



PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

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FILED

DATE: January 26, 2022

TIME: 1:30 PM

WSR 22-04-047

Agency: Department of Social and Health Services (department)

Subject of possible rule making: The department is considering amending the following chapters of rule to implement specific sections to SHB 1218. The department may amend other related rules as necessary to meet the legislative intent of SHB 1218.

- Chapter 388-76 WAC, Adult Family Home Minimum Licensing Requirements,
- Chapter 388-78A WAC, Assisted Living Facility Licensing Rules,
- Chapter 388-97 WAC, Nursing Homes, and
- Chapter 388-107 WAC Licensing Requirements for Enhanced Services Facilities.

The department is considering amending the rules to add requirements related to:

- Facility communication system, resident access to communications, and facility responsiveness to outside communications.
- Comprehensive disaster preparedness plans, and related policies and procedures, and equipment for a range of potential hazards, emergencies, and disasters.
- Visitation of essential support persons.
- Resident's rights to a safe and healthy environment.

Statutes authorizing the agency to adopt rules on this subject:

- RCW 18.20.090, Rules, regulations, and standards.
- RCW 18.51.070, Rules.
- RCW 70.97.230, Rules for implementation of chapter.
- RCW 70.128.040, Adoption of rules and standards—Negotiated rulemaking—Specialty license.

Reasons why rules on this subject may be needed and what they might accomplish: In SHB 1218, the legislature found that:

- Residents in licensed long-term care facilities have been disproportionately impacted and isolated by the COVID-19 pandemic and over 50 percent of all COVID-19 deaths in Washington have been associated with long-term care facilities.
- Social isolation creates a "double pandemic" that disrupts care and exacerbates the difficulties of dementia, depression, suicide risk, chronic health conditions, and other challenges faced by long-term care residents and providers.
- A "digital divide" exists in many parts of Washington, particularly for older adults of color with low incomes and those in rural communities.
- Residents with sensory limitations, mental illness, intellectual disabilities, dementia, cognitive limitations, traumatic brain injuries, or other disabilities may not be able to fully utilize digital tools, which exacerbates their social isolation.
- Long-term care facilities already have the legal responsibility to care for their residents in a manner and in an environment that promotes the maintenance or enhancement of each resident's quality of life as detailed in chapter 70.129 RCW.

This rule making implements the intent of SHB 1218 and will address the systematic weaknesses in the state's long-term care system exposed by the COVID-19 pandemic and establish additional measures to protect and improve the health, safety, and quality of life of residents. This rule making will address the systemic weaknesses identified in the bill such as:

- Communication systems that are responsive to outside communications in a timely manner and give residents various methods for communicating with family and essential support persons.
- Appropriate comprehensive disaster preparedness plans, policies, procedures, and equipment for a range of potential hazards, emergencies, and disasters.
- Visitation of essential support persons.

Identify 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 (check all that apply):

Negotiated rule making

Pilot rule making

Agency study

Other (describe) The department will use a collaborative rule-making process to develop and receive comments on draft rules. Contact the department staff listed below to receive draft material and information about how to participate in the rule-making process

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

(If necessary)

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Additional comments:

Date: January 25, 2022

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

