

WSR 23-08-038
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed March 29, 2023, 10:03 a.m.]

Subject of Possible Rule Making: The department of social and health services (department) is considering amending the following rules, adding a new section, and amending other sections as needed. The intent is to provide clarity to the resident medication rules, including labeling, documentation, and storage of resident medications, specifically related to the implementation of the Death with Dignity Act: chapter 388-76 WAC, Adult family home minimum licensing requirements; chapter 388-78A WAC, Assisted living facility licensing rules; chapter 388-107 WAC, Licensing requirements for enhanced services facilities; and Chapter 388-97 WAC, Nursing homes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.20.090, 70.97.230, 70.128.040, and 74.42.620.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making was requested by a member of the public to reduce potential barriers to residents in adult family homes accessing prescribed medications under the Death with Dignity Act. The department identified potential barriers in assisted living facility, enhanced services facility, and nursing home rules. Death with dignity medications can only be prescribed to individuals deemed able to "self-administer" the medication (chapter 70.245 RCW). Creating a new section in the above-referenced WAC chapters will clarify that death with dignity medications would not be subject to the same labeling, documentation, and storage requirements as other resident medications. This will enable residents to receive the prescribed medications in a timely manner, without potential delays that could result in the resident no longer being able to self-administer the medication.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies regulate this subject.

Process for Developing New Rule: Negotiated rule making; and the department will use the negotiated rule-making process for chapter 388-76 WAC. For chapters 388-78A, 388-107, and 388-97 WAC, the department will use a collaborative rule-making process to consult with internal and external stakeholders in the development and review of the draft rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98506, phone 564-999-3182, fax 360-438-7903, email colleen.jensen1@dshs.wa.gov.

March 29, 2023
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