



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: March 10, 2022

TIME: 9:55 AM

WSR 22-07-026

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 21-04-048 ; 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).

Proposal is exempt under RCW .

**Title of rule and other identifying information:** (describe subject) Chapter 246-834 WAC Midwifery. The Department of Health (department) is proposing rules to update the midwifery chapter in sections WAC 246-834-050 Examination requirements for licensure as a midwife; WAC 246-834-060 Initial application requirements for licensure as a midwife; WAC 246-834-160 Student midwife permit; WAC 246-834-250 Legend drugs and devices; and WAC 246-834-370 Data submission. Proposed language will modernize licensure requirements, update the legend drugs and devices section, and clarify renewal requirements.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
04/28/2022	9:30am	In response to the coronavirus disease 2019 (COVID-19), the Department of Health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.  Register in advance for this webinar: <a href="https://us02web.zoom.us/webinar/register/WN_J7A98s-0ROyfSNRkbQS31w">https://us02web.zoom.us/webinar/register/WN_J7A98s-0ROyfSNRkbQS31w</a>  After registering, you will receive a confirmation email containing information about joining the webinar.	

**Date of intended adoption:** 05/05/2022 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Kathy Weed

Address: P.O. Box 47852  
Olympia, WA 98504

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: 360-236-2901

Other: NA

By (date) 04/28/2022

**Assistance for persons with disabilities:**

Contact Kathy Weed

Phone: 360-236-4883

Fax: 360-236-2901

TTY: 711

Email: kathy.weed@doh.wa.gov

Other: NA

By (date) 04/20/2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rules update requirements for initial application, legend drugs and devices, and data submission. Proposed language will modernize the initial applications section by clarifying that the department may waive exam requirements through rulemaking, remove the specific HIV/AIDS training requirement per statute, update the legend drugs and devices section to include nasal swabs for testing, the use of limited ultrasounds, and intravenous tranexamic to increase patient safety, and amend language for data submission renewal requirements.

**Reasons supporting proposal:** Applicants must take and pass three examinations to become a licensed midwife. The department is proposing language to clarify that the department may remove an exam requirement, through rulemaking, if one of the exams is not being widely administered.

Engrossed Substitute House Bill (ESHB) 1551, Chapter 76, Laws of 2020 removes the requirement for HIV/AIDS education and training. The proposed rules eliminate this specific requirement from rule.

The list of legend devices does not currently include nasopharyngeal or nasal swabs, so midwives may not use them. The department is proposing adding nasal swabs to the legend drugs and devices section. Having this spelled out in rule allows midwives to perform the procedure during times of critical health care needs such as the COVID-19 response, as well as helping their patients get timely care. Additionally, the department is proposing language for specific uses of ultrasounds including confirmation of viability, first trimester dating, third trimester presentation, placental location, and amniotic fluid assessment. Giving midwives the ability to determine fetal health and well-being through limited ultrasounds allows for continuity of care and provides for more timely care instead of finding another provider to perform the assessment. Finally, the antihemorrhagic drug, intravenous tranexamic, was suggested as an addition by the Washington Medical Commission because it is becoming the standard of care for postpartum hemorrhage. Adding legend drugs and devices in rule does not equate to a scope expansion. Midwives receive education, training, and experience in programs and continuing education that follow guidelines established by the International Confederation of Midwives, the North American Registry of Midwives, and the Midwifery Education and Accreditation Council. These organizations ensure quality, comprehensive, and evolving competencies so that licensed midwives have essential knowledge and skills for their clients.

One of the current provisions for midwife renewal is proof of participation in data submission on perinatal outcomes to a national or state research organization. The main database for midwives is not being funded and access to the system is inconsistent. As a result, some licensed midwives cannot participate in data submission. The department is proposing adding a waiver to this requirement, for good cause, until a suitable database is created.

**Statutory authority for adoption:** RCW 18.50.135, 18.50.115 and 18.50.060

**Statute being implemented:** RCW 18.50.135, 18.50.115, and 18.50.060

**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

<b>Name of proponent:</b> (person or organization)	The Department of Health	<input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental
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<b>Name of agency personnel responsible for:</b>			
	Name	Office Location	Phone
Drafting:	Kathy Weed	111 Israel Rd SE, Tumwater, WA 98501	360-236-4883
Implementation:	Kathy Weed	111 Israel Rd SE, Tumwater, WA 98501	360-236-4883
Enforcement:	Kathy Weed	111 Israel Rd SE, Tumwater, WA 98501	360-236-4883

<b>Is a school district fiscal impact statement required under RCW 28A.305.135?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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:	

<b>Is a cost-benefit analysis required under RCW 34.05.328?</b>
<input checked="" type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: Name: Kathy Weed Address: P.O. Box 47852 Olympia, WA 98504 Phone: 360-236-4883 Fax: 360-236-2901 TTY: 711 Email: kathy.weed@doh.wa.gov Other: NA
<input type="checkbox"/> No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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:

RCW 34.05.310 (4)(b)  
(Internal government operations)

RCW 34.05.310 (4)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

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 .

