

WSR 26-02-033

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

[Filed December 30, 2025, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-08-060 and 21-11-062.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-97-0120 Individual transfer and discharge rights and procedures, 388-97-0140 Transfer and discharge appeals for residents in medicare or medicaid certified facilities, 388-97-1915 Preadmission screening and resident review (PASRR) requirements prior to admission of new residents, and 388-97-1975 PASRR requirements after admission of a resident; and adding WAC 388-97-01201, 388-97-01401, 388-97-19151, and 388-97-19751 to identify requirements in place during the COVID-19 pandemic.

Hearing Location(s): On February 10, 2026, at 10:00 a.m., virtually via Teams or call in. See the 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 February 11, 2026.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on January 7, 2026, by 5:00 p.m. on February 10, 2026.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email Tenczsa@dshs.wa.gov or shelley.tencza@dshs.wa.gov, by 5:00 p.m. on January 27, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS is proposing to adopt rules for the purposes of identifying the requirements in place during the COVID-19 pandemic in Washington state. These rules were suspended or amended during the state of emergency. This rule-making project codifies those requirements to ensure consistent implementation and enforcement of rule requirements in place, while returning to the pre-pandemic rules.

Reasons Supporting Proposal: This rule making will provide clarity for regulated facilities, DSHS inspections, and investigation staff related to requirements in place during the COVID-19 pandemic.

Statutory Authority for Adoption: RCW 74.42.620.

Statute Being Implemented: Chapters 18.51 and 74.42 RCW.

Rule is necessary because of federal law, [no information supplied by agency].

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Tiffany Meyers, P.O. Box 45600, Olympia, WA 98504-5600, 360-464-0373; Implementation and Enforcement: Amy Abbott, P.O. Box 45600, Olympia, WA 98504-5600, 360-485-7893.

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. This proposal is exempt from the requirement for a cost-benefit analysis

under RCW 34.05.328 (5)(b)(iv), as the proposed rules clarify language of a rule without changing its effect.

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

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

Explanation of exemptions: The rule is exempt under RCW 34.05.328 (5)(b)(iv), as it clarifies language of a rule without changing its effect. DSHS is proposing to adopt rules to identify the requirements in place during the COVID-19 pandemic in Washington state. The purpose of the rule change is to ensure consistent implementation and enforcement of rule requirements in effect during the COVID-19 pandemic.

Scope of exemption for rule proposal:

Is fully exempt.

December 29, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5084.4

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-0120 Individual transfer and discharge rights and procedures. The department amended or repealed portions of this section to help facilitate care to align state nursing home rules with federal rules that were amended or suspended during the COVID-19 pandemic from April 13, 2020, through May 23, 2023, in response to the state of emergency. For requirements in place during that time, see WAC 388-97-01201.

(1) The skilled nursing facility and nursing facility must comply with all of the requirements of 42 C.F.R. § 483.10 and § 483.12, and RCW 74.42.450, or successor laws, and the nursing home must comply with all of the requirements of RCW 74.42.450 (1) through (4) and (7), or successor laws, including the following provisions and must not transfer or discharge any resident unless:

(a) At the resident's request;

(b) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

(c) The transfer or discharge is appropriate because the resident's health has improved enough so the resident no longer needs the services provided by the facility;

(d) The safety of individuals in the facility is endangered;

(e) The health of individuals in the facility would otherwise be endangered; or

(f) The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.

(2) The following notice requirements apply if a nursing home/facility initiates the transfer or discharge of a resident. The notice must:

(a) Include all information required by 42 C.F.R. § 483.12 when given in a nursing facility;

(b) Be in writing, in language the resident understands;

(c) Be given to the resident, the resident's surrogate decision maker, if any, the resident's family, and to the department;

(d) Be provided (~~(thirty)~~) 30 days in advance of a transfer or discharge initiated by the nursing facility, except that the notice may be given as soon as practicable when the facility cannot meet the resident's urgent medical needs, or under the conditions described in (1)(c), (d), and (e) of this section; and

(e) Be provided (~~(fifteen)~~) 15 days in advance of a transfer or discharge initiated by the nursing home, unless the transfer is an emergency.

