

Cite as Det. No. 00-157, 21 WTD 1 (2002)

BEFORE THE APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition For Correction of)	<u>D E T E R M I N A T I O N</u>
Assessment of)	
)	No. 00-157
)	
...)	Registration No. ...
)	FY. . . /Audit No. ...

- [1] RULE 168; RCW 82.04.327: B&O TAX – ADULT FAMILY HOMES EXEMPTION – STATUTORY CONSTRUCTION. RCW 82.04.327 references DSHS rules generally which govern the licensing of adult family homes. Where a reference is to the law generally which governs a specified subject, the reference is regarded as including not only the law on that subject in force at the date of the referential act, but also that law as it exists from time to time thereafter.
- [2] RULE 168; RCW 82.04.327: B&O TAX – ADULT FAMILY HOMES EXEMPTION. RCW 82.04.327, which exempts from B&O tax the gross income derived from services of adult family homes, applies only to private homes. It does not apply to home care agencies that merely go into private homes to provide services.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

NATURE OF ACTION:

A for-profit corporation that provides home care services for disabled persons under contract with the Department of Social and Health Services (DSHS) protests the assessment of B&O tax on its receipts from DSHS after July 19, 1996, contending it is an exempt “adult family home” for purposes of RCW 82.04.327.¹

¹ Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

FACTS:

Prusia, A.L.J. -- The taxpayer, . . . , is a for-profit corporation engaged in business in . . . County, Washington.

The taxpayer has been certified by the Washington Department of Social and Health Services (DSHS) as an “Intensive Tenant Support Agency.” As such, the taxpayer has contracted with DSHS’s Division of Developmental Disabilities since 1990 to provide residential instruction, support, and healthcare services to developmentally disabled adults.

The taxpayer provides 24-hour home care services to its clients in their own residences. At no time relevant to this appeal has the taxpayer operated a central care facility where its clients live or receive the taxpayer’s services. It has not operated private homes where its clients reside.

The taxpayer is not subject to licensing under Chapter 70.127 RCW, which concerns home care licensing by the Washington Department of Health, because its delivery of services is regulated by DSHS. It has never been licensed as an adult family home under DSHS rules or statutes. As part of its certification, DSHS fully inspects the taxpayer’s services every two years.

The Audit Division of the Department of Revenue examined the taxpayer’s books and records for the period January 1, 1995 through December 31, 1998. The Audit Division found taxes and interest owing in the total amount of \$. . . , and issued the above assessment in that amount on October 25, 1999. The assessment included service and other activities business and occupation (B&O) tax on revenues the taxpayer had received from DSHS under its contract for services; in reporting taxable income, the taxpayer had deducted those revenues from its gross income. The B&O portion of the assessment was \$. . . plus interest. The Auditor’s Detail of Differences and Instructions to Taxpayers accompanying the assessment indicates the Audit Division considered, but did not accept, the taxpayer’s argument that WAC 458-20-168 (Rule 168) was intended to exempt all organizations that provide care to medically fragile developmentally disabled clients when services are contracted with DSHS. The taxpayer timely appealed the B&O portion of the assessment. The appeal stated the taxpayer did not dispute the balance of the assessment, relating to use tax.

The taxpayer’s petition asserts the taxpayer was exempt from B&O tax during the audit period under subsection (4)(1) of Rule 168, which exempts gross income derived from services of adult family homes which are licensed as such, or are exempt from licensing under DSHS rules. It argues Rule 168(2)(c) provides a definition of “adult family home,” which incorporates DSHS licensing rules by reference, and the taxpayer is exempt from licensing under one of the referenced DSHS rules, WAC 388-76-140. It argues that, although DSHS repealed that rule effective July 20, 1996, Rule 168(2)(c) still incorporates the former DSHS exemption.

During the pendency of the appeal, the Audit Division sent the taxpayer a letter, dated February 14, 2000, stating the assessment would be adjusted downward, for the following reason:

Upon further discussion and review, I also agree with you that [the taxpayer] is exempt from business and occupation tax under the following provision of WAC 458-20-168(2)(c):

The term “adult family home” means private homes licensed by the department of social and health services as adult family homes (see WAC 388-76-030(2)), *and those which are specifically exempt from licensing under the rules of the department of social and health services. (See WAC 388-76-140).* (Emphasis supplied [by Audit Division])

It is my understanding that prior to July 20, 1996, DSHS provided a specific exemption from the adult family home licensing requirements for a person who provided services to an adult in that adult’s own home. As of July 20, 1996, DSHS revised its rules to no longer exempt from licensing such a person.³ It is our position that [the taxpayer] was, therefore, exempt from business and occupation tax because it was specifically exempt from licensing under DSHS’s own rules. After July 20, 1996, [the taxpayer] no longer meets the terms of RCW 82.04.327 (“Exemptions--Adult Family Homes”) and is no longer entitled to the exemption.

