



PROPOSED RULE MAKING

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

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FILED

DATE: January 07, 2020

TIME: 9:40 AM

WSR 20-03-034

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 19-16-101 ; 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 chapter 388-829R WAC "Overnight Planned Respite Services".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
February 25, 2020	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/office-of-the-secretary/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than February 26, 2020 (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. February 25, 2020

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) February 11, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Developmental Disabilities Administration (DDA) is proposing amendments to chapter 388-829R WAC to do the following: add certification and evaluation procedures; add definitions for administrator, direct support professional, owner, and primary caregiver; replace sections about certification, evaluation, and monitoring in WAC 388-829R-185 through WAC 388-829R-200 with WAC 388-829R-220 through WAC 388-829R-260; require the client to identify a backup caregiver to respond in an emergency if the primary caregiver is unavailable; require a client to not be receiving residential habilitation services under the core waiver to be eligible to receive overnight planned respite services; amend the factors the adult respite services committee considers when reviewing respite requests; change "individual respite services agreement" to "overnight planned respite services individualized agreement"; require the provider and client to complete and approve the overnight planned

respite services individualized agreement before the client's respite stay; require the provider to send a copy of the overnight planned respite services individualized agreement to DDA before the client's respite stay; require direct support professionals to be trained on a client's overnight planned respite services individualized agreement before working alone with a client; require the provider to keep copies of the DSHS 10-403 form signed by all direct support professionals and the administrator; replace content copied from the nurse delegation rules with direct references to the nurse delegation rules; remove references to the overnight planned respite services provider contract; require background checks every two years for all provider employees, including administrators, owners, direct support professionals, and volunteers; prohibit anyone with a disqualifying background check from having unsupervised access to a client; require the provider to notify the DDA overnight planned respite services program manager or designee after reporting suspected abandonment, abuse, financial exploitation, or neglect of a vulnerable adult; add informal dispute resolution procedures for providers who disagree with a certification evaluation or certification decision; and add an administrative hearing right for providers who disagree with a certification action or the outcome of an informal dispute resolution process.

Reasons supporting proposal: The proposed amendments are necessary to do the following: amend eligibility criteria to offer overnight planned respite services to clients with paid and unpaid caregivers; add certification and evaluation procedures to clarify the quality assurance process; clarify who can become an overnight planned respite services provider; and increase readability for people who use chapter 388-829R WAC by reorganizing content, clarifying language, and eliminating duplications and outdated information.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.040

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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589
Implementation:	Nichole Jensen	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1521
Enforcement:	Nichole Jensen	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1521

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)(e)
(Dictated by statute)

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

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

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

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

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) because the proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

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. _____

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

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

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: January 3, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

A handwritten signature in blue ink, appearing to read "Katherine I. Vasquez", with a long, sweeping flourish extending to the right.

WAC 388-829R-005 What definitions apply to this chapter? The following definitions apply to this chapter:

~~(("Adult protective services" or "APS" means the investigative body designated by the aging and long term care support administration (AL TSA) to investigate suspected cases of abandonment, abuse, financial exploitation, and neglect as defined in chapter 74.34 RCW.))~~

"Administrator" means the person responsible for daily management and operation of the overnight planned respite services site. The administrator may also be the owner.

"Authorization" means DDA approval of funding for a service as identified in the ~~((individual support))~~ person-centered service plan or evidence of payment for a service.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(5) and who the ~~((administration))~~ DDA has determined eligible to receive services under chapter 71A.16 RCW. When used in this section, "you" is interchangeable with client.

"DDA" ~~((or "the administration"))~~ means the developmental disabilities administration, an administration of the department of social and health services and its employees and authorized agents.

"Direct support professional" means a person who interacts directly with a client during an overnight planned respite stay to provide services outlined in the client's overnight planned respite services individualized agreement.

"DSSH" or "the department" means the state of Washington department of social and health services and its employees and authorized agents.

"Family" means ~~((relatives who live in the same home with the eligible client. Relatives include))~~ one or more of the following relatives: Spouse or registered domestic partner((τ)); natural((τ)); adoptive((τ)); or stepparent((τ)); grandparent((τ)); child((τ)); step-child((τ)); sibling((τ)); stepsibling((τ)); uncle((τ)); aunt((τ)); first cousin((τ)); niece((τ)); or nephew.

