



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: July 02, 2019

TIME: 9:20 AM

WSR 19-14-100

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** 19-08-001 ; 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 add new sections, repeal existing sections, and amend sections in chapter 388-78A WAC "Assisted Living Facility Licensing Rules" to update Physical Plant Requirements.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 27, 2019	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 August 28, 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
 Fax: 360-664-6185
 Other:
 By (date) 5:00 p.m. August 27, 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
 Other:
 By (date) August 13, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing 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.

Reasons supporting proposal: See purpose statement above.

Statutory authority for adoption: Chapter 18.20 RCW, Chapter 74.39A RCW

Statute being implemented: None

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jeanette K. Childress	PO Box 45600, Olympia, WA 98504-5600	360-752-2591
Implementation:	Jeanette K. Childress	PO Box 45600, Olympia, WA 98504-5600	360-752-2591
Enforcement:	Dina Longen-Grimes	PO Box 45600, Olympia, WA 98504-5600	360-752-2591

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: Jeanette K. Childress
Address: PO Box 45600, Olympia, WA 98504-5600
Phone: 360-725-2591
Fax:
TTY:
Email: Jeanette.Childress@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 _____.

Explanation of exemptions, if necessary:

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. Per the Small Business Economic Impact Statement/Cost Benefit Analysis, costs are offset by eliminating some of the building requirements, updating building requirements so not have to install dual systems to meet building codes and licensing rules, and with increased electronic monitoring to potentially reduce facility liability, improve energy efficiency, and reduce insurance costs.

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: Jeanette K. Childress
Address: PO Box 45600, Olympia, WA 98504-5600
Phone: 360-725-2591
Fax:
TTY:
Email: Jeanette.Childress@dshs.wa.gov
Other:

Date: June 26, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

NEW SECTION

WAC 388-78A-2361 Project and operations functional program. (1)

The facility must develop and document their functional programming, under WAC 388-78A-2852, during the project development and planning process. This document must inform the design process and be provided to the department of health construction review services consistent with WAC 388-78A-2852 for use in review of the construction project documents and preoccupancy survey. This document must identify and describe, as applicable:

(a) Services offered, whether intermittent nursing services or contract care services under chapter 388-110 WAC;

(b) Number of residents served under contract care services, as applicable;

(c) The care needs of the population served, to include but not limited to dementia, cognitive and developmental disability, mental health, bariatric needs, safety risks, security, resident rights, and dignity of memory care residents;

(d) Circulation patterns;

(e) Special locking or other security measures;

(f) Room use, required resources, and systems to include intermittent nursing services that will take place in the resident unit;

(g) Consideration of and mitigation for risks associated with:

(i) Operational infection control;

(ii) Resident mobility and falls;

(iii) Elopement and security;

(iv) Medication services; and

(v) Staff injury.

(2) The facility may maintain an operational functional program to document considerations and decisions related to resident needs and the maintenance or modifications to the physical environment as necessary to demonstrate compliance with performance based expectations of this chapter. This document may be used to evaluate conditions of the built environment for appropriateness to the population served and must document circumstances where facility policy and procedure are implemented in lieu of, or in support of, changes to the built environment.

NEW SECTION

WAC 388-78A-2371 Investigations. The assisted living facility must:

(1) Report to the local law enforcement agency and the department any individual threatening bodily harm or causing a disturbance, that threatens any individual's welfare and safety;

(2) Identify, investigate, and report incidents involving residents according to department established assisted living facility guidelines;

(3) Protect residents during the course of the investigation; and

(4) Comply with "whistle blower" rules as defined in chapter 74.34 RCW.

WAC 388-78A-2380 ((Restricted egress)) Freedom of movement. An assisted living facility must ensure all of the following conditions are present before moving residents into units or buildings with exits that may restrict a resident's egress:

(1) Each resident, or a person authorized under RCW 7.70.065 to provide consent on behalf of the resident, consents to living in such unit or building.

(2) Each resident assessed as being cognitively and physically able to safely leave the assisted living facility is able to do so independently without restriction consistent with the resident's negotiated service agreement.

~~(3) ((Each resident, assessed as being cognitively able to safely leave the assisted living facility and who has physical challenges that make exiting difficult, is able to leave the assisted living facility when the resident desires and in a manner consistent with the resident's negotiated service agreement.~~

~~(4) Each resident who is assessed as being unsafe to leave the assisted living facility unescorted is able to leave the assisted living facility consistent with his or her negotiated service agreement.~~

~~(5) Areas from which egress is restricted are equipped throughout with an approved automatic fire detection system and automatic fire sprinkler system electrically interconnected with a fire alarm system that transmits an alarm off site to a twenty-four hour monitoring station.~~

~~(6) Installation of special egress control devices in all proposed construction issued a project number by construction review services on or after September 1, 2004 for construction related to this section, must conform to standards adopted by the state building code council.~~

~~(7) Installation of special egress control devices in all construction issued a project number by construction review services before September 1, 2004 for construction related to this section, must conform to the following:~~

~~(a) The egress control device must automatically deactivate upon activation of either the sprinkler system or the smoke detection system.~~

~~(b) The egress control device must automatically deactivate upon loss of electrical power to any one of the following:~~

~~(i) The egress control device itself;~~

~~(ii) The smoke detection system; or~~

~~(iii) The means of egress illumination.~~

~~(c) The egress control device must be capable of being deactivated by a signal from a switch located in an approved location.~~

~~(d) An irreversible process which will deactivate the egress control device must be initiated whenever a manual force of not more than fifteen pounds is applied for two seconds to the panic bar or other door-latching hardware. The egress control device must deactivate within an approved time period not to exceed a total of fifteen seconds. The time delay must not be field adjustable.~~

~~(e) Actuation of the panic bar or other door-latching hardware must activate an audible signal at the door.~~

~~(f) The unlatching must not require more than one operation.~~

~~(g) A sign must be provided on the door located above and within twelve inches of the panic bar or other door latching hardware reading:~~

~~"Keep pushing. The door will open in fifteen seconds. Alarm will sound."~~

~~The sign lettering must be at least one inch in height and must have a stroke of not less than one-eighth inch.~~

~~(h) Regardless of the means of deactivation, relocking of the egress control device must be by manual means only at the door.~~

~~(8)) The assisted living facility must have a system in place to inform and permit visitors, staff persons and appropriate residents how they ((ean)) may exit without sounding the alarm.~~

~~((9) Units or buildings from which egress is restricted are equipped with a secured outdoor space for walking which:~~

~~(a) Is accessible to residents without staff assistance;~~

~~(b) Is surrounded by walls or fences at least seventy-two inches high;~~

~~(c) Has areas protected from direct sunshine and rain throughout the day;~~

~~(d) Has walking surfaces that are firm, stable, slip-resistant and free from abrupt changes and are suitable for individuals using wheelchairs and walkers; and~~

~~(e) Has suitable outdoor furniture))~~

(4) The installation of access and egress controls that does not restrict the movement of residents who are cognitively and physically able to safely leave the facility independently;

(5) In new construction, access and egress controlled doors that are installed as permitted by the building code adopted by the Washington state building code council;

(6) Existing access and egress controlled doors that meet and are maintained to the requirements of the building code at the time of construction; and

(7) Buildings from which egress is restricted have:

(a) A system in place to inform and permit visitors, staff persons, and appropriate residents freedom of movement; and

(b) A secured outdoor space per WAC 388-78A-2381.

NEW SECTION

WAC 388-78A-2381 General design requirements for memory care.

(1) When planning for new construction, renovations or change of service to include memory care services, the facility must document design considerations appropriate to residents with dementia, mental health issues, or cognitive and developmental disabilities within its functional program consistent with WAC 388-78A-2380.

(2) The facility must provide common areas, including at least one resident accessible common area outdoors. Such common areas should accommodate and offer the opportunity of social interaction, stimulate activity, contain areas with activity supplies and props to encourage engagement, and have safe outdoor paths to encourage exercise and movement.