(3) The nursing home must:

(a) Provide sufficient preparation and orientation to the resident to ensure safe and orderly transfer or discharge from the nursing home;

(b) Attempt to avoid the transfer or discharge of a resident from the nursing home through the use of reasonable accommodations unless agreed to by the resident and the requirements of WAC 388-97-0080 are met; and

(c) Develop and implement a bed-hold policy. This policy must be consistent with any bed-hold policy that the department develops.

(4) The nursing home must provide the bed-hold policy, in written format, to the resident, and a family member, before the resident is transferred or goes on therapeutic leave. At a minimum the policy must state:

(a) The number of days, if any, the nursing home will hold a resident's bed pending return from hospitalization or social/therapeutic leave;

(b) That a medicaid eligible resident, whose hospitalization or social/therapeutic leave exceeds the maximum number of bed-hold days will be readmitted to the first available semi-private bed, provided the resident needs nursing facility services. Social/therapeutic leave is defined under WAC 388-97-0001. The number of days of social/therapeutic leave allowed for medicaid residents and the authorization process is found under WAC 388-97-0160; and

(c) That a medicaid eligible resident may be charged if (~~(he or she requests)~~) they request that a specific bed be held, but may not be charged a bed-hold fee for the right to return to the first available bed in a semi-private room.

(5) The nursing facility must send a copy of the federally required transfer or discharge notice to:

(a) The department's home and community services when the nursing home has determined under WAC 388-97-0100, that the medicaid resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and

(b) The department's designated local office when the transfer or discharge is for any of the following reasons:

(i) The resident's needs cannot be met in the facility;

(ii) The health or safety of individuals in the facility is endangered; or

(iii) The resident has failed to pay for, or to have paid under medicare or medicaid, a stay at the facility.

NEW SECTION

WAC 388-97-01201 Individual transfer and discharge rights and procedures-Requirements in effect April 13, 2020, through May 23, 2023, in response to the state of emergency related to the COVID-19 pandemic. In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.350 on April 13, 2020, to amend and repeal portions of WAC 388-97-0120. The emergency rules remained in effect until May 23, 2023. The following rule was in effect during that time:

(1) The skilled nursing facility and nursing facility must comply with all of the requirements of 42 C.F.R. § 483.10 and § 483.12, and RCW 74.42.450, or successor laws, and the nursing home must comply with all of the requirements of RCW 74.42.450 (1) through (4) and (7), or successor laws, including the following provisions and must not transfer or discharge any resident unless:

(a) At the resident's request;

(b) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

(c) The transfer or discharge is appropriate because the resident's health has improved enough so the resident no longer needs the services provided by the facility;

(d) The safety of individuals in the facility is endangered;

(e) The health of individuals in the facility would otherwise be endangered; or

(f) The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.

(2) The following notice requirements apply if a nursing home/facility initiates the transfer or discharge of a resident. The notice must:

(a) Include all information required by 42 C.F.R. § 483.12 when given in a nursing facility;

(b) Be in writing, in language the resident understands;

(c) Be given to the resident, the resident's surrogate decision maker, if any, the resident's family and to the department;

(d) Beginning December 9, 2021, through May 23, 2023, the following amendment was in effect for subsection (2)(d) of this section, see WSRs 22-01-072, 22-08-062, 22-16-063, 22-23-155, 23-07-108, and 23-11-139: Be provided thirty days in advance of a transfer or discharge initiated by the nursing facility, except that the notice may be given as soon as practicable when the facility cannot meet the resident's urgent medical needs, or under the conditions described in (1)(c), (d), and (e) of this section; or for cohorting purposes related to the COVID-19 pandemic as allowed under any applicable Centers for Medicare and Medicaid Services (CMS) emergency waivers; and

(e) Be provided fifteen days in advance of a transfer or discharge initiated by the nursing home, unless the transfer is an emergency.

(3) The nursing home must:

(a) Provide sufficient preparation and orientation to the resident to ensure safe and orderly transfer or discharge from the nursing home;

(b) Attempt to avoid the transfer or discharge of a resident from the nursing home through the use of reasonable accommodations unless agreed to by the resident and the requirements of WAC 388-97-0080 are met; and

(c) Develop and implement a bed-hold policy. This policy must be consistent with any bed-hold policy that the department develops.

