WSR 26-17-004
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

[Filed August 5, 2026, 2:51 p.m., effective September 20, 2026]

Effective Date of Rule: September 20, 2026.

Purpose: The department of social and health services (department) received a petition requesting the department update [chapter 388-76 WAC] to align with federal requirements for long-term care ombuds access to resident records. The department received a petition requesting a change in the requirement for adult family providers to conduct emergency evacuation drills from every "sixty days" to every "two months." The change will reduce the burden on adult family home providers who must count 60 calendar days from each drill to ensure they comply with the time frame. The requirement that the department not issue a license to certain department employees and their household members will be repealed (ethics laws and department rules require employees to report any conflict of interest and outside employment to their employer). Other updates clarify when an adult family home license must, or may, be denied to a multiple home provider, remove the requirement that the resident record contain the resident's Social Security number, add a requirement to keep the notice of rights and services in the resident record (as required in other sections of the chapter), add a minimum interior door width requirement, require residential care services approval of modifications or new construction of resident bedrooms occurring after licensure, and clarify requirements for provider plan of correction. Amendments to WAC 388-76-10037 were originally included in the proposed rules, but are not being adopted.

Citation of Rules Affected by this Order: Repealing WAC 388-76-10045; and amending WAC 388-76-10120, 388-76-10125, 388-76-10315, 388-76-10320, 388-76-10685, 388-76-10715, 388-76-10895, and 388-76-10930.

Statutory Authority for Adoption: RCW 70.128.040, 70.128.065; and 45 C.F.R. § 1324.11 (e)(2).

Adopted under notice filed as WSR 26-09-013 on April 2, 2026.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-76-10037 is excluded from adoption at this time. Minor edits were made to WAC 388-76-10120(4), removing the reference to WAC 388-76-10037. An effective date was added to WAC 388-76-10715(6).

A final cost-benefit analysis is available by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 360-725-2300, TTY 711 relay service, email rcspolicy@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 1, 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 2, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 8, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 5, 2026.

Lisa N.H. Yanagida
Chief of Staff

SHS-5131.4

AMENDATORY SECTION (Amending WSR 20-05-016, filed 2/6/20, effective 3/8/20)

WAC 388-76-10120 License—Must be denied. The adult family home license will not be granted if:

(1) The applicant has not successfully completed a department-approved adult family home administration and business planning class except as provided in WAC 388-76-10064;

(2) It has been less than ((~~twenty~~)) 20 years since the applicant surrendered or relinquished an adult family home license after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of the license; or

(3) The applicant, the spouse, or domestic partner of an applicant who is a sole proprietor, the spouse or domestic partner of an entity representative with an ownership interest in the business, or any partner, officer, director, managerial employee, or majority owner of the applying entity:

(a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) Has prior violations of federal or state laws or regulations relating to residential care facilities resulting in revocation, suspension, or nonrenewal of a license or contract with the department within the past ((~~ten~~)) 10 years;

(c) Has a conviction or pending criminal charge for a crime that is automatically disqualifying under chapter 388-113 WAC; or

(d) Has one or more of the following disqualifying negative actions:

(i) A court has issued a permanent restraining order or order of protection, either active or expired, against the person that was based upon abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult;

(ii) The person is a registered sex offender;

(iii) The person is on a registry based upon a final finding of abuse, neglect, or financial exploitation of a vulnerable adult, unless the finding was made by adult protective services prior to October 2003;

(iv) A founded finding of abuse or neglect of a child was made against the person, unless the finding was made by child protective services prior to October 1, 1998;

(v) The individual was found in any dependency action to have sexually assaulted or exploited any child or to have physically abused any child;

(vi) The individual was found by a court in a domestic relations proceeding under Title 26 RCW, or under any comparable state or federal law, to have sexually abused or exploited any child or to have physically abused any child;

(vii) The individual has had a contract or license denied, terminated, revoked, or suspended due to abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult; or

(viii) The individual has relinquished a license or terminated a contract because an agency was taking an action against the individual related to alleged abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult.

(4) The applicant is the operator of one or more currently licensed adult family homes and does not meet the requirements of being a multiple home provider under RCW 70.128.065.

