 6/30/10, effective 7/31/10)

WAC 388-76-10585 Resident rights—Examination of inspection results. (1) The adult family home must place a copy of the following documents (~~(in a visible location)~~) in a common use area where they can be (~~(examined)~~) easily viewed by residents, resident representatives, the department, and anyone interested without having to ask for them(~~(-)~~):

(a) (~~(A copy of)~~) The most recent inspection report and related cover letter; and

(b) (~~(A copy of)~~) All complaint investigation reports(~~(-)~~) and any related cover letters received since the most recent inspection or not less than the last twelve months.

(2) The adult family home must post a notice that the following documents are available for review if requested by the residents, resident representatives, the department, and anyone interested(~~(-)~~):

(a) A copy of each inspection report and related cover letter received during the past three years; and

(b) A copy of any complaint investigation reports and related cover letters received during the past three years.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10595 Resident rights—Advocacy access and visitation rights. The adult family home must not interfere with each resident's right to have access to and from:

- (1) Any representative of the state;
- (2) The resident's own physician;
- (3) The state long-term care ombuds program as established under chapter 43.190 RCW;

(4) The agency responsible for the protection and advocacy system for ~~((developmentally disabled individuals))~~ one or more of the following:

(a) Individuals with developmental disabilities as established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;

~~((5) The agency responsible for the protection and advocacy system for mentally ill individuals))~~ (b) Individuals with mental illness as established under the Protection and Advocacy for ((mentally ill)) Individuals with Mental Illness Act;

~~((6) Immediate family or other relatives of))~~ (c) Individuals with disabilities as established under section 509 of the Rehabilitation Act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law;

(5) Visitors who are visiting the resident ~~((and others who are visiting))~~ with the resident's consent ~~((of the resident, subject to reasonable limits)), which:~~

(a) The resident may withdraw at any time; and

(b) May only be limited when the limitation is to protect the rights or safety of others ~~((and to the resident's right to deny or withdraw consent at any time;~~

~~(7) The agency responsible for the protection and advocacy system for individuals with disabilities as established under section 509 of the Rehabilitation Act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law))~~ or that of the resident; and

~~((8))~~ (6) The resident's representative or an entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10600 Resident rights—Mail and telephone privacy. The adult family home must ensure each resident's right to privacy in communications, including the right to:

- (1) Send and receive unopened mail without delay;
- (2) Have writing paper, postage, and pens or pencils available that have been paid for by the resident; and

(3) (~~Be able to use a telephone where calls can be made without being overheard~~) Have twenty-four hour per day access to a telephone to make and receive confidential calls.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10615 Resident rights—Transfer and discharge. (1)

The adult family home must allow each resident to stay in the home(~~(7)~~) and not transfer or discharge the resident unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the home;

(b) The safety or health of individuals in the home is or would otherwise be endangered;

(c) The resident has failed to make the required payment for (~~his or her~~) their stay; or

(d) The home ceases to operate.

(2) Before a home transfers or discharges a resident, the home must(~~(4)~~

~~(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;~~

~~(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;~~

~~(c) Record the reasons in the resident's record; and~~

~~(d) Include in the notice the items described in subsection (5) of this section.~~

~~(3) Except as specified in (4) of this section, the home must give notice of the transfer or discharge at least thirty days before the resident is transferred or discharged.~~

~~(4) The home may make the notice as soon as practicable before transfer or discharge when:~~

~~(a) The safety and health of the individuals in the home would be endangered;~~

~~(b) An immediate transfer or discharge is required by the resident's urgent medical needs; or~~

~~(c) A resident has not resided in the home for thirty days.~~

~~(5) The home must include the following in the written notice specified in subsection (2) of this section:~~

~~(a) The reason for transfer or discharge;~~

~~(b) The effective date of transfer or discharge;~~

~~(c) The location where the resident is transferred or discharged;~~

~~(d) The name, address, and telephone number of the state long-term care ombuds;~~

~~(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals; and~~

~~(f) For residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals)) first attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident.~~

(3) If the care needs of the resident can no longer be met by the facility and the resident's services are paid for by the department, then the department must identify other care settings or residential care options for the resident consistent with federal and state law.

