



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 06, 2023

TIME: 5:07 PM

WSR 23-12-090

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Pre-proposal Statement of Inquiry was filed as WSR 22-14-105 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 246-835 WAC (New), Birth Doula. The Department of Health (department) is proposing a new chapter of rule to implement Engrossed Substitute House Bill (ESHB) 1881, which created the birth doula profession. The department is proposing rules to establish the education, training, and certification requirements, fees, and continuing education which includes health equity continuing education requirements.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

Date:	Time:	Location: (be specific)	Comment:
July 13, 2023	3:30 pm	The Department of Health is holding a virtual only hearing, with no physical meeting space. Register iin advance for this webinar: https://us02web.zoom.us/webinar/register/WN_5KGVRIk9RJarGoq8kSRaMg After registering, you will receive a confirmation email containing information about joining the webinar.	

Date of intended adoption: July 31, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Kathy Weed

Address: Department of Health

PO Box 47852 Olympia WA 98504-7852

Email: birthedoula@doh.wa.gov

Fax: 360-236-2901

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

By (date) 7/13/2023

Assistance for persons with disabilities:

Contact Kathy Weed

Phone: 360-236-4883

Fax: 360-236-2901

TTY: 360-833-6388 or 711

Email: kathy.weed@doh.wa.gov

Other:

By (date) 7/6/2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rules implement ESHB 1881 (chapter 217, Laws of 2022) which created birth doula as a new profession in the State of Washington. The department is proposing rules that establish the new profession's education, training, and certification requirements.

The proposed rules incorporate education requirements that include culturally congruent ancestral practices, training and education. Training may be completed through educational programs or completing ancestral pathway competencies.

The proposed rules establish certification requirements which include an application process, fees and other requirements necessary to comply with the Uniform Disciplinary Act, chapter 18.130 RCW, which is required for all credential holders.

The proposed rules also will require credential holders to complete continuing education (CE) to renew the credential. The CE requirements include two hours of health equity CE every four years that comply with the department's model rules. The health equity CE requirements comply with ESSB 5229 (chapter 276, Laws of 2021) which is a requirement for all health care professionals with continuing education requirements.

As established in the statute, a person may practice as a birth doula without obtaining a certification under the proposed rules and chapter 18.47 RCW. However, no person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or indirectly, that the person is a state-certified birth doula without being certified by the department in accordance with the rules and statute.

Reasons supporting proposal:

The department proposes these rules to align with the legislative intent of ESHB 1881 and ESSB 5229 and the Uniform Disciplinary Act. Rules are needed to establish the framework for regulating birth doulas.

Statutory authority for adoption:

Chapter 18.47 RCW, RCW 43.70.250, RCW 43.70.613, chapter 18.130 RCW

Statute being implemented: ESHB 1881 (Chapter 217, Laws of 2022), codified as chapter 18.47 RCW, and ESSB 5229 (Chapter 276, Laws 2021), codified as RCW 43.70.613.

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

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Health

Name of agency personnel responsible for:

	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

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes 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:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kathy Weed
Address: PO Box 47852
Olympia, WA 98504-7852
Phone: 360-236-4883
Fax: 360-236-2901
TTY: 711
Email: birthdoula@doh.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: Check one.

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: Complete this section if any portion is not exempt.

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

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

Date: June 6, 2023

Name: Todd Mountin, PMP for Umair A. Shah, MD, MPH

Title: Deputy Chief of Policy for Secretary of Health

Signature:

A handwritten signature in black ink, appearing to read "Todd Mountin". The signature is written in a cursive style with a large initial "T".

**Chapter 246-835 WAC
BIRTH DOULA**

NEW SECTION

WAC 246-835-005 State-certified birth doula. (1) An individual who meets the certification requirements of this chapter and chapter 18.47 RCW is considered a "state-certified birth doula."

(2) Nothing in this chapter prohibits a person from practicing as a birth doula without obtaining a certification under this chapter and chapter 18.47 RCW.

(3) No person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or indirectly, that the person is a state-certified birth doula without being certified in accordance with this chapter as a birth doula.

NEW SECTION

WAC 246-835-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Birth doula" or "doula" mean a state-certified birth doula under this chapter.

(2) "Culturally congruent care" means the care and respect towards families to uphold their cultural practices around birth as the duty of the doula regardless of their identity, as well as assisting families in accessing other doulas from the same background and community as them.

(3) "Department" means the department of health.

(4) "Postpartum" means the 12-month period beginning on the last day of pregnancy.

(5) "Secretary" means the secretary of the department of health.

NEW SECTION

WAC 246-835-015 Education requirements. To qualify for certification, an individual shall:

(1) Successfully complete culturally congruent ancestral practices, training, and education as required in WAC 246-835-025.

(2) In addition to subsection (1) of this section an individual shall also successfully complete:

(a) An approved program in WAC 246-835-020; or

(b) Requirements for ancestral pathway competencies in WAC 246-835-022.

