WSR 26-18-031
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
[Filed August 26, 2026, 9:35 a.m.]

Subject of Possible Rule Making: The department of social and health services (department) is considering creating a new chapter 388-97A WAC for the Omnibus Budget Reconciliation Act registry and a new section in the new chapter to establish the process for nursing assistants to petition the department to have their name removed from the registry. Updates to other related rules may be required, as well as adding new sections, and repealing other sections, as necessary. As needed, amendments will make changes required to improve clarity, update policy, or better align rule language with state and federal law or regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.51.070 and 74.42.620; and 42 U.S.C. § 1396r (g)(1)(C) and (D).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making is needed in response to the residential care services' repeal of the nursing assistant-certified registry rule, WAC 388-97-0780, under 42 U.S.C. § 1396r (e)(2)(A), that requires the state to establish and maintain a registry of individuals and subsection (g)(1)(C) and (D) that requires the state to establish a procedure to permit a nurse aide to petition the state to have their name removed from the registry under certain circumstances.

In addition, rule making is needed to clarify this distinct and separate process from the RCW 74.39A.056 registry for individuals with substantiated findings of abuse, neglect, or exploitation. The department wants to make it clear that there are two distinct registries as it has resulted in confusion and litigation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making; and the department will use a collaborative rule-making process to consult with internal and external interested parties in the development and review of the draft rules. The department invites the public to give input on the draft language for proposed rule changes. More information is available by contacting the residential care services policy unit, as provided below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Molly Engelke, P.O. Box 45600, Olympia, WA 98504, phone 360-742-6966, TTY 711 relay service, email rcspolicy@dshs.wa.gov.

August 25, 2026
Katherine I. Vasquez
Rules Coordinator