



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Department of Social and Health Services, Aging and Long-Term Support Administration

- Preproposal Statement of Inquiry was filed as WSR: **16-16-013**; 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).

- Original Notice
- Supplemental Notice to WSR:
- Continuance of WSR:

**Title of rule and other identifying information:** (Describe Subject)

The department is proposing to add a new section, WAC 388-71-0723 "What is the adult day center's responsibility in the use of medical devices and restraints?", in chapter 388-71 WAC "Home and Community Services and Programs" specifically related to Adult Day Health and Adult Day Care.

**Hearing location(s):**

Office Building 2  
DSHS Headquarters  
1115 Washington  
Olympia, WA 98504

Public parking at 11<sup>th</sup> and Jefferson. A map is available at:  
<https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>

Date: **October 25, 2016** Time: **10:00 a.m.**

**Date of intended adoption:** Not earlier than October 26, 2016  
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: DSHS Rules Coordinator  
Address: PO Box 45850  
Olympia, WA 98504  
e-mail: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
fax: (360) 664-6185

**by: 5:00 p.m. October 25, 2016**

**Assistance for persons with disabilities:** Contact:  
Jeff Kildahl, DSHS Rules Consultant by October 11, 2016  
Phone: (360) 664-6092 or TTY: (360) 664-6178  
Email: [KildaJA@dshs.wa.gov](mailto:KildaJA@dshs.wa.gov)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The department is proposing to add a new section in chapter 388-71 WAC to define client rights regarding restraints, including physical restraints, chemical restraints, involuntary seclusion, and the use of medical devices.

**Reasons supporting proposal:**

Refer to purpose statement above.

**Statutory authority for adoption:** RCW 74.08.090, RCW 74.09.520

**Statute being implemented:** RCW 74.39A.400

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE**

September 16, 2016

**NAME** (type or print)

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 20, 2016**

**TIME: 4:05 PM**

**WSR 16-19-088**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Department of Social and Health Services

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Erika Parada	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2450
Implementation:	Erika Parada	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2450
Enforcement:	Erika Parada	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2450

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

Phone: ( )

Fax: ( )

e-mail

No. Explain why no statement was prepared.

The preparation of a small business economic impact statement is not required, as no new costs will be imposed on small businesses or non-profits as a result of this rule amendment.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone: ( )

fax: ( )

e-mail:

No: Please explain:

Rules are exempt per RCW 34.05.328(5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

NEW SECTION

**WAC 388-71-0723 What is the adult day center's responsibility in the use of medical devices and restraints?** (1) **Medical devices.** Before the adult day center may use a medical device for any client, the adult day center must:

(a) Review the client's assessment to determine the client's need for and use of a medical device;

(b) Ensure the client's negotiated care plan includes the client's use of a medical device or devices;

(c) Provide the client and family with enough information about the significance and level of safety risk associated with the use of the device to enable them to make an informed decision on whether or not to use the device; and

(d) Ensure the medical device will not be used as a physical restraint for discipline or convenience.

(2) **Physical restraints.** The adult day center must ensure that each client has a right to be free from physical restraints used for discipline or convenience.

(3) **Chemical restraints.**

(a) For the purposes of this section, "**chemical restraint**" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has a temporary effect of restricting the vulnerable adult's freedom, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(b) The adult day center must ensure that each resident is free from chemical restraints.

(4) **Involuntary seclusion.** The adult day center must ensure a resident's right to be free from involuntary seclusion or isolation against his or her will.

(5) **Prevention of abuse.** The adult day center must:

(a) Meet the requirements of chapter 74.34 RCW;

(b) Ensure each resident's right to be free from abandonment, verbal, sexual, physical, and mental abuse, exploitation, financial exploitation, neglect, and involuntary seclusion;

(c) Protect each resident who is an alleged victim of abandonment, verbal, sexual, physical, and mental abuse, exploitation, financial exploitation, neglect, and involuntary seclusion; and

(d) Prevent future potential abandonment, verbal, sexual, physical, and mental abuse, exploitation, financial exploitation, neglect, and involuntary seclusion.