~~((6))~~ (4) The home must give residents enough preparation and orientation to ensure a safe and orderly transfer or discharge from the home.

~~((7))~~ (5) If the home discharges a resident in violation of this section or WAC 388-76-10616, the home must readmit the resident to the home as soon as a gender-appropriate bed becomes available.

NEW SECTION

WAC 388-76-10616 Resident rights—Transfer and discharge notice.

(1) The home must give the resident written thirty day notification informing them of the transfer or discharge. The home must also make a reasonable effort to notify, if known, any interested family member, in addition to the resident representative, of the transfer or discharge. The written notification must be in a language and manner the resident understands and include the following:

- (a) The reason for transfer or discharge;
- (b) The effective date of transfer or discharge;
- (c) The location where the resident is transferred or discharged if known at the time of the thirty-day discharge notice;
- (d) The name, address, and telephone number of the state long-term care ombuds;
- (e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with a developmental disability; and
- (f) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with mental illness.

(2) The home may make the notice as soon as practicable before transfer or discharge when:

- (a) The safety and health of the individuals in the home would be endangered;
- (b) An immediate transfer or discharge is required by the resident's urgent medical needs; or
- (c) A resident has not resided in the home for thirty days.

(3) A copy of the written notification must be in the resident's records.

AMENDATORY SECTION (Amending WSR 16-06-004, filed 2/17/16, effective 4/1/16)

WAC 388-76-10685 Bedrooms. The adult family home must meet all of the following requirements:

- (1) Ensure each resident's bedroom is an outside room(~~(, which))~~ that allows entrance of natural light(~~((+))~~).
- (2) Ensure window and door screens:

- (a) Do not hinder emergency escape; and
- (b) Prevent entrance of flies and other insects.
- (3) Ensure each resident, including those using mobility aids such as wheelchairs and walkers has direct, unrestricted, and free access from the bedroom through doors, hallways, and corridors to common use areas and other rooms used for care and services including bathrooms(†).
- (4) Make separate bedrooms available for each sex(†).
- (5) Make ((reasonable)) efforts to accommodate residents wanting to share the room(†).
- (6) Provide each bedroom with a minimum usable floor space as required in WAC 388-76-10690.
- (7) Give each resident the opportunity to have a lock on their door if they ((ehose)) choose to unless having a locked door would be unsafe for the resident and this is documented in the resident's negotiated careplan.
- (8) Ensure each bedroom has a closet or a wardrobe, armoire, or reasonable ((faesimile thereof)) storage space for clothes. Neither the closet nor wardrobe/armoire floor space will be considered a part of the room's usable square footage. The home must not remove a closet in order to provide additional floor space.
- (9) Ensure there are no more than two residents to a bedroom(†).
- (10) Unless the resident chooses to provide their own furniture and bedding, the home must provide each resident a bed thirty-six inches or ((more-wide)) wider with:
 - (a) A clean, comfortable mattress;
 - (b) A waterproof cover for use when needed or requested by the resident;
 - (c) Clean sheets and pillow cases;
 - (d) Adequate clean blankets to meet the needs of each resident;
 and
 - (e) Clean pillows.
- (11) Do not use the upper bunk of double-deck beds for a resident's bed(†).
- (12) Provide each resident a call bell ((or intercom system if)), or an alternative way of alerting staff in an emergency, that the resident can use, unless the provider, entity representative, resident manager, or caregiver bedroom is ((not)) within hearing distance of ((each resident)) the resident's bedroom ((and the system is required by the department†)).
- (13) Ensure that members of the household, other than residents, do not share bedrooms with residents(†and).
- (14) Ensure a resident does not share a bedroom with a person under eighteen years of age, unless the person is the resident's own child.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10700 Building official—Inspection and approval.
 The adult family home must have the building inspected and approved for use as an adult family home by the local building official:

- (1) Before licensing; and
- (2) After any construction changes that(~~(-~~
 - ~~(a) Affect resident's ability to exit the home; or~~
 - ~~(b) Change, add or modify a resident's bedroom))~~ require a building permit.