"Mandatory reporter" means any person working with vulnerable adults required to report suspected incidents of abandonment, abuse, neglect, financial exploitation under chapter 74.34 RCW.

~~(("NA-R" means nursing assistant registered under chapter 18.88A RCW.~~

~~"NA-C" means nursing assistant certified under chapter 18.88A RCW.))~~

"Nurse delegation" means the process by which a registered nurse transfers the performance of select nursing tasks to a nursing assistant-registered or nursing assistant-certified in select situations as set forth in chapter 18.79 RCW and WAC 246-840-910 through 246-840-970.

"Overnight planned respite services" means services that are intended to provide short-term intermittent relief for ~~((persons))~~ a person who ((live)) lives with ((the)) and acts as a DDA ((client as the)) client's primary ((care provider and are either a family member who is paid or unpaid or a nonfamily member who is not paid. These services also provide the opportunity for the client to receive support, care, and engagement in the community)) caregiver.

"Overnight planned respite services provider(~~(r)~~)" ("service provider") and "provider" means (~~a provider~~) an agency that is contracted to provide overnight planned respite services.

(~~"Registered nurse delegation" means the process by which a registered nurse transfers the performance of selected nursing tasks to a NA-R or NA-C in selected situations as set forth in chapter 18.79 RCW and WAC 246-840-910 through 246-840-970.~~)

"Owner" means the person who accepts or delegates responsibility for the management and operation of the overnight planned respite services site. The owner may also be the administrator.

"Primary caregiver" means the person who provides the client's care and supervision and lives with the client.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-010 What is the purpose of this chapter? This chapter establishes rules for (~~clients and providers regarding~~) overnight planned respite services administered by DDA.

NEW SECTION

WAC 388-829R-011 Who is eligible to receive overnight planned respite services? To be eligible to receive overnight planned respite services, a client must:

- (1) Be eligible for DDA services under chapter 388-823 WAC;
- (2) Be eighteen or older;
- (3) Be living at home with a primary caregiver and not currently receiving residential habilitation services under the core waiver; and
- (4) Identify a backup caregiver to respond in an emergency if the primary caregiver is unavailable.

NEW SECTION

WAC 388-829R-012 How are overnight planned respite services requested? The case resource manager assists the client or the client's primary caregiver to complete a respite application and submit it to the respite services committee.

NEW SECTION

WAC 388-829R-013 What does the respite services committee consider when reviewing a respite request? The adult respite services committee will consider the following factors when reviewing a respite request:

- (1) Whether the client is eligible to receive overnight planned respite services under WAC 388-829R-011;
- (2) Whether the client's needs can be safely met in the respite setting;
- (3) Whether a respite site is available to accommodate the client's accessibility needs; and
- (4) Whether there are vacancies within six months of the requested service dates.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-018 ~~What ((are the time limitations of))~~ limits apply to overnight planned respite services? ~~(1) A client must not receive overnight planned respite services ((may not exceed)) more than fourteen days in a calendar year.~~

(2) A provider must not provide overnight planned respite services to more than one unrelated client per respite home at a time.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-020 **What are the responsibilities of an overnight planned respite services provider?** An overnight planned respite services provider must:

- (1) Meet the requirements of this chapter ~~((and its contract))~~;
- (2) Deliver the service on the dates approved by ~~((the administration))~~ DDA;
- (3) Complete the overnight planned respite services individualized agreement with the client or the client's primary caregiver before the respite stay;
- (4) Provide supports and services outlined in the ~~((individual))~~ overnight planned respite services individualized agreement;
- ~~((4))~~ (5) Provide adequate staff to administer the program and meet the needs of clients;
- ~~((5))~~ (6) Ensure that clients have ~~((immediate))~~ access to ~~((staff))~~ employees or the means to contact ~~((staff))~~ employees at all times; and
- ~~((6))~~ (7) Retain all records and other material related to the services contract for six years after expiration of the contract.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-025 **What requirements must ((an agency)) a provider meet to contract with DDA to provide overnight planned respite services?** To be eligible to contract with DDA to provide overnight planned respite services, ~~((an agency))~~ a provider must:

