



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 24, 2022

TIME: 11:36 AM

WSR 22-04-031

Agency: Department of Health

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: WAC 246-322-025 Private psychiatric hospitals - responsibilities and rights - licensee and department. The Department of Health (department) is adopting a severity matrix for civil fines related to private psychiatric hospital enforcement in order to implement Substitute House Bill (SHB) 2426 (chapter 115, laws of 2020). SHB 2426 allows the department, under RCW 43.70.095, to assess a civil fine of up to \$10,000 per violation, not to exceed a total fine of one million dollars, on a licensed hospital, when the department determines the psychiatric hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or 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 when the psychiatric hospital has failed to correct noncompliance with a statute or rule by a date established or agreed to by the department. The rule establishes when and how fines will be assessed in relation to the severity and scope of the violation of noncompliance.

Citation of rules affected by this order:

New: None

Repealed: None

Amended: WAC 246-322-025

Suspended: None

Statutory authority for adoption: RCW 71.12.670; RCW 71.12.710

Other authority: SHB 2426 (chapter 115, laws of 2020); RCW 43.70.095

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-21-106 on 10/19/2021 (date).

Describe any changes other than editing from proposed to adopted version: The following changes were made to the proposed rule upon adoption, as a result of suggestions received during the public comment period as well as additional internal review.

- In subsection (6)(b), Table 1, the maximum fine amount for high-severity, limited violations was changed from \$10,000 to \$8,000.
- In subsection (6)(b), Table 1, the maximum fine amount for high-severity, pattern violations was changed from \$10,000 to \$9,000.
- Added subsection (6)(f), which states: "When determining the scope of the violation, the department will also consider the duration of time that has passed between violations that relate to the same or similar circumstances.
- In subsection (6)(a)(i), removed the words "or similar" prior to "statute or rule."
- In subsections (6)(e)(i), (6)(e)(ii) and (6)(e)(iii), added the coordinating conjunction "or" between the words "visitors" and "staff" in the first sentence.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Dan Overton

Address: PO Box 47843, Olympia WA 98504

Phone: 360-236-2953

Fax: 360-236-2321

TTY: 711

Email: dan.overton@doh.wa.gov

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted in the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>

Date Adopted: 01/20/2022

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

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

Signature:

