# PROPOSED RULE MAKING

**CR-102 (June 2012)**
**(Implements RCW 34.05.320)**
Do **NOT** use for expedited rule making

**Agency:** Department of Health

☒ **Preproposal Statement of Inquiry was filed as WSR** 15-10-027 **; 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)
WAC 246-322-180 Patient safety and seclusion care; authority of psychiatric advanced registered nurse practitioners and physician's assistants; and, WAC 246-322-010 Definitions; defining psychiatric advanced registered nurse practitioner.

**Hearing location(s):** Washington State Department of Health
Town Center Building 2, Room 145
111 Israel Road SE
Tumwater, WA 98501

Date: 10/28/2015 Time: 10:00 a.m.

**Date of intended adoption:** 11/11/2015
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**
Name: Julie Tomaro
Address: Washington State Department of Health
PO Box 47852
Olympia WA 98504-7852
e-mail: http://www3.doh.wa.gov/policyreview/
fax (360) 236-2321 by (date) 10/28/2015

**Assistance for persons with disabilities:** Contact
Julie Tomaro by 10/21/2015
TTY (800) 833-6388 or () 711

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The Department of Health is proposing rulemaking to clarify that a psychiatric advanced registered nurse practitioner or a physician's assistant may exercise the same authority as physicians regarding the restraint and seclusion of patients in private psychiatric hospitals.

**Reasons supporting proposal:**
It is within the scope of practice for psychiatric advanced registered nurse practitioners (PARNP) and physician's assistants (PA) to order restraint and seclusion. The purposed rule language would allow medical directors of private psychiatric hospitals to create hospital policies so that PARNPs and PAs may practice to their full scope by ordering patient restraint and seclusion. This allows for greater continuity of patient care and greater flexibility for hospitals and providers.

**Statutory authority for adoption:**
RCW 71.12.670

**Statute being implemented:**
RCW 71.12.670

**Is rule necessary because of a:**

| | | |
|---|---|---|
| Federal Law? | ☐ Yes | ☒ No |
| Federal Court Decision? | ☐ Yes | ☒ No |
| State Court Decision? | ☐ Yes | ☒ No |

If yes, CITATION:

**DATE** 09/21/2015

**NAME** (type or print)
John Wiesman DrPH, MPH

**SIGNATURE**
John Wiesman
, DrPH, MPH

**TITLE**
Secretary of Health

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 22, 2015
TIME: 2:11 PM

WSR 15-19-146

**(COMPLETE REVERSE SIDE)**

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

None.

**Name of proponent:** (person or organization) Washington State Department of Health

☐ Private
☐ Public
☒ Governmental

**Name of agency personnel responsible for:**

| | Name | Office Location | Phone |
|---|---|---|---|
| Drafting..... | Julie Tomaro | 111 Israel Road SE, Tumwater, WA 98501 | 360-236-2937 |
| Implementation.... | Julie Tomaro | 111 Israel Road SE, Tumwater, WA 98501 | 360-236-2937 |
| Enforcement..... | Julie Tomaro | 111 Israel Road SE, Tumwater, WA 98501 | 360-236-2937 |

**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.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone
fax
e-mail

☒ No. Explain why no statement was prepared.

A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

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

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name: Julie Tomaro
Address: Washington State Department of Health
Town Center Building 2
111 Isreal Road SE
Tumwater, WA 98501

phone (360) 236-2937
fax (360) 236-2321
e-mail julie.tomaro@doh.wa.gov

☐ No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328.

AMENDATORY SECTION (Amending WSR 95-22-012, filed 10/20/95, effective 11/20/95)

**WAC 246-322-010 Definitions.** The definitions in this section apply throughout the chapter unless the context clearly requires otherwise. For the purposes of this chapter, the following words and phrases have the following meanings unless the context clearly indicates otherwise:

(1) "Abuse" means an act by any individual which injures, exploits or in any way jeopardizes a patient's health, welfare, or safety((,)) including, but not limited to:

(a) Physically damaging or potentially damaging nonaccidental acts;

(b) Emotionally damaging verbal behavior and harassment or other actions which may result in emotional or behavioral problems; and

(c) Sexual use, exploitation and mistreatment through inappropriate touching, inappropriate remarks or encouraging participation in pornography or prostitution.

(2) "Administrator" means the individual responsible for the day-to-day operation of the hospital.

(3) "Advanced registered nurse practitioner" means a registered nurse authorized to practice specialized and advanced nursing according to the requirements in RCW ((~~18.88.175~~)) 18.79.250.

(4) "Authenticate" means to authorize or validate an entry in a record by:

(a) A signature including first initial, last name, and professional title/discipline; or

(b) A unique identifier which clearly indicates the responsible individual.

(5) "Bathing fixture" means a bathtub, shower, or combination bathtub shower.

(6) "Bathroom" means a room containing one or more bathing fixtures.

(7) "Child psychiatrist" means an individual licensed as a physician under chapter 18.71 or 18.57 RCW who is board-certified or board-eligible with a specialty in child psychiatry by:

(a) The American Board of Psychiatry and Neurology; or

(b) The Bureau for Osteopathic Specialists, American Osteopathic Neurology and Psychiatry.

