



# 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:** The subject of this rulemaking is the implementation of two Health Technology Clinical Committee (HTCC) coverage determinations. This rule would establish a definition and criteria for a structured intensive multidisciplinary pain program (SIMP) and establish who is eligible for certain lumbar fusions or implantation of an artificial disc. In addition, this rulemaking will clarify that the lumbar Charite artificial disc is a covered device by deleting current language in WAC 296-20-03002 that lists it as a non-covered device.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 70.14.120, RCW 51.04.020, and 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 and artificial disc determinations made by the statutory HTCC committee. According to RCW 70.14.120, the department must comply with HTCC coverage decisions. The rule will specify the HTCC coverage determinations by defining the structured intensive multidisciplinary pain program (SIMP) and what requirements need to be fulfilled for a "successful SIMP," and establish who is eligible for certain lumbar fusions or an artificial disc.

**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. No other state or federal agencies are 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
- The Industrial Insurance Medical Advisory Committee
- The state's Agency Medical Director's Group

**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

<b>DATE</b> May 5, 2009
<b>NAME (TYPE OR PRINT)</b> Judy Schurke
<b>SIGNATURE</b> 
<b>TITLE</b> Director

<b>CODE REVISER USE ONLY</b>
<b>OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED</b>
<b>DATE: May 05, 2009 TIME: 4:36 PM</b>
<b>WSR 09-10-081</b>