



January 10, 2024

Subject: Informative - Information on Agency Rulemaking for December 2023

Dear Tribal Leaders & Tribal Partners,

We thank you for your partnership and guidance on the Washington State Department of Health rulemaking process. As an agency, we are committed to honoring the Tribal sovereignty of Washington's first Nations. As part of this commitment, and in appreciation of the governance structures of Tribal Nations, we welcome your expertise and collaboration in these current and upcoming rulemaking activities. We prioritize Tribal involvement early in the process to better ensure we are incorporating Tribal expertise, perspectives, and transparency in agency rulemaking.

In accordance with chapter 43.376 RCW, the Washington State Centennial Accord of 1989, and the Department of Health's (DOH) Tribal Consultation and Collaboration Procedure, DOH invites you to review the list of rulemaking activities below and actively collaborate with staff on all topics that may be of interest.

We appreciate your feedback, if you have any suggestions or questions about how to best honor Tribal sovereignty and strengthen agency processes, please let us know.

To provide comments or requests for additional information, please contact:

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Respectfully,

A handwritten signature in blue ink, appearing to be 'Candice Wilson', written over a blue horizontal line.

Executive Director
Office of Tribal Public Health & Relations

Cc: Umair A. Shah, MD, MPH, Secretary of Health, Department of Health
Jessica Todorovich, Chief of Staff, Department of Health
Kristin Peterson, Chief of Policy, Planning & Evaluation, Department of Health
Elizabeth Perez, Chief of Public Affairs and Equity, Department of Health
Kristopher Holiday, Chief of Strategic Partnerships, Department of Health
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Lacy Fehrenbach, Deputy Secretary, Prevention Safety & Health, Department of Health
Michelle Davis, Executive Director, Washington State Board of Health

Department of Health/State Board of Health
Rule Report
December 1-31, 2023

The following Department of Health and State Board of Health rules and documents were filed with the Washington State's Code Reviser Office between December 1-31, 2023. More information on the following rules is available at: [DOH Rulemaking](#)

Department of Health

Preproposal Statement of Inquiry (CR-101)

Mental Health Counselors, Marriage and Family Therapists, and Social Workers – Supervisor Directory and Standards and Stipend Program. The Department of Health is considering revising chapter 246-809 WAC, to establish: a directory to help mental health counselor, marriage and family therapist, and social worker associates find supervisors; minimum standards for supervision of associates; and a stipend program to offset some costs of supervision for associates. **Filed as WSR 24-02-038.**

Osteopathic Physician Exam Requirements. The Board of Osteopathic Medicine and Surgery is considering amendments to update the examination requirements for licensure of osteopathic physicians in response to House Bill (2SHB) 1724 (chapter 425, Laws of 2023) and to reduce potentially unnecessary licensure barriers. **Filed as WSR 24-01-084.**

Physical Therapist and Physical Therapist Assistant Review of Initial License and Endorsement Requirements. The Board of Physical Therapy is considering amendments to update initial licensure and endorsement requirements in consideration of House Bill (2SHB) 1724, (chapter 425, Laws of 2023). The board will also consider making general updates to the licensing and endorsement process and examine the jurisprudence examination requirement. **Filed as WSR 23-24-101.**

Streamlining Occupational Therapy Licensure and Endorsement. The Occupational Therapy Practice Board is considering amendments to implement House Bill (2SHB) 1724 (Chapter 425, Laws of 2023) to remove barriers to licensure and endorsement. Additionally, the board will consider amendments to align with the national certifying board and standards of ethics and professional conduct. **Filed as WSR 24-01-099.**

Proposed Rule Making (CR-102)

Dental Hygienist Health Equity Continuing Education. The Department of Health is proposing health equity model rules for dental hygienists to comply with RCW 43.70.613. The proposed rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current continuing education requirements every four years. The proposed rule does not change total CE hours but requires two hours in health equity CE every four years which is absorbed into the existing number of CE hours required. The health equity

CE requirement is counted under existing, unspecified CE requirements for the profession.
Filed as WSR 24-02-006.

Expedited Rules (CR105)

None filed during this period.