(1) ~~((Must be certified by the DDA to perform the duties of overnight planned respite service;~~
~~(2) Must))~~ Be approved as a contractor by the department; and
~~((3) Providing respite to more than one client per respite home is prohibited))~~ (2) Receive initial certification no more than ninety days after the first date of service delivery.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-030 ~~((Are the rules in chapters 388-113 and 388-825 regarding))~~ Who must have a background ((checks applicable to providers of overnight planned respite services)) check? ~~((Yes. The rules in chapters 388-113 and 388-825 regarding))~~ (1) An overnight planned respite services provider employee, administrator, owner, direct support professional, volunteer, and any other employee who may have unsupervised access to a DDA client must have a background ((checks are applicable to providers of overnight planned respite services)) check.
(2) Any person required to have a background check under this section must have a nondisqualifying background check result every two years, or more frequently if required by DSHS.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-035 What will disqualify a direct support professional providing overnight planned respite services ((providers)) or a volunteer from working in a capacity that may involve access to individuals with a developmental disability? (1) Criminal convictions and pending charges that disqualify a direct support professional providing overnight planned respite services ((providers and their employees and volunteers)) or a volunteer from working with individuals with a developmental disability are listed in chapter 388-113 WAC. ((Individuals))
(2) A volunteer or person employed by an overnight planned respite services ((providers)) provider who ((receive)) receives a DSHS background check with a disqualifying ((results are)) result is prohibited from any unsupervised access to DDA clients.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-060 What are the minimum requirements for direct support professionals providing overnight planned respite services ((providers))? To provide overnight planned respite services ((providers must at a minimum)), a direct support professional must:
(1) Have a high school diploma or GED equivalent, unless hired before September 1, 1991;

~~(2) Be ((at least)) eighteen ((years of age when employed as a direct care staff, or at least twenty-one years of age when employed as an administrator)) or older;~~

~~(3) Have a clear understanding of job responsibilities ((and knowledge of individual support)), person-centered service plans, and ((client needs)) overnight planned respite services individualized agreements; and~~

~~(4) Have a current background check as required by WAC 388-829R-030 ((; and~~

~~(5) Be able to:~~

~~(a) Read, understand, and provide services outlined in the individual support plan (ISP) and individual respite services agreement;~~

~~(b) Reasonably accommodate the client's individual preferences;~~

~~(c) Know the community resources, such as medical facilities, emergency resources, and recreational opportunities;~~

~~(d) Enable the client to keep in touch with family and friends in a way preferred by the client;~~

~~(e) Protect the client's financial interests;~~

~~(f) Fulfill reporting requirements as required in this chapter and the overnight planned respite services contract;~~

~~(g) Know how and when to contact the client's representative and case manager; and~~

~~(h) Successfully complete the training required in this chapter).~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-065 What training requirements must overnight planned respite services ((staff)) employees meet? (1) Overnight planned respite services provider ((staff)) employees must meet all training and certification requirements that apply to community residential service businesses in accordance with chapter 388-829 WAC.

(2) A direct support professional must be trained on a client's overnight planned respite services individualized agreement before working alone with the client as verified by a signature on the overnight planned respite services individualized agreement.

(3) The provider must document that ((its staff has)) employees have met these requirements and make this documentation available for DDA.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-070 What policies and procedures must overnight planned respite services providers have? (1) Overnight planned respite services providers must develop and implement policies and procedures that address:

(a) Client rights, including a client's right to file a complaint or suggestion without interference;