(8) "Clinical record" means a file maintained by the licensee for each patient containing all pertinent psychological, medical, and clinical information.

(9) "Comprehensive treatment plan" means a written plan of care developed by a multidisciplinary treatment team for an individual patient, based on an assessment of the patient's developmental, biological, emotional, psychological, and social strengths and needs, which includes:

(a) Treatment goals with specific time frames;

(b) Specific services to be provided;

(c) The name of each individual responsible for each service provided;

(d) Behavior management; and

(e) Discharge criteria with estimated time frames.

(10) "Construction" means:

(a) A new building to be used as a hospital or part of a hospital;

(b) An addition, modification or alteration which changes the approved use of a room or area; and

(c) An existing building or portion thereof to be converted for use as a hospital.

(11) "Department" means the Washington state department of health.

(12) "Dietitian" means an individual certified under chapter 18.138 RCW.

(13) "Document" means to record, with authentication, date and time.

(14) "Drug administration" means the act of an authorized individual giving a single dose of prescribed drug or biological to a patient according to the laws and regulations governing such acts.

(15) "Drug dispensing" means interpreting a prescription and, pursuant to that prescription, selecting, measuring, labeling, packaging, and issuing the prescribed medication to a patient or service unit of the facility.

(16) "Exemption" means a written authorization from the department which releases a licensee from meeting a specific requirement or requirements in this chapter.

(17) "Family" means an individual or individuals:

(a) Designated by the patient, who may or may not be related to the patient; or

(b) Legally appointed to represent the patient.

(18) "Governing body" means the person legally responsible for the operation and maintenance of the hospital.

(19) "Health care professional" means an individual who provides health or health-related services within the individual's authorized scope of practice, who is:

(a) Licensed, certified or registered under Title 18 RCW; or

(b) A recreational therapist as defined in this section.

(20) "Licensed bed capacity" means the patient occupancy level requested by the applicant or licensee and approved by the department.

(21) "Licensee" means the person to whom the department issues the hospital license.

(22) "Maximum security window" means a security window which, if operable, opens only with a key or special tool.

(23) "Mental health professional" means:

(a) A psychiatrist, psychologist, psychiatric nurse or social worker; or

(b) An individual with:

(i) A masters degree in behavioral science, nursing science, or a related field from an accredited college or university; and

(ii) Two years experience directly treating mentally ill individuals under the supervision of a mental health professional.

(24) "Multidisciplinary treatment team" means a group of individuals from various clinical services who assess, plan, implement and evaluate treatment for patients under care.

(25) "Neglect" means conduct which results in deprivation of care necessary to maintain a patient's minimum physical and mental health((,)) including, but not limited to:

(a) Physical and material deprivation;

(b) Lack of medical care;

(c) Inadequate food, clothing or cleanliness;

(d) Refusal to acknowledge, hear or consider a patient's concerns;

(e) Lack of social interaction and physical activity;

(f) Lack of personal care; and

(g) Lack of supervision appropriate for the patient's level of functioning.

(26) "Occupational therapist" means an individual licensed under chapter 18.59 RCW.

(27) "Patient-care staff" means employees, temporary employees, volunteers, or contractors, who provide direct care services for patients.

(28) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(29) "Pharmacist" means an individual licensed as a pharmacist under chapter 18.64 RCW.

(30) "Pharmacy" means the central area in a hospital where prescriptions are filled, or drugs are stored and issued to hospital departments.

(31) "Physician" means an individual licensed under chapter 18.71 or 18.57 RCW.

(32) "Physician assistant" means an individual licensed under chapter 18.71A or 18.57A RCW.

(33) "Private psychiatric hospital" or "hospital" means a privately owned and operated establishment or institution which:

(a) Provides accommodations and services over a continuous period of twenty-four hours or more; and

(b) Is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness, who are not related to the licensee.

(34) "Professional staff" means health care professionals appointed by the governing body to practice within the parameters of the professional staff bylaws.

(35) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner under chapter 18.79 RCW and who is board certified in advanced practice psychiatric and mental health nursing.

(36) "Psychiatric nurse" means a registered nurse with:

(a) A bachelor's degree from an accredited college or university and two years experience directly treating mentally ill or emotionally disturbed individuals under the supervision of a psychiatrist or psychiatric nurse; or

(b) Three years experience directly treating mentally ill or emotionally disturbed individuals under the supervision of a psychiatrist or psychiatric nurse.

((~~(36)~~)) (37) "Psychiatrist" means an individual licensed as a physician under chapter 18.71 or 18.57 RCW who is board-certified or board-eligible with a specialty in psychiatry by:

(a) The American Board of Psychiatry and Neurology; or

(b) The Bureau for Osteopathic Specialists, American Osteopathic Neurology and Psychiatry.

((~~(37)~~)) (38) "Psychologist" means an individual licensed under chapter 18.83 RCW.