³ [Audit Division’s footnote] It appears that under the statute, such a person would never be included as an adult family home at all, since in order to be an adult family home, they have to be providing care as well as room and board.

The Audit Division subsequently issued an adjusted assessment with an effective date of August 4, 2000. The adjustment canceled B&O tax applied to gross receipts prior to July 20, 1996. It did not cancel B&O tax applied to gross receipts beginning July 20, 1996. The adjusted amount of B&O tax assessed is \$. . . , plus statutory interest.

After receiving the February 14, 2000 letter, the taxpayer amended its petition for correction. It accepts the cancellation of B&O tax assessed for the period prior to July 20, 1996, but continues to dispute the B&O assessment for the period July 20, 1996 through December 31, 1998. The taxpayer contends the Audit Division incorrectly assumed DSHS’s repeal of WAC 388-76-140 automatically resulted in a change in the tax exemption. The taxpayer cites, and relies upon, *Rosell v. Social and Health Services*, 33 Wn.App. 153, 652 P.2d 1360 (1982), for the proposition that when a statute incorporates by reference the provisions of another act, the two statutes coexist as separate legislative enactments, and the alteration or repeal of the incorporated statute does not operate upon or affect the other.

The taxpayer further argues:

The Legislature gave the Department authority to adopt regulations to implement the taxing statute. When the Department incorporated the provisions of the [DSHS] regulation, it simply adopted those definitions. To allow DSHS to change its regulation and hence effect a change on the Department of Revenue’s regulation is inappropriate

because it 1) violates the rulemaking authority of the Department of Revenue (where there was opportunity for input from concerned taxpayers?) and 2) constitutes a wrongful delegation of rulemaking authority to the DSHS.

ISSUES:

1. What is the effect of Rule 168(2)(c)'s reference to DSHS's WAC 388-76-140?
2. What is the effect on Rule 168(2)(c) and (4)(a) of DSHS's repeal of WAC 388-76-140?
3. Did the provisions of WAC 388-76-140 apply to the taxpayer?

DISCUSSION:

Department of Revenue Statute and Rule

Washington imposes a B&O tax "for the act or privilege of engaging in business" in the State of Washington. RCW 82.04.220. The B&O rate is determined by the type of business activity in which a person is engaged. *See* RCW 82.04.290.

RCW 82.04.4297 allows certain health and social welfare organizations to deduct from gross receipts, in computing B&O tax, compensation they receive from public entities. That deduction is limited to "not-for-profit corporations." RCW 82.04.431; WAC 458-20-169 (Rule 169).

The taxpayer claims its receipts from DSHS are exempt under another provision, RCW 82.04.327, entitled "Exemptions--Adult family homes." That statute, enacted in 1987, provides:

This chapter does not apply to adult family homes which are licensed as such, or which are specifically exempt from licensing, under rules of the department of social and health services.

WAC 458-20-168 (Rule 168) is the Department rule interpreting and implementing the 1987 exemption statute. Among its provisions are the following:

(4) **Exemptions and deductions.** The following exemptions and deductions apply:

(a) Adult family homes. The gross income derived from personal and professional services of adult family homes which are licensed as such, or which are specifically exempt from licensing under the rules of the department of social and health services, is exempt from the business and occupation tax effective June 9, 1987.

(2) **Definitions**

...