- (b) Reporting requirements for suspected abuse, neglect, financial exploitation, ~~((or))~~ and abandonment;
- (c) Client protections when there have been allegations of abuse, neglect, financial exploitation, or abandonment;
- (d) Emergent situations that may pose a danger or risk to the client or others;
- (e) Response to a missing person and other client emergencies;
- (f) Emergency response plans for natural ~~((or))~~ and other disasters;
- (g) Client access to medical, mental health, and law enforcement resources for clients;
- (h) Notification to client's primary caregiver, legal representative, or relatives in case of emergency;
- (i) Client grievances;
- (j) Appropriate response and supports for clients who engage in aggressive or assaultive behavior as informed by the client's overnight planned respite services individualized agreement; and
- (k) All aspects of medication management including ~~((but not limited to))~~:
 - (i) Supervision of medication;
 - (ii) Client refusal;
 - (iii) ~~((Services related to medications and treatments provided under the delegation of a registered))~~ Nurse ~~((consistent with))~~ delegation under chapter 246-840 WAC;
 - (iv) The monitoring of a client who self-administers medication;
 - (v) Medication assistance ~~((for clients who need support))~~ under chapter 246-888 WAC; and
 - (vi) What the service provider will do in the event it becomes aware that a client is no longer safe to take his or her own medications.
- (2) The service provider must train ~~((staff))~~ employees on its policies and procedures, maintain current written policies and procedures, and make them ~~((accessible))~~ available upon request to all ~~((staff and available to))~~ employees, clients ~~((and))~~, primary caregivers, client legal representatives ~~((upon request))~~, and DDA.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-075 What are the requirements for an ~~((individual))~~ overnight planned respite services individualized agreement? (1) An overnight planned respite services ~~((providers))~~ provider must develop an ~~((individual))~~ overnight planned respite services individualized agreement with the client's ~~((paid or unpaid))~~ primary caregiver, and legal representative if the client has one, at least three business days ~~((prior to))~~ before the client's ~~((placement))~~ start date for respite services.

(2) The ~~((individual))~~ overnight planned respite services individualized agreement must:

- (a) Outline supports and services ~~((to))~~ that may be provided during the respite stay; and
- (b) Be signed by the client, or the legal representative if the client has one, and the client's primary caregiver before the client's

start date for respite services. An email approval is acceptable if the provider is unable to obtain a signature.

(3) The provider must send a copy of the approved overnight planned respite services individualized agreement to DDA before the start date for respite services.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-080 What services and activities must be a part of overnight planned respite services? The overnight planned respite services provider must provide the following services and activities at no cost to the client:

~~(1) ((Support staff available twenty-four hours per day for each day of the respite stay as determined in the individual respite services agreement to meet the client's needs as identified in the client's assessment;~~

~~(2)) A furnished home environment including a private, furnished bedroom for the respite client;~~

~~((3) An accessible site for clients with physical disabilities;~~

~~(4)) (2) Three nutritious meals and two snacks per day;~~

~~((5)) (3) Bedding and towels;~~

~~((6)) (4) Access to laundry facilities;~~

~~((7)) (5) Access to a telephone for local calls; and~~

~~((8)) (6) The following as identified in a client's overnight planned respite services individualized agreement:~~

~~(a) Up to twenty-four hour support from a direct support professional for each day of the respite stay;~~

~~(b) Medication ((monitoring,)) assistance under chapter 246-888 WAC and medication administration under WAC 246-840-910 through 246-840-970 as needed, including assistance with medical treatment prescribed by a health professional that does not require registered nurse delegation or professionally licensed services;~~

~~((9)) (c) Instruction and support services ((identified in the client's individual respite services agreement));~~

~~((10)) (d) Transportation ((as identified in the individual respite services agreement));~~

~~((11)) (e) Supports for performing personal hygiene routines and activities of daily living ((as identified in the individual respite service agreement and individual support plan)); and~~

~~((12)) (f) Activities within the home and community ((as outlined in the individual respite services agreement)).~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-085 Are overnight planned respite providers responsible to transport a client? (1) The client and client's ((family)) primary caregiver are responsible for transportation to and from the respite services.

(2) The overnight planned respite services provider (~~is responsible to~~) must ensure that the client's transportation needs are met during the respite stay as identified in the client's (~~individual~~) overnight planned respite services individualized agreement.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-090 What requirements must be met before an overnight planned respite provider transports a client? Before transporting a client, an overnight planned respite services providers or direct support professional must have:

- (1) (~~Carry~~) A automobile insurance (~~per~~) coverage under chapter 46.30 RCW; and
- (2) (~~Have~~) A valid driver's license (~~per~~) under chapter 46.20 RCW.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-115 How may ((an)) a direct support professional providing overnight planned respite services ((provider)) assist a client with medication? (1) (~~An~~) A direct support professional providing overnight planned respite services (~~provider~~) may (~~only~~) provide medication assistance (~~per~~) under chapter 246-888 WAC (~~if the client meets the following criteria:~~

~~(a) Is able to put the medication into his or her mouth, apply, or instill the medication; and~~

