

WSR 21-12-065
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 27, 2021, 4:00 p.m., effective June 27, 2021]

Effective Date of Rule: Thirty-one days after filing.

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: Amending WAC 388-78A-2371 and 388-78A-2360.

Statutory Authority for Adoption: RCW 18.20.090.

Other Authority: RCW 74.34.068.

Adopted under notice filed as WSR 21-06-048 on February 25, 2021.

A final cost-benefit analysis is available by contacting Debbie Hoeman, P.O. Box 45600, Olympia, WA 98504, phone 360-725-3210, fax 360-438-7903, email Debbie.hoeman@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: May 27, 2021.

Donald Clintsman
Acting Secretary

SHS-4822.1

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.

[Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2360, filed 6/18/13, effective 7/19/13. Statutory Authority: RCW 18.20.090. WSR 06-01-047, § 388-78A-2360, filed 12/15/05, effective 1/15/06. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-2360, filed 7/30/04, effective 9/1/04.]

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.

[Statutory Authority: Chapters 18.20 and 74.39A RCW. WSR 20-02-104, § 388-78A-2371, filed 12/31/19, effective 1/31/20.]