



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**  
(Implements RCW 34.05.310)  
Do NOT use for expedited rule making

**Agency:** Department of Labor and Industries

**Subject of possible rule making:** Implementation of a Health Technology Clinical Committee coverage determination. The decision was that certain lumbar fusion candidates must first complete a structured intensive multidisciplinary pain program prior to the department or self-insurer authorizing lumbar fusion surgery.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 70.14.120, RCW 51.04.020, RCW 51.04.030

**Reasons why rules on this subject may be needed and what they might accomplish:** New rules are necessary to implement the lumbar fusion coverage determination made by a statutory committee – the Health Technology Clinical Committee. The rule explains the decision and defines who is eligible for a lumbar fusion.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** Three state agency programs must comply with the HTCC determination: The Health Care Authority's Uniform Medical Plan, Department of Social and Health Services' Health and Recovery Services Administration, and the Department of Labor & Industries' workers' compensation program under Title 51 RCW. To the extent possible, these agencies are making their coverage policies similar; however, Washington workers' compensation benefits are governed by Title 51 RCW, Washington's Industrial Insurance Act. The specifics of the coverage decision will be limited by what is covered under Title 51 RCW. There are no other state or federal agencies responsible for interpreting and enforcing the provisions of this Act.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) The rule will be developed in consultation with major stakeholders and other interested parties:

- The Workers' Compensation Advisory Committee
- The Health Technology Clinical Committee
- Industrial Insurance Medical Advisory Committee

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

Interested persons may participate by contacting Jami Lifka by:  
Phone: (360) 902-4941 or Fax: (360) 902-6315 or

Mail: Dept. of Labor & Industries  
Office of the Medical Director  
PO Box 44321  
Olympia, WA 98504-4321

**DATE**  
December 2, 2008

**NAME (TYPE OR PRINT)**  
Judy Schurke

**SIGNATURE**

**TITLE**  
Director

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FILED

**DATE:** December 02, 2008  
**TIME:** 1:00 PM

**WSR 08-24-097**