



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
**(Implements RCW 34.05.350)**

**Agency:** Department of Social and Health Services, Children's Administration

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** The Department is changing licensing regulations in WAC 388-148-1320 (4) and WAC 388-145-1335 (4) to include further instructions on how to proceed with applicants that have a positive TB test result due to latent TB. Latent TB will produce a positive TB test, but latent TB is not contagious, nor does it pose a risk to others. This change will allow the Division of Licensed Resources (DLR) to license these homes that otherwise meet the minimum licensing requirements with a physician's statement.

The Department is changing licensing regulations in WAC 388-148-1320 (6) and WAC 388-148-1335 (5) to include a medical exemption to the influenza vaccination for foster parents and their household members and agency staff and volunteers. The exemption requires a medical doctor's (MD) statement for a medical reason not to obtain the influenza vaccination because it would result in severe medical consequences to the person and there is no other form of the influenza vaccine that would not cause severe medical consequences. The basis for these provisions is the need to license appropriate and qualified homes to provide care for foster children. The current WAC language impedes DLR in being able to license these otherwise appropriate homes and there are a number of children waiting for homes. There will be no other content or language changes to WAC 388-148-1320 or WAC 388-145-1335.

**Citation of existing rules affected by this order:**

- Repealed: None
- Amended: WAC 388-148-1320, WAC 388-145-1335
- Suspended: None

**Statutory authority for adoption:** RCW 74.15.010, RCW 74.15.030, RCW 74.15.040, RCW 74.15.090, RCW 74.13.031

**Other authority :**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: See Attachment A

**Date adopted:**

September 9, 2015

**NAME (TYPE OR PRINT)**

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 10, 2015**

**TIME: 8:28 AM**

**WSR 15-19-038**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

These WAC sections were revised on January 11, 2015 and that revision required all foster parents, their household members over the age of eighteen years, and agency staff or volunteers to submit a negative TB test. There are applicants that receive a positive TB test, but have "latent TB" which is not contagious and does not pose a risk to others. This will allow for these applicants to be licensed.

The revised WACs also required all foster parents, their household members and agency staff or volunteers receive the influenza vaccination in order to be licensed to serve children birth to two years of age. This current WAC revision will allow an exception to the influenza vaccination for foster parents and their household members, agency staff and volunteers with a medical doctor's (MD) statement if the vaccine would cause severe medical consequences to the person and there are no other alternate influenza vaccines that would not cause medical issues. This will allow these applicants and agencies to be licensed for birth to two years of age.

**WAC 388-145-1335 What additional steps must I complete prior to licensing?** (1) You must submit to your licensor a detailed written program description for DLR approval. In the description you must outline:

(a) Your mission and goals;  
(b) A description of the services you will provide to children and their families;

(c) Your written policies covering qualifications, duties and ongoing training for developing and upgrading staff skills; and

(d) A description of your agency's policies and procedures.

(e) For staffed residential facilities in family homes, you must provide a written plan to the child's DSHS worker for the supervision of children in your care if you work outside of your staffed residential home.

(2) You must have a site inspection by your DLR licensor or someone designated by DLR who can verify that your premises have:

(a) Adequate storage for staff and client files;

(b) A landline working telephone;

(c) Adequate space for privacy when interviewing parents and children;

(d) Room or area used for administrative purposes;

(e) Adequate space for visitation;

(f) Appropriate furnishings for the children in your facility;

and

(g) Your license clearly posted (if inspection is for a renewal license).

(3) All facilities described in this chapter, (except for staffed residential homes for five or fewer children), are required to meet the health requirements to receive a certificate of compliance from the Washington state department of health (DOH) and the fire safety requirements from the Washington state patrol fire protection bureau (WSP/FPB).

(4) You, your employees and volunteers are required to submit a negative tuberculosis test or an X ray. If there is a positive TB test, then the individual must submit a physician's statement identifying that there is no active TB or risk of contagion to children in care.

(a) We may grant an exception to the TB test requirement, in consultation with a licensed health care provider.

(b) This exception would require a statement from a licensed health care provider (MD, DO, ND, PA or ARNP) indicating that a valid medical reason exists for not having a TB test.

(5) If you are being licensed to care for children under the age of two, you, your employees and volunteers working in the facility caring for children under the age of two are required to provide documentation verifying you have current pertussis and influenza vaccinations. The department may license you to serve children under the age of two even though you, your employees or volunteers are unable to obtain an influenza vaccination for medical reasons. In this case, a medical doctor's (MD) statement is required noting that the influenza vaccination would result in severe medical consequences to the person and that there is no other form of the influenza vaccine that would not cause severe medical consequences. All other employees or volun-

teers must still be vaccinated. We recommend (but do not require) these immunizations for you, your employees and volunteers when you serve children age two and older.

(6) You must have proof of current immunizations for any children living on the premises, not in out-of-home care. We may, in consultation with a licensed health care provider, grant exceptions to this requirement if you have a statement from a licensed health care provider (MD, DO, ND, PA or ARNP).

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-148-1320 When will the department grant me a foster family license?** (1) We issue you a license when you and everyone in your household meet the licensing requirements contained in this chapter, and all required documents are in the licensing file.

(2) You and other caregivers over the age of eighteen must:

(a) Complete first aid training and age-appropriate adult and/or infant CPR (cardiopulmonary resuscitation). Training must be department approved and accredited with nationally recognized standards; and

(b) Complete HIV/AIDS and bloodborne pathogens training including infection control standards consistent with educational materials published by the department of health, office on HIV/AIDS.

(3) You, your household members and anyone else having unsupervised contact with your foster child(ren) must pass the following background check requirements per chapter 388-06 WAC (This includes people living on any part of your property):

(a) Anyone over the age of sixteen must pass a criminal history check.

(b) Anyone over the age of eighteen must pass an FBI fingerprint check.

(c) Anyone over the age of eighteen must complete a child abuse and neglect registry check from each state they have lived in over the past five years indicating:

(i) No license denials or revocations from an agency that regulates the care of children or vulnerable adults, unless the department determines that you do not pose a risk to a child's health, safety, well-being and long-term stability; and

(ii) No finding or substantiation of abuse or neglect of a child or a vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

(4) You, and your household members over the age of eighteen must submit a negative tuberculosis test or an X-ray, unless you can demonstrate a medical reason prohibiting the TB test, or have had a negative TB test in the previous twelve months. If there is a positive TB test, then the individual must submit a physician's statement identifying that there is no active TB or risk of contagion to children in care.

(5) You must have proof of current immunizations for any children living on your premises, not in out-of-home care. We may, in consultation with a licensed health care provider, grant exception to this requirement if you have a statement from a licensed health care provider (MD, DO, ND, PA and ARNP).

(6) We recommend that you have pertussis and influenza immunizations. The department will not license you to serve foster children under the age of two, without proof of pertussis and influenza immunizations for all people living in your home. The department may license you to serve children under the age of two even though you or someone in your home is unable to obtain an influenza vaccination for medical reasons. In this case, a medical doctor's (MD) statement is required noting that the influenza vaccination would result in severe medical consequences to the person and that there is no other form of the influenza vaccine that would not cause severe medical consequences. All other persons in the home must still be vaccinated.

(7) Before granting or renewing a license, your licensor will assess your ability to provide a safe home and to provide the quality of care needed by children placed in your home. Your licensor will also determine that you meet training requirements.

(8) Foster children under the care and authority of the department living in your home do not need to obtain a criminal history check, FBI fingerprint check or TB test.