

## WSR 24-24-020

## PROPOSED RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 22, 2024, 12:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-23-041.

Title of Rule and Other Identifying Information: WAC 388-76-10490  
Medication disposal—Written policy—Required.

Hearing Location(s): On January 7, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than January 8, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax 360-664-6185, beginning noon December 4, 2024, by 5:00 p.m. on January 7, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email [shelley.tencza@dshs.wa.gov](mailto:shelley.tencza@dshs.wa.gov), by 5:00 p.m. on December 24, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule supports and protects residents by adding time frames to existing WAC requirements and adding clarifying language. The proposed rule does this by requiring adult family homes (AFHs) to dispose of expired and discontinued medications within a specific time frame and developing a policy to address the transfer of medications when residents permanently leave the home. Residents are less likely to receive expired or unused medications and those who leave the AFH will receive support to ensure they take their medications with them.

Reasons Supporting Proposal: This rule making is supported by a petition from a member of the pharmacy community to address waste that occurs when prescriptions are filled for residents after they leave an AFH. Developing medication disposal and transfer time frames and documentation requirements will help AFH providers comply with the rule and promote safety of residents in AFHs.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: RCW 70.128.007.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, 564-999-3182.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, TTY 711, email [colleen.jensen1@dshs.wa.gov](mailto:colleen.jensen1@dshs.wa.gov).

Scope of exemption for rule proposal from Regulatory Fairness Act Requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The purpose of this chapter is to implement chapter 70.128 RCW, to promote the safety and well-being of AFH (or home) residents, to specify standards for AFH providers, and to further establish requirements for operating an AFH.

The proposed amendments address a process gap that occurs when residents transfer or discharge from AFHs and prescription medications for those residents continue to be filled by pharmacies. These filled prescriptions cannot be returned to the pharmacy and are subject to diversion and misuse by others. This issue was brought to the attention of the department by a member of the pharmacy community.

Proposed amendments to the chapter:

(1) Add a definition of "discontinued" medications for this section only.

(2) Add a time frame for disposal of expired and discontinued medications for residents who reside in the AFH and for disposal of medications for residents who have permanently left the AFH.

(3) Add a requirement to include in the facility's policy assistance with transfer of the resident's medications to a resident's new setting, when needed.

(4) Add a requirement for the facility to include in their policy a method to stop delivery or fulfillment of the prescription medications to the AFH for residents who have permanently left the home.

(5) Add a requirement for documentation when medication disposal occurs.

The proposed rules promote the safety and well-being of residents who live in AFHs by requiring homes to dispose of expired and discontinued medications within a specific time frame and developing a policy to address the transfer of medications when residents permanently leave the home.

DSHS provided notice of the proposed rule making to interested parties, which includes AFH providers. The Adult Family Home Council (AFHC), the exclusive representative of AFH licensees, was involved in the rule making. Other interested parties included the Washington state long-term care ombudsman program and the pharmacy commission. DSHS initiated communication with interested parties and elicited feedback through a series of emails during the rule development process.

DSHS consulted with the AFHC for input on how the rules may impact costs for the small businesses they represent. DSHS also worked with an AFH consultant who was part of the interested party group for additional cost estimates.

Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those businesses that employ 50 or fewer people and are independently owned and operated. These proposed rules impact AFHs licensed by DSHS.

Preparation of a small business economic impact statement (SBEIS) is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS.

DSHS considered annual costs to small businesses that are \$50.00 or more per client served, per affected AFH. The proposed rule amendments will not impose more-than-minor costs on small businesses. The preparation of a comprehensive SBEIS is not required.

The proposed rules include the following significant changes:

- Updated AFH policies to address medications of residents who permanently leave the AFH.
- Added time frame and documentation requirements for disposal of discontinued and expired resident medications. The proposed rules provide a clear time frame for transfer and disposal of resident medications and a requirement to document disposal. This clarity will assist AFHs in complying with the rule. Timely disposal will reduce the likelihood residents will receive discontinued or expired medications by mistake. Residents permanently leaving the AFH will be more likely to transition with their medications, which promotes their safety and well-being. Stopping fulfillment of medications for residents who permanently leave an AFH will reduce waste and cost of disposal for both pharmacies (which includes small businesses) and AFHs. DSHS expects there will be less opportunity for misappropriation of medication, benefiting the public as a whole.

A copy of the detailed cost calculations may be obtained by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, TTY 711, email [colleen.jensen1@dshs.wa.gov](mailto:colleen.jensen1@dshs.wa.gov).

November 21, 2024  
Katherine I. Vasquez  
Rules Coordinator

## SHS-5060.2

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

### **WAC 388-76-10490 Medication disposal—Written policy—Required.**

(1) For the purposes of this section, "discontinued" means medication that is no longer prescribed or being used to treat a condition, as directed by the resident's physician or health care professional with prescriptive authority.

(2) The adult family home must ((have)) develop and implement a written policy addressing the safe disposal of ((unused or expired)) resident medications that have been discontinued or have expired. The policy must: ((Unused and expired medication must be disposed of in a safe manner for:

- (1) Current residents living in the adult family home; and
- (2) Residents who have left the home.))

(a) Comply with all federal and state laws and regulations regarding medication disposal;

(b) Address the safe disposal of medications for current residents, deceased residents, and residents who have discharged from the facility; and

(i) For current residents the facility must safely dispose of discontinued medications and expired medications within 30 calendar days of discontinuation or expiration;

(ii) For deceased residents the facility must safely dispose of all medications within 30 calendar days of the resident's death; and

(iii) For discharged residents the facility must:

(A) Assist with the transfer of the resident's medications to the resident's new setting, when needed;

(B) End fulfillment, delivery, and receipt of prescription medications within 10 calendar days; and

(C) Safely dispose of any medications left at the adult family home after 90 calendar days.

(c) Require that the safe disposal of the medication is recorded in a document that includes:

(i) Name of resident;

(ii) Name of medication;

(iii) Amount of medication;

(iv) Date of disposal or transfer; and

(v) Name of individual completing the task.