(4) Beginning April 13, 2020, through August 3, 2021, the following repeal was in effect for subsection (4) of this section, see WSRs 20-09-074, 20-17-048, 21-01-035, and 21-08-055: The nursing home bed-hold policy must state, at a minimum:

(a) The number of days, if any, the nursing home will hold a resident's bed pending return from hospitalization or social/therapeutic leave;

(b) That a medicaid eligible resident, whose hospitalization or social/therapeutic leave exceeds the maximum number of bed-hold days will be readmitted to the first available semi-private bed, provided the resident needs nursing facility services. Social/therapeutic leave is defined under WAC 388-97-0001. The number of days of social/therapeutic leave allowed for medicaid residents and the authorization process is found under WAC 388-97-0160; and

(c) That a medicaid eligible resident may be charged if he or she requests that a specific bed be held, but may not be charged a bed-hold fee for the right to return to the first available bed in a semi-private room.

(5) The nursing facility must send a copy of the federally required transfer or discharge notice to:

(a) The department's home and community services when the nursing home has determined under WAC 388-97-0100, that the medicaid resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and

(b) The department's designated local office when the transfer or discharge is for any of the following reasons:

(i) The resident's needs cannot be met in the facility;

(ii) The health or safety of individuals in the facility is endangered; or

(iii) The resident has failed to pay for, or to have paid under medicare or medicaid, a stay at the facility.

AMENDATORY SECTION (Amending WSR 20-03-103, filed 1/15/20, effective 2/15/20)

WAC 388-97-0140 Transfer and discharge appeals for resident in medicare or medicaid certified facilities. The department amended or repealed portions of this section from November 30, 2021, through May 23, 2023, by waiving the requirement for nursing homes to suspend certain transfers and discharges pending the outcome of a resident appeal hearing, and improving resident safety by allowing faster grouping of COVID-19 positive residents in one facility, or grouping asymptomatic residents together to help expedite infection control processes, and maximizing the availability of nursing home beds in response to the state of emergency. For requirements in place during that time, see 388-97-01401.

(1) A skilled nursing facility and a nursing facility that initiates transfer or discharge of any resident, regardless of payor status, must:

(a) Provide the required written notice of transfer or discharge to the resident and, if known or appropriate, to a family member or the resident's representative;

(b) Attach a department-designated hearing request form to the transfer or discharge notice;

(c) Inform the resident in writing, in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to (~~ninety~~) 90 days from the date the resident receives the notice of transfer or discharge; and

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of administrative hearings on or before the date the resident actually transfers or discharges; and

(iii) The nursing home will assist the resident in requesting a hearing to appeal the transfer or discharge decision.

(2) A skilled nursing facility or nursing facility must suspend transfer or discharge pending the outcome of the hearing when the resident's appeal is received by the office of administrative hearings on or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged.

(3) The resident is entitled to appeal the skilled nursing facility or nursing facility's transfer or discharge decision. The appeals process is set forth in chapter 182-526 WAC and this chapter. In such appeals, the following will apply:

(a) In the event of a conflict between a provision in this chapter and a provision in chapter 182-526 WAC, the provision in this chapter will prevail;

(b) The resident must be the appellant and the skilled nursing facility or the nursing facility will be the respondent;

(c) The department must be notified of the appeal and may choose whether to participate in the proceedings. If the department chooses to participate, its role is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) If a medicare certified or medicaid certified facility's decision to transfer or discharge a resident is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by a nursing facility or skilled nursing facility;

(e) Any review of the administrative law judge's initial decision shall be conducted under chapter 182-526 WAC.

NEW SECTION

WAC 388-97-01401 Transfer and discharge appeals for resident in medicare or medicaid certified facilities-Requirements in effect November 30, 2021, through May 23, 2023, in response to the state of emergency related to the COVID-19 pandemic. In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.350 on November 30, 2021, to amend and repeal portions of WAC 388-97-0140. The emergency rules remained in effect until May 23, 2023. The following rule was in effect during that time:

(1) A skilled nursing facility and a nursing facility that initiates transfer or discharge of any resident, regardless of payor status, must:

(a) Provide the required written notice of transfer or discharge to the resident and, if known or appropriate, to a family member or the resident's representative;

(b) Attach a department-designated hearing request form to the transfer or discharge notice;

(c) Inform the resident in writing, in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge; and

Beginning November 30, 2021, through December 9, 2021, the following repeal was in effect for subsections (1)(c)(ii) through (2)(e) of this section, see WSR 21-24-069:

(ii) The nursing home will assist the resident in requesting a hearing to appeal the transfer or discharge decision.