(c) The term “adult family home” means private homes licensed by the department of social and health services as adult family homes (see WAC 388-76-030(2)), and those which are specifically exempt from licensing under the rules of the department of social and health services. (See WAC 388-76-140.)²

DSHS Rules and Statutes

In 1987, when the Legislature enacted RCW 82.04.327, there was no statutory definition of “adult family home” in the DSHS licensing statutes. DSHS licensed adult family homes under authority of RCW 74.08.044, which provided:

The department [DSHS] is authorized to promulgate rules and regulation establishing eligibility for alternate living arrangements, and license the same, including minimum standards of care, based upon need for personal care and supervision beyond the level of board and room only, but less than the level of care required in a hospital or a skilled nursing home

DSHS had adopted rules for licensing adult family homes in 1985, as Chapter 388-76 WAC, entitled “Adult Family Homes Minimum Licensing Requirements.” The version of WAC 388-76-030 in effect in 1987 (effective 1985-1990) defined “adult family home” and “sponsor” as follows:

(2) “Adult family home” means the regular family abode of a person or persons licensed to provide therein full-time family care and supervision for from one to no more than four adults who are in need of personal and special care and who are not related to the person or persons providing care.

. . .

(25) “Sponsor” means a person licensed under this chapter to operate an adult family home. The sponsor shall reside at the adult family home. Exceptions may be authorized by the department for good cause, as defined in this rule.

The version of WAC 388-76-130 and -140 in effect in 1987 (effective 1985-1990) provided:

WAC 388-76-130 Persons subject to licensing. Persons are subject to licensing who provide or intend to provide twenty-four hour family care in their own home for adults in need of personal and special care who are not their relatives in the following numbers:

² A prior version of Rule 168, in effect from 1987 through June 16, 1994, contained the same provisions, numbered subsection (3). Interestingly, when the Department amended Rule 168 in 1994, the amendment did not reflect the fact that the reference to WAC 388-76-030(2) was no longer current. DSHS had amended WAC 388-76-030 eff. 2-16-90, renumbering the definition for “adult family home” as subsection (3) instead of (2).

- (1) One through four developmentally disabled adults; or
- (2) One through four state assistance recipients; or
- (3) Three through four persons not developmentally disabled or recipients of state assistance.

WAC 388-76-140 Persons not subject to licensing. In addition to those persons exempt from licensing requirements as provided in chapter 74.15 RCW, the following persons are not required to be licensed:

- (1) Persons caring for an adult in need of personal and special care in that adult's own home whether related or not; and
- (2) Persons providing family care in their own home for one or two developmentally disabled adults not related to them and for whom the department has not authorized care (chapter 74.15 RCW; RCW 18.20.020; 74.08.044).

Subsequent to the 1987 enactment of the tax exemption statute, the 1989 Legislature established standards for regulating adult family homes, codified as Chapter 70.128 RCW (entitled "Adult Family Homes"). Relevant DSHS statutes have been amended once, effective July 23, 1995.

The implementing DSHS rules, in Chapter 388-76 WAC, were amended several times. WAC 388-76-030 was amended in 1990 and again in 1992, and WAC 388-76-130 and -140 were amended in 1990. Amendments are set out in Appendix A to this decision.

Effective July 20, 1996, DSHS repealed the specific DSHS rules referenced in Rule 168(2)(c). Beginning that date, all group homes that fit the RCW 70.128.010 definition of "adult family home" must be licensed.

Effect of Rule 168(2)(c)'s reference to DSHS's WAC 388-76-140

Is the taxpayer correct that Rule 168(2)(c)'s reference to DSHS's WAC 388-76-140 incorporates the DSHS rule as part of Rule 168(2)(c)? If so, which version of the DSHS rule does it incorporate -- the 1985 version or the 1990 version?

[1] The taxpayer correctly states the principle set out in *Rosell v. Social and Health Services*, *supra*. However, that is not the principle that applies in this case. RCW 82.04.327 and Rule 168(4)(a) do not incorporate a specific DSHS rule by reference. Rather, they incorporate unspecified rules of DSHS which exempt adult family homes from licensing. Even Rule 168(2)(c), in defining the term "adult family home," does not incorporate a specific DSHS rule. It incorporates unspecified "rules," and then adds a "see" reference, in parenthesis. We find that the Legislature and the drafters of Rule 168 intended to incorporate DSHS's treatment of adult family homes generally, and not simply its treatment at the moment the statute was enacted or the rule was adopted. The principle applicable in this circumstance is the following. Where the reference is to the law generally which governs a specified subject, the reference will be regarded as including, not only the law on that subject in force at the date of the referential act, but also that law as it exists from time to time thereafter. Horace Emerson Read, *Is Referential*

Legislation Worth While, in SUTHERLAND STAT. CONST. 797, 801, 5th ed. (1992); *Chelan County v. Navarre*, 38 Wash. 684, 80 Pac. 845 (1905); *Corkery v. Hinkle*, 125 Wash. 671, 676-678, 217 P. 47 (1923).

