



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON  
FILED

DATE: March 27, 2018

TIME: 10:56 AM

WSR 18-08-032

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

**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 388-78A-2590, WAC 388-78A-2592, and WAC 388-78A-2594 in order to conform to current department practice related to management agreements. For example, the amendments are removing language indicating that the department approves all management agreements.

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

New: None  
Repealed: None  
Amended: WAC 388-78A-2590, WAC 388-78A-2592, WAC 388-78A-2594  
Suspended: None

**Statutory authority for adoption:** Chapter 18.20 RCW

**Other authority:**

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

Adopted under notice filed as WSR 18-02-099 on January 3, 2018 (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:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Web site:  
Other:

**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:**

|                                  |     |         |          |          |
|----------------------------------|-----|---------|----------|----------|
| Federal statute:                 | New | Amended |          | Repealed |
| Federal rules or standards:      | New | Amended |          | Repealed |
| Recently enacted state statutes: | New | Amended | <u>3</u> | Repealed |

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

|  |     |         |  |          |
|--|-----|---------|--|----------|
|  | New | Amended |  | Repealed |
|--|-----|---------|--|----------|

**The number of sections adopted on the agency's own initiative:**

|  |     |         |  |          |
|--|-----|---------|--|----------|
|  | New | Amended |  | Repealed |
|--|-----|---------|--|----------|

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

|  |     |         |  |          |
|--|-----|---------|--|----------|
|  | New | Amended |  | Repealed |
|--|-----|---------|--|----------|

**The number of sections adopted using:**

|                                |     |         |          |          |
|--------------------------------|-----|---------|----------|----------|
| Negotiated rule making:        | New | Amended |          | Repealed |
| Pilot rule making:             | New | Amended |          | Repealed |
| Other alternative rule making: | New | Amended | <u>3</u> | Repealed |

**Date Adopted:** March 26, 2018

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



AMENDATORY SECTION (Amending WSR 10-03-066, filed 1/15/10, effective 2/15/10)

**WAC 388-78A-2590 Management agreements—General.** (1) If the proposed or current licensee uses a manager, the licensee must have a written management agreement (~~((approved by the department))~~) that is consistent with this chapter.

(2) The proposed or current licensee must notify the department of its use of a manager upon:

- (a) Initial application for a license;
- (b) Retention of a manager following initial application;
- (c) Change of managers; and
- (d) Modification of existing management agreement.

(3) The proposed or current licensee must provide to the department a written management agreement, including an organizational chart showing the relationship between the proposed or current licensee, management company, and all related organizations.

(4) The written management agreement must be submitted:

- (a) Sixty days before:
  - (i) The initial licensure date;
  - (ii) The proposed change of ownership date; or
  - (iii) The effective date of the management agreement; or
- (b) Thirty days before the effective date of any amendment to an existing management agreement.

(5) The proposed licensee or the current licensee must notify the resident and their representatives sixty days before entering into a new management agreement.

(6) A proposed licensee must submit a management agreement attestation form, as required by the assisted living facility application.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

**WAC 388-78A-2592 Management agreements—Licensee.** (1) The licensee is responsible for:

(a) The daily operations and provisions of services in the assisted living facility (~~((see))~~), as required by WAC 388-78A-2730 (1)(a) ((+));

(b) Ensuring the assisted living facility is operated in a manner consistent with all laws and rules applicable to assisted living facilities (~~((see WAC 388-78A-2730 (1)(b)))~~), as required by WAC 388-78A-2730(1)(b);

(c) Ensuring the manager acts in conformance with ~~((a department approved))~~ the management agreement; and

(d) Ensuring the manager does not represent itself as, or give the appearance that it is the licensee.

(2) The licensee must not give the manager responsibilities that are so extensive that the licensee is relieved of daily responsibility for the daily operations and provision of services in the assisted living facility. If the licensee does so, then the department must determine that a change of ownership has occurred.

(3) The licensee and manager must act in accordance with the terms of the (~~department approved~~) management agreements. If the department determines they are not, then the department may (~~take licensing action~~) impose enforcement remedies.

(4) The licensee may enter into a management agreement only if the management agreement creates a principal/agent relationship between the licensee and manager.

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

**WAC 388-78A-2594 Management agreements—Department review.**

(~~Upon receipt of a proposed~~) The department may review a management agreement((7)) at any time. Following the review, the department may require:

(1) The proposed or current licensee or manager to provide additional information or clarification;

(2) Any changes necessary to:

(a) Bring the management agreement into compliance with this chapter; and

(b) Ensure that the licensee has not been relieved of the responsibility for the daily operations of the facility.

(3) The licensee to participate in monthly meetings and quarterly on-site visits to the assisted living facility.