~~(b) Is aware that he or she is receiving medication).~~

(2) An overnight planned respite services provider may provide (~~specific medication assistance~~) delegated nursing tasks (~~as described under chapter 246-888 WAC as follows~~) if the direct support professional is:

((Medication Assistance Task	May an overnight planned respite services provider complete this task if the client meets both criteria in subsection (1)(a) and (b) of this section?
Remind or coach the client to take his or her medication.	Yes
Open the medication container.	Yes
Hand client the medication container.	Yes
Place medication in the client's hand.	Yes

((Medication Assistance Task	May an overnight planned respite services provider complete this task if the client meets both criteria in subsection (1)(a) and (b) of this section?
Transfer medication from a container to another device for the purpose of an individual dose (e.g., pouring liquid medication from a container to a calibrated spoon, medication cup or adaptive device.	Yes
Alter a medication by crushing or mixing, or similar alterations.	Yes, if the client is aware that the medication has been altered or added to food or beverage. A pharmacist or other qualified practitioner must determine it is safe to alter a medication and this must be documented on the prescription container or in the client's record.
Handing the client a prefilled insulin syringe.	Yes, but the client must be able to inject the insulin by him or herself.
Guide or assist client to apply or instill skin, nose, eye and ear preparations.	Yes, but hand-over-hand administration is not allowed.
Assistance with injectable or IV medication.	No, this is not allowed.
Hand-over-hand assistance with medication.	No, may only be done under nurse delegation.
Assistance with medication beyond the examples provided in this chart.	No, may only be done by a licensed professional within the scope of their license or under registered nurse delegation.)

(a) A registered nurse;

(b) A licensed practical nurse; or

(c) Delegated by a registered nurse to perform nursing care tasks.

(3) To provide delegated nursing tasks, the direct support professional must:

(a) Provide the delegated nursing tasks under WAC 246-840-910 through 246-840-970;

(b) Receive client-specific training from the delegating registered nurse under WAC 246-840-930;

(c) Complete training requirements under WAC 246-840-930; and

(d) Be credentialed by the department of health under WAC 246-840-930.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-140 Where must overnight planned respite services be provided? Overnight planned respite services providers must provide overnight planned respite services in a ~~((single person))~~ residence maintained and furnished by the provider.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-165 What must overnight planned respite services providers do to plan for and respond to emergencies? (1) The overnight planned respite services provider must develop an emergency response plan to address natural and other disasters.

(2) In an emergency, the overnight planned respite services provider must:

(a) Immediately call 911 if it is a life-threatening emergency;

(b) Provide emergency services;

(c) Notify DDA ~~((and))~~;

(d) Notify the client's legal representative or backup caregiver;

and

~~((d))~~ (e) Submit a written report to DDA ((as required by the DDA residential reporting requirements specified in the overnight planned respite services contract)).

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-170 What records must overnight planned respite services providers keep? (1) For each client, the overnight planned respite services providers must keep the following information:

~~((1))~~ (a) The client's name and address;

~~((2))~~ (b) The name, address, and telephone number of the client's ~~((relative))~~ primary guardian or legal representative;

~~((3))~~ (c) A copy of the client's most recent ~~((ISP))~~ person-centered service plan;

~~((4))~~ (d) A copy of the ~~((individual))~~ client's overnight planned respite services individualized agreement;

~~((5))~~ (e) Nurse delegation records, if applicable;

(f) Progress notes;

(g) Incident reports, if applicable;

(h) Medication documentation, including a medication intake form and medication administration records, if applicable;

(i) A list of the client's personal property upon arrival and departure; and

(j) A record of money or gift cards managed by the respite provider on behalf of the client during the respite stay, if applicable.

(2) An overnight planned respite services provider must also keep the following:

~~((6))~~ (a) Water temperature monitoring records;
~~((7) Staff)~~ (b) Direct support professional training records;
~~((8) Staff)~~ (c) Direct support professional time sheets specific to locations worked;
~~((9))~~ (d) Payment records;
~~((10) Dates and times of service;~~
~~(11) Progress notes and incident reports;~~
~~(12) Medication intake records;~~
~~(13) A list of the client's personal property upon arrival and departure; and~~
~~(14) A record of money or gift cards managed by the respite provider on behalf of the client during the respite stay))~~ (e) A signed copy of DSHS form 10-403 for each direct support professional and administrator.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-175 Are direct support professionals providing overnight planned respite services ((providers)) mandatory reporters?

