

Attachment A to CR-103

Concise Explanatory Statement: WAC Chapter 246-71

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Definitions	WAC 246-71-010	I recommend changing the wording "prescriber" with "authorizer" as relates to the database, as no providers are allowed to prescribe cannabis.	<p>This rule defines prescriber as a person authorized to prescribe or dispense controlled substances other than marijuana under chapter 69.50 RCW. WAC 246-71-070 refers to access by persons who are allowed to prescribe controlled substances other than marijuana.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
Database Content, Access and Confidentiality	WAC 246-71-020	Because this is a new system, there are many ways it can be compromised. Patients will not like this and choose not to be in the database. Patients don't want to have pictures taken. The very minimum of information should be entered into the system.	<p>The enabling statute (chapter 69.51A RCW) sets the minimum requirements for information that must be on the authorization form and on the recognition card. The law includes requiring a photograph of the patient's or designated provider. Additional information added by rule strives to maintain a proper balance concerning privacy.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	WAC 246-71-040	The stores should be able to use printers with thermal options for printing recognition cards. The rules require the stores to use a standard laminator, but most recreational stores have badge printing equipment in place for staff badges.	<p>The department determined that the recognition cards must be printed in one standard format, to be consistent in appearance for verification purposes and to assist in preventing fraud. The department also felt that not all stores might be able to afford thermal options over a standard printer with a laminator.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	WAC 246-71-070	The system proposed will require healthcare providers to verify patients for the retail stores. If the patient were entered at the healthcare provider's office, this would reduce concerns about personal health information and would eliminate providers maintaining a separate verification system.	<p>Personally identifiable information for qualifying patients and designated providers is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.</p> <p>The law requires patient and designated provider information to be entered into the database at medically endorsed outlets.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>

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	WAC 246-71-080	What would constitute a "bona fide investigation" wherein federal agencies would be allowed to query the database? This point will turn off many patients from participating in the database for fear of federal retribution.	<p>WAC 246-71-080 describes a bona fide investigation to be an investigation of suspected marijuana-related activity that may be illegal under Washington state law. Officials who want access to the data base must register with the department in order to receive credentials for access. To validate a card a federal law enforcement official would have to be investigating marijuana-related activity that may be illegal under Washington state law. In RCW 69.51A.230(9)(c) the law further states that: "Information contained in the medical marijuana authorization database shall not be shared with the federal government or its agents unless the particular [qualifying] patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW."</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	WAC 246-71-100	Some individuals do not understand why a database is necessary and believe that their personal/medical information is at risk of being "hacked".	<p>The database is required by law. Pursuant to RCW 69.51A.240, unlawful access to the database is a class C felony.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	WAC 246-71-130	The process for healthcare providers to revoke or remove patients and designated providers from the database is vague.	<p>This rule permits authorizing health care practitioners to request removal of patients or designated providers from the database, using a process established by the department. Specific written guidance will be provided by the department.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	WAC 246-71-150	Concerns about who has access to the aggregate data, and data request security breaches.	<p>Pursuant to RCW 69.51A.230, information contained in the authorization database may be released in aggregate form, with all personally identifiable information redacted.</p> <p>Pursuant to RCW 69.51A.240, unlawful access to the database is a class C felony.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>