(2) The resident is entitled to appeal the skilled nursing facility or nursing facility's transfer or discharge decision. The appeals process is set forth in chapter 182-526 WAC and this chapter. In such appeals, the following will apply:

(a) In the event of a conflict between a provision in this chapter and a provision in chapter 182-526 WAC, the provision in this chapter will prevail;

(b) The resident must be the appellant and the skilled nursing facility or the nursing facility will be the respondent;

(c) The department must be notified of the appeal and may choose whether to participate in the proceedings. If the department chooses to participate, its role is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) If a medicare certified or medicaid certified facility's decision to transfer or discharge a resident is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by a nursing facility or skilled nursing facility;

(e) Any review of the administrative law judge's initial decision shall be conducted under chapter 182-526 WAC.

Beginning December 9, 2021, through May 23, 2023, the following repeal was in effect for subsections (1)(c)(ii) through (2) of this section, see WSRs 22-01-072, 22-08-062, 22-16-063, 22-23-155, 23-07-108, and 23-11-139:

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of administrative hearings on or before the date the resident actually transfers or discharges unless the failure to discharge or transfer would endanger the health or safety of the resident or other individuals in the facility (the facility must document the danger that failure to transfer or discharge would pose); and

(iii) The nursing home will assist the resident in requesting a hearing to appeal the transfer or discharge decision.

(2) A skilled nursing facility or nursing facility must suspend transfer or discharge pending the outcome of the hearing when the resident's appeal is received by the office of administrative hearings on

or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged unless the failure to discharge or transfer would endanger the health or safety of the resident or other individuals in the facility. The facility must document the danger that failure to transfer or discharge would pose.

(3) The resident is entitled to appeal the skilled nursing facility or nursing facility's transfer or discharge decision. The appeals process is set forth in chapter 182-526 WAC and this chapter. In such appeals, the following will apply:

(a) In the event of a conflict between a provision in this chapter and a provision in chapter 182-526 WAC, the provision in this chapter will prevail;

(b) The resident must be the appellant and the skilled nursing facility or the nursing facility will be the respondent;

(c) The department must be notified of the appeal and may choose whether to participate in the proceedings. If the department chooses to participate, its role is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) If a medicare certified or medicaid certified facility's decision to transfer or discharge a resident is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by a nursing facility or skilled nursing facility;

(e) Any review of the administrative law judge's initial decision shall be conducted under chapter 182-526 WAC.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 15-18-026, filed 8/25/15, effective 9/25/15)

WAC 388-97-1915 PASRR requirements prior to admission of new residents. The department amended or repealed portions of this section to help facilitate care to align state nursing home rules with federal rules that were amended or suspended to facilitate care during the COVID-19 pandemic from April 13, 2020, through May 10, 2023, in response to the state of emergency. For requirements in place during that time, see WAC 388-97-19151. Prior to every admission of a new resident, the nursing facility must:

(1) Verify that a PASRR level I screening has been completed, and deny admission until that screening has been completed.

(2) Verify that a PASRR level II evaluation has been completed when the individual's PASRR level I screening indicates that the individual may have serious mental illness, ~~((and/or))~~ intellectual disability, ~~((or))~~ related condition, or any of these and deny admission until that evaluation has been completed, unless all three of the following criteria apply and are documented in the PASRR level I screening:

(a) The individual is admitted directly from a hospital after receiving acute inpatient care;

(b) The individual requires nursing facility services for the condition for which ~~((he or she))~~ they received care in the hospital; and

(c) The individual's attending physician has certified that the individual is likely to require fewer than ~~((thirty))~~ 30 days of nursing facility services.

(3) Decline to admit any individual whose PASRR level II evaluation determines that ~~((he or she does))~~ they do not require nursing facility services or that a nursing facility placement is otherwise inappropriate.

(4) Coordinate with PASRR evaluators to the maximum extent practicable in order to avoid duplicative assessments and effort, and to ensure continuity of care for nursing facility residents with a serious mental illness, ~~((and/or))~~ an intellectual disability, ~~((or))~~ related condition, or any of these.

