

March 12, 2024

**Subject: Informative - Information on Agency Rulemaking for January 16-31, 2024, February 1-15, 2024, and February 16-29, 2024**

Dear Tribal Leaders,

**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.

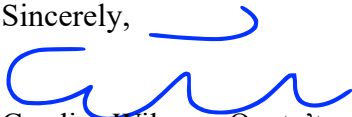
We appreciate your feedback, if you have any suggestions or questions about how to best honor Tribal sovereignty and strengthen agency processes, please let us know.

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

Candice Wilson – Quatz'teanut (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

Sincerely,



Candice Wilson - Quatz'teanut  
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  
Tao Sheng Kwan-Gett, MD, MPH, Chief Science Officer, Department of Health  
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  
January 16-31, 2024**

The following is a summary and list of Department of Health and State Board of Health rules and documents filed with the Washington State's Code Reviser Office between January 16-31, 2024.

More information on the following rules is available at: [DOH Rulemaking](#)

**Highlights of Agency Rulemaking**

Numbers in table are cumulative beginning January 1, 2024.

Notice of Rulemaking (CR-101)	Proposed for Hearing (CR-102)	Expedited Proposal (CR-105)	Adopted Rules (CR-103P)	Emergency Rules (CR-103E)	Policy & Interpretive Statements
6	11	0	6	1	1

- The **Department of Health** is considering:
  - Changes to requirements for **adult elective Percutaneous Coronary Intervention (PCI) programs**.
  - A chapter review to reorganize and amend rules regarding **J-1 Physician Visa waivers**.
  - Amending **fees for radioactive material licenses and temporary worker housing**.
  - Requiring **acute care hospitals and behavioral health agencies to report maintenance and operation data** to the department through the Washington Healthcare Emergency and Logistics Tracking Hub (**WA HEALTH**), a statewide data management system.
  - Amending and creating new rules to address **technological advances in radiation therapy and fluoroscopic X-ray**. This will apply only to machine generated ionizing radiation, and not radiopharmaceuticals or radioactive materials.
- The Department of Health adopted:
  - **Retired active fee** for the **nursing home administrator** license.
  - Amendments regarding **Safe Medication Return and multiple program operators**.
  - Amendments to **reduce barriers to certification for Substance Use Disorder Professionals and Substance Use Disorder Professional Trainees**.

**Preproposal Statement of Inquiry (CR-101)**

**Adult Elective Percutaneous Coronary Intervention (PCI) Certificate of Need (CN)**

**Requirements.** The Department of Health is considering changes to requirements for adult elective PCI programs in response to a rulemaking petition. The petition requests amendment of WAC 246-310-720(2), to eliminate the requirement that existing PCI programs in the planning area must meet the minimum volume standard before a new elective PCI program may be approved. The department will also consider amendments to other PCI rules, as part of this rule project. WAC 246-310-700 through WAC 246-310-755, **Filed as WSR 24-03-083**

**Physician Visa Waivers, updates to chapter 246-562 WAC.** The Department of Health is considering a chapter review to reorganize sections and amend rules regarding J-1 Physician Visa waivers. The department is exploring updates to help meet the greatest needs across Washington State. The department will also look for increased clarity in the organizational structure, application criteria, and requirements for letters of support. **Filed as WSR 24-04-021**

**Radioactive Materials Licenses and Fee Amendments.** The Department of Health is considering amending radioactive material licenses and licensee's fees to cover operating costs for the following: Small business discount provision and optional fee payment schedule applicable to radioactive materials licensees; Fees for specialized radioactive material licenses; Fees for medical and veterinary radioactive material use Fees for industrial radioactive material licenses; Fees for laboratory radioactive material licenses; and Fees for licensing and compliance actions. WAC 246-254-030, WAC 246-254-070, WAC 246-254-080, WAC 246-254-090, WAC 246-254-100, WAC 246-254-120 **Filed as WSR 24-03-145**

**Temporary Worker Housing fees.** The Department of Health is considering amending fees in WAC 246-358-990 to cover operating costs in the Temporary Worker Housing program. The department will consider updating or restructuring existing fees and creating new fees. Rulemaking is being considered because the department conducted an initial assessment of the program and determined the current fee is not generating sufficient revenue to cover the program's costs. **Filed as WSR 24-03-138**

**WA HEALTH Statewide Emergency and Logistics Tracking System.** The Department of Health is considering requiring acute care hospitals to report hospital maintenance and operation data to the department through the Washington Healthcare Emergency and Logistics Tracking Hub (WA HEALTH), a statewide data management system. The department will also consider requiring behavioral health agencies and facilities to report hospital maintenance and operation data to the department through WA HEALTH. **Filed as WSR 24-03-126**

