



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)  
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

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DATE: October 07, 2021

TIME: 4:42 PM

WSR 21-21-008

**Agency:** Department of Health

**Subject of possible rule making:** Chapter 246-320 WAC Hospital licensing regulations. The Department of Health (department) is considering updating rules about enforcing licensing requirements for acute care hospitals, including creating a severity matrix for fines related to hospital enforcement, in order to implement Second Substitute House Bill (2SHB) 1148 (chapter 61, laws of 2021).

**Statutes authorizing the agency to adopt rules on this subject:** RCW 70.41.130 as amended by 2SHB 1148 (chapter 61, laws of 2021), RCW 70.41.100, RCW 70.41.030, RCW 43.70.095, RCW 43.70.250

**Reasons why rules on this subject may be needed and what they might accomplish:** 2SHB 1148 aims to improve patient safety in acute care hospitals by improving enforcement of licensing standards. The bill directs the department to use additional enforcement tools including limited stop placements and suspension of new admissions when there is an immediate jeopardy, repeat enforcement action or rule violation, or failure to correct noncompliance with rules or statutes.

According to Section 3 of 2SHB 1148, the department may assess a civil fine of up to ten thousand dollars per violation, not to exceed a total fine of one million dollars when the department determines: (1) The hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or (2) The hospital has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule; or (3) The hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

If the department imposes civil fines, the hospital has the right to appeal under RCW 43.70.095. The bill directs the department to adopt in rule specific fine amounts in relation to the severity of noncompliance.

The department is initiating a rules project to consider implementing these new requirements.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** Centers for Medicare and Medicaid Services. The department will ensure that any rulemaking done will not conflict with federal requirements. The department will be working closely with all concerned partners on this rulemaking.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Collaborative rule-making.

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

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Web site:

Other:

Other:

Additional comments: Interested parties can participate in the drafting of the proposed rules. The department will be conducting a rules workshop. The department will use existing GovDelivery lists and other known contact information to inform stakeholders of opportunities to provide input on proposed rule language. To find out more information about our rulemaking, visit [doh.wa.gov/LicensesPermitsandCertificates/FacilitiesNewReneworUpdate/Hospitals](http://doh.wa.gov/LicensesPermitsandCertificates/FacilitiesNewReneworUpdate/Hospitals) and to be included on an interested parties select the "Subscribe" button at the bottom of that page.

**Date:** 10/06/2021

**Signature:**

**Name:** Kristin Peterson, JD for Umair A. Shah, MD, MPH

A handwritten signature in black ink that reads "Kristin Peterson". The signature is written in a cursive style with a large, looping initial "K".

**Title:** Deputy Secretary for Policy and Planning for Secretary of Health