((~~(38)~~)) (39) "Recreational therapist" means an individual:

(a) With a bachelor's degree with a major or option in therapeutic recreation or in recreation for the ill and handicapped; or

(b) Certified or certification-eligible under Certification Standards for Therapeutic Recreation Personnel, June 1, 1988, National Council for Therapeutic Recreation Certification, 49 South Main Street, Suite 005, Spring Valley, New York 10977.

((~~(39)~~)) (40) "Referred outpatient diagnostic service" means a diagnostic test or examination performed outside the hospital which:

(a) Is ordered by a member of the professional staff legally permitted to order such tests and examinations, to whom the findings and results are reported; and

(b) Does not involve a parenteral injection, local or general anesthesia, or a surgical procedure.

((~~(40)~~)) (41) "Registered nurse" means an individual licensed under chapter 18.88 RCW.

((~~(41)~~)) (42) "Restraint" means any apparatus or chemical used to prevent or limit volitional body movements.

((~~(42)~~)) (43) "Seclusion room" means a small room designed for maximum security and patient protection, with minimal sensory stimuli, for the temporary care of one patient.

((~~(43)~~)) (44) "Security room" means a patient sleeping room designed, furnished and equipped to provide maximum safety and security.

((~~(44)~~)) (45) "Security window" means a window designed to inhibit exit, entry and injury to a patient, with safety glazing or other security feature to prevent breakage.

((~~(45)~~)) (46) "Self-administration" means the act of a patient taking the patient's own medication from a properly labeled container while on hospital premises, with the hospital responsible for appropriate medication use.

((~~(46)~~)) (47) "Sink" means a properly trapped plumbing fixture, with hot and cold water under pressure, which prevents back passage or return of air.

((~~(47)~~)) (48) "Social worker" means an individual registered or certified as a counselor under chapter 18.19 RCW with a master's degree in social work from an accredited school of social work.

((~~(48)~~)) (49) "Special services" means clinical and rehabilitative activities or programs including, but not limited to:

(a) Educational and vocational training;

(b) Dentistry;

(c) Speech therapy;

(d) Physical therapy;

(e) Occupational therapy;

(f) Language translation; and

(g) Training for individuals with hearing or visual impairment.

((~~(49)~~)) (50) "Staff" means employees, temporary employees, volunteers, and contractors.

((~~(50)~~)) (51) "Toilet" means a fixture fitted with a seat and flushing device used to dispose of bodily waste.

((~~(51)~~)) (52) "Useable floor space" means the total floor surface area excluding area used for closets, wardrobes and fixed equipment.

AMENDATORY SECTION (Amending WSR 95-22-012, filed 10/20/95, effective 11/20/95)

**WAC 246-322-180 Patient safety and seclusion care.** (1) The licensee shall assure seclusion and restraint are used only to the extent and duration necessary to ensure the safety of patients, staff, and property, as follows:

(a) Staff shall not inflict pain or use restraint and seclusion for retaliation or personal convenience;

(b) Staff shall document all assaultive incidents in the clinical record and review each incident with the appropriate supervisor;

(c) Staff shall observe any patient in restraint or seclusion at least every fifteen minutes, intervening as necessary, and recording observations and interventions in the clinical record;

(d) Staff shall notify, and receive authorization by, a physician, physician assistant, or psychiatric advanced registered nurse practitioner within one hour of initiating patient restraint or seclusion;

(e) A physician, physician assistant, or psychiatric advanced registered nurse practitioner shall examine each restrained or secluded patient and renew the order for every twenty-four continuous hours of restraint and seclusion; and

(f) A mental health professional or registered nurse shall evaluate the patient when secluded or restrained more than two continuous hours, and reevaluate the patient at least once every eight continuous hours of restraint and seclusion thereafter.

(2) The licensee shall provide adequate emergency supplies and equipment, including airways, bag resuscitators, intravenous fluids, oxygen, sterile supplies, and other equipment identified in the policies and procedures, easily accessible to patient-care staff.

(3) When research is proposed or conducted involving patients, the licensee shall:

(a) Document an initial and continuing review process by a multidisciplinary treatment team;

(b) Require approval by the patient prior to participation;

(c) Allow the patient to discontinue participation at any time; and

(d) Ensure policies and procedures are in accordance with Title 42 Code of Federal Regulations, chapter 1, Part 2, 10/1/89 edition.

(4) The licensee shall prohibit the use of any patient for basic maintenance of the hospital or equipment, housekeeping, or food service in compliance with the Federal Fair Labor Standards Act, 29 U.S.C., paragraph 203 et al., and 29 C.F.R., section 525 et al., except:

(a) Cleaning or maintaining the patient's private living area, or performing personal housekeeping chores; or

(b) Performing therapeutic activities:

(i) Included in and appropriate to the comprehensive treatment plan;

(ii) As agreed to with the patient;

(iii) Documented as part of the treatment program; and

(iv) Appropriate to the age, physical, and mental condition of the patient.

(5) The licensee shall assure the safety and comfort of patients when construction work occurs in or near occupied areas.