**X-rays in the Healing Arts, Radiation Therapy, Fluoroscopic X-ray, Shielding Requirements.** The Department of Health is considering amending existing rules WAC 246-225-020 and 246-225-030 and creating new rules in chapter 246-225 WAC, X-Rays in the Healing Arts, to address technological advances in radiation therapy and fluoroscopic X-ray, establish machine performance and quality control standards, and to address plan review shielding requirements. Amendments to radiation therapy rules considered by the department will apply only to machine generated ionizing radiation, and not radiopharmaceuticals or radioactive materials. **Filed as WSR 24-03-137**

## Proposed Rule Making (CR-102)

**Initial Licensure for Out-of-State Educated Registered Nurses and Licensed Practical Nurses.** The Washington State Board of Nursing is proposing amendments to clarify specific licensing requirements for out-of-state Registered Nurse (RN) and Licensed Practical Nurse (LPN) applicants. WAC 246-840-030 and WAC 246-840-090. **Filed as WSR 24-03-103**

## Expedited Rules (CR105)

None filed during this period.

## Emergency Rules (CR-103E)

**Establishing a Directory to Help Mental Health Counselor, Marriage and Family Therapist, and Social Worker Associates Find Supervisors and Setting Supervision Standards.**

The Department of Health is continuing emergency rules that established licensure for mental health counselors, marriage and family therapists, and social workers. These emergency rules implement Section 7 of Second Substitute House Bill (2SHB) 1724 (chapter 425, Laws of 2023), which was codified as RCW 18.225.180. New sections WAC 246-809-020, WAC 246-809-070, WAC 246-809-071, and WAC 246-809-072. **Filed as WSR 24-04-011**

## Adopted Rules (CR103P)

**Chiropractic X-ray technician course requirements, continuing education, and expired status.** The Chiropractic Quality Assurance Commission adopted rules concerning chiropractic X-ray technicians including: updates to course requirements; who can be approved to instruct the course; and set new requirements for obtaining, maintaining and returning from expired status. The commission also adopted health equity continuing education requirements. Amends WAC 246-808-201, creates new sections WAC 246-808-203, WAC 246-808-205, WAC 246-808-207, WAC 246-808-209, and WAC 246-808-211, and repeals WAC 246-808-215. **Filed as WSR 24-03-095**

**Nursing Home Administrator Licensing Requirements and Retired-Active License.** The Board of Nursing Home Administrators adopted rule amendments and a new rule to expand and clarify licensure requirement for licensure and temporary practice permits by correcting and updating continuing education requirements, language and citations, and correcting a typographical error. The rule no longer requires HIV/AIDS education. The rules add health equity continuing education. **Filed as WSR 24-03-147**

**Nursing Home Administrator Fees and Renewal Cycle for Retired Active Status.** The Department of Health adopted a retired active fee for the nursing home administrator license. Concurrently, the Board of Nursing Home Administrators adopted a retired active status to allow an individual to practice in emergent or intermittent circumstances and pay a reduced renewal fee. This will allow individuals to fill in at nursing homes that need a temporary administrator while recruiting a new administrator to assist in emergency circumstances such as a pandemic. **Filed as WSR 24-03-148**

**Safe Medication Return – Multiple Program Operators.** The Department of Health adopted amendments regarding Safe Medication Return to update rules about multiple program operators. Amendments also set a fee for proposal review and provide transparency for the department's method of calculating program operator annual fees. **Filed as WSR 24-03-146**

**Substance Use Disorder Professional Certification Reducing Barriers.** The Department of Health adopted amendments to reduce barriers to certification for Substance Use Disorder Professionals and Substance Use Disorder Professional Trainees. Changes include removing the requirement to verify educational coursework for applicants with a national certification in WAC 246-811-070, making pharmacists eligible for the alternative training pathway in WAC 246-811-076, and removing osteopathic physician assistants pursuant to Substitute House Bill 2378 (chapter 80, Laws of 2020). The rule also removes the obsolete AIDS training from the list of probationary license requirements pursuant to Engrossed Substitute House Bill 1551 (chapter 76, Laws of 2020). WAC 246-811-070, 246-811-076, and 246-811-300. **Filed as WSR 24-03-139**

**Miscellaneous**

**Chiropractic Quality Assurance Commission.** 2024 Meeting Schedule. **Filed as WSR 24-04-037**

**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, J-1 Visa Waiver Program.** WITHDRAWAL WSR 23-12-089, for chapter 246-562 WAC Physician Visa Waivers. The department is expanding the scope of the rule making project under a new CR-101. **Filed as WSR 24-04-022**

**Department of Health, Midwifery Advisory Committee.** 2024 Meeting Schedule. **Filed as WSR 24-03-169**

**Washington State Board of Nursing,** Rescission of interpretive statement NCIS2.00 for WAC 246-840-4659 because a permanent rule has been adopted in its place. The rule clarifies the application of the advanced practice pain management rules in nursing homes and long-term acute care hospitals and incorporated the interpretive statement into permanent rule. **Filed as WSR 24-04-043**

**State Board of Health**

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

**Department of Health/State Board of Health  
Rule Report  
February 1-17, 2024**

---

The following is a summary and list of Department of Health and State Board of Health rules and documents filed with the Washington State’s Code Reviser Office between February 1-17, 2024.