(a) These areas must have a residential atmosphere and must accommodate and offer opportunities for individual or group activity including:

- (i) Giving residents opportunities for privacy, socialization, and common spaces that account for wandering behaviors;
 - (ii) Ensuring any public address system in the area of specialized dementia care services is used only for emergencies;
 - (iii) Encouraging residents' individualized spaces to be furnished and decorated with personal items based on resident needs and preferences; and
 - (iv) Ensuring residents have access to their own rooms at all times without staff assistance.
- (b) Unless an alternative viewing area is provided as described in (e) of this subsection, the facility must provide an outdoor area for residents that:
- (i) Is located on the floor on which the resident resides;
 - (ii) Is designed with a minimum of twenty-five square feet of space per resident served;
 - (iii) Has areas protected from direct sunshine and rain throughout the day;
 - (iv) Has walking surfaces that are firm, slip-resistant and free from abrupt changes, and suitable for individuals using wheelchairs and walkers;
 - (v) Has outdoor furniture;
 - (vi) Has plants that are not poisonous or toxic to humans; and
 - (vii) Has areas appropriate for outdoor activities of interest to residents, such as walking paths, raised garden, flowerbeds, or bird feeders.
- (c) A facility may provide access to an outdoor area and a dedicated viewing area on each floor that:
- (i) Is not obstructed by indoor furniture, storage areas, cleaning equipment, trash receptacles, snack food/drink tables, and other such encumbrances that would minimize access to the viewing area;
 - (ii) Must not serve as a hallway, or an additionally required community space such as a dining area, activity room, mobile health-care services (such as home health, podiatrist, dental services), other purposes;
 - (iii) Must be a community space, not within the residents' room; and
 - (iv) Has windows that have an unobstructed and viewable height accessible by wheelchair.
- (d) The required outdoor area must be accessible to residents with minimal staff assistance in a manner consistent with the residents' individual negotiated service agreement, except where pursuant to a facility policy, and consistent with WAC 388-78A-2600, the facility administrator or other appropriate staff reasonably believe that the health or safety may be at risk, including, but not limited to, instances of:
- (i) Inclement weather;
 - (ii) Dangerous construction or maintenance activities; or
 - (iii) Other temporary environmental factors that create an unsafe environment.
- (e) In lieu of providing outdoor space on each floor in which a resident resides required under (b)(i) of this subsection, a facility must put in place and maintain a written policy and procedure that documents how the facility provides residents with access to an outdoor area on a floor other than the floor on which the resident resides. Upon request the facility shall present that plan to the department for review. Such a plan must include:
- (i) The location of the outdoor space;

(ii) A description of any assistance necessary for the resident to reach the outdoor space at any time, and documented in the negotiated service agreement plan per WAC 388-78A-2140(2);

(iii) The facility's plan for providing any necessary staff assistance described in (e)(ii) of this subsection;

(iv) A plan to maintain safety and security to prevent wandering or exit seeking while the resident is using the outdoor space; and

(f) Facilities licensed prior to date of implementation of this rule that have an outdoor area on each floor, may not eliminate the required outdoor space.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2680 Electronic monitoring equipment—Audio monitoring and video monitoring. (1) Except as provided in this section or in WAC 388-78A-2690, the assisted living facility must not use the following in the facility or on the premises:

(a) Audio monitoring equipment; or

(b) Video monitoring equipment if it includes an audio component.

(2) The assisted living facility may video monitor and video record activities in the facility or on the premises, without an audio component, only in the following areas:

(a) Entrances ~~((and))~~, exits, and elevators as long as the cameras are:

(i) Focused only on the entrance or exit doorways; and

(ii) Not focused on areas where residents gather.

(b) Areas used exclusively by staff persons such as, medication preparation and storage areas or food preparation areas, if residents do not go into these areas;

(c) Outdoor areas accessible to both residents and the public, such as, but not limited to, parking lots, provided that the purpose of such monitoring is to prevent theft, property damage, or other crime on the premises.

(d) Outdoor areas not commonly used by residents, such as, but not limited to, delivery areas, emergency exits, or exits from a secured outdoor space for memory care; ((and

~~(d))~~ (e) Resident fitness centers and pool areas; and

(f) Designated smoking areas, subject to the following conditions:

(i) Residents have been 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;

(iv) The video monitor is not viewable by general public; and

(v) The facility notifies all residents in writing of the use of video monitoring equipment.

(3) The assisted living facility may only video record community activities in the facility or on the premises with the audio component when the following are met:

(a) A resident requests an activity be recorded;

(b) A sign is posted at the entry to the activity area in which the event occurs and at the time of the event, to notify residents of the video, audio recording, or both; and

(c) The facility notifies all residents in writing for each use of video and audio monitoring equipment, providing that the residents' likeness will not be used in promotional materials without their written consent.

(4) The presence of cameras must not alter the obligation of the assisted living facility to provide appropriate in-person assistance and monitoring due to individual physical or cognitive limitations.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2690 Electronic monitoring equipment—Resident requested use. (1) ~~((The assisted living facility must not use))~~ Audio or video monitoring equipment ((to monitor any resident unless:

~~(a) The resident has requested the monitoring; and~~

~~(b) The monitoring is only used in the sleeping room of the resident who requested the monitoring))~~ may not be installed in the assisted living facility to monitor any resident apartment or sleeping area unless the resident or the residents' representative has requested and consents to the monitoring.

(2) Electronic monitoring equipment must be installed in a manner that is safe for residents.

(3) A facility must not refuse to admit an individual, or discharge a resident, because of a request to conduct authorized electronic monitoring.

(4) A resident may limit his or her consent for use of electronic monitoring devices to specific times or situation, pointing the camera in a particular direction, or prohibiting the use of certain devices.

(5) The release of audio or video monitoring recordings by the facility is prohibited. Each person or organization with access to the electronic monitoring must be identified in the resident's negotiated service agreement.

~~((2))~~ (6) If the resident requests the assisted living facility to conduct audio or video monitoring of his or her apartment or sleeping area, before any electronic monitoring occurs, the assisted living facility must ensure:

(a) That the electronic monitoring does not violate chapter 9.73 RCW;

~~((The resident has identified a threat to the resident's health, safety or personal property;~~

~~(e))~~ The resident's roommate has provided written consent to electronic monitoring, if the resident has a roommate; and

~~((d))~~ (c) The resident and the assisted living facility have agreed upon a specific duration for the electronic monitoring and the agreement is documented in writing.

~~((3))~~ (7) The assisted living facility must:

(a) Reevaluate the need for the electronic monitoring with the resident at least quarterly; and

(b) Have each reevaluation in writing, signed and dated by the resident.

~~((4))~~ (8) The assisted living facility must immediately stop electronic monitoring if the:

(a) Resident no longer wants electronic monitoring;
(b) Roommate objects or withdraws the consent to the electronic monitoring; or

(c) The resident becomes unable to give consent, unless consent has been provided by a resident's representative as described in this section.

~~((5))~~ (9) For the purpose of consenting to video electronic monitoring without an audio component, the term "resident" includes the resident's ~~((surrogate decision maker))~~ representative.

~~((6))~~ (10) For the purposes of consenting to any audio electronic monitoring, the term "resident" includes:

(a) The individual residing in the assisted living facility; or
(b) The resident's court-appointed guardian or attorney-in-fact who has obtained a court order specifically authorizing the court-appointed guardian or attorney-in-fact to consent to electronic monitoring of the resident.

~~((7))~~ (11) If a resident's decision maker consents to audio electronic monitoring as specified in ~~((6))~~ (10) above, the assisted living facility must maintain a copy of the court order authorizing such consent in the resident's record.

(12) If the assisted living facility determines that a resident, resident's family, or other third party is electronically monitoring a resident's room or apartment without complying with the requirements of this section, the assisted living facility must disconnect or remove such equipment until the appropriate consent is obtained and notice given as required by this section.

