



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Social and Health Services, Aging and Long-Term Support Administration

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:**

The department is amending WAC 388-76-10135 "Qualifications – Caregiver" and WAC 388-76-10660 "Chemical restraints" as a result of comments received at the public hearing for WSR 16-14-037 on August 23, 2016. The amendment to WAC 388-76-10660 is needed to be consistent with statute. The amendments to both sections improve clarity, are beneficial to regulated entities, and were intended to be included with the permanent rules filed as WSR 16-20-095.

**Citation of existing rules affected by this order:**

Repealed: None  
 Amended: WAC 388-76-10135, WAC 388-76-10660  
 Suspended: None

**Statutory authority for adoption:** Chapter 70.128 RCW

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 16-21-060 on October 14, 2016 (date).  
Describe any changes other than editing from proposed to adopted version:

None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**Date adopted:**

December 7, 2016

**NAME (TYPE OR PRINT)**

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 07, 2016**

**TIME: 4:34 PM**

**WSR 17-01-002**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 14-14-028, filed 6/24/14, effective 7/25/14)

**WAC 388-76-10135 Qualifications—Caregiver.** The adult family home must ensure each caregiver has the following minimum qualifications:

- (1) Be eighteen years of age or older;
- (2) ~~((Have))~~ Has a clear understanding of the caregiver job responsibilities and knowledge of each resident's negotiated care plan to provide care specific to the needs of each resident;
- (3) ~~((Have))~~ Has basic communication skills to:
  - (a) Be able to communicate or make provisions to communicate with the resident in his or her primary language; and
  - (b) Understand and speak English well enough to:
    - (i) Respond appropriately to emergency situations; and
    - (ii) Read, understand, and implement resident negotiated care plans~~((--))~~;
- (4) ~~((Completion of))~~ Has completed the training requirements ~~((that were))~~ in effect on the date ~~((they were))~~ the caregiver was hired, including the requirements ((described in)) applicable to the caregiver under chapter 388-112 WAC;
- (5) ~~((Have))~~ Has no disqualifying criminal convictions or pending criminal charges under chapter 388-113 WAC;
- (6) ~~((Have))~~ Has none of the negative actions listed in WAC 388-76-10180;
- (7) ~~((Have))~~ Has a current valid first~~((--))~~aid ~~((and))~~ card or certificate as required in chapter 388-112 WAC, except nurses, who are exempt from this requirement;
- (8) Has a valid cardiopulmonary resuscitation (CPR) card or certificate as required in chapter 388-112 WAC; and
- ~~((8) Have))~~ (9) Meets the tuberculosis screening ~~((to establish tuberculosis status per))~~ requirements of this chapter.

AMENDATORY SECTION (Amending WSR 16-06-004, filed 2/17/16, effective 4/1/16)

**WAC 388-76-10660 Chemical restraints.** (1) ~~((For the purposes of this section "chemical restraint" means a drug that is given))~~ "Chemical restraint(s)" cannot be used for discipline or convenience ((and not required to treat the resident's medical symptoms)).

(2) ~~((The adult family home must ensure that each resident is free from chemical restraints))~~ Must only be used within the guidelines as "chemical restraint" is defined.