Emergency Rules (CR-103E)

Drinking Water State Revolving Fund (DWSRF) Loan Program. The Department of Health (department) adopted an emergency rule on August 30, 2023 (WSR# 23-18-044) to amend chapter 246-296 WAC to redefine the term disadvantaged community, update loan terms, update application requirements, and clarify loan rating and ranking criteria to conform with requirements in the federal Bipartisan Infrastructure Law (BIL). This emergency rule is being adopted to **extend** the existing emergency rule without changes to the previous emergency rule.
Filed as WSR 24-02-060.

Home Care Aide and Nursing Assistant – Certified Alternate Certification Time Frames. The Department of Health continued emergency rules to establish alternate certification time frames for individuals working toward certification as a home care aide or nursing assistant-certified (NA-C). This includes amending WACs 246-980-025, 246-980-030, WAC 246-980-040, and WAC 246-980-065 and adopting a new rule section, WAC 246-980-011. The emergency rules will allow workers impacted by the COVID-19 pandemic more time to complete requirements while training, testing, and credentialing capacity issues are being resolved.
Filed as WSR 24-02-051.

Naloxone Nasal Spray Over-the-Counter (OTC) Status. To combat the ongoing opioid epidemic, The Pharmacy Quality Assurance Commission has adopted an emergency rule amending WAC 246-945-030 and adding a new section, WAC 246-945-034. These rules classify the 3mg and 4mg naloxone hydrochloride nasal spray as approved by the FDA for OTC distribution in Washington state. This filing reflects an FDA update which broadened the classification of allowed Naloxone products as OTC status.
Filed as WSR 24-01-021.

Out-of-state nursing school requirements for licensure. The Washington State Board of Nursing (board) filed emergency rules amending WAC 246-840-030 and 246-840-090 to clarify existing licensure requirements for registered nurse (RN) and licensed practical nurse (LPN) applicants applying for initial licensure via an out-of-state traditional nursing education program approved by another U.S. nursing board, and applicants applying via interstate endorsement. The emergency rule language clarifies the board's authority to protect the people of Washington by only licensing qualified, properly trained nurses who meet minimum educational standards.
Filed as WSR 24-02-059.

WA HEALTH Reporting for Acute Care Hospitals. The Department of Health (department) is extending an emergency rule to continue to require acute care hospitals in Washington state to support statewide health system readiness by reporting hospital maintenance and operation data to the department through Washington's Healthcare and Emergency and Logistics Tracking Hub (WA HEALTH). This 4th emergency rule continues the emergency rule originally filed on August 31, 2022.
Filed as WSR 24-02-023.

Adopted Rules (CR103P)

Administration of Anesthetic Agents for Dental Procedures. The Dental Quality Assurance Commission adopted amendments to requirements for the administration of anesthetic agents for dental procedures to reflect changes in patient care standards. The amendments include changes and additions to pediatric protocols, emergency and on-call protocols, education, training, and medications including prescribing, administration, and dosage. Chapter 246-817 WAC. **Filed as WSR 24-01-033.**

Audiologists, Hearing Aid Specialists, Speech-Language Pathologists, and Speech-Language Pathologist Assistants Professions Health Equity Continuing Education (CE). The Board of Hearing and Speech (board) adopted a new rule, WAC 246-828-505, and amended WAC 246-828-510 to implement Senate Bill (ESSB) 5229 (chapter 276, Laws of 2021). The board adopted and exceeded the health equity model rule minimum standards. **Filed as WSR 24-01-120.**

Dental Provider Health Equity Continuing Education Requirements. The Dental Quality Assurance Commission adopted health equity continuing education requirements to meet the requirements of the Department of Health's equity model rules, WAC 246-12-800 through 246-12-830. The amended rules add two hours of health equity education, to be completed as part of the current continuing education requirements every three years. **Filed as WSR 24-01-100.**

Denturist Prefabricated Implant Abutments and Infection Control Standards. The Board of Denturist adopted requirements in WAC 246-812-462 for the use of placement of prefabricated implant abutments. The adopted rule establishes the requirements that are to be followed for a licensed denturist to place a prefabricated implant abutment on an implant for the purpose of fabricating, repairing, relining, or rebasing a denture. The board also amended WAC 246-812-501 to ensure that a licensed denturist develop and maintain written infection control policies, procedures, and requirements for infection prevention and control that are appropriate for the denturist services provided by the facility. **Filed as WSR 24-02-029.**