(13) Nothing in this section prohibits or limits an assisted living facility from implementing electronic monitoring pursuant to a resident's negotiated service plan, including but not limited to motion sensor alerts, floor pressure sensors, or global positioning devices, where the monitoring does not entail the transmittal or recording of a human-viewable image, sound or resident name.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2700 (~~((Safety measures and))~~ Emergency and disaster preparedness. (1) ~~((The assisted living facility must take necessary action to promote the safety of each resident whenever the resident is on the assisted living facility premises or under the supervision of staff persons, consistent with the resident's negotiated service agreement.~~

~~(2))~~ The assisted living facility must:
(a) Maintain the premises free of hazards;
(b) Maintain any vehicles used for transporting residents in a safe condition;

(c) ~~((Investigate and document investigative actions and findings for any alleged or suspected neglect or abuse or exploitation, accident or incident jeopardizing or affecting a resident's health or life. The assisted living facility must:~~

~~(i) Determine the circumstances of the event;~~

~~(ii) When necessary, institute and document appropriate measures to prevent similar future situations if the alleged incident is substantiated; and~~

~~(iii) Protect other residents during the course of the investigation.~~

~~(d) Provide appropriate hardware on doors of storage rooms, closets and other rooms to prevent residents from being accidentally locked in;~~

~~(e)) Provide, and tell staff persons of ((7)) a means of emergency access to resident-occupied bedrooms, toilet rooms, bathing rooms, and other rooms;~~

~~((f)) (d) Provide emergency lighting or flashlights in all areas accessible to residents of the assisted living facility. ((For all assisted living facilities first issued a project number by construction review services on or after September 1, 2004 for construction related to this section, the assisted living facility must provide emergency lighting in all areas of the assisted living facility;~~

~~(g)) (e) Make sure first-aid supplies are:~~

~~(i) Readily available and not locked;~~

~~(ii) Clearly marked;~~

~~(iii) Able to be moved to the location where needed; and~~

~~(iv) Stored in containers that protect them from damage, deterioration, or contamination.~~

~~((h)) (f) Make sure first-aid supplies are appropriate for:~~

~~(i) The size of the assisted living facility;~~

~~(ii) The services provided;~~

~~(iii) The residents served; and~~

~~(iv) The response time of emergency medical services.~~

~~((i)) (g) Develop and maintain a current disaster plan describing measures to take in the event of internal or external disasters, including, but not limited to:~~

~~(i) On-duty staff persons' responsibilities;~~

~~(ii) Provisions for summoning emergency assistance;~~

~~(iii) Coordination with first responders regarding plans for evacuating residents from area or building;~~

~~(iv) Alternative resident accommodations;~~

~~(v) Provisions for essential resident needs, supplies and equipment including water, food, and medications; and~~

~~(vi) Emergency communication plan.~~

NEW SECTION

WAC 388-78A-2703 Safety of the built environment. The assisted living facility must provide a safe environment and promote the safety of each resident whenever the resident is on the premises or under the supervision of staff persons consistent with the resident's negotiated service agreement, and must maintain the premises and equipment used in resident care so as to be free of hazards, including:

(1) Providing handrails in halls, corridors, lobbies, and other circulation spaces accessible to residents appropriate to the population served and consistent with the facility functional program.

(2) Maintaining nonskid surfaces on all stairways and ramps used by residents.

- (3) Keeping exterior grounds, assisted living facility structures, and component parts safe, sanitary, and in good repair.
- (4) Providing door hardware to ensure:
 - (a) Residents cannot lock themselves in, or out of, rooms or areas accessible to them; and
 - (b) Residents cannot become locked in storage rooms, closets, or other rooms or areas not intended for resident access.
- (5) Providing and informing staff persons of a means of emergency access to resident-occupied bedrooms, toilet rooms, bathing rooms, and other rooms.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2800 Changes in licensed bed capacity. (1) To change the licensed bed capacity in an assisted living facility, the assisted living facility must:

- ~~((1))~~ (a) Submit a completed request for approval to the department at least one day before the intended change;
- ~~((2))~~ (b) Submit the prorated fee for additional beds to DSHS within thirty calendar days, if applicable; (and
- ~~(3))~~ (c) Update the resident register pursuant to WAC 388-78A-2440 upon making the intended change;
- (d) Post an amended license obtained from the department, indicating the new licensed bed capacity; and
- (e) Meet the additional requirements under WAC 388-78A-2810.

(2) Facilities may maintain prepaid licensed beds as "stand-by" beds for the conversion of a nonresident to a resident or admission of a resident. A "stand-by" bed is defined as a bed that is not occupied by a resident and was not designated on the department room list by the facility as a paid licensed bed.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2810 Criteria for increasing licensed bed capacity. Before the licensed bed capacity in an assisted living facility may be increased, the assisted living facility must:

- (1) Obtain construction review services' review and approval of the additional rooms or beds, and related auxiliary spaces, if the rooms were not previously reviewed and approved for the physical plant requirements at time of construction; and
- (2) Ensure ~~((the increased))~~ that each additional licensed bed ((capacity does not exceed the maximum facility capacity as determined by the department)) or "stand-by" bed meets the assisted living licensing requirements under this chapter and chapter 388-110 WAC, when applicable.
- (3) Before approving any increase in licensed bed capacity, the department will determine the facility's maximum facility capacity to ensure that any increase is consistent with this chapter and chapter 388-110 WAC, when applicable.

NEW SECTION

WAC 388-78A-2821 Design, construction review, and approval plans. (1) Drawings and specifications for new construction must be prepared by, or under the direction of, an architect registered under chapter 18.08 RCW. The services of a consulting engineer registered under chapter 18.43 RCW may be used for the various branches of work where appropriate. The services of a registered engineer may be used in lieu of the services of an architect if the scope of work is primarily engineering in nature.

(2) The assisted living facility will meet the following requirements:

(a) **Preconstruction.** Request and attend a presubmission conference for projects with a construction value of two hundred and fifty thousand dollars or more. The presubmission conference shall be scheduled to occur for the review of construction documents that are no less than fifty percent complete, or as coordinated with plan reviewer.

(b) **Construction document review.** Submit construction documents for proposed new construction to the department for review within ten days of submission to the local authorities. Compliance with these standards and regulations does not relieve the facility of the need to comply with applicable state and local building and zoning codes. The construction documents must include:

(i) A written functional program consistent with WAC 388-78A-2361 containing, but not limited to, the following:

(A) Information concerning services to be provided and the methods to be used;

(B) An interim life safety measures plan to ensure the health and safety of occupants during construction;

(C) An infection control risk assessment indicating appropriate infection control measures, keeping the surrounding area free of dust and fumes, and ensuring rooms or areas are well ventilated, unoccupied, and unavailable for use until free of volatile fumes and odors;

(D) An analysis of likely adverse impacts on current assisted living facility residents during construction and the facilities plans to eliminate or mitigate such adverse impacts including ensuring continuity of services;

(ii) Drawings and specifications to include coordinated architectural, mechanical, and electrical work. Each room, area, and item of fixed equipment and major movable equipment must be identified on all drawings to demonstrate that the required facilities for each function are provided;

(iii) Floor plan of the existing building showing the alterations and additions, and indicating location of any service or support areas;

(iv) Required paths of exit serving the alterations or additions; and

(v) Verification that the capacities and loads of infrastructure systems will accommodate the planned load.

(c) **Resubmittals.** The assisted living facility will respond in writing when the department requests additional or corrected construction documents;

(d) **Construction.** Comply with the following requirements during the construction phase:

(i) The assisted living facility will not begin construction until all of the following items are complete:

(A) Construction review services has approved construction documents or granted authorization to begin construction;

(B) The local jurisdictions have issued a building permit; and

(C) The construction review services will issue an "authorization to begin construction" when the construction documents have been conditionally approved.

(ii) Submit to the department for review any addenda or modifications to the construction documents.

(iii) Assure construction is completed in compliance with the final construction review services approved documents. Compliance with these standards and regulations does not relieve the facility from compliance with applicable state and local building and zoning codes. Where differences in interpretations occur, the facility will follow the most stringent requirement.

(vi) The assisted living facility will allow any necessary inspections for the verification of compliance with the construction documents, addenda, and modifications.