AMENDATORY SECTION (Amending WSR 20-05-016, filed 2/6/20, effective 3/8/20)

WAC 388-76-10125 License—May be denied. The adult family home license may be denied if the applicant or the applicant's spouse, domestic partner, or any partner, officer, director, managerial employee, or majority owner of the applying entity:

(1) Has any conviction or pending criminal charge for crime that is not automatically disqualifying under chapter 388-113 WAC, but that the department determines is reasonably related to the competency of the person to be involved in the ownership or operation of an adult family home;

(2) Has abused, neglected, or financially exploited a vulnerable adult, unless denial is required under WAC 388-76-10120;

(3) Has engaged in the illegal use, sale, or distribution of drugs or excessive use of alcohol or drugs without the evidence of rehabilitation;

(4) Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused, or financially exploited a vulnerable adult, unless such decision requires a license denial under WAC 388-76-10120;

(5) Has had a license for the care of children or vulnerable adults denied, suspended, revoked, or not renewed in connection with the operation of any facility for the care of children or vulnerable adults, relinquished or returned a license, or did not seek license renewal following written notification that the licensing agency intended to deny, suspend, or revoke the license, unless such action requires a license denial under WAC 388-76-10120;

(6) Has a history of prior violations of chapter 70.128 RCW or any law regulating residential care facilities that resulted in revocation, suspension, or nonrenewal of a license;

(7) Has been enjoined from operating a facility for the care and services of children or adults;

(8) Has had a medicaid or medicare provider agreement or any other contract for the care and treatment of children or vulnerable adults, terminated, cancelled, suspended, or not renewed by any public agency, including a state medicaid agency;

(9) Has been the subject of a sanction, ((~~or~~)) corrective, or remedial action taken by federal, state, county, or municipal officials

or safety officials related to the care or treatment of children or vulnerable adults;

(10) Has obtained or attempted to obtain a license from the department by fraudulent means or misrepresentation;

(11) Knowingly, or with reason to know, made a false statement of material fact on ((~~his or her~~)) their application for a license or any data attached to the application, or in any matter involving the department;

(12) Permitted, aided, or abetted the commission of any illegal act on the adult family home premises;

(13) Willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview residents or have access to their records;

(14) Failed or refused to comply with:

(a) A condition imposed on a license or a stop placement order; or

(b) The requirements of chapters 70.128, 70.129, 74.34 RCW, this chapter, or other applicable laws and regulations;

(15) Misappropriated property of a resident, unless such action requires a license denial under WAC 388-76-10120;

(16) Exceeded licensed capacity in the operation of an adult family home;

(17) Operated a facility for the care of children or adults without a license or with a revoked license;

(18) When providing care to children or vulnerable adults, has had resident trust funds or assets seized by the Internal Revenue Service or a state entity for failure to pay income or payroll taxes;

(19) Failed to meet financial obligations as the obligations fell due in the normal course of owning or operating a business involved in the provision of care and services to children or vulnerable adults;

(20) Has failed to meet personal financial obligations, or if the applicant is an entity, has failed to meet the entity's financial obligation, or both;

(21) Interfered with a long-term care ombuds or department staff in the performance of ((~~his or her~~)) their duties;

(22) Has not demonstrated financial solvency or management experience in its currently licensed homes, or has not demonstrated the ability to meet other relevant safety, health, and operating standards pertaining to the operation of multiple homes, including ways to mitigate the potential impact of vehicular traffic related to the operation of the homes;

(23) The home is currently licensed:

(a) As an assisted living facility; or

(b) To provide care for children in the same home, unless:

(i) It is necessary in order to allow a resident's child(ren) to live in the same home as the resident or to allow a resident who turns ((~~eighteen~~)) 18 to remain in the home;

(ii) The applicant provides satisfactory evidence to the department of the home's capacity to meet the needs of children and adults residing in the home; and

(iii) The total number of residents receiving care and services in the home does not exceed the number permitted by the licensed capacity of the home;

(24) Failed to give the department access to all parts of the home as authorized under RCW 70.128.090; or

(25) ((~~Has an ownership interest in one or more currently licensed adult family homes or additional applications and does not meet the requirements of being a multiple home provider; or~~

~~(26)~~)) Has demonstrated any other factors that give evidence the individual lacks the appropriate character, competence, and suitability to provide care or services to vulnerable adults.

