

WSR 25-21-132
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
[Filed October 21, 2025, 9:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-047.

Title of Rule and Other Identifying Information: Chapter 388-78A WAC, Assisted living facility licensing rules; chapter 388-97 WAC, Nursing homes; and chapter 388-107 WAC, Licensing requirements for enhanced services facilities.

Hearing Location(s): On November 25, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than November 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on October 22, 2025, by 5:00 p.m. on November 25, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on November 12, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement SHB 1218, chapter 159, Laws of 2021. Amended sections include WAC 388-78A-2700 Emergency and disaster preparedness, 388-97-1740 Disaster and emergency preparedness, and 388-107-1600 Emergency disaster preparedness. These rules were originally proposed with a number of other new rules and amendments, which DSHS adopted. The rule text for the proposed rules has changed significantly since the original proposal. The changes reflect the interested parties' work and the elements required by SHB 1218, chapter 159, Laws of 2021.

Reasons Supporting Proposal: The proposed rules implement SHB 1218, chapter 159, Laws of 2021. This rule making expands definitions and examples of disasters; adds requirements for emergency preparedness plans that address infection control, personal protective equipment, employee training, and communication as part of emergency preparedness.

Statutory Authority for Adoption: RCW 18.20.090, 18.51.070, 70.97.230, and chapter 70.129 RCW.

Statute Being Implemented: Chapter 74.39 RCW.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Colleen Jensen, 4500 10th Avenue S.E., Lacey, WA 98503, 564-999-3182.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, TTY 711 relay service, email rcspolicy@dshs.wa.gov.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

Chapter 19.85 RCW, the Regulatory Fairness Act (RFA), requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those business entities that employ 50 or fewer people and are independently owned and operated. Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS.

DSHS has analyzed the proposed rule amendments and has determined that small businesses will be impacted by these changes, with some costs considered "more-than-minor" and disproportionate to small businesses. When proposed rule changes cause more-than-minor costs to small businesses, RFA requires an analysis that compares these costs between small businesses and 10 percent of the largest businesses.

We can assume that the costs vary minimally depending on the size of the business. However, because larger businesses are generally able to absorb costs more easily, the impact may be felt more disproportionately by small businesses. Costs associated with updating and maintaining the emergency and disaster plans may impact smaller businesses more than their larger counterparts. For example, \$400 for updating and maintaining disaster and emergency plans would be more burdensome to a smaller business than a larger business.

While DSHS cannot directly mitigate disproportionate costs for the smaller businesses, the increase in requirements will add to the safety of the residents and the ability for the facility to respond to disasters and emergencies. DSHS assumes that this added safety will increase the residents' health and safety as well as quality of life. The proposed rules do not create or eliminate jobs.

DSHS has considered the impact of proposed rules in chapter 388-78A WAC, Assisted living facilities licensing rule; chapter 388-97 WAC, Nursing homes; and chapter 388-107 WAC, Licensing requirements for enhanced services facilities. To comply with RFA, chapter 19.85 RCW, DSHS analyzed impacts on small businesses and proposed ways to mitigate costs considered more-than-minor and disproportionate, and concluded that the probable costs of the proposed rule do not exceed the probable benefits.

A copy of the statement may be obtained by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, TTY 711 relay, email rcspolicy@dshs.wa.gov.

October 14, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5114.1

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

- WAC 388-78A-2700 Emergency and disaster preparedness.** (1) The assisted living facility must:
- (a) Maintain the premises free of hazards;
 - (b) Maintain any vehicles used for transporting residents in a safe condition;
 - (c) Provide, and tell staff persons of a means of emergency access to resident-occupied bedrooms, toilet rooms, bathing rooms, and other rooms;
 - (d) Provide emergency lighting or flashlights in all areas accessible to residents of the assisted living facility((-));
 - (e) Make sure first-aid supplies are:
 - (i) Readily available and not locked;
 - (ii) Clearly marked;
 - (iii) Able to be moved to the location where needed; and
 - (iv) Stored in containers that protect them from damage, deterioration, or contamination.
 - (f) Make sure first-aid supplies are appropriate for:
 - (i) The size of the assisted living facility;
 - (ii) The services provided;
 - (iii) The residents served; and
 - (iv) The response time of emergency medical services.
- ~~((g) Develop))~~ (2) The assisted living facility must develop and maintain a ((current disaster plan describing)) written emergency preparedness plan that describes measures to take in the event of ((in-ternal or external)) emergencies or disasters, including, but not limited to:
- ~~((i) On-duty staff persons' responsibilities;~~
 - ~~(ii) Provisions for summoning emergency assistance;~~
 - ~~(iii) Coordination with first responders regarding plans for evacuating residents from area or building;~~
 - ~~(iv) Alternative resident accommodations;~~
 - ~~(v) Provisions for essential resident needs, supplies and equipment including water, food, and medications; and~~
 - ~~(vi) Emergency communication plan.))~~
 - (a) Fires;
 - (b) Earthquakes;
 - (c) Floods;
 - (d) Infectious disease outbreaks;
 - (e) Loss of power or water; and
 - (f) Other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.
- (3) The assisted living facility's emergency preparedness plan must include procedures for:
- (a) Staff roles and responsibilities;
 - (b) Identifying and locating residents;
 - (c) Summoning emergency assistance and coordinating with first responders;
 - (d) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;
 - (e) How resident care and treatment needs will be maintained;

(f) Provision of essential resident needs and supplies, including water, food, medications, and personal care items; and

(g) Alternative resident accommodations.