(e) **Project closeout.** The facility will not use any new or remodeled areas for resident use of licensed space until:

(i) The department has approved construction documents;

(ii) The local jurisdictions have completed all required inspections and approvals, when applicable or given approval to occupy; and

(iii) The facility notifies the department in writing when construction is completed and includes:

(A) Copy of the local jurisdiction's approval for occupancy;

(B) Copy of reduced floor plans; and

(C) A room schedule.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2830 Conversion of licensed nursing homes. (1) If a person intends to convert a licensed nursing home building into a licensed assisted living facility, the building must meet all assisted living facility licensing requirements specified in this chapter and chapter 18.20 RCW unless the licensee has a contract with the department to provide enhanced adult residential care services in the assisted living facility per RCW 18.20.220.

(2) If the licensee provides contracted enhanced adult residential care services in the building converted from a licensed nursing home into a licensed assisted living facility, the assisted living facility licensing requirements for the physical structure are considered to be met if the most recent nursing home inspection report for the nursing home building demonstrates compliance, and compliance is maintained, with safety standards and fire regulations:

(a) As required by RCW 18.51.140; and

(b) Specified in the applicable building code, as required by RCW 18.51.145, including any waivers that may have been granted, except that the licensee must ensure the building meets the licensed assisted living facility standards, or their functional equivalency, for:

(i) Resident to bathing fixture ratio required per WAC 388-78A-3030;

- (ii) Resident to toilet ratio required per WAC 388-78A-3030;
- (iii) ~~((Corridor))~~ A call system required per WAC 388-78A-2930;
- (iv) Resident room door closures; and
- (v) Resident room windows required per WAC 388-78A-3010.

(3) If the licensee does not continue to provide contracted enhanced adult residential care services in the assisted living facility converted from a licensed nursing home, the licensee must meet all assisted living facility licensing requirements specified in this chapter and chapter 18.20 RCW.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2850 Required reviews of building plans. (1) A person or assisted living facility must notify construction review services of all planned construction regarding an assisted living facility prior to beginning work on any of the following:

(a) A new building or portion thereof to be used as an assisted living facility;

(b) An addition of, or modification or alteration to an existing assisted living facility, including, but not limited to, the assisted living facility's:

- (i) Physical structure;
- (ii) Electrical fixtures or systems;
- (iii) Mechanical equipment or systems;
- (iv) Fire alarm fixtures or systems;
- (v) Fire sprinkler fixtures or systems;
- (vi) ~~((Carpeting;~~

~~((vii)))~~ Wall coverings 1/28 inch thick or thicker; or
~~((viii)))~~ (vii) Kitchen or laundry equipment.

(c) A change in the department-approved use of an existing assisted living facility or portion of an assisted living facility; and

(d) An existing building or portion thereof to be converted for use as an assisted living facility.

(2) A person or assisted living facility does not need to notify construction review services of the following:

- (a) Repair or maintenance of equipment, furnishings or fixtures;
- (b) Replacement of equipment, furnishings or fixtures with equivalent equipment, furnishings or fixtures;

(c) Repair or replacement of damaged construction if the repair or replacement is performed according to construction documents approved by construction review services within eight years preceding the current repair or replacement;

(d) Painting; or

(e) Cosmetic changes and changes to approved use that do not affect areas providing, or utilities serving resident activities, services, or care and are performed in accordance with the current edition of the building code; or

(f) Construction in buildings not accessible to residents and not directly supporting resident services.

(3) The assisted living facility must submit plans to construction review services as directed by construction review services and consistent with WAC ~~((388-78A-2820))~~ 388-78A-2361 for approval prior to beginning any construction. ~~((The plans must provide an analysis of~~

~~likely adverse impacts on current assisted living facility residents and plans to eliminate or mitigate such adverse impacts.))~~

NEW SECTION

WAC 388-78A-2851 Applicability requirements for physical plant.

(1) The purpose of physical environment requirements is to provide for a safe and effective resident care environment in the buildings or portions of buildings licensed as assisted living facilities and used to provide assisted living services. This section applies to new construction which includes:

- (a) New buildings to be licensed;
- (b) Conversion of an existing building or portion of an existing building;
- (c) Additions;
- (d) Alterations; and
- (e) Excludes buildings used exclusively for administration functions.

(2) Standards for design and construction:

(a) The physical environment requirements of this chapter that are in effect at the time the application and fee is submitted to construction review services, and the project number is assigned by construction review services, apply for the duration of the construction project;

(b) Newly licensed assisted living facilities and new construction in existing assisted living facilities must meet the requirements of all current state and local building and zoning codes and applicable sections of this chapter; and

(c) Where permitted by the state building code, in resident rooms, spaces, and areas, including sleeping, treatment, diagnosis, and therapeutic uses, the design and installation of an NFPA 72 private operating mode fire alarm shall be permitted.

(3) Existing licensed assisted living facilities must continue to meet the applicable codes in force at the time of construction, the fire code adopted by the Washington state building code council and the following sections:

- (a) WAC 388-78A-2700 Emergency and disaster preparedness;
- (b) WAC 388-78A-2880 Changing use of rooms;
- (c) WAC 388-78A-2703 Safety of the built environment;
- (d) WAC 388-78A-2950 Water supply;
- (e) WAC 388-78A-2960 Sewage and liquid waste disposal; and
- (f) WAC 388-78A-2970 Garbage and refuse disposal.

(4) Where applicable, existing facilities may choose to meet either the requirements of chapter 388-78A WAC in effect at the time a project number is assigned by construction review services consistent with subsection (2)(a) of this section or the following standards:

- (a) WAC 388-78A-2381 General design requirements for memory care;
- (b) WAC 388-78A-2880(3) Freedom of movement;
- (c) WAC 388-78A-2990(5) Healing and cooling—Temperature; and
- (d) WAC 388-78A-2920 Area for nursing supplies and equipment.

(5) The department may require a facility to meet requirements if building components or systems are deemed by the department to jeopardize the health or safety of residents.

(6) The assisted living facility must ensure that construction is completed in compliance with the final construction review services approved documents. Compliance with these standards and regulations does not relieve the assisted living facility of the need to comply with applicable state and local building and zoning codes.

NEW SECTION

WAC 388-78A-2852 Exemptions or alternative methods. (1) The department may exempt an assisted living facility from meeting a specific requirement related to the physical environment or may approve an alternative method for meeting the requirement, if the department determines the exemptions or alternative method will:

- (a) Not jeopardize the health or safety of residents;
- (b) Not adversely affect the residents' quality of life;
- (c) Not change the fundamental nature of the assisted living facility operation into something other than an assisted living facility;
- (d) Demonstrate that the proposed alterations will serve to correct deficiencies or upgrade the facility in order to better serve residents; and
- (e) Demonstrate to the director of residential care services' satisfaction, that substitution of procedures, materials, or equipment for requirements specified in this chapter would better serve residents.

(2) To request an exemption, or to request an approval of an alternative method, an assisted living facility must submit a written request to the department that includes:

- (a) A description of the requested exemption or alternative method; and
 - (b) The specific rule for which the exemption is sought.
- (3) The assisted living facility may not appeal the department's denial of a request for an exemption or alternative method.
- (4) The assisted living facility must retain in the assisted living facility a copy of each approved exemption or alternative method.

NEW SECTION

WAC 388-78A-2853 New licenses and use of construction. The department will not issue an assisted living facility license unless:

- (1) Construction review services:
 - (a) Notifies the department that construction has been completed; and
 - (b) Provides the department:
 - (i) A copy of the certificate of occupancy granted by the local building official;
 - (ii) A copy of the functional program; and
 - (iii) A reduced copy of the approved floor plan indicating room numbers or names and the approved use; and
 - (c) The state fire marshal has inspected and approved for fire life safety RCW 18.20.130.

