



June 4, 2024

**Subject: Informative - Information on Agency Rulemaking May 1-31, 2024**

Dear Tribal Leaders, Partners, & Professionals:

**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 \(WA-DOH\) 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:

Candice Wilson – Quatz'tenaut (Lummi)  
Executive Director  
Office of Tribal Public Health Relations  
[Candice.Wilson@doh.wa.gov](mailto:Candice.Wilson@doh.wa.gov)  
360-819-7626

Tami Thompson  
Regulatory Affairs Manager  
[Tami.Thompson@doh.wa.gov](mailto:Tami.Thompson@doh.wa.gov)  
360-628-0096

Best,

A handwritten signature in blue ink, appearing to be "Candice Wilson".

Candice Wilson – Quatz'tenaut (Lummi)  
Executive Director OTPHR

Cc: Michelle Davis, Executive Director, Washington State Board of Health  
Lacy Fehrenbach, Deputy Secretary, Prevention Safety & Health, Department of Health  
Tao Sheng Kwan-Gett, MD, MPH, Chief Science Officer, Department of Health  
Kristin Peterson, Chief of Policy, Planning & Evaluation, Department of Health  
Elizabeth Perez, Chief of Public Affairs and Equity, Department of Health  
Umair A. Shah, MD, MPH, Secretary of Health, Department of Health  
Jessica Todorovich, Chief of Staff, Department of Health

## **Department of Health & State Board of Health Rulemaking**

The following Department of Health (WA-DOH) and State Board of Health (SBOH) rules and documents were filed with the Washington State's Code Reviser Office in May 1-31, 2024. If you have any questions about the documents, please contact the person on the forms.

### **Preproposal Statement of Inquiry (CR101)**

**Testing Requirements for Proprietary Products used in On-Site Systems.** WA-DOH is considering amending wastewater treatment requirements in WAC 246-272A-0110, Table I, Category 2 to add NSF/ANSI 40 testing for Category 2 products. [Filed as WSR 24-11-058.](#)

**Psychologist Licensure Requirements – Implementation of legislation, lowering barriers to licensure, streamlining credentialing, and other updates.** The Examining Board of Psychology is considering amending, repealing, and creating new sections in chapter 246-924 WAC. Rule amendments will be considered to implement recent legislation to reduce barriers to entering and remaining in the behavioral health care workforce; streamline and shorten the credentialing process; establish a psychological associate license; amend the licensure process for experienced psychologists licensed outside of Washington. Additionally, this rulemaking project will continue work started under WSR 23-06-041, under which the board began considering amendments related to licensure requirements, changes to the national examination, supervision requirements, the role of technology and telepsychology in the profession, additional options for sanctions. [Filed as WSR 24-11-005.](#)

**Nitrous Oxide Use in Office-Based Surgical Settings.** The Washington Medical Commission is considering amending WAC 246-919-601 to exempt the use of nitrous oxide in office-based surgical settings under certain circumstances. Additionally, the commission is considering adding a new subsection to further address the use of nitrous oxide in such settings. [Filed as WSR 24-11-104.](#)

### **Proposed Rule Making (CR-102)**

**Acute Care and Psychiatric Hospital Facility Fee Update.** WA-DOH 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. WA-DOH is also proposing changes to clarify and standardize language. [Filed as WSR 24-11-118.](#)

**Drinking Water State Revolving Fund (DWSRF) Loan Program.** WA-DOH is proposing rule amendments to incorporate the federal requirements of the Bipartisan Infrastructure Law (BIL) - Public Law 117-58 – Bipartisan Infrastructure Investment and Jobs Act in chapter 246-296 WAC. The proposed rules redefine the definition of a disadvantaged community and change the state revolving fund priority point system for project rating and ranking proportionate with need. [Filed as WSR 24-11-106.](#)

**Organ Transport Services and Vehicles License Requirements.** WA-DOH is proposing a new rule in response to legislative requirements under Substitute House Bill (SHB) 1271 (chapter 290, Laws of

2023) to establish the minimum standards for organ transport vehicles and equipment in WAC 246-976-360. [Filed as WSR 24-11-155.](#)

**Prescription Monitoring Program (PMP) Language Clarification.** WA-DOH is proposing updates to WAC 246-470-010, 246-470-030, and 246-470-050 to add definitions and language consistency, and to clarify prescribers' ability to request their prescribing history. [Filed as 24-11-119.](#)

**Reference for Sources of Radionuclide Emissions.** WA-DOH is proposing an amendment to the federal rule publication date to conform to adopt national standards in WAC 246-247-035 for U.S. Environmental Protection Agency (EPA) requirements for radionuclide emissions. [Filed as 24-11-105.](#)

### **Adopted Rules (CR-103P)**

**Climate Resilience in Water System Plans.** WA-DOH adopted amendments to WAC 246-290-100, Water system plans, to add a climate resilience element to the water system plans as a requirement for public water systems with one thousand or more connections. The adopted amendments also make editorial changes. [Filed as WSR 24-11-057.](#)