Explanation of exemptions, if necessary: WAC 246-834-060 is exempt under RCW 34.05.310(4)(e) because the proposed rule includes content which is explicitly and specifically dictated by statute. It also is exempt under RCW 34.05.310(4)(d) because the proposed amendments also provide clarification without changing the effect. WAC 246-834-160 is exempt under RCW 34.05.310(4)(d) because the proposed rule amendments make clarifying changes without changing the effect.

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**


If 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 analysis showing how costs were calculated. With the exception of WAC 246-834-060 and 246-834-160, which are exempt from analysis, the remaining sections of rule were analyzed. The analysis determined that the proposed rule do not impact businesses, only providers.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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:

<b>Date:</b> 03/09/2022	<b>Signature:</b> 
<b>Name:</b> Kristin Peterson, JD, for Umair Shah, MD, MPH	
<b>Title:</b> Deputy Secretary for Policy and Planning, for Secretary of Health	

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

**WAC 246-834-050 Examination requirements for licensure as a midwife.** (1) An applicant for midwifery licensure shall successfully pass:

~~((1))~~ (a) The midwifery examination offered by the North American Registry of Midwives (NARM);

~~((2))~~ (b) The Washington state licensure examination with a minimum passing score of ~~((eighty))~~ 80; and

~~((3))~~ (c) The midwifery jurisprudence examination with a passing score of ~~((one hundred))~~ 100 percent, as offered by the department.

(2) The secretary may, by rule, revise examination requirements if necessary, for good cause.

AMENDATORY SECTION (Amending WSR 19-15-005, filed 7/5/19, effective 8/5/19)

**WAC 246-834-060 Initial application requirements for licensure as a midwife.** (1) An applicant for a midwife license shall submit to the department the following:

(a) Initial application on forms provided by the department.

(b) Fees required in WAC 246-834-990.

(c) Proof of high school graduation, or its equivalent.

(d) Proof of at least three years of midwifery training, per RCW 18.50.040 (2)(a), unless the applicant qualifies for a reduced academic period.

~~(e) ((Proof of completion of seven clock hours of HIV/AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(f))~~ Proof of successful completion of the midwifery jurisprudence exam, as ~~((offered by the department))~~ required in WAC 246-834-050.

(2) In addition to the requirements in subsection (1) of this section, an applicant for a midwife license shall also:

(a) Have transcripts sent directly to the department from the applicant's midwifery school demonstrating that the applicant has received a certificate or diploma in midwifery. An applicant applying under WAC 246-834-065 or 246-834-066 may be exempted from this requirement.

(b) Have verification of passing the North American Registry of Midwives (NARM) examination as required in WAC 246-834-050. Results must be sent directly to the department from NARM.

(3) Once all application requirements in this section are met, and additional requirements in WAC 246-834-065 or 246-834-066 if applicable, the department will schedule the applicant for the Washington state ~~((specific component))~~ licensing exam as required in WAC 246-834-050.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

**WAC 246-834-160 Student midwife permit.** (1) A student midwife permit may be issued to any individual who has:

(a) Successfully completed an accredited midwifery program as specified in WAC 246-834-135, or is foreign trained as specified in WAC 246-834-065(1);

(b) Obtained a minimum period of midwifery training of at least three academic years as required by WAC 246-834-140;

(c) Met the minimum education requirements required in WAC 246-834-140 (2)(a) and (b);

(d) Documentation of undertaking the care of not less than ~~((fif-  
ty))~~ 50 women in each of the prenatal, intrapartum and early postpartum periods as required by RCW 18.50.040 (2)(c);

(e) Satisfactorily completed the NARM examination required by WAC 246-834-050; and

(f) Filed a completed application for student midwife permit under WAC 246-834-060 and accompanied by a nonrefundable fee as specified in WAC 246-834-990.