(2) Facilities will not use areas of new construction, as described in WAC 388-78A-2821, until one of the following events has occurred:

(a) Construction review services has approved the construction, and the scope of work does not require inspection by DSHS for a licensing inspection, or office of the state fire marshal (OSFM). Examples of such projects include:

(i) Minor additions (sunroom, dining room, offices);

(ii) New buildings without resident care space or critical systems;

(iii) Minor moving of walls in resident care spaces;

(iv) Major renovations in non-resident spaces; and

(v) Phased construction projects not falling under subsection

(3)(b)(ii) and (iii) of this section; or

(b) Construction review services has recommended approval, and a DSHS inspection has approved the finished work, and the scope of work is for:

(i) Major alterations of resident spaces;

(ii) Alterations of significant scope;

(iii) Conversion of support spaces to resident rooms;

(iv) Addition of licensed beds not previously reviewed and approved by construction review services;

(v) New resident care buildings (under existing license);

(vi) New resident support spaces such as kitchens and secured outdoor areas; and

(vii) License type/contract care conversions; or

(c) Construction review services has recommended approval, OSFM has inspected, and DSHS issues a license and the scope of the work is for:

(i) Buildings and areas supporting an initial facility license;

(ii) Buildings and spaces seeking licensure after an expired license; or

(iii) Facility relocation.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2860 Relocation of residents during construction.

(1) Prior to moving residents out of the assisted living facility during construction, the assisted living facility must:

(a) Notify the residents and the residents' representatives at least thirty days prior to the anticipated move date, of the required move, and their options consistent with chapter 70.129 RCW;

(b) Notify the department at least thirty days prior to the anticipated move date((7)) of the assisted living facility's plans for relocating residents, including:

(i) The location to which the residents will be relocated;

(ii) The assisted living facility's plans for providing care and services during the relocation;

(iii) The assisted living facility's plans for returning residents to the building; and

(iv) The projected time frame for completing the construction.

(c) Obtain the department's approval for the relocation plans prior to relocating residents.

(2) If the assisted living facility moves (~~out~~) all of the residents from the assisted living facility without first obtaining the department's approval of the relocation plans, the assisted living facility is (~~closed for business~~) ordered to stop placement, and the department may revoke the (~~licensee's~~) assisted living facility license.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2870 Vacant buildings. Whenever an assisted living facility moves out all residents and ceases operation for reasons other than construction, (~~as specified in~~) under WAC 388-78A-2860, the licensee must relinquish (~~the assisted living facility license~~) or the department may revoke the assisted living facility license.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2880 Changing use of rooms. Prior to using a room for a purpose other than what was approved by construction review services, the assisted living facility must:

- (1) Notify construction review services:
 - (a) In writing;
 - (b) Thirty days or more before the intended change in use;
 - (c) Describe the current and proposed use of the room; and
 - (d) Provide all additional documentation as requested by construction review services(~~-~~);
- (2) Obtain the written approval of construction review services for the new use of the room; and
- (3) Ensure the facility functional program and room list are updated to reflect the change.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2900 Retention of approved construction documents. The assisted living facility must retain paper or electronic copies of the following on the assisted living facility premises:

- (1) Specification data on materials used in construction, for the life of the product;
- (2) Stamped "approved" set of construction documents;
- (3) The certificate of occupancy or final inspection granted by the local building official;
- (4) The functional program required under WAC 388-78A-2361; and
- (5) Any approved exemption or alternative methods of compliance issued by the department.

WAC 388-78A-2920 Area for nursing supplies and equipment. (1)

~~((If the assisted living facility provides intermittent nursing services))~~ In each building, the assisted living facility must provide ~~((on the assisted living facility premises))~~ for the safe and sanitary storage and handling of nursing equipment and supplies appropriate to the needs of their residents, as well as for the soiled nursing equipment by providing:

~~((a) Storage and handling of clean and sterile nursing equipment and supplies; and~~

~~(b) Cleaning and disinfecting of soiled nursing equipment.~~

~~(2) For all assisted living facilities first issued a project number by construction review services on or after September 1, 2004 for construction related to this section, in which intermittent nursing services are provided, or upon initiating intermittent nursing services within an existing assisted living facility, the assisted living facility must provide the following two separate rooms in each assisted living facility building, accessible only by staff persons:))~~

~~(a) A "clean" utility ((room))~~ area for the purposes of storing and preparing ~~((clean and sterile))~~ nursing supplies, or durable and disposable medical equipment equipped with:

~~(i) A work counter or table; and~~

~~(ii) A handwashing sink, with soap and paper towels or other approved hand-drying device; ((and~~

~~(iii) Locked medication storage, if medications are stored in this area, that is separate from all other stored items consistent with WAC 388-78A-2260.))~~

~~(b) A "soiled" utility room for the purposes of storing soiled linen, cleaning ((and disinfecting soiled))~~ nursing care equipment, and disposing of refuse and infectious waste, equipped with:

~~(i) A work counter or table;~~

~~(ii) A two-compartment sink for handwashing and equipment cleaning and sanitizing;~~

~~(iii) ((A clinical service sink or equivalent for rinsing and disposing of waste material;~~

~~(iv))~~ Soap and paper towels or other approved hand-drying device; and

~~((v))~~ (iv) Locked storage for cleaning supplies, if stored in the area.

~~(c) An area for locked medication storage consistent with WAC 388-78A-2260, equipped with:~~

~~(i) A work surface; and~~

~~(ii) An adjacent hand-washing sink, with soap and paper towels or other approved hand-drying device.~~

~~(2) "Clean" and "soiled" utility areas must be accessible by staff persons, or residents with appropriate staff assistance if those "clean" or "soiled" areas contain resident laundry facilities.~~

~~(3) Single designs meeting the functional intent and built to address issues of infection control, work process, and mechanical ventilation may be approved.~~

~~(4) Each assisted living facility:~~

~~(a) May combine areas used for storing, handling, and cleaning soiled laundry and linens, areas used for cleaning nursing care equipment, areas for disposing of refuse and infectious waste, and/or areas~~

for storing housekeeping and cleaning supplies, into a single area on the premises only when the assisted living facility equips the area with:

- (i) A two-compartment sink for handwashing and sanitizing;
 - (ii) A work counter or table;
 - (iii) A mechanical ventilation to the outside of the assisted living facility; and
 - (iv) Locked storage for cleaning supplies, if stored in the area.
- (b) Must ensure that any work or function performed in or around a combined utility area as described in subsection (4)(a) of this section is performed without significant risk of contamination to:
- (i) Storing or handling clean nursing supplies or equipment;
 - (ii) Storing or handling clean laundry;
 - (iii) Providing resident care;
 - (iv) Food storage, preparation, or service; or
 - (v) Other operations or services of functions in the assisted living facility sensitive to infection control practices.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2930 Communication system. (1) The assisted living facility must:

(a) Provide residents and staff persons with the means to summon on-duty staff assistance from all resident-accessible areas including:

- (i) ~~((From resident units))~~ Bathrooms and toilet rooms;
- (ii) ~~((From common areas accessible to residents))~~ Resident living rooms and resident sleeping rooms; and
- (iii) ~~((From))~~ Corridors, as well as common and outdoor areas accessible to residents ~~((; and~~
- ~~(iv) For assisted living facilities issued a project number by construction review services on or after September 1, 2004 for construction related to this section, all bathrooms, all toilet rooms, resident living rooms and sleeping rooms).~~

(b) Provide the resident with personal wireless communication devices, such as pendants or wristbands, when a communication device is not installed in the resident's sleeping room, and when wireless communications are used:

- (i) The system must be designed and installed consistent with industry standards and perform reliably throughout the facility; and
- (ii) The facility must have a policy and procedure describing the mitigating measures in the event of system disruption, including for maintenance and loss of power; and

(c) Provide residents, families, and other visitors with a means to contact a staff person inside the building from outside the building after hours.

(2) The assisted living facility must provide one or more nonpay telephones:

- (a) In each building located for ready access ~~((by))~~ for staff persons; and
- (b) On the premises with reasonable access and privacy by residents.

~~(3) ((In assisted living facilities issued a project number by construction review services on or after September 1, 2004 for con-~~

~~struction related to this section,))~~ The assisted living facility must equip each resident room with ~~((two))~~ access to telephone ((lines)) service.

