



Notice of Adoption – Policy Statement

Title: Nursing Pool Transparency | Policy Number NR 24-01

Issuing Entity: Department of Health

Subject Matter: Providing clarity about the reporting requirements outlined in Substitute Senate Bill 5547, Nursing Pool Transparency

Effective Date: June 12, 2024

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Policy Statement

Title:	Nursing Pool Transparency
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References:	Chapter 18.52C RCW, Substitute Senate Bill 5547 (chapter 100, Laws of 2023), RCW 43.43.842, 74.39A.056 and 42 U.S.C. 1320a-7
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The Department of Health (department) issues this policy statement to provide clarity regarding new statutory requirements for nursing pools licensed in Washington state because the Washington Legislature passed Substitute Senate Bill (SSB) 5547 in 2023.

The department intends to formally update chapter 246-845 WAC, Nursing Pool, to incorporate statutory changes made to chapter 18.52C RCW. Nursing pool operators have raised questions regarding the department's interpretation of several new regulatory requirements regarding annual reporting to the state, contractual notification requirements, and employee background checks. This policy statement clarifies the department's intended approach to these requirements until rulemaking is completed.

Annual Reporting to the State

A nursing pool is required under RCW 18.52C.030 to “disclose corporate structure and ownership, if any, which the secretary shall make publicly available, as part of the annual registration process.” RCW 18.52C.030(2)(b).

In order for the department to disclose corporate structure and ownership the department requests the following information:

1. What type of entity the nursing pool business is (example: partnership, corporation, LLC, etc.); and
2. The name and organizational position of the individuals who hold legal control over the company. This includes business owners, as well as, potentially, the members of a board of directors, a Chief Executive Officer (CEO), a Chief Financial Officer (CFO), or a Chief Operations Officer (COO).

Contractual Notification Requirements

Under RCW 18.52C.040(4) a nursing pool must “provide the nursing home, assisted living facility, enhanced services facility, or adult family home written notice, at least 90 days in advance, of contract changes including, but not limited to, availability or charges for services, items, or activities.”

The department interprets this requirement to mean that a nursing pool may not make unilateral contract changes of any type without providing 90-day notice to the facility they are contracting with. Department enforcement is complaint-driven and all complaints against a licensee will be assessed based on the facts and law.

Employee Background Checks

Under RCW 18.52C.040(8), nursing pools are required to “conduct a background check on all health care and long-term care personnel as required under RCW 43.43.842 and 74.39A.056, and an exclusion verification as required under 42 U.S.C. Sec. 1320a-7, prior to employment or referral of the health care or long-term care personnel.”

Nursing pools are required to conduct a Washington State Patrol background check prior to employment or referral of each employee. Background check requirements are based on each regulatory authority’s requirements. The Department of Social and Health Services (DSHS) requires background checks on health care and long-term care personnel working with vulnerable persons through the DSHS Background Check Central Unit (BCCU). BCCU requires only authorized providers and those regulated by DSHS to conduct background checks through BCCU. Nursing pool providers are not currently considered an authorized provider to conduct background checks through BCCU. Until this access issue is resolved, individual contracted facilities are responsible for conducting background checks on nursing pool temporary

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employees to ensure health care and long-term care workers are legally permitted to work with vulnerable persons in their facility under RCW 43.43.842 and 74.39A.056.

Background check requirements are based on each regulatory authority's requirements.