



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: December 05, 2018

TIME: 8:56 AM

WSR 18-24-117

**Agency:** Department of Social and Health Services, Developmental Disabilities Administration

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 18-19-107** ; 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 WAC 388-845-1615 "Who may be qualified providers of respite care?".

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
January 8, 2019	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2">https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2</a>

**Date of intended adoption:** Not earlier than January 9, 2019 (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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. January 8, 2019

**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](mailto:Kildaja@dshs.wa.gov)

Other:

By (date) December 24, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** These rules require homecare agencies to be contracted with the Area Agencies on Aging.

**Reasons supporting proposal:** These amendments align with waiver amendments approved by the Centers for Medicare and Medicaid Services (CMS). Under 42 CFR 441.302(a)(2), the department must provide to CMS assurances that the standards of state licensure or certification requirements are met for services or for individuals furnishing services that are provided under the waiver. Waiver amendments recently approved by CMS require home care agencies to be contracted with the Area Agencies on Aging. To enforce this requirement, and thus provide the assurances required under federal regulations, the Developmental Disabilities Administration (DDA) must add this requirement to WAC 388-845-1615.

**Statutory authority for adoption:** RCW 71A.12.030

**Statute being implemented:** RCW 71A.12.030, RCW 71A.12.120, 42 C.F.R. 441.302

**Is rule necessary because of a:**

- Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION: 42 C.F.R. 441.302

**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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589
Implementation:	Ann Whitehall	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1551
Enforcement:	Ann Whitehall	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1551

**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: Chantelle Diaz

Address: P.O. Box 45310, Olympia, WA 98504-5310

Phone: 360-407-1589

Fax: 360-407-0955

TTY: 1-800-833-6388

Email: Chantelle.Diaz@dshs.wa.gov

Other:

- No: Please explain:

**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)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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 19.85.025(4) because the rules do not impose new costs.

Explanation of exemptions, if necessary: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

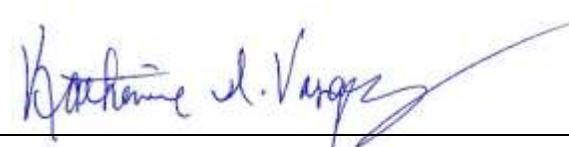
If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

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:

<b>Date:</b> November 29, 2018	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

**WAC 388-845-1615 Who may be qualified providers of respite care?**

Providers of respite care may be any of the following individuals or agencies contracted with the developmental disabilities administration (DDA) for respite care:

(1) Individuals who meet the provider qualifications under chapter 388-825 WAC;

(2) ~~((Homecare and))~~ Home health agencies licensed under chapter 246-335 WAC, Part 1;

(3) Homecare agencies licensed under chapter 246-335 WAC, Part 1 and contracted with the area agencies on aging (AAA);

(4) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;

~~((4))~~ (5) Licensed and contracted adult family homes;

~~((5))~~ (6) Licensed and contracted adult residential care facilities;

~~((6))~~ (7) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;

~~((7))~~ (8) Licensed child care centers under chapter 170-295 WAC;

~~((8))~~ (9) Licensed child day care centers under chapter 170-295 WAC;

~~((9))~~ (10) Adult day care providers under chapter 388-71 WAC contracted with DDA;

~~((10))~~ (11) Certified providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services;

~~((11))~~ (12) A licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the standards of nursing conduct or practice under chapter 246-700 WAC and contracted with DDA to provide this service; or

~~((12))~~ (13) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.