~~(4) If an assisted living facility ((that is issued a project number by construction services on or after September 1, 2004)) chooses to install an intercom system, the intercom system must be equipped with a mechanism that allows a resident to control:~~

~~(a) Whether or not announcements are broadcast into the resident's room; and~~

~~(b) Whether or not voices or conversations within the resident's room can be monitored or listened to by persons outside the resident's room.~~

(5) The facility must provide wireless internet access.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2950 Water supply. The assisted living facility must:

(1) Provide water meeting the provisions of chapter 246-290 WAC, Group A public water supplies or chapter 246-291 WAC, Group B public water systems;

~~(2) Protect and maintain the assisted living facility water systems ((free of cross-connections as specified in the edition of *Cross-Connection Control Manual*, published by the Pacific Northwest Section of the)) against cross-connection in accordance with American Water Works Association((, in effect on the date a construction review fee is paid to the department of health, construction review services;)) (AWWA) Recommended Practice for Backflow Prevention and Cross-Connection Control.~~

~~(3) Meet the requirements of the plumbing code adopted by the Washington state building code council;~~

~~(4) Install vacuum breakers or backflow prevention devices on hose bibs and supply nozzles used to connect hoses or tubing to house-keeping sinks, and where used, bedpan-flushing attachments;~~

~~(5) Provide hot and cold water under adequate pressure readily available throughout the assisted living facility;~~

~~((4)) (6) Provide all sinks in resident rooms, toilet rooms and bathrooms, and bathing fixtures used by residents with hot water between 105°F and 120°F at all times; and~~

~~((5)) (7) Label or color code nonpotable water supplies as "unsafe for domestic use."~~

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2960 Sewage and liquid waste disposal. The assisted living facility must:

(1) Ensure that all sewage and waste water drain into a municipal sewage disposal system according to chapter ~~((246-271))~~ 246-272A WAC, if available; or

(2) Provide on-site sewage disposal systems designed, constructed, and maintained as required by chapters ~~((246-272))~~ 246-272B and 173-240 WAC, and local ordinances.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2980 Lighting. (1) The assisted living facility must provide emergency lighting in residents units, dining and activity rooms, laundry rooms, and other spaces where residents may be at the time of a power outage.

~~((2))~~ (2) The assisted living facility must maintain electric light fixtures and lighting necessary for the comfort and safety of residents and for the activities of residents and staff.

~~((2))~~ (3) The assisted living facility must provide enough lighting in each resident's room to meet the resident's needs, preferences and choices.

~~((3))~~ (4) New assisted living facility construction must, at a minimum, meet the Illuminating Engineering Society of North America (IESNA) recommendations for lighting in common areas as established in the IESNA lighting handbook. The applicable handbook is the edition in effect on the date a construction review fee is paid to the department of health, construction review services, for new assisted living facility construction.

~~((4))~~ (5) Existing assisted living facility construction must maintain, at a minimum, the Illuminating Engineering Society of North America (IESNA) recommendations for lighting in common areas as established in the IESNA lighting handbook. The applicable handbook is the edition in effect on the date a construction review fee was paid to the department of health, construction review services, for the assisted living facility or that portion of the assisted living facility that underwent construction review.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2990 Heating-cooling—Temperature. The assisted living facility must:

(1) Equip each resident-occupied building with an approved heating system capable of maintaining a minimum temperature of 70°F (~~per the building code~~). The assisted living facility must:

(a) Maintain the assisted living facility at a minimum temperature of 60°F during sleeping hours; and

(b) Maintain the assisted living facility at a minimum of 68°F during waking hours, except in rooms:

(i) Designated for activities requiring physical exertion; ~~((or))~~

(ii) Where residents can individually control the temperature in their own living units, independent from other areas ~~((-))~~; or

(iii) Where residents cannot individually control the temperature in their own living units, maintain all living units at a temperature range of 70°F to 75°F;

(2) Equip each resident-occupied building with a mechanical air cooling system or equivalent capable of maintaining a temperature of 75°F in communities where the design dry bulb temperature exceeds 85°F ~~((for one hundred seventy-five hours per year or))~~ two percent of the ~~((time, as specified in the latest edition of "Recommended Outdoor Design Temperatures Washington State," published by the Puget Sound chapter of the American Society of Heating, Refrigeration, and Air-Conditioning Engineers))~~ year per the ASHRAE standards;

(3) Equip each assisted living facility ~~((issued a project number by construction review services on or after September 1, 2004 for construction related to this section,))~~ with a backup source of heat in enough common areas to keep all residents adequately warm during interruptions of normal heating operations;

(4) Prohibit the use of portable space heaters unless approved in writing by the Washington state director of fire protection; ~~((and))~~

(5) Equip each resident sleeping room ~~((and resident living room in assisted living facilities issued a project number by construction review services on or after September 1, 2004 for construction related to this section,))~~ with individual temperature controls located between ~~((thirty))~~ eighteen and forty-eight inches above the floor capable of maintaining room temperature plus or minus 3°F from setting, within a range of minimum 60°F to maximum 85°F, these individual temperature controls may be modified to prevent resident access only when:

(a) Appropriate, as documented in resident assessment(s) and their negotiated service plan; and

(b) The temperature range is maintained at a range of 70°F to 75°F.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-3000 Ventilation. The assisted living facility must ~~((÷))~~ meet the ventilation requirements of the mechanical code as adopted and amended by the Washington state building council; and

(1) Ventilate rooms to:

(a) Prevent excessive odors or moisture; and

(b) Remove smoke.

(2) ~~((Designate and ventilate))~~ If provided, locate outdoor smoking areas ~~((, if smoking is permitted in the assisted living facility, to prevent air contamination throughout the assisted living facility))~~ in accordance with Washington state law;

(3) Provide intact sixteen mesh screens on operable windows and openings used for ventilation; and

(4) ~~((Prohibit))~~ Ensure window screens that may restrict or hinder escape or rescue through emergency exit openings, do not present an obstacle to facility emergency plans as coordinated with local fire and rescue services.

WAC 388-78A-3010 Resident ((room—Room—furnishings—storage))
units. ((1) The assisted living facility must ensure each resident has a sleeping room that has:

- (a) Eighty or more square feet of usable floor space in a one-person sleeping room;
- (b) Seventy or more square feet of usable floor space per individual in a sleeping room occupied by two or more individuals, except:
 - (i) When a resident sleeping room is located within a private apartment; and
 - (ii) The private apartment includes a resident sleeping room, a resident living room, and a private bathroom; and
 - (iii) The total square footage in the private apartment equals or exceeds two hundred twenty square feet excluding the bathroom; and
 - (iv) There are no more than two residents living in the apartment; and
 - (v) Both residents mutually agree to share the resident sleeping room; and
 - (vi) All other requirements of this section are met, then the two residents may share a sleeping room with less than one hundred forty square feet.
- (c) A maximum sleeping room occupancy of:
 - (i) Four individuals if the assisted living facility was licensed before July 1, 1989, and licensed continuously thereafter; and
 - (ii) Two individuals if the assisted living facility, after June 30, 1989:
 - (A) Applied for initial licensure; or
 - (B) Applied to increase the number of resident sleeping rooms; or
 - (C) Applied to change the use of rooms into sleeping rooms.
 - (d) Unrestricted direct access to a hallway, living room, outside, or other common-use area;
 - (e) One or more outside windows with:
 - (i) Window sills at or above grade, with grade extending horizontally ten or more feet from the building; and
 - (ii) Adjustable curtains, shades, blinds, or equivalent for visual privacy.
 - (f) One or more duplex electrical outlets per bed if the assisted living facility was initially licensed after July 1, 1983;
 - (g) A light control switch located by the entrance for a light fixture in the room;
 - (h) An individual towel and washcloth rack or equivalent, except when there is a private bathroom attached to the resident sleeping or living room, the individual towel and washcloth rack may be located in the attached private bathroom;
 - (i) In all assisted living facilities issued a project number by construction review services on or after September 1, 2004 for construction related to this section, and when requested by a resident in an assisted living facility licensed on or before September 1, 2004, provide a lockable drawer, cupboard or other secure space measuring at least one-half cubic foot with a minimum dimension of four inches;
 - (j) Separate storage facilities for each resident in or immediately adjacent to the resident's sleeping room to adequately store a reasonable quantity of clothing and personal possessions;