**Licensed Behavior Analyst, Licensed Assistant Behavior Analyst and Certified Behavior Analyst - Reducing Barriers to Licensure and Fee Changes.** WA-DOH adopted updated certification requirements to reduce barriers, clarify requirements, and update continuing health equity and AIDS continuing education and training requirements. Fees were added and updated to support the new rule changes. [Filed as WSR 24-11-103.](#)

**Medical test site (MTS) licensure for Naturopath and Licensed Midwife Professions.** To align with federal rules, WA-DOH removed the professions of naturopath licensed under chapter 18.36A RCW and midwife licensed under chapter 18.50 RCW from the list of licensed professionals that may perform a provider performed microscopic procedure (PPMP) in WAC 246-338-020. WA-DOH clarified that both the laboratory director and testing personnel of PPMP must be licensed professionals. A technical citation amendment was also made to a definition in WAC 246-338-010. [Filed as WSR 24-11-059.](#)

**Pharmacy Rule Citation and Technical Changes.** The Pharmacy Quality Assurance Commission adopted updates to references, made grammar corrections, and made other technical changes that do not affect implementation of the rule. [Filed as WSR 24-11-060.](#)

**Physical therapy licensure Compact Update.** The Board of Physical Therapy has updated WAC 246-915A-010 to comply with RCW 18.74.500, Article IX (2), which mandates that the board adopt the most recent version of the compact commission rules to participate in the compact in the state of Washington. The adopted changes to WAC 246-915A-010 complies with the statute by incorporating by reference. [Filed as WSR 24-11-116.](#)

**Physical Therapists Intramuscular Needling Endorsement.** The Board of Physical Therapy and WA-DOH adopted amendments to chapter 246-915 WAC, Physical Therapists and Physical Therapist Assistants, to clarify statutory requirements included in Second Substitute House Bill (2SHB) 1039 (chapter 198, Laws of 2023) for obtaining an intramuscular needling endorsement and to establish a fee to cover the cost of the endorsement. The adopted rules clarify and set standards to ensure that physical therapists who are seeking the endorsement are prepared with the skills and education needed to provide safe intramuscular needling services to the public. [Filed as WSR 24-11-160.](#)

## **Emergency Rules (CR-103E)**

**Counselor Therapist and Social Worker Directory.** WA-DPH adopted emergency rules establishing new rule sections in chapter 246-809 WAC Licensure for Mental Health Counselors, Marriage and Family Therapists, and Social Workers which implement Section 7 of Second Substitute House Bill (2SHB) 1724. The rule establishes a new program to facilitate placement of associates with qualified supervisors, set requirements for individual providers and facilities to be listed in the directory, and set minimum standards for supervision of associates. These rules continue previous emergency rules without change. [Filed as WSR 24-11-153.](#)

## **Expedited Rule Making (CR-105)**

**Osteopathic Physicians and Surgeons Five-Year Rule Review.** The Board of Osteopathic Medicine and Surgery and WA-DOH are proposing amendments to WAC 246-853-045 and WAC 246-853-21, and to repeal WAC 243-853-060 as a result of the review to clarify and update language. [Filed as WSR 24-11-069.](#)

**The Pharmacy Quality Assurance Commission Regulation Update.** The Pharmacy Quality Assurance Commission is proposing revisions to update references to regulations from other entities that have been incorporated into chapter 246-945 WAC and to make other clarifying changes that do not change the effect of the rule. [Filed as WSR 24-11-152.](#)

## **Miscellaneous**

**Board of Hearing and Speech.** Revised meeting schedule for 2024. [Filed as WSR 24-11-010.](#)

**WA-DOH, Midwifery Advisory Committee.** Revised meeting schedule for 2024. [Filed as WSR 24-12-013.](#)

**Enforcement of Opioid Treatment Program Rules | Policy Statement CHS-04-08-24.** WA-DOH issued policy statement CHS-04-08-24 on enforcement discretion of certain requirements in chapter 246-341 WAC applicable to Opioid Treatment Program licensing and certification. [Filed as WSR 24-12-021.](#)

**Methamphetamine Use in Transient Accommodations | Interpretive Statement EHS-01-2024.** WA-DOH issued interpretive statement EHS-01-2024 advising local health officers on the application of chapter 64.44 RCW when personal use of methamphetamine is suspected in transient accommodations. [Filed as WSR 24-12-032.](#)

**Examining Board of Psychology Withdrawal of CR101 (Preproposal Statement of Inquiry).** The board is withdrawing a preproposal statement of inquiry amending psychology licensing requirements in chapter 246-924 WAC filed February 23, 2023, and published as WSR 23-06-041 because additional legislation requires the board to adopt rules on additional topics. The board will engage in rulemaking under a new rule package. [Filed as WSR 24-11-056.](#)

**Washington State Board of Nursing (WABON) Memo Rescinding Emergency rule.** WABON rescinded emergency rules in WAC 246-840-030 and WAC 246-840-090 filed as WSR 24-10-096 which clarified licensing requirements for registered nurse (RN) and licensed practical nurse (LPN) out of state applicants because the amendments have been adopted in permanent rule, making the emergency rule unnecessary. [Filed as WSR 24-11-006.](#)