

October 6, 2023

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cc:  
Eric Hernandez  
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Certificate of Need Program  
Department of Health  
P.O. Box 47852  
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[Eric.Hernandez@doh.wa.gov](mailto:Eric.Hernandez@doh.wa.gov)

**Re: Petition to Amend Certificate of Need Rules – WAC 246-310-720**

Dear Ms. Thompson:

On behalf of Providence Health & Services – Washington (“Providence”), we are reaching out pursuant to RCW 34.05.330 and WAC 82-05-020 with a petition to undertake rulemaking related to WAC 246-310-720 (Hospital volume standards). Providence’s requested change will modify WAC 246-310-720 to eliminate an inherent shortcoming that prevents approval of a new elective PCI program when numeric need is shown in a planning area but where an existing elective PCI program is non-compliant in meeting the requirements set forth in WAC 246-310-715(2) and WAC 246-310-755.

Pursuant to RCW 34.05.330(1), Providence understands it may petition an agency requesting the adoption, amendment, or repeal of any rule and that the agency shall respond in writing within sixty days after receipt of our petition informing Providence whether rulemaking will be initiated in accordance with RCW 34.05.330. Please see the attached petition.

If you have any questions, please reach out to Lisa Crockett ([lisa.crockett@providence.org](mailto:lisa.crockett@providence.org)) and Betsy Vo ([betsy.vo@providence.org](mailto:betsy.vo@providence.org)). Thanks for your assistance with this important matter.

Sincerely,



Lisa A. Crockett  
VP, System Strategy & Planning  
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Betsy M. Vo  
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## PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

### CONTACT INFORMATION *(please type or print)*

Petitioner's Name Lisa Crockett, Vice President Strategy & Planning  
Name of Organization Providence Health & Services  
Mailing Address Please direct all responses electronically to lisa.crockett@providence.org  
City Olympia State WA Zip Code 98501  
Telephone 564-225-0690 Email lisa.crockett@providence.org

### COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

### INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Department of Health, Certificate of Need Program

**1. NEW RULE - I am requesting the agency to adopt a new rule.**

The subject (or purpose) of this rule is: \_\_\_\_\_

The rule is needed because: \_\_\_\_\_

The new rule would affect the following people or groups: \_\_\_\_\_

**2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: WAC 246-310-720: Hospital volume standards

Eliminate strikethrough text and add underlined text as noted in Appendix A.

I am requesting the following change: \_\_\_\_\_

Please see Appendix B.

This change is needed because: \_\_\_\_\_

Please see Appendix B.

The effect of this rule change will be: \_\_\_\_\_

The rule is not clearly or simply stated: Not applicable

**3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

It does not do what it was intended to do.

It is no longer needed because: \_\_\_\_\_

It imposes unreasonable costs: \_\_\_\_\_

The agency has no authority to make this rule: \_\_\_\_\_

It is applied differently to public and private parties: \_\_\_\_\_

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

Other (please explain): \_\_\_\_\_

**Appendix A**  
**Proposed Rule Change**

**WAC 246-310-720 Hospital volume standards.**

(1) Hospitals with an elective PCI program must perform a minimum of two hundred adult PCIs per year by the end of the third year of operation and each year thereafter.

(2) The department shall only grant a certificate of need to new programs within the identified planning area if the state need forecasting methodology projects unmet volumes sufficient to establish one or more programs within the planning area. :

~~(a) The state need forecasting methodology projects unmet volumes sufficient to establish one or more programs within a planning area; and~~

~~(b) All existing PCI programs in that planning area are meeting or exceeding the minimum volume standard.~~

[Statutory Authority: RCW [70.38.135](#) and [70.38.115](#). WSR 18-07-102, § 246-310-720, filed 3/20/18, effective 4/20/18. Statutory Authority: RCW [70.38.128](#). WSR 09-01-113, § 246-310-720, filed 12/19/08, effective 12/19/08.]

## Appendix B

### **This change is needed because:**

In its current entirety, WAC 246-310-720 does not serve the primary purpose for which it was adopted, which is to improve access to elective PCI services in planning areas where numeric need is demonstrated. For years, the Department of Health Certificate of Need Program (“the Department”) has not taken consistent enforcement action against long-term, non-compliant, CN-approved elective PCI programs that remain in operation, despite their failure to comply with the State of Washington’s annual PCI volume standards of two hundred cases by the end of year three of operations (WAC 246-310-715(2)). As WAC 246-310-720 is currently written, coupled with the lack of enforcement of the PCI volume standards, the Department has prevented new elective PCI programs from being approved, despite the numeric need models demonstrating a need for increased access for planning area residents.

To be clear, this petition for rulemaking does not suggest that the volume standards be eliminated. The volume standards are important, as there is a known and well-established relationship between the PCI volumes performed by a facility and the quality outcomes of those procedures. The PCI annual minimum volume standard was adopted by the Department after receiving extensive clinical input from stakeholders to ensure patient safety and maintenance of high-quality clinical care with respect to the provision of elective PCI services. These volume standards must be maintained.

### **The effect of this rule change will be:**

The requested amendment to WAC 246-310-720 will improve access for planning area residents to elective PCI services when numeric need is shown for an additional elective PCI program based upon the annual DOH PCI Numeric Need Methodology. The requested modification will allow a new elective PCI program to be established regardless of whether an existing elective PCI program in the planning area is operating out of compliance with WAC 246-310-715(2) and WAC 246-310-755. The proposed change will not impact the ability of the Department to pursue enforcement action of the minimum volume standards, as needed. In addition, eliminating WAC 246-310-720(2)(b) would increase access to care without undermining the viability of underperforming programs.