NEW SECTION

WAC 246-835-020 Approved birth doula educational programs. (1)

The secretary accepts any birth doula training program that requires attendance at a minimum of three births and introduces students to the key principles of the following topics:

- (a) Role of a birth doula: History of birth work, scope of work, individual practice and skill set, when and how to refer out;
- (b) Prenatal and birth care: Prenatal wellness and preparing for birth including, but not limited to, nutrition, movement, mental health, spiritual wellness, relationship support, education, and resources; physiology of labor and birth; comfort measures; coping techniques and pain management; common medical terminology and interventions; creating a birth plan;
- (c) Postpartum care: Lactation and newborn feeding techniques, newborn care, family integration and bonding, healing and comfort measures, postpartum mood and anxiety disorders, self and community care, and grief;
- (d) Communication and interpersonal skills: Collaboration with birth team, emotional intelligence and sensitivity, active listening, informed consent and decision making, advocacy, accessible and affirming language; community support networks;
- (e) Doula safety and self-care: Boundaries with clients, capacity and burn out, emotional wellness practices such as mindfulness, meditation, reiki, and prayer, networking, and community building; and
- (f) Birth justice and advocacy: LGBTQ+/gender inclusive care, black and indigenous perinatal health crisis, medical racism and advocacy.

(2) Birth doula training programs meeting the criteria in subsection (1) of this section may apply for department approval. Programs that have applied for, and received approval, will be listed on the department's webpage.

NEW SECTION

WAC 246-835-022 Ancestral pathway competencies. To qualify for certification as a birth doula by completing the ancestral pathway competencies, the applicant shall complete birth doula ancestral training that is substantially equivalent to the required training in WAC 246-835-020. Documentation of completion must include:

- (1) An attestation on forms provided by the department that they have completed training that is substantially equivalent to the required training in WAC 246-835-020; and
- (2) An attestation that they have attended at least one birth in the capacity of a doula in either a paid or volunteer capacity within the last five years; or
- (3) Three written client testimonial letters or letters of recommendation from professionals or peers using testimonial templates provided by the department. Letters must be written within the last five years. One letter must be from either a licensed provider, a community-based organization, or a practicing doula or midwife.

NEW SECTION

WAC 246-835-025 Culturally congruent ancestral practices, training, and education. (1) To apply for a birth doula certification, an applicant shall complete culturally congruent ancestral practices, training, and education that demonstrates learned familiarity with clients' cultural practices using culturally congruent care related to birth in client communities where the doula may practice. Such training may include, but is not limited to:

(a) Multicultural, ancestral and culturally congruent care; such as, but not limited to, rebozo use, belly binding, placenta burial, placenta encapsulation, cord burning, lotus birth, development of intuition;

(b) History of obstetrics; such as erasure of granny midwives and indigenous birth work; or

(c) Other training and education that enhances the applicant's knowledge of culturally congruent ancestral practices.

(2) Documentation of completion must include:

(a) An attestation that they have successfully completed a training in one of the categories in subsection (1) of this section; or

(b) A certificate of completion from a relevant training that lists the applicant's name.

NEW SECTION

WAC 246-835-030 Application process. An applicant for a birth doula certification shall submit the following to the department:

(1) A completed application as provided by the department;

(2) Proof of successful completion of the education requirements in WAC 246-835-015:

(a) Culturally congruent ancestral practices, training, and education as required in WAC 246-835-025; and

(b) If the applicant completed the birth and core curricula training requirements through a program meeting the requirements in WAC 246-835-020(1), documentation must be submitted by the applicant to the department; or

(c) If the applicant completed the training requirements from an approved program through WAC 246-835-020(2) listed on the department's webpage, proof of completion must be received by the department directly from the program where the applicant completed the training; or

(d) If the applicant completed the education requirements through completion of the ancestral pathway and legacy competencies in WAC 246-835-022, documentation must be submitted by the applicant to the department.

(3) Verification from all states in which the applicant holds or has held a health care credential, indicating that the applicant has or has not been subject to charges or disciplinary action for unprofessional conduct or impairment;

(4) Additional documentation as required by the secretary to determine whether an applicant is qualified for certification; and

(5) Any fees required in WAC 246-835-990.

NEW SECTION

WAC 246-835-060 Continuing education. State-certified birth doulas shall complete 10 hours of continuing education every renewal cycle in the form of continuing education and professional development. The credential holder shall submit documentation upon request as required by chapter 246-12 WAC.

(1) Eight hours of continuing education and professional development must be obtained through one of the activities listed in (a) through (f) of this subsection. A minimum of five hours must directly relate to the practice of a birth doula as defined in chapter 18.47 RCW. Any remaining hours may be in professional development activities that enhance the practice of the birth doula. Documentation for all activities must include credential holders name, date of activity, and number of hours. Approved continued education activities include:

- (a) Continuing education course work;
- (b) Employer sponsored in-service training or professional study groups;
- (c) Attendance at a professional conference or workshop presented by a professional organization;
- (d) Online courses and webinars;
- (e) Self-study of professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials; and
- (f) Service on a professional board, committee, collective, disciplinary panel, or association.

(2) In addition to the eight hours of continued education in subsection (1) of this section, a birth doula shall complete two hours of health equity CE every four years per chapter 43.70 RCW and in compliance with WAC 246-12-800 through 246-12-830.

NEW SECTION

WAC 246-835-990 Birth doula fees and renewal cycle. (1) A birth doula must renew their certification every two years on the practitioner's birthday as provided in chapter 246-12 WAC.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application for initial certification	\$190.00
License renewal	\$190.00
Late renewal penalty	\$95.00
Expired certificate reissuance	\$95.00
Duplicate certificate	\$10.00
Verification of certification	\$25.00