Naturopathic Physicians Continuing Competency. The Board of Naturopathy adopted amendments to WAC 246-836-080, to clarify continuing education (CE) requirements pertaining to pharmacology CE and to implement health equity CE requirements mandated by Senate Bill (ESSB) 5229 (chapter 276, Laws of 2021), codified as RCW 43.70.613. The adopted amendments clarify acceptable forms of documentation to verify the pharmacology CE requirements and implement the Department of Health's model health equity CE requirements. **Filed as WSR 24-02-062.**

Nursing - Multistate Nursing License fee (new) and Increase to Nursing Center Surcharge Fee. The Department of Health (department) in consultation with the Washington State Board of Nursing (board), adopted amendments to WAC 246-840-990 to establish the multistate nursing license fee and increase the nursing center surcharge fee as directed by Senate Bill (SSB) 5499 (chapter 123, Laws of 2023). **Filed as WSR 24-02-057.**

Over-the-counter hearing aids. The Board of Hearing and Speech adopted rules to reflect federal changes for over-the-counter (OTC) hearing aids. To align with changes in federal regulation, the board's adopted amendment removes requirements in WAC 246-828-100 for medical clearance as a condition for sale of OTC hearing aids. The adopted changes to WAC

246-828-100 only remove requirements no longer permitted by federal rule and do not otherwise change licensure requirements. **Filed as WSR 24-01-087.**

Pharmacist and pharmacy technician Health Equity Continuing Education

Requirements. The Pharmacy Quality Assurance Commission adopted health equity continuing education requirements to meet the requirements of the Department of Health's equity model rules in WAC 246-12-800 through 246-12-830. The adopted rules add one hour of health equity education every two years, coinciding with the license renewal cycles for both pharmacists and pharmacy technicians. **Filed as WSR 24-01-101.**

Pharmacy - Code of Federal Regulation (CFR) Incorporation by Reference. In 2020, the Pharmacy Quality Assurance Commission consolidated multiple chapters of rules into chapter 246-945 WAC that covers the practice of pharmacy. This adopted rule amends WAC 246-945-040(1) to incorporate Title 21 of the Code of Federal Regulations by reference for the purpose of capturing any changes made to Title 21 after WAC 246-945-040 went into effect on July 1, 2020. Language was also added to the rule for the purpose of providing individuals directions for acquiring copies of the reference material listed for public inspection. **Filed as WSR 24-01-102.**

Podiatric Physicians and Surgeons Substance Abuse Monitoring. The Podiatric Medical Board (board) adopted amendments to WAC 246-922-400, WAC 246-922-405, WAC 246-922-410, and WAC 246-922-415 to update language regarding health profession monitoring programs to align with changes made by Senate Bill (SSB) 5496 (chapter 43, Laws of 2022). **Filed as WSR 24-01-121.**

Podiatric Physicians and Surgeons Health Equity Continuing Education. The Podiatric Medical Board (board) has adopted sections WAC 246-922-300 and WAC 246-922-310 to comply with RCW 43.70.163. The board adopted the Department of Health's health equity model rules, WAC 246-12-800 through 246-12-830, for podiatric physicians and surgeons. In addition, the board also adopted amendments that correct some confusing rule language to clarify that a resident in an approved postgraduate residency training program is not required to participate in podiatric continuing medical education. **Filed as WSR 24-01-124.**

Psychologist Health Equity Continuing Education. The Examining Board of Psychology (board) adopted amendments to WAC 246-924-230 to establish health equity continuing education (CE) requirements and implement Engrossed Substitute Senate Bill (ESSB) 5229 (Chapter 276, Laws of 2021). The adopted rule requires two hours in health equity CE every three years, rather than four years, and is absorbed into the existing number of CE hours required. Additionally, the board adopted amendments to improve clarity and remove obsolete language, including provisions that allowed the board to permit CE from another jurisdiction to fulfill Washington's CE requirements and to waive CE requirements for a retired psychologist who wishes to maintain active licensure. **Filed as WSR 24-01-125.**

