



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: September 04, 2025

TIME: 9:05 AM

WSR 25-19-012

Agency: Department of Health

Effective date of rule:

Emergency Rules

- ☒ Immediately upon filing.
☐ Later (specify)

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

☐ Yes ☒ No If Yes, explain:

Purpose: Emergency Medical Treatment and Active Labor Act (EMTALA) for hospitals. Complementing recently enacted legislation, the Department of Health (department) is adopting emergency rules to ensure that state law protects access to treatment, including abortion care, for emergency medical conditions in hospital emergency departments. These requirements are subject to applicable protections of conscience and the free exercise of religion under state and federal law.

The first emergency rule was adopted by the department to protect access to treatment of emergency medical conditions on January 13, 2025 under WSR 25-03-056. The second emergency rule, adopted on May 12, 2025 under WSR 25-11-018, renewed the EMTALA provision from the first emergency rule and removed other provisions that were no longer necessary because they were codified in Engrossed Substitute Senate Bill (ESSB) 5557 (chapter 182, Laws of 2025). This third emergency rule continues, without change, the provisions of the second emergency rule. The adopted emergency rule incorporates the federal EMTALA into state law, with modifications, while aligning with ESSB 5557.

The emergency rules will continue protections while permanent rulemaking is in progress. The department filed a preproposal statement of inquiry for permanent rulemaking on May 28, 2025 under WSR 25-12-043 and has been in the process of engaging interested parties in preparation for filing proposed rule language.

Citation of rules affected by this order:

New: None
Repealed: None
Amended: WAC 246-320-281
Suspended: None

Statutory authority for adoption: RCW 70.41.030

Other authority: RCW 70.170.060

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Continued adoption of these rules is necessary to protect against the harms to public health, safety, and welfare that, absent independent state-law protections, would result from potentially imminent changes to the Centers for Medicare and Medicaid Services enforcement priorities and resourcing related to federal enforcement of EMTALA. Other imminent changes could include those to federal policy that the federal government would seek to enforce to restrict hospitals' obligation and ability to provide abortion care as treatment for emergency medical conditions consistent with the standard of care and the patient's informed consent, and to provide treatment that prioritizes a pregnant person's health and safety according to their informed consent. Absent this emergency rule, these potential federal changes will directly threaten the health, safety, and welfare of Washington patients, including pregnant persons, in need of emergency care, and the delay caused by observing the time requirements of notice and opportunity to comment upon the adoption of a permanent rule would exacerbate that harm and would be contrary to the public interest.

Continuation of the emergency rule maintains the incorporation of EMTALA protections, or any other law that provides greater access to care to ensure protections remain in place while permanent rulemaking is in progress. The department has filed a preproposal statement of inquiry for permanent rulemaking on May 28, 2025 under WSR 25-12-043 and is preparing to propose updated rule language.

**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 | 0 | Amended | 1 | Repealed | 0 |
| Federal rules or standards: | New | 0 | Amended | 0 | Repealed | 0 |
| Recently enacted state statutes: | New | 0 | Amended | 0 | Repealed | 0 |

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

| | | | | | |
|-----|---|---------|---|----------|---|
| New | 0 | Amended | 0 | Repealed | 0 |
|-----|---|---------|---|----------|---|

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

| | | | | | |
|-----|---|---------|---|----------|---|
| New | 0 | Amended | 1 | Repealed | 0 |
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|---|---------|---|----------|---|
| New | 0 | Amended | 1 | Repealed | 0 |
|-----|---|---------|---|----------|---|

The number of sections adopted using:

| | | | | | | |
|--------------------------------|-----|---|---------|---|----------|---|
| Negotiated rule making: | New | 0 | Amended | 0 | Repealed | 0 |
| Pilot rule making: | New | 0 | Amended | 0 | Repealed | 0 |
| Other alternative rule making: | New | 0 | Amended | 1 | Repealed | 0 |

Date Adopted: September 4, 2025

Name: Kristin Peterson, JD for Dennis E. Worsham

Title: Chief of Policy for Secretary of Health

Signature:



WAC 246-320-281 Emergency services. The purpose of this section is to guide the management and care of patients receiving emergency services. Hospitals are not required to provide these services in order to be licensed.

If providing emergency services, hospitals must:

(1) Adopt and implement policies and procedures, consistent with RCW 70.170.060, for every patient presenting to the emergency department with an emergency medical condition to include:

Transfer of a patient with an emergency medical condition or who is in active labor based on:

(a) Patient request;
(b) Inability to treat the patient due to facility capability;
(c) Staff availability or bed availability; and
(d) The ability of the receiving hospital to accept and care for the patient;

(2) Maintain the capacity to perform emergency triage and medical screening exam (~~((twenty-four))~~) 24 hours per day;

(3) Define the qualifications and oversight of staff delivering emergency care services;

(4) Use hospital policies and procedures which define standards of care;

(5) Assure at least one registered nurse skilled and trained in emergency care services on duty and in the hospital at all times, who is:

(a) Immediately available to provide care; and
(b) Trained and current in advanced cardiac life support;
(6) Post names and telephone numbers of medical and other staff on call;

(7) Assure communication with agencies and health care providers as indicated by patient condition; (~~and~~)

(8) Assure emergency equipment, supplies, and services necessary to meet the needs of presenting patients are immediately available;

(9) Comply with 42 U.S.C. Sec. 1395dd and its implementing regulations, provided that, for purposes of this subsection, "emergency medical condition" shall have the meaning provided in RCW 70.41.020, as amended by section 4, chapter 182, Laws of 2025 and "unborn child" shall mean "embryo or fetus" where those terms are used in 42 U.S.C. Sec. 1395dd and its implementing regulations. Hospitals must comply with any requirements of this chapter or any other law that provide greater access to care or are otherwise more favorable to patients than the requirements of 42 U.S.C. Sec. 1395dd and its implementing regulations.