NEW SECTION

WAC 388-97-19151 PASRR requirements for new residents-Requirements in effect April 13, 2020, through May 10, 2023, in response to the state of emergency related to the COVID-19 pandemic. In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.350 on April 13, 2020, to amend and repeal portions of WAC 388-97-1915. The emergency rules remained in effect until May 10, 2023. The following rule was in effect during that time, see WSRs 20-09-074, 20-17-048, 21-01-035, 21-08-055, 21-11-018, 21-18-065, 22-01-166, 22-09-014, 22-11-078, 22-19-023, and 23-03-048:

Within 30 days of admission, the nursing facility must:

(1) Complete a PASRR level I screening, or verify that a PASRR level I screening has been completed.

(2) Require a PASRR level II evaluation, or verify that a PASRR level II evaluation has been requested when the individual's PASRR level I screening indicates that the individual may have serious mental illness and/or intellectual disability or related condition.

(3) Coordinate with PASRR evaluators to the maximum extent practicable in order to avoid duplicative assessments and effort, and to ensure continuity of care for nursing facility residents with a serious mental illness and/or an intellectual disability or related condition.

AMENDATORY SECTION (Amending WSR 15-18-026, filed 8/25/15, effective 9/25/15)

WAC 388-97-1975 PASRR requirements after admission of a resident. The department amended or repealed portions of this section to help facilitate care to align state nursing home rules with federal rules that were amended or suspended to facilitate care during the COVID-19 pandemic from April 13, 2020, through May 10, 2023, in response to the state of emergency. For requirements in place during that time, see WAC 388-97-19751.

Following a resident's admission, the nursing facility must:

(1) Review all level I screening forms for accuracy. If at any time the facility finds that the previous level I screening was incomplete, erroneous, or is no longer accurate, the facility must immediately complete a new screening using the department's standardized level I form, following the directions provided by the department's PASRR program. If the corrected level I screening identifies a possible serious mental illness or intellectual disability or related condition, the facility must notify DDA (~~and~~) or the mental health PASRR evaluator or both so a level II evaluation can be conducted.

(2) Record the evidence of the level I screening and level II determinations (and any subsequent changes) in the resident assessment in accordance with the schedule required under WAC 388-97-1000.

(3) Maintain the level I form and the level II evaluation report in the resident's active clinical record.

(4) Immediately complete a level I screening using the department's standardized form if the facility discovers that a resident does not have a level I screening in (~~his or her~~) their clinical record, following directions provided by the department's PASRR program. If the level I screening identifies a possible serious mental illness or intellectual disability or related condition, notify the DDA, (~~and~~) or mental health PASRR evaluator, or both so a level II evaluation can be conducted.

(5) Notify the DDA, (~~and~~) or mental health PASRR evaluator, or both when a resident who was admitted on an exempted hospital discharge appears likely to need nursing facility services for more than (~~thirty~~) 30 days, so a level II evaluation can be performed. This notification must occur as soon as the nursing facility anticipates that the resident may require more than 30 days of nursing facility services, and no later than the (~~twenty-fifth~~) 25th day after admission unless good cause is documented for later notification.

(6) Notify the DDA, (~~and~~) or mental health PASRR evaluator, or both when a resident who was admitted with an advance categorical determination appears likely to need nursing facility services for longer than the period specified by DDA, (~~and~~) or the mental health PASRR evaluator, or both, so that a full assessment of the individual's need for specialized services can be performed. This notification must occur as soon as the nursing facility anticipates that the resident will require more than the number of days of nursing facility services authorized for the specific advance categorical determination and no later than five days before expiration of the period (three days for protective services) unless good cause is documented for later notification.

(7) Immediately notify the DDA, (~~and~~) or mental health PASRR evaluator, or both for a possible resident review when there has been a significant change in the physical or mental condition, as defined in WAC 388-97-1910, of any resident who has been determined to have a serious mental illness or intellectual disability or related condition. Complete a new level I screening for the significant change.

(8) Provide or arrange for the provision of any services recommended by a PASRR level II evaluator that are within the scope of nursing facility services. If the facility believes that the recommended service either cannot or should not be provided, the facility must document the reason(s) for not providing the service and communicate the reason(s) to the level II evaluator.