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10315 Resident record—Required. The adult family home must:

(1) Create, maintain, and keep records for residents in the home where the resident lives and ensure that the records:

(a) Contain enough information so the home can provide the needed care and services to each resident;

(b) Be in a format useful to the home;

(c) Be kept confidential so that only authorized persons see their contents;

(d) Are only released to the following persons:

(i) A health care institution;

(ii) When requested by the law;

(iii) To department representatives; and

(iv) To the resident;

(e) Be protected to prevent loss, alteration, or destruction, and unauthorized use;

(f) Be kept for three years after the resident leaves the home or death of the resident;

(g) Be available so that department staff may review them when requested; and

(h) Provide access to the resident to review their record and obtain copies of their record at a reasonable cost.

(2) Ensure staff has access to the parts of residents' records needed by staff to provide care and services; and

(3) Allow representatives of the long-term care ombuds access to a ((~~resident record if approved by the resident~~)) resident's records in accordance with RCW 70.129.090.

AMENDATORY SECTION (Amending WSR 26-05-046, filed 2/12/26, effective 3/15/26)

WAC 388-76-10320 Resident record—Content. The adult family home must ensure that each resident record contains, at a minimum, the following information:

(1) Identifying information about the resident, including, but not limited to:

(a) Name;

(b) Bedroom they reside in;

(c) Telephone number, if available; and

(d) Email address, if available.

(2) The name, address, and telephone number of the resident's:

(a) Representative and the representative's;

(i) Relationship to the resident; and
(ii) Email address, if available.
(b) Health care providers;
(c) Significant family members identified by the resident; and
(d) Other individuals the resident wants involved or notified.
(3) Current medical history;
(4) The resident assessment information;
(5) The preliminary service plan;
(6) The negotiated care plan;
(7) List of resident medications;
(8) ((~~The resident's Social Security number;~~)) A copy of:
(a) The notice of rights and services required by this chapter; and
(b) The acknowledgement required by this chapter that the resident received a copy of the notice, signed and dated by:
(i) The resident; and
(ii) The home;
(9) When the resident was:
(a) Admitted to the home;
(b) Absent from the home; and
(c) Discharged from the home.
(10) A current inventory of the resident's personal belongings dated and signed by:
(a) The resident; and
(b) The adult family home.
(11) Financial records.
(12) The residency agreement for residents with medicaid as a payor.

AMENDATORY SECTION (Amending WSR 21-11-074, filed 5/17/21, effective 8/1/21)

WAC 388-76-10685 Bedrooms. The adult family home must meet all of the following requirements:
(1) Ensure each resident's bedroom is an outside room that allows entrance of natural light.
(2) Ensure window and door screens:
(a) Do not hinder emergency escape; and
(b) Prevent entrance of flies and other insects.
(3) Ensure each resident, including those using mobility aids such as wheelchairs and walkers has direct, unrestricted, and free access from the bedroom through doors, hallways, and corridors to common use areas and other rooms used for care and services including bathrooms.
(4) When a bedroom will be shared by two residents, the home must:
(a) Document through the notice of rights and services that the resident's bedroom is a shared bedroom; and
(b) Allow residents to express their preference of roommate and allow residents who mutually consent to share a bedroom to live in a double occupancy bedroom together, unless this will pose a health or safety risk for any resident in the home;
(5) Provide each bedroom with a minimum usable floor space as required in WAC 388-76-10690.

(6) Give each resident the opportunity to have a lock on their bedroom door if they choose to unless having a locked door would be unsafe for the resident and this is documented according to WAC 388-76-10401.

(7) Ensure each bedroom has a closet or a wardrobe, armoire, or reasonable storage space for clothes accessible to residents. Neither the closet nor wardrobe/armoire floor space will be considered a part of the room's usable square footage. The home must not remove a closet in order to provide additional floor space.

(8) Ensure there are no more than two residents to a bedroom.

(9) Unless the resident chooses to provide their own furniture and bedding, the home must provide each resident a bed ((~~thirty-six~~)) 36 inches or wider with:

(a) A clean, comfortable mattress;

(b) A waterproof cover for use when needed or requested by the resident;

(c) Clean sheets and pillow cases;

(d) Adequate clean blankets to meet the needs of each resident; and

(e) Clean pillows.

(10) Do not use the upper bunk of double-deck beds for a resident's bed.

(11) Provide each resident a call bell, or an alternative way of alerting staff in an emergency, that the resident can use, unless the bedroom of an AFH staff member is within hearing distance of the resident's bedroom and a staff member will be within hearing distance at all times.

(12) Ensure that members of the household and staff do not share bedrooms with residents.