The Washington Supreme Court explained the distinction as follows, in *Corkery v. Hinkle*, *supra*, 38 Wash. at 676-677:

With the ground thus cleared of encumbrances, we proceed to the assertion, which is supported by the authorities, that, where a special act by its terms incorporates all general laws not inconsistent therewith, by reference, such general laws relating to the matter passed subsequently to the special act, either as new enactment or amendment to prior existing laws, and not inconsistent with the special act, become incorporated in the special act.

Sutherland, *Statutory Construction* (2d ed.) vol. II, § 405:

"Where one statute adopts the particular provisions of another by a specific and descriptive reference to the statute or provisions adopted, the effect is the same as though the statute or provisions adopted had been incorporated bodily into the adopting statute." and, continuing; --

"There is another form of adoption wherein the reference is, not to any particular statute or part of a statute, but to the law generally which governs a particular subject. The reference in such case means the law as it exists from time to time or at the time the exigency arises to which the law is to be applied. The supreme court of Illinois says: 'Where, however, the adopting statute makes no reference to any particular act by its title or otherwise, but refers to the general law regulating the subject in hand, the reference will be regarded as including, not only the law in force at the date of the adopting act, but also the law in force when action is taken, or proceedings are resorted to.'"

Endlich on the Interpretation of Statutes, § 483:

"But, when the incorporating act does not in terms declare that the mode of procedure prescribed by another act, not specifically referred to, but being then the only one established by law and incorporated by the general reference 'the same as' in the case provided by the earlier act, it is said to be intended 'as a rule for future conduct,' a rule 'always to be found, when it is needed by reference to the law . . . existing at the time when the rule is invoked.'"

See, also, Sedgwick on Constitutions and Statutes (2d ed.), page 229; Beal on Cardinal Rules of Legal Interpretation (2d ed.), page 377, to the same effect.

Effect of DSHS's Repeal of WAC 388-76-140

Applying the appropriate principle to the facts of the present case, we conclude that DSHS's repeal of WAC 388-76-140 made that DSHS rule no longer incorporated by reference in Rule 168 and RCW 82.04.327, effective July 20, 1996. Beginning that date, to qualify for the tax exemption under RCW 82.04.327 and Rule 168(4)(a), a taxpayer must be licensed as an adult family home under other DSHS rules, or specifically exempt from licensing as an adult family

home under other DSHS rules. Our review of the post-July 19, 1996 DSHS rules indicates they do not exempt any adult family homes from licensing.

The taxpayer's only claim to a continuing B&O tax exemption after July 19, 1996, is that it fell within a DSHS exemption under the former WAC 388-76-140. Since any such exemption was no longer incorporated in RCW 82.04.327 or Rule 168 after July 19, 1996, the taxpayer's claim to a B&O tax exemption after July 19, 1996 must fail.

We conclude the Audit Division correctly assessed B&O tax on the taxpayer's DSHS revenues after July 19, 1996. Accordingly, the adjusted assessment issued August 4, 2000, must be sustained.

Did the Provisions of WAC 388-76-140 apply to the taxpayer?

It is appropriate to determine whether, but for application of the above principle, the taxpayer would qualify for the tax exemption under RCW 82.04.327 for periods after July 19, 1996. In other words, did former WAC 388-76-140 apply to the taxpayer? While determining this issue involves interpreting DSHS statutes and rules effective prior to July 20, 1996, for purposes of this appeal our interpretation does not affect the taxpayer for periods before July 20, 1996.³

We conclude that WAC 388-76-140 did not apply to the taxpayer during any part of the audit period, and the taxpayer was never entitled to a B&O tax exemption on that basis. When the Legislature enacted the tax exemption, DSHS regulations defined an "adult family home" as "the regular family abode of" persons who provide full-time care. [Emphasis added.] In 1989, the DSHS statute added the requirement that the abode be of a person or persons who are "providing personal care, room, and board," and the 1990 DSHS rule revisions incorporated that requirement. Effective July 23, 1995, the DSHS statute deleted the requirement that the home be the regular family abode "of" the caregiver, but DSHS statutes and rules have continued to define the term "adult family home" as "a regular family abode." The taxpayer has never been a regular family abode. It has never provided room and board. It is a service provider that goes into regular family abodes to provide some services. It does not, and never has, fit DSHS's definition of an "adult family home."

