



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 30, 2024

TIME: 2:19 PM

WSR 24-10-090

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 23-13-016 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: Discharge or transfer of patients from acute care hospitals to 23-hour crisis relief centers in Washington state. The Department of Health (department) is proposing to amend WAC 246-320-111, Hospital Responsibilities, in order to implement Second Substitute Senate Bill (2SSB) 5120 (chapter 433, Laws of 2023), an act concerning the establishment of 23-hour crisis relief centers in Washington state.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
6/5/2024	1:15 pm	<p>In-person location: Department of Health 111 Israel Road SE Town Center 2, Rm 166 & 167 Tumwater, WA 98501</p> <p>Virtual: Register in advance for this webinar: https://us02web.zoom.us/webinar/register/WN_7en_iRktQzSFJo6sjhsioA</p> <p>After registering, you will receive a confirmation email containing information about joining the webinar.</p>	<p>The rule hearing will be hybrid. Individuals may attend either virtually or in-person.</p> <p>If you are in need of special accommodations to have proper access to this public hearing, such as ASL interpretation or translation services, please contact Dan Overton at dan.overton@doh.wa.gov or 564-201-0579 by May 22, 2024 and we will do our best to accommodate your request.</p>

Date of intended adoption: 6/12/2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Dan Overton
Address: PO Box 47843, Olympia WA 98504-7843
Email: <https://fortress.wa.gov/doh/policyreview>
Fax: 360-236-2321
Other: None
By (date) 6/5/2024

Assistance for persons with disabilities:

Contact Dan Overton
Phone: 564-201-0579
Fax: 360-236-2321
TTY: 711
Email: dan.overton@doh.wa.gov
Other: None
By (date) 5/22/2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is proposing to amend WAC 246-320-111, Hospital Responsibilities, by adding a new subsection that clarifies regulatory requirements for licensed acute care hospitals that wish to discharge or transfer a patient to a 23-hour crisis relief center.

Reasons supporting proposal: In 2023, 2SSB 5120 was passed, creating 23-hour crisis relief centers, a new type of behavioral health service model that will provide mental health and substance use crisis response to adults for no longer than 23 hours and 59 minutes at a time. Section 2 of 2SSB 5120 directs the department to adopt rules to develop standards for licensure or certification of 23-hour crisis relief centers. As part of this requirement, the department was instructed to coordinate with the Health Care Authority to establish rules that prohibit a hospital that is licensed under chapter 70.41 RCW from discharging or transferring a patient to a 23-hour crisis relief center unless the hospital has a formal relationship with the 23-hour crisis relief center. The department conducted workshops and solicited input from interested parties in order to develop standards to meet the intent of the bill.

Statutory authority for adoption: RCW 70.41.030 and 2SSB 5120 (chapter 433, Laws of 2023), codified as RCW 71.24.916

Statute being implemented: 2SSB 5120 (chapter 433, Laws of 2023), codified as RCW 71.24.916

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Health

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Dan Overton	111 Israel Road SE, Tumwater, WA 98501	564-201-0579
Implementation: Dan Overton	111 Israel Road SE, Tumwater, WA 98501	564-201-0579
Enforcement: Dan Overton	111 Israel Road SE, Tumwater, WA 98501	564-201-0579

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Dan Overton
Address: PO Box 47843, Olympia, WA 98504-7843
Phone: 564-201-0579
Fax: 360-236-2321
TTY: 711
Email: dan.overton@doh.wa.gov
Other: None

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: This proposed rule only applies to licensed acute care hospitals. These do not meet the definition of "small business" in RCW 19.85.020.

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: 4/30/2024

Name: Kristin Peterson, JD for Umair A. Shah, MD, MPH

Title: Chief of Policy for Secretary of Health

Signature:



WAC 246-320-111 Hospital responsibilities. This section identifies a hospital obligation, actions and responsibilities to comply with the hospital law and rules.

(1) Hospitals must:

(a) Comply with chapter 70.41 RCW and this chapter;

(b) Only set up inpatient beds within the licensed bed capacity approved by the department or the medicare provider agreement; and

(c) Receive approval for additional inpatient beds as required in chapter 70.38 RCW before exceeding department approved bed capacity.

(2) A hospital accredited by the Joint Commission or American Osteopathic Association must:

(a) Notify the department of an accreditation survey within two business days following completion of the survey; and

(b) Notify the department in writing of the accreditation decision and any changes in accreditation status within (~~thirty~~) 30 calendar days of receiving the accreditation report.

(3) A hospital that wishes to discharge or transfer an inpatient to a 23-hour crisis relief center, as defined in RCW 71.24.025, that is not owned and operated by the hospital, must have a documented formal relationship, such as an agreement or memorandum of understanding, with the 23-hour crisis relief center the patient will be discharged or transferred to.