



**RULE-MAKING ORDER  
PERMANENT RULE ONLY**

**CR-103P (December 2017)  
(Implements RCW 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 17, 2020  
TIME: 8:58 AM

WSR 20-03-122

**Agency:** Department of Social and Health Services, Aging and Long-Term Support Administration

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**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 adopted WAC 388-78A-2851 under WSR 20-02-104. The department received a comment on the proposed text made during the open public comment period, and the department agrees with the commenter but failed to update WAC 388-78A-2851 to remove subsection (3)(c) which references 388-78A-2703. We are filing this CR 103 Correction with updated language to address that comment because leaving the reference to WAC 388-78A-2703 put unintended requirements in place for existing facilities.

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

New: 388-78A-2851  
 Repealed:  
 Amended:  
 Suspended:

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

**Other authority:** None

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 19-14-100 on July 2, 2019 (date).

Describe any changes other than editing from proposed to adopted version: WAC 388-78A-2851, remove (3)(c) which references 388-78A-2703

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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	Repealed	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	Repealed	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	Repealed	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	Repealed	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

New	<u>1</u>	Amended		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:**

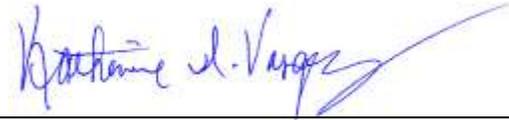
Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>1</u>	Amended	0	Repealed	<u>0</u>

**Date Adopted:** January 17, 2020

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



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-2950 Water supply;
- (d) WAC 388-78A-2960 Sewage and liquid waste disposal; and
- (e) 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) Heating 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.