If the taxpayer has never been "an adult family home," it cannot be exempt from licensing requirements that are applicable to adult family homes. It may be exempt from other state licensing requirements, but not licensing requirements applicable to adult family homes.

Indeed, it appears that the taxpayer's activities fall under Chapter 70.127 RCW, which is entitled "Home Health, Hospice, and Home Care Agencies--Licensure," rather than under Chapter

³ The taxpayer amended its petition as a result of the Audit Division's February 14, 2000 letter stating the Audit Division had concluded former WAC 388-76-140 applied to the taxpayer; therefore, under Rule 168 the taxpayer was exempt from B&O tax on its revenues from DSHS for periods prior to July 20, 1996; and the Audit Division would adjust the assessment. It is only the adjusted assessment, issued August 4, 2000, that remains under review.

70.128 RCW. RCW 70.127.010 defines a “home care agency” as “a private or public agency or organization that administers or provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence.” The taxpayer fits that definition. Home care agencies generally are subject to licensing by the Washington Department of Health (DOH). RCW 70.127.040(7), however, exempts from DOH licensing requirements persons “providing care to disabled persons through a contract with the department of social and health services.” It appears that the taxpayer is exempt from licensing, but the exemption is from DOH licensing requirements under Chapter 70.127, not exemption from DSHS licensing requirements under Chapter 70.128. Exemption from requirements under Chapter 70.127 does not entitle a taxpayer to an exemption from B&O tax under RCW 82.04.327.

[2] The contrary interpretation, advanced by the taxpayer and accepted by the Audit Division for periods prior to July 20, 1996, also is inconsistent with our own statute and rule. RCW 82.04.327 exempts “adult family homes which are licensed as such, or which are specifically exempt from licensing” (emphasis added). The taxpayer must be an “adult family home,” not simply someone to whom DSHS’s adult family home licensing requirements are not applicable. Rule 168 has always defined an “adult family home” as a “private home.” The taxpayer is not a private home. It never has been any sort of home. It is a provider of home care services that goes into others’ private homes to provide services. We are unable to see how Rule 168(4)(a) applies to the taxpayer for any part of the audit period.

In sum, the adjusted assessment is sustained. The taxpayer is not exempt from B&O tax under RCW 82.04.327 or Rule 168(4)(a) on amounts it received under contract from DSHS for the period July 20, 1996 through December 31, 1998.

DECISION AND DISPOSITION:

The taxpayer's petition for correction of the assessment, as adjusted August 4, 2000, is denied.

Dated this 24th day of August 2000.

APPENDIX ADSHS Statutes and Rules Subsequent to the Enactment of RCW 82.04.327 and Prior to 1996
Repeal of DSHS Rules

In Laws 1989, Ch. 427, §§ 14-33, the Legislature established standards for regulating adult family homes. The legislation, which was codified as Chapter 70.128 RCW (entitled "Adult Family Homes"), defined "adult family home" and "provider" as follows, in Sec. 16 (codified as RCW 70.128.010):

(1) "Adult family home" means a regular family abode of a person or persons who are providing personal care, room, and board to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if . . .

(2) "Provider" means any person who is licensed under this chapter to operate an adult family home. The provider shall reside at the adult family home, except that exceptions may be authorized by the department for good cause, as defined in rule.

Section 17 (codified as RCW 70.128.030), specifically exempted the following residential facilities from the operation of the chapter: (1) Nursing homes licensed under chapter 18.51 RCW; (2) Boarding homes licensed under chapter 18.20 RCW; (3) Facilities approved and certified under chapter 71A.22 RCW; (5) Hospitals licensed under chapter 70.41 RCW; and (6) Homes for the developmentally disabled licensed under chapter 74.15 RCW.

Section 19 (codified as RCW 70.128.050) provided: "After July 1, 1990, no person shall operate or maintain an adult family home in this state without a license under this chapter." Section 20(2) (codified as RCW 70.128.060(2)) authorized DSHS to issue a license "to an adult family home."

