



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: June 26, 2023

TIME: 10:16 AM

WSR 23-14-029

Agency: Department of Social and Health Services (department), Aging and Long-Term Support Administration, RCS

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: Amending WAC 388-76-10350 Assessment—Updates required, 388-78A-2100 Ongoing assessments, 388-107-0080 Ongoing comprehensive assessments, and adding new rules 388-76-10351, 388-78A-2101, and 388-107-0081 to codify the timeline and requirements established under emergency rules in effect during the COVID-19 public health emergency.

Citation of rules affected by this order:

New: WACs 388-76-10351, 388-78A-2101, and 388-107-0081
 Repealed:
 Amended: WACs 388-76-10350, 388-78A-2100, and 388-107-0080,
 Suspended:

Statutory authority for adoption: Chapter 18.51 RCW

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-07-076 on 3/13/23 (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:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**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	Repealed	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	Repealed	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	Amended	0	Repealed	<u>0</u>

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

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	Amended	0	Repealed	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

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	Amended	3	Repealed	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

New	<u>3</u>	Amended	<u>3</u>	Repealed	<u>0</u>
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The number of sections adopted using:

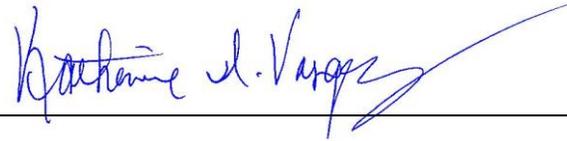
Negotiated rule making:	New	<u>1</u>	Amended	1	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>2</u>	Amended	2	Repealed	<u>0</u>

Date Adopted: June 23, 2023

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10350 Assessment—Updates required. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-76-10351.

(2) The adult family home must ensure each resident's assessment is reviewed and updated to document the resident's ongoing needs and preferences as follows:

~~((1))~~ (a) When there is a significant change in the resident's physical or mental condition;

~~((2))~~ (b) When the resident's negotiated care plan no longer reflects the resident's current status, needs, and preferences;

~~((3))~~ (c) At the resident's request or at the request of the resident's representative; or

~~((4))~~ (d) At least every ~~((twelve))~~ 12 months.

NEW SECTION

WAC 388-76-10351 Assessment-Updates required-Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19. (1) In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-76-10350. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

(2) The adult family home must ensure each resident's assessment is reviewed and updated to document the resident's ongoing needs and preferences as follows:

(a) When there is a significant change in the resident's physical or mental condition;

(b) When the resident's negotiated care plan no longer reflects the resident's current status, needs, and preferences;

(c) At the resident's request or at the request of the resident's representative; or

(d) At least every 12 months, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

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

WAC 388-78A-2100 ((On-going)) Ongoing assessments. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-78A-2101.

(2) The assisted living facility must:

~~((1))~~ (a) Complete a full assessment addressing the elements set forth in WAC 388-78A-2090 for each resident at least annually;

~~((2))~~ (b) Complete an assessment specifically focused on a resident's identified problems and related issues:

~~((a))~~ (i) Consistent with the resident's change of condition as specified in WAC 388-78A-2120;

~~((b))~~ (ii) When the resident's negotiated service agreement no longer addresses the resident's current needs and preferences;

~~((c))~~ (iii) When the resident has an injury requiring the intervention of a practitioner.

~~((3))~~ (c) Ensure the staff person performing the ~~((on-going))~~ ongoing assessments is qualified to perform them.

NEW SECTION

WAC 388-78A-2101 Ongoing assessments-Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19.

(1) In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-78A-2100. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

(2) The assisted living facility must:

(a) Complete a full assessment addressing the elements set forth in WAC 388-78A-2090 for each resident at least annually, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency;

(b) Complete an assessment specifically focused on a resident's identified problems and related issues:

(i) Consistent with the resident's change of condition as specified in WAC 388-78A-2120;

(ii) When the resident's negotiated service agreement no longer addresses the resident's current needs and preferences;

(iii) When the resident has an injury requiring the intervention of a practitioner.

(c) Ensure the staff person performing the ongoing assessments is qualified to perform them.

AMENDATORY SECTION (Amending WSR 16-14-078, filed 7/1/16, effective 8/1/16)

WAC 388-107-0080 Ongoing comprehensive assessments. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-107-0081.

(2) The enhanced services facility must:

~~((1))~~ (a) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070, upon a significant change in

the resident's condition or at least every 180 days if there is no significant change in condition;

~~((2))~~ (b) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

~~((a))~~ (i) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

~~((b))~~ (ii) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and

~~((c))~~ (iii) When the resident has an injury requiring the intervention of a practitioner;

~~((3))~~ (c) Review each resident's needs to evaluate discharge or transfer options when the resident:

~~((a))~~ (i) No longer needs the level of behavioral support provided by the facility; or

~~((b))~~ (ii) Expresses the desire to move to a different type of community based setting;

~~((4))~~ (d) Ensure that the person-centered service planning team discusses all available placement options; and

~~((5))~~ (e) Ensure the staff person performing the ongoing assessments is a qualified assessor.

NEW SECTION

WAC 388-107-0081 Ongoing comprehensive assessments-Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19. (1) In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-107-0080. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

(2) The enhanced services facility must:

(a) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070 on the following timelines:

(i) Upon a significant change in the resident's condition; or

(ii) At least every 180 days if there is no significant change in condition, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

(b) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

(i) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

(ii) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and

(iii) When the resident has an injury requiring the intervention of a practitioner;

(c) Review each resident's needs to evaluate discharge or transfer options when the resident:

(i) No longer needs the level of behavioral support provided by the facility; or

(ii) Expresses the desire to move to a different type of community based setting;

- (d) Ensure that the person-centered service planning team discusses all available placement options; and
- (e) Ensure the staff person performing the ongoing assessments is a qualified assessor.