AMENDATORY SECTION (Amending WSR 09-03-029, filed 1/12/09, effective 2/12/09)

WAC 388-76-10720 Electronic monitoring equipment—Audio monitoring and video monitoring. (1) Except as provided in this section or in WAC 388-76-10725, the adult family home must not use the following in the home:

- (a) Audio monitoring equipment; or
- (b) Video monitoring equipment if it includes an audio component.
- (2) The home may video monitor and video record activities in the home, without an audio component, only in the following areas:
 - (a) Entrances and exits if the cameras are:
 - (i) Focused only on the entrance or exit doorways; and
 - (ii) Not focused on areas where residents gather(~~(-))~~);i
 - (b) Outdoor areas not commonly used by residents; and
 - (c) Designated smoking areas, subject to the following conditions:
 - (i) Residents are assessed as needing supervision for smoking;
 - (ii) A staff person watches the video monitor at any time the area is used by such residents;
 - (iii) The video camera is clearly visible; and
 - (iv) The video monitor is not viewable by general public(~~(- and))~~).
- ~~((+))~~ (3) The home ((notifies)) must notify all residents in writing of the video monitoring equipment.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10750 Safety and maintenance. The adult family home must:

- (1) Keep the home both internally and externally in good repair and condition with a safe, comfortable, sanitary, and homelike environment that is free of hazards;
- (2) Ensure that there is existing outdoor space that is safe and usable for residents;
- (3) Provide clean, functioning, safe, adequate household items and furnishings to meet the needs of each resident;
- (4) Ensure items and furnishings brought into the home by the resident for their use are clean, functioning, and safe;
- (5) Provide safe and functioning systems for:
 - (a) Heating;
 - (b) Cooling, which may include air circulating fans;
 - (c) Hot and cold water;

- (d) Electricity;
- (e) Plumbing;
- (f) Garbage disposal;
- (g) Sewage;
- (h) Cooking;
- (i) Laundry;
- (j) Artificial and natural light;
- (k) Ventilation; and
- (l) Any other feature of the home((-));

~~((5))~~ (6) Ensure water temperature is at least one hundred five degrees and does not exceed one hundred twenty degrees Fahrenheit at all fixtures used by or accessible to residents, such as:

- (a) Tubs;
- (b) Showers; and
- (c) Sinks((-));

~~((6) Provide storage for))~~ (7) Ensure all toxic substances((- poisons,-) and ((other)) hazardous materials that ((is only accessible to residents under direct supervision, unless the resident is assessed for and the negotiated care plan indicates it is safe for the resident to use the materials unsupervised;)) include but are not limited to those with any one or more of the following warning labels are kept in locked storage and in their original containers:

- (a) Danger;
- (b) Poison;
- (c) Corrosive;
- (d) May cause burns; or
- (e) Vapors harmful.

~~((7))~~ (8) Provide rapid access for all staff to any bedroom, toilet room, shower room, closet, other room occupied by each resident;

~~((8))~~ (9) Keep all firearms locked and accessible only to authorized persons; and

~~((9))~~ (10) Keep the home free from:

- (a) Rodents;
- (b) Flies;
- (c) Cockroaches((-)); and
- (d) Other vermin.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10765 Storage. The adult family home must:

(1) Supply each resident with adequate and reasonable storage space for:

- (a) Clothing;
- (b) Personal possessions; and

(c) Upon request, a lockable container or storage space for small items, unless ((the)):

(i) The resident ((has)) bedroom is a ((private)) single occupancy room with a lockable door; and

(ii) Only the resident ((room can be locked by the resident)) and appropriate staff have a key to the door.

~~((2) Provide locked storage for all prescribed and over-the-counter medications as per WAC 388-76-10485.))~~

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10770 Telephones. The adult family home must (~~provide~~):

- (1) Have at least one working (~~nonpay~~) telephone in the home that does not cost residents money to use; and
- (2) Allow residents reasonable access to the telephone(~~;~~ and
- ~~(3) Privacy for the resident when making or receiving)~~ to make and receive calls.