Those statutory provision remained unchanged until July 23, 1995.⁴

Laws 1995, ch. 260, §2 (eff. 7-23-95) amended the definitions of "adult family home" and "provider" in RCW 70.128.010, as follows:

⁴ Laws 1989, 1st Ex.Sess., ch. 9, § 815 (eff. 7-1-89) added a second definition of "adult family home" for Chapter 70.128 RCW, for zoning & certain other purposes, codified as RCW 70.128.175. That definition was subsequently amended, in Laws 1995, 1st Sp. Sess. ch.18, § 29, eff. 8-22-95, and Laws 1997, ch. 392, § 401, eff. 7-27-97.

(1) “Adult family home” means a regular family abode ~~((of))~~ in which a person or persons ~~((who are providing))~~ provide personal care, special care, room, and board to more than one but not more than ~~((four))~~ six adults who are not related by blood or marriage to the person or persons providing the services~~((; except that at maximum of six adults may be permitted if the department . . .))~~.

(2) “Provider” means any person who is licensed under this chapter to operate an adult family home. ~~((The provider shall reside at the adult family home, except that exceptions may be authorized by the department for good cause, as defined in rule.))~~ for purposes of this section, “person” means any individual, partnership, corporation, association, or limited liability company.

Laws 1995, ch. 260, §4 (eff. 7-23-95) amended RCW 70.128.060 to add a new subsection (7) authorizing DSHS to license nonresident providers and multiple facility operators, and §6 (eff. 7-23-95) amended RCW 70.128.130 to add new subsection (7) allowing providers either to reside at the home or employ a qualified resident manager.

DSHS amended the definitions “adult family home” in WAC 388-76-030 twice, with effective dates of 2-16-90 and 11-1-92.

The 2-16-90 change renumbered the definition of “adult family home” as subsection (3) of the rule, a numbering change the Department of Revenue has failed to reflect in Rule 168. The changes in the definition were as follows:

~~((2))~~(3) “Adult family home” means ~~((the))~~ a regular family abode of a person ~~((or persons licensed to))~~ providing ~~((therein full-time family))~~ personal care, (and supervision for from)) room, and board to more than one, ((to no)) but not more than four, adults ~~((who are in need of personal and special care and who are))~~ not related by blood or marriage to the person or persons providing ((care))the services; except a maximum of six adults may be permitted

The version of WAC 388-76-060 in effect from 11-1-92 until repeal in 1996 contained the following definitions for “adult family home” and “provider”:

(3) “Adult family home” means a regular family abode of a person providing personal care, room, and board to more than one, but not more than four adults, not related by blood or marriage to the person or persons providing the services. A maximum of six adults may be permitted if the department determines the home is of adequate size and the home and provider are capable of meeting standards and qualifications as provided for in chapters 70.128 RCW and 388-76 WAC.

. . .

(25) “Provider” means a person licensed under chapter 388-76 WAC to operate an adult family home. The provider shall reside at the adult family home. Exceptions may be authorized by the department

DSHS amended WAC 388-76-130 and WAC 388-76-140 only once between their original adoption in 1985 and their 7-20-96 repeal. That amendment was effective 2-16-90. As amended, the two rules provided:

WAC 388-76-130 Persons subject to licensing. A person providing full-time care in the person’s own home or in a home in which the person does not live but owns, leases, or has financial interest and operates as an adult family home for an unrelated adult in need of room, board, supervision, personal, or special care shall be subject to licensing requirements of this chapter when the total resident census includes:

- (1) One or more residents whose care is purchased with publicly-paid funds; or
- (2) Two or more private pay residents.

WAC 388-76-140 Persons not subject to licensing. The department [DSHS] shall exempt the following person from licensing requirements according to this chapter:

- (1) A person caring for an adult in need of personal care in that adult’s own home whether related or not; and
- (2) A person providing care in the person’s own home for one unrelated adult and for whom the department has not authorized care (chapter 74.15 RCW; RCW 18.20.020; RCW 74.08.044).

DSHS Rules Since 1996 Repeal

Effective July 20, 1996, DSHS repealed WAC 388-76-010 through -530.

DSHS’s WAC 388-76-540, effective July 20, 1996, provides that “adult family home” means the same as the definition in RCW 70.128.010.

WAC 388-76-545, effective July 20, 1996, provides:

No person or entity shall operate an adult family home without a license under this chapter. An adult family home license is required to provide care to more than one but not more than six adults unrelated to the person(s) providing the care in the home.