~~((1) Yes.)~~ A direct support professional providing overnight planned respite services ((providers are)) is a mandatory ((reporters. They are required to report all instances of suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults as defined in)) reporter under chapter 74.34 RCW.

~~((2) Overnight respite services providers must comply with DDA's residential reporting requirements specified in their contract.~~

~~(3) Providers must retain a signed copy of the DDA policy on residential reporting requirements specified in their contract and submit a signed copy of the policy to DDA.)~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-180 How must overnight planned respite services providers report abuse and neglect? In compliance with the DDA residential reporting requirements, an overnight planned respite services

~~((providers)) provider must immediately report suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults to:~~

~~(1) Adult protective services using the DSHS ((toll free telephone number, 1-866-END-HARM or 1-866-363-4276)) online reporting tool or by calling 1-877-734-6277 (TTY: 1-800-977-5456);~~

~~(2) The DDA ((in compliance with the DDA residential reporting requirements as specified in the)) overnight planned respite services ((contract)) program manager or designee; and~~

~~(3) Law enforcement agencies as required under chapter 74.34 RCW, including when there is reason to suspect sexual or physical abuse.~~

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-205 What happens if the overnight planned respite services provider is found to be out of compliance? (1) If DDA finds in its evaluation that the overnight planned respite services provider is out of compliance with any part of this chapter (~~(or the DDA contract)~~), the provider and DDA must develop a corrective action plan.

(2) The corrective action plan must:

(a) Outline methods for the provider to comply with the required corrections; and

(b) Provide a time frame for the provider to complete the corrective actions.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-210 When may DDA stop ((the)) payment authorization for ((payment or terminate a contract for the services of an)) overnight planned respite services ((provider))? DDA may stop ((the)) payment authorization for ((payment or terminate a contract for the services of an)) overnight planned respite services ((provider when)) if:

(1) The provider demonstrates inadequate performance or inability to deliver quality care that jeopardizes the client's health, safety, or well-being;

(2) The provider does not complete the corrective actions within the agreed upon time frame;

(3) The provider fails to comply with the requirements of this chapter (~~(or the overnight planned respite services provider contract)~~); or

(4) DDA has a reasonable, good faith belief that the client's health, safety, or well-being is at risk.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-829R-215 May the overnight planned respite services provider request an administrative hearing to contest DDA's decision to stop payment ((or terminate its contract))? No. The overnight planned respite services provider may not contest the decision to stop payment (~~(or termination of the contract)~~) by administrative hearing. (~~(A client may challenge DDA's decision to deny a provider of choice.)~~)

NEW SECTION

WAC 388-829R-220 What is initial certification? (1) Initial certification is a document issued by DDA that indicates a provider meets the requirements under this chapter to deliver overnight planned respite services.

(2) A provider must obtain initial certification no more than ninety days after the first date of service delivery.

(3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.

(4) Based on the findings of the certification evaluation, DDA may issue:

- (a) Initial certification; or
- (b) Provisional certification.

(5) An initial certification is valid for no more than twelve months.

NEW SECTION

WAC 388-829R-225 What is standard certification? (1) Standard certification is a document issued by DDA that indicates a provider meets the requirements under this chapter to deliver overnight planned respite services.

(2) A provider must obtain standard certification before their initial certification expires.

(3) The provider must allow a DDA-contracted evaluator to complete an on-site certification evaluation.

(4) Based on the findings of the evaluation, DDA may:

- (a) Issue standard certification;
- (b) Issue provisional certification; or
- (c) Decertify the provider.

(5) A standard certification is valid for no more than twenty-four months.

NEW SECTION

WAC 388-829R-230 What is provisional certification? (1) DDA may impose a provisional certification for a maximum of ninety days if the provider:

- (a) Prevents or interferes with a certification evaluation or complaint investigation by DSHS;
- (b) Fails to comply with chapter 388-829R WAC;
- (c) Fails to comply with chapter 74.34 RCW;
- (d) Knowingly makes a false statement of material fact to DSHS;

or

- (e) Fails to implement a plan of correction.

