



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: May 21, 2024

TIME: 7:21 AM

WSR 24-11-118

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 23-22-096 ; 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: (describe subject) Hospital fees. Updates to acute care and psychiatric hospital facility fees. The Department of Health (department) is proposing amendments to WACs 246-320-199 and 246-322-990 to update fees for acute care hospitals licensed under chapter 246-320 WAC and private psychiatric hospitals licensed under chapter 246-322 WAC. The department is also proposing changes to clarify and standardize language.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 25, 2024	11:00 AM	Physical location: Department of Health Town Center 2 Room 166 and 167 111 Israel Rd SE Tumwater, WA 98501 Virtual: Register in advance for this webinar: https://us02web.zoom.us/webinar/register/WN_yJZUMgmQRXiqpquw7kV57Q After registering, you will receive a confirmation email containing information about joining the webinar.	The Department of Health will be offering a hybrid hearing. Individuals may attend virtually or in person. Comments may also be submit in writing.

Date of intended adoption: July 2, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Heather Cantrell
Address: PO Box 47850 Olympia, WA 98504-7850
Email: <https://fortress.wa.gov/doh/policyreview>
Fax: n/a
Other: n/a
By (date) June 25, 2024

Assistance for persons with disabilities:

Contact: Heather Cantrell
Phone: 360-236-4637
Fax: n/a
TTY: 711
Email: HSQAfeerules@doh.wa.gov
Other: n/a
By (date) June 18, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is proposing updates to rules regarding acute care and private psychiatric hospital fees to address funding needs. An update is needed to adequately fund the hospital inspection, investigation, and licensing programs to protect patients. RCW 43.70.250 requires that fees must cover regulatory program expenses which necessitates the program(s) to be self-funding and changes to rules are the only way to make fee adjustments. Critical access hospitals will have a reduced fee to align with the agency's commitment to equity. Psychiatric hospitals will have a reduction in their fee after the initial fee update that will help balance the current shortfalls and long-term needs.

Reasons supporting proposal: RCW 43.70.250 requires that fees must cover regulatory program expenses which necessitates the program(s) to be self-funding and changes to rules are the only way to make fee adjustments. The proposed fees will address the backlog costs and the reserve amounts needed. The department will continue to monitor the finances and propose fee adjustments as needed.

Statutory authority for adoption: RCW 43.70.110 and 43.70.250

Statute being implemented: RCW 43.70.110 and 43.70.250

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: Heather Cantrell	111 Israel RD SE, Tumwater, WA 98501	360-236-4637
Implementation: Julie Tomaro	111 Israel RD SE, Tumwater, WA 98501	360-236-2937
Enforcement: Julie Tomaro	111 Israel RD SE, Tumwater, WA 98501	360-236-2937

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

No: Please explain: RCW 34.05.328(5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

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:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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: The proposed rule adjusts fees and therefore is exempt under RCW 34.05310(4)(f). This proposed rule also only applies to licensed acute care and private psychiatric 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: 5/21/2024

Name: Todd Mountin, PMP, for Umair A. Shah, MD, MPH

Title: Chief of Policy for Secretary of Health

Signature:

A handwritten signature in black ink, appearing to read "Todd Mountin", is written over a light blue horizontal line.

AMENDATORY SECTION (Amending WSR 19-16-049, filed 7/30/19, effective 10/1/19)

WAC 246-320-199 Fees. This section establishes the initial licensure and annual fees for hospitals licensed under chapter 70.41 RCW. The license must be renewed every three years.

(1) Applicants and licensees shall submit to the department:

- (a) An initial license fee (~~((of two hundred twenty dollars))~~) for each bed space within the authorized bed capacity for the hospital;
- (b) An annual fee (~~((of two hundred twenty dollars))~~) for each bed space within the authorized bed capacity of the hospital by November 30th of the year.

(2) As used in this section, a bed space:

- (a) Includes all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for (~~((twenty-four))~~) 24-hour assigned patient care;
- (b) Includes level 2 and 3 bassinet spaces;
- (c) Includes bed spaces assigned for less than (~~((twenty-four))~~) 24-hour patient use as part of the licensed bed capacity when:
 - (i) Physical plant requirements of this chapter are met without movable equipment; and
 - (ii) The hospital currently possesses the required movable equipment and certifies this fact to the department.
- (d) Excludes all normal infant bassinets;
- (e) Excludes beds banked as authorized by certificate of need under chapter 70.38 RCW.

(3) A licensee shall submit to the department a late fee (~~((in the amount of one hundred dollars per day))~~) whenever the annual (~~((use))~~) fee is not paid by November 30th. The total late fee will not exceed (~~((twelve hundred dollars))~~) \$1,200.

(4) An applicant may request a refund for initial licensure as follows:

- (a) Two-thirds of the initial fee paid after the department has received an application and not conducted an on-site survey or provided technical assistance; or
- (b) One-third of the initial fee paid after the department has received an application and conducted either an on-site survey or provided technical assistance but not issued a license.

(5) The following fees will be charged:

Fee Type	<u>Acute Care - Critical Access</u> Fee	<u>Acute Care Fee</u>
<u>Initial Licensure Fee per bed</u>	<u>\$380.00</u>	<u>\$505.00</u>
<u>Renewal Licensure Fee per bed</u>	<u>\$380.00</u>	<u>\$505.00</u>
<u>Late Fee per day</u>	<u>\$100.00</u>	<u>\$100.00</u>

WAC 246-322-990 Private psychiatric hospital fees. This section establishes the initial licensure and annual renewal fees for private psychiatric hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall:

(a) Submit to the department an initial licensure fee (~~(of four hundred ninety-five dollars)~~) for each bed space within the licensed bed capacity of the hospital;

(b) Submit to the department an annual renewal fee (~~(of four hundred ninety-five dollars)~~) for each bed space within the licensed bed capacity of the hospital to the department;

(c) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for (~~(twenty-four)~~) 24-hour assigned patient rooms;

(d) Include bed spaces assigned for less than (~~(twenty-four)~~) 24-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department.

(e) Limit licensed bed spaces as required under chapter 70.38 RCW;

(f) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity;

(g) Set up (~~(twenty-four)~~) 24-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a (~~(fifty-dollar)~~) refund processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a (~~(fifty-dollar)~~) refund processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because the applicant has failed to complete the requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is (~~(ten-dollars)~~) \$10 or less.

(3) Between November 1, 2024, and October 31, 2025, the following fees will apply:

Fee Type	Fee
<u>Initial Licensure Fee per bed</u>	<u>\$1,700.00</u>
<u>Renewal Licensure Fee per bed</u>	<u>\$1,700.00</u>

Fee Type	Fee
<u>Refund Processing Fee</u>	<u>\$50.00</u>

(4) On and after November 1, 2025, the following fees apply:

Fee Type	Fee
<u>Initial Licensure Fee per bed</u>	<u>\$1,450.00</u>
<u>Renewal Licensure Fee per bed</u>	<u>\$1,450.00</u>
<u>Refund Processing Fee</u>	<u>\$50.00</u>