~~(k) A configuration to permit all beds in the resident sleeping room to be spaced at least three feet from other beds unless otherwise requested by all affected residents.~~

~~(2) The assisted living facility must ensure each resident sleeping room contains:~~

~~(a) A comfortable bed for each resident, except when two residents mutually agree to share a bed. The bed must be thirty-six or more inches wide for a single resident and fifty-four or more inches wide for two residents, appropriate for size, age and physical condition of the resident and room dimensions, including, but not limited to:~~

~~(i) Standard household bed;~~

~~(ii) Studio couch;~~

~~(iii) Hide-a-bed;~~

~~(iv) Day bed; or~~

~~(v) Water bed, if structurally and electrically safe.~~

~~(b) A mattress for each bed which:~~

~~(i) Fits the bed frame;~~

~~(ii) Is in good condition; and~~

~~(iii) Is at least four inches thick unless otherwise requested or necessary for resident health or safety.~~

~~(c) One or more comfortable pillows for each resident;~~

~~(d) Bedding for each bed, in good repair; and~~

~~(e) Lighting at the resident's bedside when requested by the resident.~~

~~(3) The assisted living facility must not allow a resident sleeping room to be used as a passageway or corridor.~~

~~(4) The assisted living facility may use or allow use of carpets and other floor coverings only when the carpet is:~~

~~(a) Securely fastened to the floor or provided with nonskid backing; and~~

~~(b) Kept clean and free of hazards, such as curling edges or tattered sections.~~

~~(5) The assisted living facility must ensure each resident has either a sleeping room or resident living room that contains a sturdy, comfortable chair appropriate for the age and physical condition of the resident. This requirement does not mean an assisted living facility is responsible for supplying specially designed orthotic or therapeutic chairs, including those with mechanical lifts or adjustments.)~~

The assisted living facility resident units must have the following:

(1) **General characteristics:**

(a) Units must have lever door hardware and option for lockable entry doors;

(i) Locking entry doors must unlock with single lever handle motion;

(b) Residents may not enter their rooms through another resident unit or resident bedroom;

(c) The functional program shall identify the number of units or number of licensed beds designed for staff assisted movement, bathing and toileting;

(2) **Number of residents:** Each resident unit shall be limited to not more than two residents.

(3) **Unit configuration types:**

(a) A studio unit or single room;

(b) A companion unit sized appropriately to provide two separate sleeping rooms or spaces of a common entry vestibule;
(c) A one bedroom unit with separate living and sleeping rooms;
or
(d) A two bedroom unit with separate living and sleeping rooms;
(4) Bathrooms: Access to bathing/toileting facilities within the resident unit must not be through a resident sleeping room or otherwise compromise resident dignity or privacy.
(5) Sleeping rooms size:
(a) One person rooms shall have not less than eighty square feet of usable floor space;
(b) Two person rooms shall not have less than seventy square feet of usable floor space per individual;
(c) When a resident sleeping room is located within a private apartment:
(i) The private apartment includes a resident sleeping room, a resident living room, and a private bathroom;
(ii) The total square footage in the private apartment equals or exceeds two hundred-twenty square feet excluding the bathroom;
(iii) There are no more than two residents living in the apartment; or
(iv) Both residents mutually agree to share the resident sleeping room; and
(v) If all other requirements of this section are met, then the two residents may share a sleeping room with less than one hundred forty square feet; and
(d) All sleeping rooms must be of sufficient size to allow three feet between the bed and the adjacent walls or furnishings and five feet between other beds.
(6) Calculating floor space:
(a) Usable floor space in a resident's sleeping room is calculated by measuring from interior wall to interior wall surface;
(i) Including areas of door swings and entryways into the sleeping room.
(ii) Excluding areas under ceilings less than seven feet high, closet space and built-in storage, areas under counters, sinks, or appliances, bathroom and toilet rooms.
(7) Room Arrangement:
(a) Each sleeping room must have unrestricted direct access to a hallway, living room, outside, or other common-use area;
(b) A resident sleeping room may not be used as a passageway, hall, intervening room, or corridor.
(8) Miscellaneous: Each sleeping room must have:
(a) One or more outside windows with:
(i) Window sills at or above grade, with grade extending horizontally ten or more feet from the building; and
(ii) Adjustable curtains, shades, blinds, or equivalent for visual privacy.
(b) Electrical receptacles consistent with the requirements of the electrical code;
(c) A light control switch located by the entrance for a light fixture in the room;
(d) An individual towel and washcloth rack or equivalent, except when there is a private bathroom attached to the resident sleeping or living room, the individual towel and washcloth rack may be located in the attached private bathroom;

- (e) A lockable drawer, cupboard or other secure space measuring a least one-half cubic foot with a minimum dimension of four inches;
- (f) Separate storage facilities for each resident in or immediately adjacent to that residents sleeping room to adequately store a reasonable quantity of clothing and personal possessions; and
- (g) Separate storage containers for materials used in the administration of intermittent nursing services appropriate to the needs of the resident and documented in the functional program.

NEW SECTION

WAC 388-78A-3011 Resident unit furnishings. (1) The assisted living facility must ensure each resident sleeping room contains:

- (a) A bed for each resident, except when:
 - (i) Two residents mutually agree to share a bed; or
 - (ii) A resident requests or provides alternate furniture for sleeping.
 - (b) The bed must be thirty-six or more inches wide for a single resident and fifty-four or more inches wide for two residents, including, but not limited to:
 - (i) Standard household bed;
 - (ii) Studio couch;
 - (iii) Hide-a-bed;
 - (iv) Day bed; or
 - (v) Water bed, if structurally and electrically safe.
 - (c) If using a bed, a mattress for each bed which:
 - (i) Fits the bed frame;
 - (ii) Is in good condition; and
 - (iii) Is at least four inches thick unless otherwise requested or necessary for resident health or safety.
 - (d) One or more pillows for each resident;
 - (e) Bedding for each bed, in good repair; and
 - (f) Lighting at the resident's bedside when requested by the resident.
- (2) The assisted living facility may use or allow use of carpets and other floor coverings only when the carpet is:
- (a) Securely fastened to the floor or provided with nonskid backing; and
 - (b) Kept clean and free of hazards, such as curling edges or tattered sections.
- (3) The assisted living facility must ensure each resident has either a sleeping room or resident living room that contains a sturdy chair. This requirement does not mean an assisted living facility is responsible for supplying specially designed orthotic or therapeutic chairs, including those with mechanical lifts or adjustments.

WAC 388-78A-3030 Toilet rooms and bathrooms. (1) The assisted living facility must provide private or common-use toilet rooms and bathrooms to meet the needs of each resident.

(2) The assisted living facility must provide each toilet room and bathroom with:

(a) Water resistant, smooth, low gloss, nonslip and easily cleanable materials;

(b) Washable walls to the height of splash or spray;

(c) Grab bars installed and located to minimize accidental falls including one or more grab bars at each:

(i) Bathing fixture; and

(ii) Toilet.

(d) Plumbing fixtures designed for easy use and cleaning and kept in good repair; and

(e) ~~((Adequate ventilation to the outside of the assisted living facility. For assisted living facilities issued a project number by construction review services on or after September 1, 2004, for construction related to this section, must))~~ Provide mechanical ventilation to the outside; and

(f) Separation from other rooms or areas by four walls and a door.

(3) The assisted living facility must provide each toilet room with a:

(a) Toilet with a clean, nonabsorbent seat free of cracks;

(b) Handwashing sink in or adjacent to the toilet room ~~((For assisted living facilities issued a project number by construction review services on or after September 1, 2004, for construction related to this section, the handwashing sink must be in the toilet room or in an adjacent private area that is not part of a common use area of the assisted living facility)); and~~

(c) ~~((Suitable))~~ A mirror with adequate lighting for general illumination.

(4) ~~((For assisted living facilities approved for construction or initially licensed after August 1, 1994,))~~ The assisted living facility must provide a toilet and handwashing sink in, or adjoining, each bathroom.

