



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: April 04, 2018

TIME: 9:03 AM

WSR 18-08-084

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 388-106-1045 and creating WAC 388-106-1046 and WAC 388-106-1047 in order to clarify the definition for nurse services intervention, specifically Private Duty Nursing, to define the scope of services to be authorized and the necessity for documentation to support the required services in contracted Adult Family Homes.

Citation of rules affected by this order:

New: WAC 388-106-1046, WAC 388-106-1047

Repealed: None

Amended: WAC 388-106-1045

Suspended: None

Statutory authority for adoption: RCW 74.08.090, RCW 74.09.520

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-05-073 on February 16, 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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	<u>2</u>	Amended	<u>1</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	Repealed	___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New	___	Amended	___	Repealed	___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 on 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New	___	Amended	___	Repealed	___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:

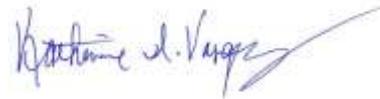
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>2</u>	Amended	<u>1</u>	Repealed	___

Date Adopted: April 3, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-106-1045 ~~((Can))~~ When may I receive private duty nursing (PDN) services in a ((licensed)) contracted PDN adult family home (AFH)? You may ~~((be eligible to))~~ receive private duty nursing (PDN) services ((if you are residing)) in an adult family home (AFH) ((if the AFH provider (owner and operator)) when:

~~(1) ((Possesses a current Washington state registered nurse license and is in good standing))~~ You are assessed;

~~((2) Signs a contract amendment with ADSA by which the provider agrees to ensure provision of twenty four hour personal care and nursing care services. Nursing care services must be provided in accordance with chapter 18.79 RCW))~~ (a) Using the comprehensive assessment reporting evaluation (CARE) assessment tool as provided in WAC 388-106-0500; and

~~((3) Provides your PDN service through an RN or an LPN under the supervision of an RN. The level of PDN services provided to you is based on the CARE assessment, the department designated PDN skilled task log or its approved equivalent, and other documentation that determines eligibility and the number))~~ (b) By an aging and long-term support administration (AL TSA) community nurse consultant (CNC) or developmental disabilities administration (DDA) nurse care consultant (NCC) who, using their professional judgment, determines that you require a minimum of eight hours of PDN ((hours to be authorized;)) services per day.

~~((4) Provides the PDN services to you. Your service plan may authorize you to receive four to eight hours per day and cannot exceed eight PDN care hours per day;~~

~~(5) Has a nursing service plan prescribed for you by your primary care provider. The primary care provider must))~~ (2) You reside in an AFH that:

~~(a) ((Oversee your care plan, which must be updated at least once every six months))~~ Meets all AFH licensing requirements under chapter 388-76 WAC; and

~~(b) ((Monitor your client's medical stability))~~ Has a PDN contract with AL TSA; and

(c) Meets all other requirements in WAC 388-106-1046.

~~((6) Document the services provided in the care plan, including the submission of the PDN seven day look back skilled nursing task log by the licensed nursing to the CN or NCC for review for initial eligibility and ongoing eligibility every six months; and~~

~~(7) Maintain records in compliance with AFH licensing and contract requirements))~~ (3) Your detailed service plan is reviewed and signed by your primary care provider at your initial assessment and at least every six months thereafter, and your detailed service plan is submitted to an AL TSA CNC or DDA NCC for review along with the following documents:

(a) Physical exam findings completed by your physician;

(b) Current Physician's orders;

(c) Current nursing assessment;

(d) Current plan of care;

(e) The nursing progress notes for the seven days prior to assessment, if applicable; and

(f) The PDN skilled nursing task log for dates corresponding with the nursing progress notes, if applicable.

NEW SECTION

WAC 388-106-1046 When may an adult family home (AFH) be paid an all-inclusive daily rate for private duty nursing (PDN) services? An adult family home (AFH) may be paid for private duty nursing (PDN) services when:

(1) The AFH provider, as defined in WAC 388-76-10000, ensures that personal care and nursing services are available in the home 24 hours per day.

(2) The AFH provider is either:

(a) A registered nurse (RN) licensed in Washington state in good standing under RCW 18.79.030(1); or

(b) Operates an in-home services agency licensed through the Washington state department of health (DOH) to provide home health services under chapter 246-335 WAC; and

(i) Employs a resident manager or entity representative, who is a registered nurse licensed in Washington state in good standing under RCW 18.79.030(1); and

(ii) The PDN program manager has approved a plan submitted by the AFH provider to replace the resident manager or entity representative in the event the resident manager or entity representative is no longer employed by the AFH; and

(iii) Ensures that a sufficient number of capable, qualified, and trained staff are available to provide necessary care and services consistent with each client's negotiated service agreement at all times, including but not limited to routine conditions, emergencies, fires, and disaster situations; and

(iv) May use nurses employed by their own in-home services agency to provide PDN for clients in the AFH.

(3) The RN resident manager or RN entity representative employed by the AFH provider, as required under subsection (2):

(a) Manages the daily operations of the AFH and oversees the care provided to the client; and

(b) Must notify the local fire agency, gas, phone, and electric companies at the time of each PDN client's admission to the AFH.

NEW SECTION

WAC 388-106-1047 What is included in the all-inclusive daily rate payment to the adult family home (AFH) providing private duty nursing (PDN) services? Department of social and health services (DSHS) will pay the adult family home (AFH) an all-inclusive daily rate for a private duty nursing (PDN) client, which includes payment for PDN services, all skilled nursing tasks, and all personal care services. DSHS will not authorize payment for nurse delegation services or hours provided by the in-home services agency nurses in addition to the PDN all-inclusive daily rate.