(13) Ensure a resident does not share a bedroom with a person under ((~~eighteen~~)) 18 years of age, unless the person is the resident's own child.

(14) The adult family home must notify the department and receive an approved inspection from the department before allowing a resident to sleep in a bedroom not previously inspected and approved by the department.

AMENDATORY SECTION (Amending WSR 21-11-074, filed 5/17/21, effective 8/1/21)

WAC 388-76-10715 Doors—Ability to open. The adult family home must ensure:

(1) Every bedroom and bathroom door opens from the inside and outside;

(2) Every closet door opens from the inside and outside;

(3) At least one door leading to the outside is designated as an emergency exit. In homes licensed after January 1, 2016, this door must have a lever door handle on both sides and hardware that allows residents to exit when the door is locked and immediately reenter without a key, tool, or special knowledge or effort by residents;

(4) Other doors leading to the outside that are not designated as an emergency exit must open without any special skills or knowledge, and they must remain accessible to residents unless doing so poses a risk to the health or safety of at least one resident; ((~~and~~))

(5) All internal and external doors comply with local jurisdictional requirements as well as the building code requirements in chapter 51-51 WAC((~~.~~)); and

(6) For homes licensed after September 20, 2026, all internal doors residents will pass through that are not designated as an emergency exit are at least 27 inches wide.

AMENDATORY SECTION (Amending WSR 21-11-074, filed 5/17/21, effective 8/1/21)

WAC 388-76-10895 Emergency evacuation drills—Frequency and participation. (1) There are two types of emergency evacuation drills:

(a) A full evacuation is evacuation from the home to the designated safe location; and

(b) A partial evacuation is evacuation to the designated emergency exit.

(2) The adult family home must conduct:

(a) Partial emergency evacuation drills which occur during random staffing shifts at least every ((~~sixty days~~)) two months, with each resident participating in at least one each calendar year;

(b) A full emergency evacuation drill at least once each calendar year, with all residents participating in the drill together and at the same time; and

(c) Emergency evacuation drills even if there are no residents living in the home for the purpose of staff practice.

(3) The home must respect the resident's right to refuse to participate in emergency evacuation drills. However, the home must still demonstrate the ability to safely evacuate all residents doing the following:

(a) Documenting the resident's wish to refuse to participate in the negotiated care plan;

(b) Providing an estimate of the amount of time it would take to evacuate the resident and how they calculated this estimate in the negotiated care plan;

(c) Adding the estimated time to the time recorded on the emergency evacuation drill log after each drill to ensure the length of time to evacuate does not exceed five minutes; and

(d) Continuing to offer the resident a chance to participate in every evacuation drill.

AMENDATORY SECTION (Amending WSR 09-03-029, filed 1/12/09, effective 2/12/09)

WAC 388-76-10930 Plan of correction (POC)—((~~Required~~)) When required. (1) ((~~The adult family home must comply with all applicable licensing laws and regulations at all times.~~

~~(2)~~)) When the department finds the adult family home out of compliance with any licensing law or regulation, the department will send the home an inspection report ((~~with an attestation of correction statement~~)) for each cited deficiency.

((~~(3)~~)) (2) The adult family home must complete an attestation of correction for ((~~any inspection report~~)) each cited deficiency as the department requires.

((~~(4)~~)) (3) For the purposes of this section an "attestation of correction statement" means a statement((~~, developed by the department and~~)) signed and dated by the home, that the home:

(a) Has or will correct each cited deficiency; and

(b) Will maintain correction of each cited deficiency.

((~~(5)~~)) (4) The home must be able to show to the department, upon request, that, for each deficiency cited, the home has:

(a) A plan of correction and maintaining correction;

(b) Corrected or is correcting each deficiency; and

(c) Maintained or is maintaining compliance.

((~~(6)~~)) (5) On each attestation of correction statement, the home must:

(a) Give a date, approved by the department, showing when the cited deficiency has been or will be corrected; and

(b) By signature and date show that the home has or will correct, and maintain correction, of each deficiency.

((~~(7)~~)) (6) The home must return the inspection report, with completed attestation of correction statements, to the department within ((~~ten~~)) 10 calendar days of receiving the report.

(7) This section does not apply where the department takes action to summarily suspend or revoke the adult family home license under its authority in RCW 70.128.100 or 70.128.160.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-76-10045	Licensing—Certain state employees and employee household members—Prohibited.