(5) When providing common-use toilet rooms and bathrooms, for residents who do not have access to a private toilet room in their apartment, the assisted living facility must provide toilets and handwashing sinks for residents in the ratios of one toilet and one handwashing sink for every eight residents. For example: One toilet and one handwashing sink for one to eight residents, two for nine to sixteen residents, three for seventeen to twenty-four residents, and so on ~~((, who do not have access to a private toilet room. When two or more toilets are contained in a single bathroom, they are counted as one toilet)).~~

(6) When providing common-use toilet rooms and bathrooms for residents who do not have access to a private bathroom in their apartment, the assisted living facility must provide bathing fixtures for residents in the ratio of one bathing fixture for every twelve residents. For example: One bathing fixture for one to twelve residents, two for twelve to twenty-four residents, three for twenty-five to

thirty-six residents, and so on(~~(, who do not have access to a private toilet room)~~).

(7) When providing common-use toilet rooms and bathrooms, the assisted living facility must:

(a) Designate toilet rooms containing more than one toilet for use by men or women;

(b) Designate bathrooms containing more than one bathing fixture for use by men or women, unless the bathroom is identified as a single resident use only;

(c) Equip each toilet room and bathroom designed for use by, or used by, more than one person at a time, in a manner to ensure visual privacy for each person using the room. The assisted living facility is not required to provide additional privacy features in private bathrooms with a single toilet and a single bathing fixture located within a private apartment;

(d) Provide a handwashing sink with soap and single use or disposable towels, blower or equivalent hand-drying device in each toilet room(~~(, except that single-use or disposable towels or blowers are not required in toilet rooms or bathrooms that are located within a private apartment)~~);

(e) Provide reasonable access to bathrooms and toilet rooms for each resident by:

(i) Locating a toilet room on the same floor or level as the sleeping room of the resident served;

(ii) Locating a bathroom on the same floor or level, or adjacent floor or level, as the sleeping room of the resident served;

(iii) Providing access without passage through any kitchen, pantry, food preparation, food storage, or dishwashing area, or from one bedroom through another bedroom; and

(f) Provide and ensure toilet paper is available at each common-use toilet.

(8) (~~In assisted living facilities issued a project number by construction review services on or after September 1, 2004, for construction related to this section,~~) The assisted living facility must ensure twenty-five percent of all ((the)) resident use, and at least one common use bathing fixtures ((in the assisted living facility)) are roll-in type showers that have:

(a) One-half inch or less threshold that may be a collapsible rubber water barrier; and

(b) A minimum size of thirty-six inches by forty-eight inches(~~(, and~~

~~(c) Single lever faucets located within thirty-six inches of the seat so the faucets are within reach of persons seated in the shower)~~).

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-3040 Laundry. (1) The assisted living facility must provide laundry and linen services on the premises, or by commercial laundry.

(2) The assisted living facility must handle, clean, and store linen according to acceptable methods of infection control. The assisted living facility must:

(a) Provide separate areas for handling clean laundry and soiled laundry;

(b) Ensure clean laundry is not processed in, and does not pass through, areas where soiled laundry is handled;

(c) Ensure areas where clean laundry is stored are not exposed to contamination from other sources; ~~((and))~~

(d) Ensure all staff persons wear gloves and use other appropriate infection control practices when handling soiled laundry; and

(e) Have a utility sink and a table or counter for folding clean laundry.

(3) The assisted living facility must use washing machines that have a continuous supply of hot water with a temperature of 140°F measured at the washing machine intake, ~~((or))~~ that automatically ~~((dispense))~~ dispenses a chemical sanitizer as specified by the manufacturer, ~~((whenever the assisted living facility washes:~~

~~(a) Assisted living facility laundry;~~

~~(b) Assisted living facility laundry combined with residents' laundry into a single load; or~~

~~(c) More than one resident's laundry combined into a single load))~~ or that employs alternate sanitization methods recommended by the manufacturer.

(4) The assisted living facility or a resident washing an individual resident's personal laundry, separate from other laundry, may wash the laundry at temperatures below 140°F and without the use of a chemical sanitizer.

(5) The assisted living facility must ventilate laundry rooms and areas to the outside of the assisted living facility, including areas or rooms where soiled laundry is held for processing by off site commercial laundry services.

(6) The assisted living facility must locate laundry equipment in rooms other than those used for open food storage, food preparation or food service.

(7) ~~((For all assisted living facilities issued a project number by construction review services on or after September 1, 2004 for construction related to this section,))~~ The assisted living facility must provide a laundry area or develop and implement policy and procedure to ensure residents have access to an area where residents' may do their personal laundry that is:

(a) Equipped with:

(i) A utility sink;

(ii) A table or counter for folding clean laundry;

(iii) At least one washing machine and one clothes dryer; and

(iv) Mechanical ventilation to the outside of the assisted living facility.

(b) ~~((Is))~~ Arranged to reduce the chances of soiled laundry contaminating clean laundry.

~~((8) The assisted living facility may combine areas for soiled laundry with other areas when consistent with WAC 388-78A-3110.~~

~~(9) The assisted living facility may combine areas for handling and storing clean laundry with other areas when consistent with WAC 388-78A-3120.)~~

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-3050 ((Day rooms)) Common areas. (1) The assisted living facility must provide one or more ((day room)) common areas in which residents may participate in social and recreational activities. ((Day room)) Common areas include, but are not limited to:

- (a) Solariums;
- (b) Enclosed sun porches;
- (c) Recreation rooms;
- (d) Dining rooms; and
- (e) Living rooms.

(2) The assisted living facility must provide a total minimum floor space for ((day room)) common areas of ((÷

~~(a) One hundred fifty square feet, or ten square feet per resident, whichever is larger, in assisted living facilities licensed on or before December 31, 1988; or~~

~~(b) One hundred fifty square feet, or twenty square feet per resident, whichever is larger, in assisted living facilities licensed after December 31, 1988)) one hundred-fifty square feet, or twenty square feet per resident, whichever is larger.~~

(3) The assisted living facility must provide ((day room)) common areas with ((comfortable)) furniture and furnishings that meet the residents' needs.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-3090 Maintenance and housekeeping. (1) The assisted living facility must:

(a) Provide a safe, sanitary and well-maintained environment for residents;

(b) Keep exterior grounds, assisted living facility structure, and component parts safe, sanitary and in good repair;

(c) Keep facilities, equipment and furnishings clean and in good repair; and

(d) Ensure each resident or staff person maintains the resident's quarters in a safe and sanitary condition ((; and

~~(e) Equip a housekeeping supply area on the premises with:~~

~~(i) A utility sink or equivalent means of obtaining and disposing of mop water, separate from food preparation and service areas;~~

~~(ii) Storage for wet mops, ventilated to the outside of the assisted living facility; and~~

~~(iii) Locked storage for cleaning supplies)) consistent with the negotiated service agreement.~~

(2) ((For assisted living facilities issued a project number by construction review services on or after September 1, 2004 for construction related to this section,) The assisted living facility must provide housekeeping supply room(s):

(a) Located on each floor of the assisted living facility, except only one housekeeping supply room is required for assisted living facilities licensed for sixteen or fewer beds when there is a means other than using a stairway, for transporting mop buckets between floors;

- (b) In proximity to laundry and kitchen areas; and
- (c) Equipped with:
 - (i) A utility sink or equivalent means of obtaining and disposing of mop water, away from food preparation and service areas;
 - (ii) Storage for wet mops;
 - (iii) Locked storage for cleaning supplies; and
 - (iv) Mechanical ventilation to the outside of the assisted living facility.

REPEALER

The following sections of the Washington Administrative Code are repealed:

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| WAC 388-78A-2820 | Building requirements and exemptions. |
| WAC 388-78A-2890 | Time frame for approval. |
| WAC 388-78A-2910 | Applicable building codes. |
| WAC 388-78A-3020 | Calculating floor space. |
| WAC 388-78A-3070 | Stairs—Ramps. |
| WAC 388-78A-3080 | Guardrails—Handrails. |
| WAC 388-78A-3110 | Areas for cleaning and storing soiled equipment, supplies and laundry. |
| WAC 388-78A-3120 | Areas for handling and storing clean supplies and equipment. |