(9) Immediately complete a new level I screening using the department's standardized form if the facility finds that a resident, not previously determined to have a serious mental illness, develops

symptoms of a serious mental illness, and refer the resident to the mental health PASRR evaluator for further evaluation.

(10) Provide services and interventions that complement, reinforce, and are consistent with any specialized services recommended by the level II evaluator. The resident's plan of care must specify how the facility will integrate relevant activities to achieve this consistency and the enhancement of the PASRR goals.

(11) Discharge, in accordance with WAC 388-97-0120, any resident with a serious mental illness or intellectual disability or related condition who does not meet nursing facility level of care, unless the resident has continuously resided in the facility for at least (~~thir-~~~~ty~~) 30 months and requires specialized services. The nursing facility must cooperate with the DDA, (~~and/~~) or mental health PASRR evaluator, or both as it prepares the resident for a safe and orderly discharge.

NEW SECTION

WAC 388-97-19751 PASRR requirements after admission of a resident-Requirements in effect April 13, 2020, through May 10, 2023, in response to the state of emergency related to the COVID-19 pandemic.

In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.350 on April 13, 2020, to amend and suspend portions of WAC 388-97-1975. The emergency rules remained in effect until May 10, 2023. The following rule was in effect during that time, see WSRs 20-09-074, 20-17-048, 21-01-035, 21-08-055, 21-11-018, 21-18-065, 22-01-166, 22-09-014, 22-11-078, 22-19-023, and 23-03-048:

After the 30th day of a resident's admission, the nursing facility must:

(1) Review all level I screening forms for accuracy. If at any time the facility finds that the previous level I screening was incomplete, erroneous, or is no longer accurate, the facility must immediately complete a new screening using the department's standardized level I form, following the directions provided by the department's PASRR program. If the corrected level I screening identifies a possible serious mental illness or intellectual disability or related condition, the facility must notify DDA and/or the mental health PASRR evaluator so a level II evaluation can be conducted.

(2) Record the evidence of the level I screening and level II determinations (and any subsequent changes) in the resident assessment in accordance with the schedule required under WAC 388-97-1000.

(3) Maintain the level I form and the level II evaluation report in the resident's active clinical record.

(4) Immediately complete a level I screening using the department's standardized form if the facility discovers that a resident does not have a level I screening in his or her clinical record, following directions provided by the department's PASRR program. If the level I screening identifies a possible serious mental illness or intellectual disability or related condition, notify the DDA and/or mental health PASRR evaluator so a level II evaluation can be conducted.

(5) Notify the DDA and/or mental health PASRR evaluator when a resident who was admitted with an advance categorical determination appears likely to need nursing facility services for longer than the period specified by DDA and/or the mental health PASRR evaluator, so

that a full assessment of the individual's need for specialized services can be performed. This notification must occur as soon as the nursing facility anticipates that the resident will require more than the number of days of nursing facility services authorized for the specific advance categorical determination and no later than five days before expiration of the period (three days for protective services) unless good cause is documented for later notification.

(6) Immediately notify the DDA and/or mental health PASRR evaluator for a possible resident review when there has been a significant change in the physical or mental condition, as defined in WAC 388-97-1910, of any resident who has been determined to have a serious mental illness or intellectual disability or related condition. Complete a new level I screening for the significant change.

(7) Provide or arrange for the provision of any services recommended by a PASRR level II evaluator that are within the scope of nursing facility services. If the facility believes that the recommended service either cannot or should not be provided, the facility must document the reason(s) for not providing the service and communicate the reason(s) to the level II evaluator.

(8) Immediately complete a new level I screening using the department's standardized form if the facility finds that a resident, not previously determined to have a serious mental illness, develops symptoms of a serious mental illness, and refer the resident to the mental health PASRR evaluator for further evaluation.

(9) Provide services and interventions that complement, reinforce, and are consistent with any specialized services recommended by the level II evaluator. The resident's plan of care must specify how the facility will integrate relevant activities to achieve this consistency and the enhancement of the PASRR goals.

(10) Discharge, in accordance with WAC 388-97-0120, any resident with a serious mental illness or intellectual disability or related condition who does not meet nursing facility level of care, unless the resident has continuously resided in the facility for at least 30 months and requires specialized services. The nursing facility must cooperate with DDA and/or mental health PASRR evaluator as it prepares the resident for a safe and orderly discharge.