More information on the following rules is available at: [DOH Rulemaking](#)

**Highlights of Agency Rulemaking**

Numbers in table are cumulative beginning January 1, 2024.

Notice of Rulemaking (CR-101)	Proposed for Hearing (CR-102)	Expedited Proposal (CR-105)	Adopted Rules (CR-103P)	Emergency Rules (CR-103E)	Policy & Interpretive Statements
9	14	2	6	3	1

The Department of Health:

- Proposing updates to clarify the **applied behavior analysis** rules.
- Proposing to **remove** licensed **naturopaths** and **midwives** from the **list of licensed professionals** that may perform a provider performed microscopic procedure as identified in the **medical test site rules**.
- Proposing to create two levels of **limited prescriptive license extension** for **midwives** to prescribe, obtain, and administer medications and therapies and to also establish health equity continuing education requirements.
- Adopted emergency rules for **home care aide applicant training**.

---

**Agency Rulemaking February 1-17, 2024**

**Preproposal Statement of Inquiry (CR-101)**

**Advanced registered nurse practitioner (ARNP) education requirement.** Amending WAC 246-840-010, 246-840-340, 246-840-342, and other related sections in chapter 246-840 WAC. The Washington State Board of Nursing is considering amendments to education requirements for ARNP licensure in response to the Joint Administrative Rules Review Committee’s (JARRC) recommendation. [Filed as WSR 24-05-022.](#)

**Osteopathic physicians and surgeons general provision for opioid prescribing and tapering rules.** The Board of Osteopathic Medicine and Surgery is considering amending WAC 246-853-661 Exclusions, WAC 246-853-730 Periodic review, and WAC 246-853-755 Tapering requirements, to modernize the language, add clarity, and align rules with the Washington Medical Commission (WMC). [Filed as WSR 24-04-066.](#)

**Osteopathic physician and surgeon continuing education requirements.** The Board of Osteopathic Medicine and Surgery is considering amending WAC 246-853-080 to update the continuing education

(CE) requirements for licensure renewal of osteopathic physicians to clarify Washington-specific mandated CE requirements. [Filed as WSR 24-04-068.](#)

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

**Applied Behavior Analysis clarification to licensing rules.** The Department of Health (department) is proposing to update and clarify Applied Behavior Analysis, chapter 246-805 WAC to: clarify licensure requirements, supervision, examinations, educational programs, training, and continuing education. This proposal also establishes reciprocity, temporary licenses and updates fees. [Filed as WSR 24-05-024.](#)

**Medical test site (MTS) licensure for naturopath and nurse midwife professions.** To align with federal rules, the Department of Health (department) is proposing removing 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. The department is proposing to clarify that both the laboratory director and testing personnel of PPMP must be licensed professionals. The department is also proposing a technical citation adjustment to a definition in WAC 246-338-010. [Filed as WSR 24-05-019.](#)

**Midwives limited prescriptive license extension and health equity continuing education.** The Department of Health (department) is proposing amendments to chapter 246-834 WAC to implement Substitute Senate Bill 5765 (chapter 289, Laws of 2022), which created two levels of limited prescriptive license extension for midwives to prescribe, obtain, and administer medications and therapies for the prevention and treatment of common prenatal and postpartum conditions, family planning methods, medical devices, and implants. This bill also gave the Secretary of Health the authority to establish education requirements in the chapter. The department is also proposing amendments to implement Engrossed Substitute Senate Bill 5229 (chapter 276, Laws of 2021) regarding health equity continuing education requirements. [Filed as WSR 24-05-052.](#)

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

None filed during this period.