(2) At the end of the provisional certification, if the provider has complied with certification requirements, DDA may approve the provider for standard certification.

(3) At the end of the provisional certification, if the provider has not complied with certification requirements, DDA must decertify the overnight planned respite services provider.

NEW SECTION

WAC 388-829R-235 What must an overnight planned respite services provider comply with to maintain certification? To maintain certification an overnight planned respite services provider must comply with:

- (1) Requirements under this chapter;
- (2) Laws governing this chapter, including chapter 71A.12 RCW;
- (3) Requirements under chapter 74.34 RCW;
- (4) Other relevant federal, state and local laws, requirements, and ordinances.

NEW SECTION

WAC 388-829R-240 When may DDA decertify an overnight planned respite services provider? DDA may decertify an overnight planned respite services provider who:

- (1) Has had a license, certification, medicaid or medicare provider agreement, or a contract for the care of children or vulnerable adults denied, suspended, revoked, not renewed, or terminated, for noncompliance with state or federal regulations;
- (2) Obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation; or
- (3) Willfully prevented or interfered with or failed to cooperate with any investigation or certification evaluation made by the department or DDA-contracted evaluator, including refusal to permit authorized department representatives to interview clients or have access to their records.

NEW SECTION

WAC 388-829R-245 How does DDA monitor overnight planned respite services? (1) To monitor overnight planned respite services, DDA reviews all feedback received from overnight planned respite services post-services surveys and follows up as needed with any concerns.

(2) DDA monitors an overnight planned respite services provider through certification evaluation to ensure that the client's needs are being met and the provider is in compliance with this chapter.

NEW SECTION

WAC 388-829R-250 How must the overnight planned respite services provider participate in the certification evaluation process? The overnight planned respite services provider must participate in the certification evaluation process with DDA employees and DDA-contracted evaluators by:

- (1) Allowing scheduled and unscheduled visits;
- (2) Providing information and documentation as requested;
- (3) Cooperating in setting up appointments;
- (4) Responding to questions or issues identified;
- (5) Participating in an exit conference; and
- (6) Submitting a corrective action plan within an agreed time frame, if applicable.

NEW SECTION

WAC 388-829R-255 What if the overnight planned respite services provider disagrees with a certification evaluation or certification decision? If an overnight planned respite services provider disagrees with a certification evaluation or certification decision under this chapter, the provider may request an informal dispute resolution meeting with DDA by:

- (1) Submitting a written request to DDA no more than ten days after receiving the final certification letter and report; and
- (2) Including a written statement that identifies the challenged action, describes the provider's concerns, and lists regulations and contract standards cited.

NEW SECTION

WAC 388-829R-260 What if the overnight planned respite services provider disagrees with a certification action or the outcome of an informal dispute resolution? (1) If an overnight planned respite services provider disagrees with a certification action or the outcome of an informal dispute resolution, the provider may request an administrative hearing under chapter 388-02 WAC.

(2) To request an administrative hearing the provider must submit a written request to the office of administrative hearings no more than twenty-eight days after receiving the written notice of the outcome of the informal dispute resolution.

- (3) The administrative hearing request must include:
 - (a) A copy of the contested certification action; and
 - (b) The reason the provider is contesting the certification action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-829R-015 What conditions must be met to be eligible to receive overnight planned respite services?
- WAC 388-829R-016 How do I access overnight planned respite services?
- WAC 388-829R-017 Who are the qualified providers of overnight planned respite services?
- WAC 388-829R-110 What health care assistance must an overnight planned respite provide a client?
- WAC 388-829R-120 What is required for an overnight planned respite services provider to administer medication and provide delegated nursing tasks?
- WAC 388-829R-125 What is required for an overnight planned respite services provider to perform nursing tasks under the registered nurse delegation program?
- WAC 388-829R-130 When is an overnight planned respite services provider not allowed to perform nursing tasks?
- WAC 388-829R-135 What records must the overnight planned respite services provider keep regarding registered nurse delegation?
- WAC 388-829R-185 Who oversees, monitors, and evaluates overnight planned respite services?
- WAC 388-829R-190 How often must DDA evaluate overnight planned respite services providers?
- WAC 388-829R-195 How must the overnight planned respite services provider participate in the evaluation process?
- WAC 388-829R-200 What occurs during the review and evaluation process?