

WSR 22-17-072
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed August 16, 2022, 9:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-092.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-101-3130 Certification evaluation, and add a new section to chapter 388-101 WAC, as necessary to prioritize and resume certification evaluations of service providers which were suspended during the declared emergency of COVID-19.

Hearing Location(s): On September 27, 2022, at 10:00 a.m., at Office Building 2 (OB-2), Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID[-19] pandemic, hearings are being held virtually. Please see DSHS website for the most up-to-date information.

Date of Intended Adoption: Not before September 28, 2022.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on September 27, 2022.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on September 13, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these rules is to establish procedures for the department to prioritize and resume certification evaluations of service providers affected by the suspension of the certification evaluation requirements during the declared emergency of COVID-19.

Reasons Supporting Proposal: These rules are necessary to instruct and inform service providers on the process the department will use to prioritize and resume certification evaluations bringing all service providers back into compliance with certification evaluation timelines.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Debra Hoeman, P.O. Box 45600, Olympia, WA 98513, 360-725-3210; Implementation and Enforcement: Mike Anbesse, P.O. Box 45600, Olympia, WA 98513, 360-725-2401.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5) (b) (ii) exempts "rules relating only to internal governmental operations that are not subject to violation by a nongovernment party." These rules must be followed by the department, not by the licensed entities.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 34.05.328 (5)(b)(ii).

Explanation of exemptions: The proposed rules are exempt because they are "rules relating only to internal governmental operations that are not subject to violation by a nongovernment party." These rules must be followed by the department, not by the licensed entities.

Scope of exemption for rule proposal:

Is fully exempt.

August 9, 2022
Katherine I. Vasquez
Rules Coordinator

SHS-4821.3

AMENDATORY SECTION (Amending WSR 08-02-022, filed 12/21/07, effective 2/1/08)

WAC 388-101-3130 Certification evaluation. (1) The department may conduct an on-site certification evaluation of each service provider at any time (~~(, but at least once every two years)~~).

(2) During certification evaluations the service provider's administrator or designee must:

(a) Cooperate with department representatives during the on-site visit;

(b) Provide all contractor records, client records, and other relevant information requested by the department representatives;

(c) Ensure the service provider's administrator or designee is available during any visit to respond to questions or issues identified by department representatives; and

(d) Ensure the service provider's administrator or designee is present at the exit conference.

[Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3130, filed 12/21/07, effective 2/1/08.]

NEW SECTION

WAC 388-101-31301 Certification evaluation timelines. (1) In response to the COVID-19 pandemic, the department filed an emergency rule suspending the requirement for the department to conduct on-site certification evaluations of each service provider at least once every two years as authorized by RCW 71A.12.080 and required by WAC 388-101-3130.

(2) During the suspension of the certification evaluation requirements, the department continued to conduct complaint investigations in CCRSS settings (group homes, group training homes, and sup-

ported living client households) when it became aware of information indicating an immediate threat to client health and safety.

(3) The department must prioritize and resume certification evaluations of service providers affected by the suspension of the certification evaluation requirements by applying the following criteria collectively:

(a) The department has identified an ongoing threat to the health and safety of clients through one or more reported complaints, previous certification evaluations, or previous investigations;

(b) Whether the service provider has had an enforcement remedy imposed in the last 24 months; and

(c) The length of time since the service provider's last certification evaluation.

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