



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 24, 2024

TIME: 1:33 PM

WSR 24-10-046

Agency: Department of Social and Health Services' Developmental Disabilities Administration

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 24-05-005 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____ ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 388-101D-0295, Medication services-General, and 388-101D-0330, Storage of medications.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 4, 2024	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, see the 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 June 5, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Rules Coordinator

Address: PO Box 45850, Olympia WA 98504-5850

Email: DSHSRPAURulesCoordinator@dshs.wa.gov

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. on June 4, 2024

Assistance for persons with disabilities:

Contact Shelley Tencza, Rules Consultant

Phone: 360-664-6036

Fax: 360-664-6185

TTY: 711 Relay

Email: shelley.tencza@dshs.wa.gov

Other:

By (date) 5:00 p.m. on May 21, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: DDA amended these rules to amend the labeling requirements for prescribed and over-the-counter medications for clients who receive services from providers under chapter 388-101D WAC – group homes, group training homes, supported living, and state-operated living alternatives for adults.

Reasons supporting proposal: The proposed changes are intended to support client choice and reduce medication error. The amendments would allow providers delivering medication management or medication administration to support clients taking medications lacking a pharmacist label (as long as other criteria are met), such as a homeopathic or other medication that typically does not include a pharmacist label.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.120

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization)

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Chantelle Diaz	PO Box 45310, Olympia WA 98504-5310	360-790-4732
Implementation:	Megan Kwak	PO Box 45310, Olympia WA 98504-5310	360-764-9909
Enforcement:	Megan Kwak	PO Box 45310, Olympia WA 98504-5310	360-764-9909

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Chantelle Diaz
Address: PO Box 45310, Olympia WA 98504-5310
Phone: 360-790-4732
Fax:
TTY:
Email: chantelle.diaz@dshs.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) (i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. The new requirements added to the proposed rules involve labeling medications, which most of the time will already be adhered to the medication container and do not cost anything. In some instances, the provider may need to add the client's name to a container or other information to a medication organizer. To add any missing information to a medication container or organizer, the provider may need labeling materials (marker, label). Any material costs should not exceed \$50 annually per client or other appropriate unit of service (RCW 19.85.020).
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

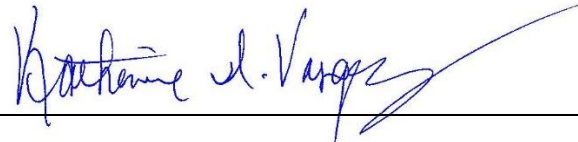
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: April 22, 2024

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

WAC 388-101D-0295 Medication services—General. (1) If the service provider ~~((is involved in assisting any))~~ supports a client with ((medications)) a prescribed or over-the-counter medication, as identified in the client's ~~((individual support))~~ person-centered service plan, the service provider must do all of the following:

(a) Have systems in place to ensure that medications are given as ordered and in a manner that safeguards the client's health and safety~~((?))~~ .

(b) Ensure that each client receives their medication as prescribed, except as provided for in the medication refusal section or in the medication assistance section regarding altering medication~~((? and))~~ .

~~((Have a legible prescription label completed by a licensed pharmacy before providing medication assistance or medication administration to a client for prescribed medications.))~~ Ensure each medication has a legible:

(i) Pharmacist-prepared label; or

(ii) Manufacturer label with the name of the client for whom the medication is prescribed added to the container.

(2) Group homes licensed as an assisted living facility or adult family home must meet the medication management requirements of chapter 388-78A or 388-76 WAC. For any difference in requirements the assisted living facility or adult family home medication rules take precedence over the medication rules of this chapter.

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

WAC 388-101D-0330 Storage of medications. (1) The service provider must keep a client's medications so they are not readily available to other clients.

(2) The service provider must store medications:

(a) Under proper conditions for sanitation, temperature, moisture, and ventilation, and separate from food or toxic chemicals; and

(b) In the original medication ~~((containers))~~ container with a pharmacist-prepared label, a ((?)) manufacturer's label in accordance with WAC 388-101D-0295, or in a medication ((organizers which are)) organizer clearly labeled with the:

(i) Name of the client for whom the medication is prescribed;

(ii) Name of ((the medications)) each medication; ((and))

(iii) ((Dosage and)) Medication dose and frequency((?)) to be given; and

(iv) Route each medication is to be administered.

(3) Group homes must:

(a) Keep all medications in locked storage; and

(b) Use medication organizers only when filled by a pharmacist.