

WSR 24-01-015
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed December 7, 2023, 11:08 a.m.]

Supplemental Notice to WSR 23-06-063.

Preproposal statement of inquiry was filed as WSR 20-17-005, 20-17-133, 20-19-009, 20-21-034, and 21-11-061.

Title of Rule and Other Identifying Information: The department is proposing amendments to:

- WAC 388-97-0300, clinical records for residents in medicare and medicaid certified facilities; and adoption of a new section related to nursing facilities providing clinical records to residents and their representatives during the COVID-19 pandemic;
- WAC 388-97-0920, resident and family groups;
- WAC 388-97-1000 Resident assessment; and adoption of a new section related to resident assessment during the COVID-19 pandemic;
- WAC 388-97-1020 Comprehensive plan of care; and adoption of a new section related to care plans during the COVID-19 pandemic;
- WAC 388-97-1260 Physician services, for residents in medicare and medicaid certified facilities; and adoption of a new section related to physician delegation of tasks and visits in nursing homes during the COVID-19 pandemic;
- WAC 388-97-1380 Tuberculosis—Testing required, 388-97-1580 Tuberculosis—Reporting—Required; and adoption of two new sections related to tuberculosis (TB) testing requirements and COVID-19 vaccinations during the COVID-19 pandemic;
- WAC 388-97-1740 Disaster and emergency preparedness; 388-97-1760 Quality assessment and assurance, 388-97-2400 Resident rooms; and the adoption of three new related sections during the COVID-19 pandemic.

Hearing Location(s): On February 6, 2024, at 10:00 a.m., virtual via Microsoft Teams or call in. Please see the department of social and health services (DSHS) website <https://www.dshs.wa.gov/office-of-the-secretary/filings-and-rulings> for the most up-to-date information.

Date of Intended Adoption: Not earlier than February 7, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on February 6, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov, by 5:00 p.m. on January 23, 2023 [2024].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS is proposing to adopt rules to identify the requirements in place during the COVID-19 pandemic in Washington state. The purpose of the rule change is to ensure consistent implementation and enforcement of rule requirements in effect during the COVID-19 pandemic in Washington state.

Reasons Supporting Proposal: This rule making will provide clarity for regulated facilities and DSHS inspection and investigation staff related to requirements in place during the COVID-19 pandemic.

Statutory Authority for Adoption: RCW 74.42.620.

Statute Being Implemented: Chapters 18.51 and 74.42 RCW.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Molly McClintock, P.O. Box 45600, Olympia, WA 98504-5600, 360-742-6966; Implementation and Enforcement: Amy Abbott, P.O. Box 45600, Olympia, WA 98504-5600, 360-485-7893.

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

A cost-benefit analysis is not required under RCW 34.05.328. This proposal is exempt from the requirement for a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv) as the proposed rules clarify language of a rule without changing its effect.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 34.05.328 (5)(b)(iv).

Explanation of exemptions: The rule is exempt under RCW 34.05.328 (5)(b)(iv) as it clarifies language of a rule without changing its effect. The department is proposing to adopt rules to identify the requirements in place during the COVID-19 pandemic in Washington state. The purpose of the rule change is to ensure consistent implementation and enforcement of rule requirements in effect during the COVID-19 pandemic.

Scope of exemption for rule proposal:

Is fully exempt.

December 5, 2023
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 24-02 issue of the Register.