Radiological Technologist Review and Update of Chapter. The Department of Health adopted amendments to chapter 246-926 WAC to clarify, streamline, and modernize the regulations of cardiovascular invasive specialists, diagnostic radiologic technologists, therapeutic radiologic technologists, nuclear medicine technologists, radiologist assistants, and x-ray technicians. This includes removing outdated provisions, updating outdated terms and citations, clarifying credentialing and competency requirements, clarifying allowable duties for radiological technologists and x-ray technicians, repealing, and adding new sections of

rule, and renaming the chapter to better reflect all types of professions credentialed under the chapter. The adopted rules establish enforceable licensing requirements and safety mechanisms for patients receiving imaging services. **Filed as WSR 24-02-007.**

Remote Dispensing Sites for Increased Access to Opioid Use Disorder (OUD) Treatment Medications. Substitute Senate Bill (SSB) 6086 passed in 2020, allows a pharmacy to extend its pharmacy license to a remote dispensing site where technology is used to dispense medications used for the treatment of OUD or its symptoms. The Pharmacy Quality Assurance Commission adopted rules that establish the minimum standards for OUD medication remote dispensing sites. Adopted rules reflect standards, restrictions and requirements set in statute. **Filed as WSR 24-01-098.**

Veterinarian Profession - Physician Health Monitoring Programs for Substance Use Disorders. The Veterinary Board of Governors (board) has adopted amendments to physician health monitoring programs for substance use disorders of veterinarian professions to update language changes made by Substitute Senate Bill (SSB) 5496 (chapter 43, Laws of 2022). Amendments include terminology and definitions for currently accepted language and replacing “substance abuse” with “substance use disorder.” The board also made amendments to correct citations and other general housekeeping changes. **Filed as WSR 24-02-020.**

Veterinarian and Veterinary Technician Professions Health Equity Continuing Education The Veterinary Board of Governors adopted health equity continuing education requirements in WAC 246-933-437 and WAC 246-935-307 for licensed veterinarians and veterinary technicians to implement Senate Bill (ESSB) 5229 (chapter 276, Laws of 2021). **Filed as WSR 24-02-022.**

Miscellaneous

Board of Denturist 2024 Meeting Schedule. **Filed as WSR 23-24-063.**

Dental Quality Assurance Commission 2024 Meeting Schedule - Revised. **Filed as WSR 24-01-096.**

Department of Health, Acupuncture and Eastern Medicine Advisory Committee 2024 Meeting Schedule. **Filed as WSR 23-24.062.**

Department of Health, Licensed Behavior Analysts and Licensed Assistant Behavior Analysts. Interpretive Statement – Health Equity Continuing Education for Licenses Behavior Analysts and Licensed Behavior Analysts. | ABA 23-01. **Filed as WSR 24-02-025.**

Department of Health, Dental Hygiene Program. Interpretive Statement – Health Equity Continuing Education for Dental Hygienists. | HSQA OHP DH2301. **Filed as WSR 24-02-026.**

Department of Health, Music Therapist Advisory Committee 2024 Meeting Schedule. **Filed as WSR 23-24-053.**

Department of Health, Midwifery Program. Interpretive Statement – Health Equity Continuing Education for Midwives. | HSQA OHP MW01. **Filed as WSR 24-01-024.**

Veterinary Board of Governors 2024 Meeting Schedule. **Filed as WSR 24-01-057.**

Washington Hospital Staffing Advisory Committee 2024 Meeting Schedule. **Filed as WSR 24-01-037.**

Washington State Environmental Justice Council 2024 Meeting Schedule. **Filed as WSR 24-01-109.**

State Board of Health

Preproposal Statement of Inquiry (CR-101)
None filed during this period.
Proposed Rule Making (CR-102)
None filed during this period.
Expedited Rules (CR-105)
None filed during this period.
Emergency Rules (CR-103E)
None filed during this period.
Adopted Rules (CR-103P)
None filed during this period.
Miscellaneous
None filed during this period.