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

**Home care aide applicant training.** The Department of health adopted emergency rules that temporarily remove the requirement for home care aide applicants to become certified within two years of completing training. WAC 246-980-100 (5)(c) requires that home care aide certification testing occur within two years of training. This emergency rule removes the two-year limit on the validity of training. [Filed as WSR 24-04-095.](#)

**On-Site sewage system substitute proprietary treatment product components.** The State Board of Health (board) adopted an emergency rule regarding substitute components of registered products as part of the certification and registration of proprietary treatment products used in on-site sewage systems. The original emergency rule was filed on June 15, 2022 (WSR 22-13-101). Emergency rules have been filed continuously thereafter with the most recent filing on October 6, 2023 (WSR 23-21-061). Only one change has been made to the amendments since the filing of the original emergency rule. This emergency rule is being adopted with a slight change to the previous emergency rule language. The rule language changes “written application” to “written request” to maintain consistent terminology with chapter 246-272A WAC. [Filed as WSR 24-04-071.](#)

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

**Physical therapy licensure compact - Updating the reference date to the most recent physical therapy licensure compact rules.** The Board of Physical Therapy is proposing to update the effective date in WAC 246-915A-010 for the Physical Therapy Compact per RCW 18.74.500 Article IX(2). This proposed rule will update the compact effective date to June 27, 2023. [Filed as WSR 24-04-082.](#)

**Substance abuse monitoring program for osteopathic physicians.** The Board of Osteopathic Medicine and Surgery is proposing amendments to WAC 246-853-290, 246-853-300, 246-853-310, and 246-853-320 to update the rules regarding health profession monitoring programs. The proposed changes reflect updated language changes made by Substitute Senate Bill 5496 (chapter 43, Laws of 2022). In partnership with the Secretary of Health, technical amendments are also being proposed to WAC 246-853-990 to reflect changes to the updated rules and statute. [Filed as WSR 24-05-036.](#)

**Miscellaneous**

**Board of Naturopathy.** Rescission of Interpretive Statement BON 21-01, Continuing Education Pharmacology Documentation. [Filed as WSR 24-05-013.](#)

**Department of Health.** Rescission of Policy Statement OHS DM-1.1, Standards for Donor Human Milk. [Filed as WSR 24-04-079.](#)

**Pharmacy Quality assurance Commission.** Rescission of Policy Statement P004, Regulatory Standards Applicable to Remote Dispensing Sites. [Filed as WSR 24-05-012.](#)



**Department of Health/State Board of Health**

**Rule Report**

**February 18-29, 2024**

The following is a summary and list of Department of Health and State Board of Health rules and documents filed with the Washington State’s Code Reviser Office between February 18-29, 2024.

More information on the following rules is available at: [DOH Rulemaking](#)

**Highlights of Agency Rulemaking**

Numbers in table are cumulative beginning January 1, 2024.

Notice of Rulemaking (CR-101)	Proposed for Hearing (CR-102)	Expedited Proposal (CR-105)	Adopted Rules (CR-103P)	Emergency Rules (CR-103E)	Policy & Interpretive Statements
11	16	4	6	3	3

- **The Department of Health** is proposing to amend rule language to align with recent statute changes, including:
  - Update the list of elements required in public water system plans to include climate resilience for water systems with 1,000 or more connections.
  - Update requirements of temporary practice permits for military spouses who hold a license in another state.
- **Board of Optometry** is working to reduce barriers to licensure in WA state by considering changes to the continuing education and examination requirements.



## Agency Rulemaking February 18-29, 2024

### **Preproposal Statement of Inquiry (CR-101)**

**Optometry continuing education and examination requirements.** The Board of Optometry is considering amendments to optometrist continuing education and examination requirements in WAC 246-851-090 through 246-851-230 and WAC 246-851-490 to comply with Second Substitute House Bill (2SHB) 1724 (chapter 425, Laws of 2023) and to consider increasing the number of allowable online credits. [Filed as WSR 24-06-033.](#)

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

**Climate resilience element in water system plans.** The Department of Health is proposing amending WAC 246-290-100, Water system plans, to add the climate resilience element as a requirement for public water systems with one thousand or more connections as required by statute. The proposal also makes editorial changes to align with the Code Reviser's 2023 Bill Drafting Guide. [Filed as WSR 24-05-084.](#)

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

None filed during this period.

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

None filed during this period.

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

**Military spouses - removing barriers to temporary practice permits.** The Department of Health is proposing amendments to WAC 246-12-051 to update language changes made by Second Substitute House Bill (2SHB) 1009 (chapter 165, Laws of 2023). The proposed changes will align the rules with statutory changes regarding licensure of military spouses who hold a license in another state. [Filed as WSR 24-06-028.](#)

### **Miscellaneous**

**Department of Health Applied Behavior Analysis Advisory Committee** revised meeting schedule for 2024. [Filed as WSR 24-06-017.](#)

**Pharmacy Quality Assurance Commission, Policy Statement, Extension Process for Pharmacy Intern Renewal Limitations | P012.** [Filed as WSR 24-06-018.](#)

**Pharmacy Quality Assurance Commission, Policy Statement, Temporary Practice Permits for Military Spouse Pharmacy Interns | P011.** [Filed as WSR 24-06-019.](#)