(4) The assisted living facility must incorporate infection prevention and control capability into its emergency preparedness plan. At minimum, the plan must:

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(5) In addition to the plan requirements, the assisted living facility must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in the comprehensive emergency preparedness plan and staff procedures upon hire and reviewed annually thereafter;

(c) Review the comprehensive emergency preparedness plan and procedures and update at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies; and

(e) Comply with WAC 388-78A-3140.

AMENDATORY SECTION (Amending WSR 24-07-008, filed 3/7/24, effective 4/7/24)

WAC 388-97-1740 Disaster and emergency preparedness. The department amended or suspended portions of this section from June 23, 2020, through June 7, 2022, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-97-17401.

(1) The nursing home must develop and implement detailed written plans and procedures to meet potential emergencies and disasters. At a minimum the nursing home must ensure these plans provide for:

(a) Fire or smoke;

(b) Flood;

(c) Severe weather;

~~((e))~~ (d) Loss of power or water;

~~((d))~~ (e) Earthquake;

~~((e))~~ (f) Explosion;

~~((f))~~ (g) Missing resident, elopement;

~~((g))~~ (h) Loss of normal water supply;

~~((h))~~ (i) Bomb threats;

~~((i))~~ (j) Armed individuals;

~~((j))~~ (k) Gas leak, or loss of service; ~~((and))~~

~~((k))~~ (l) Loss of heat supply~~((r))~~ ;

(m) Infectious disease outbreak; and

(n) Any other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.

(2) The nursing home emergency preparedness plan must (~~(train all employees in emergency procedures when they begin work in the nursing home, periodically review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures.)~~) :

(a) Be developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;

(b) Include procedures for:

(i) Staff roles and responsibilities;

(ii) Accounting for residents;

(iii) Summoning emergency assistance and coordinating with first responders;

(iv) Plans for evacuation of the facility;

(v) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;

(vi) How resident care and treatment needs will be maintained;

and

(vii) Provision of essential resident needs and supplies, including water, food, medications, and personal care items.

(3) The nursing home must (~~(ensure emergency plans:)~~) incorporate infection prevention and control capabilities into its emergency preparedness plan. At a minimum, the plan must:

(~~(a) Are developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;~~

(~~b) Are reviewed annually; and~~

(~~c) Include evacuation routes prominently posted on each unit.~~)

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(4) In addition to the plan requirements, the nursing home must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in emergency procedures when they begin work in the nursing home, review emergency procedures with existing staff at least annually, and carry out unannounced staff drills using those procedures;

(c) Review and update the comprehensive emergency preparedness plan and procedures at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies;

(e) Prominently post evacuation route(s) throughout the facility, and at minimum on every floor, if applicable; and

(f) Comply with WAC 388-97-4360.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-1600 Emergency disaster plan. (1) The enhanced services facility must develop and implement detailed written plans and procedures to meet potential emergencies and disasters. At a minimum, the enhanced services facility must ensure these plans provide for:

- (a) Fire or smoke;
- (b) Severe weather;
- (c) Loss of power;
- (d) Earthquakes;
- (e) Explosion;
- (f) Missing resident, elopement;
- (g) Loss of normal water supply;
- (h) Bomb threats;
- (i) Armed individuals;
- (j) Gas leak, or loss of service;
- (k) Loss of heat supply;
- (l) Floods;

~~((Accounting for residents during a disaster))~~ (m) Infectious disease outbreaks; and

~~((~~(m) Plans for evacuation of the facility~~))~~ (n) Other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.

(2) ~~The enhanced services ((facility must train all employees in emergency procedures when they begin work in the enhanced services facility, periodically review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures.))~~ facility's emergency preparedness plan must:

(a) Be developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary; and

(b) Include procedures for:

(i) Staff roles and responsibilities;

(ii) Accounting for residents;

(iii) Summoning emergency assistance and coordinating with first responders;

(iv) Plans for evacuation of the facility;

(v) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;

(vi) How resident care and treatment needs will be maintained;
and

(vii) Provision of essential resident needs and supplies, including water, food, medications, and personal care items.

(3) ~~The enhanced services facility must ((ensure emergency plans))~~ incorporate infection prevention and control capabilities into its emergency preparedness plan. At minimum, the plan must:

~~((a) Are developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;~~

~~(b) Are reviewed annually;~~

~~(c) Include plans to continue to serve and meet the needs of the residents during the emergency; and~~

~~(d) Include evacuation routes prominently posted on each unit.))~~

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure

supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(4) In addition to the plan requirements, the enhanced services facility must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in emergency procedures when they begin work in the enhanced services facility, annually review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures;

(c) Review and update the comprehensive emergency preparedness plan and procedures at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies;

(e) Prominently post evacuation route(s) throughout the facility, at minimum on every floor, if applicable; and

(f) Comply with WAC 388-107-1420.