AMENDATORY SECTION (Amending WSR 09-03-030, filed 1/12/09, effective 2/12/09)

WAC 388-76-10784 Water hazards—Fences, gates, and alarms. For any adult family home newly licensed after July 1, 2007 or any currently licensed adult family home that adds or modifies a new or existing water hazard after July 1, 2007 must ensure:

- (1) (~~Comply with this section and~~) Pools, spas, and hot tubs are installed according to the requirements of the:
 - (a) International Residential Code (IRC); and
 - (b) Washington state amendments to the International Residential Code (IRC).
- (2) (~~Enclose~~) Water hazards over twenty-four inches deep (~~with~~) are:
 - (a) Enclosed by fences and gates at least forty-eight inches high; and
 - (b) Equipped with audible (~~alarms~~) alarm that sound when doors, screens, and gates that directly lead to or surround the water hazard(~~s~~) are opened.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10795 Windows. (1) The adult family home must ensure the interior sill height of the bedroom window is not more than forty-four inches above the floor.

(2) For homes licensed after July 1, 2007, the department will not approve alternatives to the sill height requirement such as step(s), raised platform(s), or other devices placed by or under the window openings.

(3) The bedroom window must have the following:

- (a) A minimum opening area of 5.7 square feet, except ((a)) that grade level floor window openings may have a minimum clear opening of 5.0 square feet;
- (b) A minimum opening height of twenty-four inches; and
- (c) A minimum opening width of twenty inches.

(4) The home must ensure the bedroom window can be opened from inside the room without keys ~~((or))~~, tools, or special knowledge or effort to open.

(5) When resident bedroom windows are fitted with storm windows, the home must equip the storm windows with release mechanisms that:

(a) Easily open from the inside; and

(b) Do not require a key or special knowledge or effort to open.

(6) ~~((The home must ensure that))~~ For each basement and each resident bedroom window~~((r))~~ that meets the requirements of subsections (1), (2), and (3) of this section, ~~((are kept free from obstructions that might block or interfere with access for emergency escape or rescue))~~ the home must ensure the egress section of the window, both inside and outside of the home, has nothing on or above the window sill to obstruct or hinder emergency egress.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10800 Adult family home located outside of public fire protection. (1) If the adult family home is located in an area without public fire protection, the home must have written verification of adequate fire protection from the fire authority.

(2) If the local fire authority requires the home to have a fire extinguisher with a rating other than that required under WAC 388-76-10810(1), the home must meet this requirement.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10805 Automatic smoke detectors. (1) The adult family home must ensure approved automatic smoke detectors are~~((r))~~ installed and maintained according to manufacturer instructions;

~~((1) Installed,))~~ (2) At a minimum, smoke detectors must be located in the following ~~((locations))~~ areas:

(a) Every resident bedroom ~~((used by a resident));~~

(b) In ~~((proximity to the area where the))~~ the immediate vicinity of resident ~~((or))~~ bedroom(s), and if applicable, the sleeping areas used by the adult family home staff ~~((sleeps));~~ and

(c) On every level of a multilevel home.

~~((2) Installed in a manner so that))~~ (3) The home must ensure the fire warning is heard in all parts of the home upon activation of a single detector~~((r and)).~~

~~((3))~~ (4) Each smoke detector must be kept in working condition at all times.

AMENDATORY SECTION (Amending WSR 08-09-028, filed 4/8/08, effective 5/9/08)

WAC 388-76-10810 Fire extinguishers. (1) The adult family home must have an approved five pound 2A:10B-C rated fire extinguisher on each floor of the home.

(2) The home must ensure ((the)) fire extinguishers are:

(a) ~~((Installed according to manufacturer recommendations))~~ Mounted or securely fastened in a stationary position;

(b) Inspected and serviced annually;

(c) In proper working order; ((and))

(d) ~~((Readily available for use))~~ Accessible at all times((-

~~3) If required by the local fire authority, the home must provide different fire extinguishers in place of the fire extinguishers required in subsection (1) of this section)); and~~

(e) Not located behind a locked door.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10830 Emergency and disaster plan—Required. The adult family home must have a written emergency and disaster plan ~~((and procedures))~~ to meet the needs of each resident during emergencies and disasters. The plan must include:

(1) Responding to natural and man-made emergencies and disasters that may reasonably occur at the home;

(2) Actions to be taken by staff and residents during and after an emergency or disaster; and

(3) The fire drill plan for evacuation of the home.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10840 Emergency food supply. (1) The adult family home must have an on-site emergency food supply ~~((that can be stored with other food in the home and))~~ that:

~~((1))~~ (a) Will last for a minimum of seventy-two hours for each resident and each household member;

~~((2))~~ (b) Meets the dietary needs of each resident, including any specific dietary restrictions ~~((any resident))~~ they may have;

(c) Can be stored with other food in the home; and

~~((3))~~ (d) Is sufficient, safe, sanitary, and uncontaminated.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10850 Emergency medical supplies. The adult family home must ~~((have emergency medical supplies that include))~~:

(1) ~~((First aid))~~ Have emergency medical supplies on-hand for the application of basic first aid during an emergency or disaster;

(2) Replenish the emergency medical supplies as they are used;
and

~~((2) A first aid))~~ (3) Have a first aid manual.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10870 Resident evacuation capability levels—Identification required. The adult family home must ensure that each resident's assessment, preliminary service plan, and negotiated care plan identifies ~~((, and each resident's preliminary care plan and negotiated care plan))~~ and describes the resident's ability to evacuate the home according to the following descriptions:

(1) Independent: Resident is physically and mentally capable of ~~((safely getting out of))~~ independently evacuating the home without the assistance of another individual or the use of mobility aids. The department will consider a resident independent if capable of getting out of the home after one verbal cue ~~((+))~~.

(2) Assistance required: Resident is not physically or mentally capable of ~~((getting out of))~~ evacuating the ~~((house))~~ home without assistance from another individual or mobility aids.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10885 Elements of emergency evacuation floor plan. The adult family home must ensure ~~((the))~~ there is an emergency evacuation floor plan ~~((has))~~ for each level of the home that:

(1) ~~((An accurate floor plan of the home, including))~~ Is accurate and includes rooms, hallways, and exits (such as doorways and windows) to the outside of the home;

(2) Illustrates the emergency evacuation ~~((routes showing the paths to take))~~ route(s) to exit the home, with the route to the designated emergency egress door being easily identifiable; and

(3) Identifies the designated safe location for the residents to meet outside the home.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10890 Posting the emergency evacuation floor plan—Required. The adult family home must display an emergency evacuation floor plan on each floor of the home ~~((in))~~ and the plan must:

(1) Be posted in a visible location ~~((in the home))~~ commonly used by residents, staff, and visitors alike; and

(2) ~~((Common areas normally used by residents, staff and visitors))~~ Illustrate the evacuation route from the rooms on that floor to the designated safe location outside the home.

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10895 Emergency evacuation drills—Frequency and participation. (1) There are two types of emergency evacuation drills:

(a) A full evacuation is evacuation from the home to the designated safe location; and

(b) A partial evacuation is evacuation to the designated emergency egress door.

(2) The adult family home must ensure:

~~((1))~~ (a) Partial emergency evacuation drills occur during random staffing shifts at least every two months, with each resident participating in at least one each calendar year; and

~~((2))~~ (b) All residents take part in a full emergency evacuation drill together and at the same time at least ((one emergency evacuation drill)) once each calendar year ((that includes full evacuation from the home to a safe location)).

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10900 Documentation of emergency evacuation drills—Required. The adult family home must document ~~((in writing))~~ the following for all emergency evacuation drills ~~((which must include))~~:

(1) Names of each resident and staff involved in the drill;

(2) Name of the person conducting the drill;

(3) Date and time of the drill;

(4) Whether the drill was a full or partial emergency evacuation;

and

~~((4))~~ (5) The length of time it took to evacuate ((all residents)).

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10905 Emergency evacuation—Notification of department required. The adult family home must immediately ~~((call))~~ notify the ~~((department's complaint))~~ department by calling its toll free ~~((complaint))~~ hotline telephone number ~~((of))~~ when:
(1) The home is on emergent stand-by for evacuation;
(2) There is any fire; or
~~((2) Emergency evacuation))~~ (3) Residents were evacuated from the home.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-76-10520 Resident rights—General notice.
- WAC 388-76-10555 Resident rights—Financial affairs.
- WAC 388-76-10565 Resident rights—Adult family home system for management of resident financial affairs.
- WAC 388-76-10835 Elements of an emergency and disaster plan.