



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: February 07, 2022

TIME: 7:17 AM

WSR 22-05-026

Agency: Department of Social and Health Service (department), Aging and Long Term Support Administration (AL TSA)

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 extending the amendment of the rules listed below and making the suspension retroactive to August 13, 2021 to assure Assisted Living Facilities are not significantly impeded during the hiring process due to an administrator’s inability to obtain a certificate of completion of a recognized administrator training as referenced in WAC 388-78A-2521. This will help to increase the number of long-term care administrators necessary to provide essential services to some of Washington’s most vulnerable adults during the outbreak of COVID-19 and will address the gap in suspended requirements from the expiration of the last emergency rules filed under WSR 21-09-046. The current rules require administrator training prior to assuming administrator duties or within six months of beginning duties for administrators meeting additional educational requirements. Currently, applicants for Assisted Living Facility administrator positions are unable to obtain the required training.

This rule making is necessary to establish a timeframe when the portions of the rules were suspended during the COVID-19 pandemic, and assisted living facilities were not required to comply with the suspended portions of the rules.

Virtual trainings have been developed and implemented for the assisted living facility administrators. Although the available capacity for these trainings has increased, they are limited to semi-annual offerings. Additional time is needed to facilitate additional courses to serve the backlog of applicants requesting this training.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WACs 388-78A -2524(1); 388-78A-2525(1), and 388-78A-2526(1)
- Suspended: None

Statutory authority for adoption: RCW 18.20.090

Other authority: None

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.

Reasons for this finding: The threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in congregate settings, such as Assisted Living Facilities. Administrator training is part of the hiring process and must be completed within a designated timeframe. Currently, applicants for Assisted Living Facility administrator positions are unable to obtain the required training. Although the training

will become available, it will not be enough to meet the backlog of administrators needing this training. This circumstance is expected to exacerbate demand for long-term care administrators when the pandemic has already significantly reduced the availability of long-term care workers in the state in recent months. In addition, under the rule development phase of rule making, the department is in discussions about adding language to the rules to explain the circumstances and time periods under which suspension of rules due to COVID is necessary. A CR-101 was filed under WSR 20-17-085.

**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:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

New	<u>0</u>	Amended	<u>3</u>	Repealed	<u>0</u>
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The number of sections adopted on the agency's own initiative:

New	<u>0</u>	Amended	<u>3</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>3</u>	Repealed	<u>0</u>

Date Adopted: February 7, 2022

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

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

WAC 388-78A-2524 Administrator qualifications—Certification of training, and three years experience. Prior to assuming duties as a boarding home administrator, the individual has ~~((met the following qualifications:~~

~~(1) Obtained certification of completing a recognized administrator training as referenced in WAC 388-78A-2521; and~~

~~(2) Has)) three years paid experience:~~

~~((a)) (1) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or~~

~~((b)) (2) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living.~~

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

WAC 388-78A-2525 Administrator qualifications—Associate degree, certification of training, and two years experience. The individual holds an associate degree in a related field of study such as health, social work, or business administration and meets the qualifications listed in either subsection (1) ~~((τ))~~ or (2) ~~((or (3))~~) of this section:

~~(1) ((Obtains certification of completing a recognized administrator training course as referenced in WAC 388-78A-2521 within six months of beginning duties as the administrator; or~~

~~(2)) Has two years paid experience:~~

~~(a) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or~~

~~(b) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; or~~

~~((3)) (2) Has completed a qualifying administrator training program supervised by a qualified administrator according to WAC 388-78A-2530.~~

WAC 388-78A-2526 Administrator qualifications—Bachelor's degree, certification of training, and one year experience. The individual holds a bachelor's degree in a related field of study such as health, social work, or business administration and meets the qualifications listed in either subsection (1) ~~((7))~~ or (2) ~~((or (3)))~~ of this section.

~~(1) ((Obtains certification of completing a recognized administrator training course and referenced in WAC 388-78A-2521 within six months of beginning duties as the administrator; or~~

~~(2)))~~ Has one year paid experience:

(a) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or

(b) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; or

~~((3)))~~ (2) Has completed a qualifying administrator training program supervised by a qualified administrator according to WAC 388-78A-2530.