



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: May 27, 2021

TIME: 4:00 PM

WSR 21-12-065

Agency: Department of Social and Health Services (department)

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 purpose of these adopted rules is to amend WAC 388-78A-2371, Investigations, in response to public comments. After the rule was adopted in 2019, the department evaluated the rule and agreed the effect of the new rule was broader than was intended. This amendment revises the rule to meet its intended purpose. WAC 388-78A-2360, Adult Day Services, is updated to correct a cross-reference to WAC 388-78A-2371.

Citation of rules affected by this order:

New:
Repealed:
Amended: WAC 388-78A-2371 and WAC 388-78A-2360
Suspended:

Statutory authority for adoption: RCW 18.20.090

Other authority: RCW 74.34.068

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-06-048 on February 25, 2021 (date).
Describe any changes other than editing from proposed to adopted version: None

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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___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:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___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	Repealed	___

Date Adopted: May 27, 2021

Name: Donald Clintsman

Title: Acting Secretary

Signature:



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

WAC 388-78A-2360 Adult day services. (1) The assisted living facility may, but is not required to, provide an adult day services program for nonresidents.

(2) If adult day services are provided, the assisted living facility must:

(a) Ensure each adult day services client receives appropriate supervision and agreed upon care and services during the time spent in the day services program;

(b) Ensure the care and services provided to adult day services clients do not compromise the care and services provided to assisted living facility residents;

(c) Ensure the total number of residents plus adult day services clients does not exceed the assisted living facility's maximum facility capacity;

(d) Only accept adult day services clients who are appropriate for assisted living facility care and services, consistent with WAC 388-78A-2050;

(e) Provide sufficient furniture for the comfort of day services clients, in addition to furniture provided for residents;

(f) Notify appropriate individuals specified in the client's record and consistent with WAC 388-78A-2640 when there is a significant change in the condition of an adult day services client;

(g) Investigate and document incidents and accidents involving adult day services clients consistent with WAC ~~((388-78A-2700))~~ 388-78A-2371;

(h) Maintain a separate register of adult day services clients; and

(i) Maintain a record for each adult day services client.

AMENDATORY SECTION (Amending WSR 20-02-104, filed 12/31/19, effective 1/31/20)

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))~~ Investigate and document investigative actions and findings for any alleged or suspected abuse, neglect, or financial exploitation; or accident or incident jeopardizing or affecting a resident health or life;

(2) ~~((Identify, investigate, and report incidents involving residents according to department established assisted living facility guidelines))~~ Determine the circumstances of the event;

(3) ~~((Protect residents during the course of the investigation))~~ When necessary, institute and document appropriate measures to prevent similar future situations if the alleged incident is substantiated; and

(4) ~~((Comply with "whistle blower" laws as defined in chapter 74.34 RCW))~~ Protect residents during the course of the investigation.