(2) The student midwife permit authorizes the individuals to practice and observe women in the intrapartum period under the supervision of a licensed midwife under 18.50 RCW, an allopathic physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW or certified nurse midwife under chapter 18.79 RCW.

(3) Once all application requirements including clinical components are completed the applicant may be eligible to sit for the Washington state licensure examination as required in WAC 246-834-050.

AMENDATORY SECTION (Amending WSR 19-15-005, filed 7/5/19, effective 8/5/19)

**WAC 246-834-250 Legend drugs and devices.** A licensed midwife shall have a procedure, policy or guideline for the use of each legend drug and device. A midwife may not administer a legend drug or use a legend device for which they are not qualified by education, training, and experience.

(1) A licensed ~~((midwives))~~ midwife may purchase and use legend drugs and devices as follows:

(a) Dopplers, syringes, needles, phlebotomy equipment, sutures, urinary catheters, intravenous equipment, amnihooks, airway suction devices, electronic fetal monitors, tocodynamometer monitors, oxygen and associated equipment, glucose monitoring systems and testing strips, neonatal pulse oximetry equipment, hearing screening equipment, ~~((and))~~ centrifuges, and nasopharyngeal or nasal swabs for appropriate testing;

(b) Nitrous oxide as an analgesic, self-administered inhalant in a 50 percent blend with oxygen, and associated equipment, including a scavenging system;

(c) Ultrasound machine used in the real time ultrasound of pregnant uterus for the confirmation of viability, first trimester dating, third trimester presentation, placental location, and amniotic fluid assessment; and

(d) Neonatal and adult resuscitation equipment and medication, including airway devices and epinephrine for neonates.

(2) Pharmacies may issue breast pumps, compression stockings and belts, maternity belts, diaphragms and cervical caps, glucometers and testing strips, iron supplements, prenatal vitamins, and recommended vaccines as specified in subsection (3)(e) through (j) of this section ordered by licensed midwives.

(3) In addition to prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho (D) immune globulin, and local anesthetic medications as listed in RCW 18.50.115, licensed midwives may obtain and administer the following medications:

(a) Intravenous fluids limited to Lactated Ringers, 5% Dextrose with Lactated Ringers, and 0.9% sodium chloride;

(b) Sterile water for intradermal injections for pain relief;

(c) Magnesium sulfate for prevention of maternal seizures pending transport;

(d) Epinephrine for use in maternal anaphylaxis and resuscitation and neonatal resuscitation, pending transport;

(e) Measles, Mumps, and Rubella (MMR) vaccine to nonimmune postpartum women;

(f) Tetanus, diphtheria, acellular pertussis (Tdap) vaccine for use in pregnancy;

(g) Hepatitis B (HBV) birth dose for any newborn administration;

(h) HBIG and HBV for any neonates born to hepatitis B+ mothers;

(i) Influenza vaccine for use in pregnancy;

(j) Any vaccines recommended by the CDC advisory committee on immunization practices for pregnant or postpartum people or infants in the first two weeks after birth, as it existed on the effective date of this section;

(k) Terbutaline to temporarily decrease contractions pending emergent intrapartum transport;

(l) Antibiotics for intrapartum prophylaxis of Group B beta hemolytic Streptococcus (GBS) per current CDC guidelines; and

(m) Antihemorrhagic drugs to control postpartum hemorrhage including, but not limited to, intravenous tranexamic, oxytocin, misoprostol, methylergonovine maleate (oral or intramuscular), and prostaglandin F2 alpha.

(4) The client's records must contain documentation of all medications administered.

~~((5) The midwife must have a procedure, policy or guideline for the use of each drug and device. A midwife may not administer a legend drug or use a legend device for which he or she is not qualified by education, training, and experience.))~~

AMENDATORY SECTION (Amending WSR 15-24-092, filed 11/30/15, effective 12/31/15)

**WAC 246-834-370 Data submission.** (1) As a condition of renewing a license, a licensed midwife shall report data on all courses of care for every mother and newborn under the midwife's care to a national or state research organization approved by the department. If the mother declines to participate in the collection of data, the midwife shall follow the protocol of the approved national or state research organization.

(2) The licensed midwife shall verify compliance by submitting an attestation to the department annually with the license renewal. For good cause, the secretary may waive reporting requirements.

(3) For auditing purposes, written confirmation of full participation in data collection from the approved state or national research organization shall suffice.

(4) The midwife must keep her/his data and participation records; data and participation records will not be submitted directly to the department.