



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 01, 2024
TIME: 11:33 AM

WSR 24-20-117

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 24-14-076 ; 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)
WAC 182-52-0050 Prescription drug affordability board – Data and confidentiality
WAC 182-52-0095 Prescription drug affordability board – Upper payment limits – Public comment

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|------------------|----------|--|--|
| November 5, 2024 | 10:00 AM | The Health Care Authority holds public hearings virtually without a physical meeting place | To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_yD-r9EuYSnSoSXrF38FcTQ If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing |

Date of intended adoption: November 6, 2024 (Note: This is **NOT** the effective date)

| | |
|--|--|
| Submit written comments to: Name HCA Rules Coordinator Address PO Box 42716, Olympia WA 98504-2716 Email arc@hca.wa.gov Fax 360-586-9727 Other Beginning (date and time) <u>October 2, 2024, 8:00 AM</u> By (date and time) <u>November 5, 2024, by 11:59 PM</u> | Assistance for persons with disabilities: Contact Johanna Larson Phone 360-725-1349 Fax 360-586-9727 TTY Telecommunication Relay Service (TRS): 711 Email Johanna.Larson@hca.wa.gov Other By (date) <u>October 18, 2024</u> |
|--|--|

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending this rule to add language about data sharing between the prescription drug affordability board and the health care cost transparency board to align with language in RCW [70.390.050](#) (revised under [Engrossed Substitute House Bill 1508, Chapter 80, Laws of 2024, Sec 2, \(2\)\(a\)](#)). Additionally, the agency is adding a new section regarding a time frame of 30 days for public comment prior to the board setting an upper payment limit to align with [RCW 42.30.250](#) (new section created by [Substitute House Bill 1105, Chapter 171, Laws of 2024, Sec 1, \(1\)](#))

Reasons supporting proposal: See Purpose

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW [70.390.050](#) ([ESHB 1508, Chapter 80, Laws of 2024, Sec 2, \(2\)\(a\)](#)), [RCW 42.30.250](#) ([SHB 1105, Chapter 171, Laws of 2024, Sec. 1, \(1\)](#)),

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

Name of proponent: (person or organization) Health Care Authority
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|----------------|----------------------|-------------------------------------|--------------|
| Drafting | Valerie Freudenstein | PO Box 42716 Olympia, WA 98504-2716 | 360-725-1344 |
| Implementation | Mike Neuenschwander | PO Box 42716, Olympia, WA 98504 | 360-725-0944 |
| Enforcement | Mike Neuenschwander | PO Box 42716, Olympia, WA 98504 | 360-725-0944 |

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
Address
Phone
Fax
TTY
Email
Other

No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

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 checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input 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: October 1, 2024

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-52-0050 Prescription drug affordability board—Data and confidentiality. (1) For the purpose of reviewing drug prices and conducting affordability reviews, the board (as established in chapter 70.405 RCW) and the health care cost transparency board (established in chapter 70.390 RCW) may share data with each other and access all data collected under RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(2) Advisory group members may not access or review any confidential information.

(3) The information collected by the board pursuant to RCW 70.405.040 is not subject to public disclosure under chapter 42.56 RCW.

(4) The authority provides data only after the data recipient, as defined by this chapter, has signed a nondisclosure agreement. The authority may prohibit access to or use of the data by a data recipient who violates the nondisclosure agreement.

(5) Data recipients must keep data confidential by:

(a) Accessing, using, and disclosing information only in accordance with this section and consistent with applicable statutes, regulations, and policies;

(b) Having a public policy purpose to access and use the confidential information according to chapter 70.405 RCW;

(c) Protecting all confidential information against unauthorized use, access, disclosure, or loss by employing reasonable security measures in alignment with the agency information system security plan, including physically securing any computers, documents, or other media containing confidential information and viewing confidential information only on secure workstations in nonpublic areas;

(d) Destroying all confidential information according to document retention requirements;

(e) Adhering to the confidentiality requirements in this section after the data recipient is no longer an authorized data recipient under chapter 70.405 RCW; and

(f) Acknowledging that the data recipient may be responsible for liability arising from misuse of the data.

(6) Data recipients must not:

(a) Disclose any confidential information, as defined by WAC 182-52-0010, or otherwise publicly release the confidential information;

(b) Use or disclose any confidential information for any commercial or personal purpose, or any other purpose that is not authorized in chapter 70.405 RCW;

(c) Attempt to identify people who are the subject of the confidential information;

(d) Discuss confidential information in public spaces in a manner in which unauthorized individuals could overhear;

(e) Discuss confidential information with unauthorized individuals, including spouses, domestic partners, family members, or friends;

(f) Have any conflicts of interests under the Ethics in Public Service Act that would prevent the data recipient from accessing or using confidential information; and

(g) Share information received according to this chapter with any person who is not authorized to receive confidential information as specified by this chapter.

NEW SECTION

WAC 182-52-0095 Prescription drug affordability board—Upper payment limits—Public comment. The board must allow 30 calendar days for the submission of public comment before setting an upper payment limit. Prior to the 30-day comment period, the authority will notify the public of both the beginning and ending dates that written comment will be accepted.