



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: March 06, 2025

TIME: 4:07 PM

WSR 25-07-008

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 25-03-076 ; 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 182-531A-0800 Applied behavior analysis (ABA) – Provider requirements

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 22, 2025	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_1mftk8yLSuaGbGRPeDM4w 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: Not sooner than April 23, 2025

(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) March 7, 2025, 8:00 AM

By (date and time) April 22, 2025, by 11:59 PM

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) April 4, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is revising this section to add psychiatric mental health nurse practitioners as diagnosing and prescribing providers for ABA and clarify that the providers listed in subsection (4)(a) may require additional COE training for diagnosing and prescribing ABA for adults age 21 and over. Additionally, providers listed in subsection (4) must complete the required COE training for all ages.

Reasons supporting proposal: See purpose.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160

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	Alyssa Jennings	PO Box 42716, Olympia, WA 98504	360-725-1194
Enforcement	Alyssa Jennings	PO Box 42716, Olympia, WA 98504	360-725-1194

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 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. The revisions add psychiatric mental health nurse practitioners to the list of qualified medical providers who may also be designated by the agency as a COE provider when requirements are met. These revisions do not impose more-than-minor costs on small businesses.
- 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: March 6, 2025	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.

Center of excellence.

(1) For the purposes of this chapter, center of excellence (COE) refers to an individual provider, not a facility.

(2) A center of excellence (COE) must be an evaluating and prescribing provider.

(3) The COE provider must be:

(a) A person licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and is:

(i) A developmental pediatrician;

(ii) A neurologist;

(iii) A pediatric neurologist;

(iv) A pediatric psychiatrist;

(v) A psychiatrist; or

(vi) A psychologist; or

(b) A qualified medical provider who meets qualifications in subsection (4) of this section and who has been designated by the agency as a COE provider.

(4) With the exception of providers listed in subsection (3)(a) of this section, ((ARNPs)) advanced registered nurse practitioners (ARNPs) including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must complete the required COE training, for all ages, authorized by the agency. The COE provider must be prequalified by the agency and meet the following criteria:

(a) ARNPs including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must have demonstrated expertise in diagnosing an autism spectrum disorder by:

(i) Using a validated diagnostic tool;

(ii) Confirming the diagnosis by observing the client's behavior and interviewing family members; or

(iii) Reviewing the documentation available from the client's primary care provider, individualized education plan, or individualized family service plan;

(b) ARNPs including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must understand the medically necessary use of applied behavior analysis (ABA); and

(c) ARNPs including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must be sufficiently qualified to conduct and document a comprehensive diagnostic evaluation and develop a multidisciplinary clinical treatment plan under WAC 182-531A-0500(2).

(5) To be recognized as a COE by the agency, the provider, as listed in subsection (4)(a) of this section, must submit a signed COE Attestation form, HCA 13-0009, to the agency.

(6) Providers listed in subsection (4)(a) of this section may require additional COE training for diagnosing and prescribing ABA for adults age 21 and over.

(7) To be reimbursed for fee-for-service or agency-contracted managed care organization (MCO) services:

(a) All COE providers must be enrolled with the agency.

(b) All COEs providing services to clients enrolled with an agency-contracted MCO must also be contracted with the MCO, per the MCO contract specifications in accordance with 42 C.F.R. § 438.14.

~~((7))~~ (8) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

Lead behavior analysis therapist.

~~((8))~~ (9) The lead behavior analysis therapist (LBAT) must:

(a) Be licensed by the department of health (DOH) to practice independently as a behavior analyst or an assistant behavior analyst with supervision from a licensed behavior analyst or licensed psychologist (see chapter 18.380 RCW) and be an eligible provider according to chapter 182-502 WAC; or

(b) Be a DOH-licensed mental health counselor, DOH-licensed marriage and family therapist, DOH-licensed independent clinical social worker, DOH-licensed advanced social worker, or DOH-licensed psychologist (see chapter 18.380 RCW). Providers listed in this subsection must have a signed Applied Behavior Analysis (ABA) Attestation form, HCA 13-0008, regarding certification as a board-certified behavior analyst (BCBA) or a board-certified assistant behavior analyst (BCaBA) on file with the agency.

~~((9))~~ (10) The LBAT must enroll as a servicing provider under chapter 182-502 WAC, be authorized to supervise ancillary providers, and be:

(a) A DOH-licensed behavior analyst (LBA) (see chapter 18.380 RCW); or

(b) A DOH-licensed assistant behavior analyst (LABA) (see chapter 18.380 RCW).

~~((10))~~ (11) If the LBAT's role is filled by a LABA, the responsibilities below must be fulfilled by both the LABA and the supervising LBA or licensed psychologist, as required by DOH under chapter 246-805 WAC. The LBAT must:

(a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment provided by other health care professionals, and that states how all treatment will be coordinated; and

(b) Supervise at least five percent of the total direct care provided by the certified behavior technician per week.

Certified behavior technician.

~~((11))~~ (12) The certified behavior technician (CBT) must be certified by DOH as a CBT under chapter 18.380 RCW in good standing with no license restrictions.

~~((12))~~ (13) The CBT must enroll as a servicing provider under chapter 182-502 WAC.

~~((13))~~ (14) The CBT must:

(a) Deliver services according to the ABA therapy treatment plan;

(b) Be supervised by a DOH-licensed professional who meets the requirements under WAC 246-805-330; and

(c) Review the client's progress with the supervisor at least every two weeks to confirm that the ABA therapy treatment plan still meets the client's needs. If changes are clinically indicated, they must be made by the supervisor.

Facility-based day program.

~~((14))~~ (15) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following requirements:

(a) Outpatient hospital facilities must meet the applicable DOH licensure requirements under chapter 246-320 WAC;

(b) Any provider rendering direct ABA services in the facility-based day program must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable;

(c) Any provider serving as a member of the multidisciplinary care team must be licensed or certified under Title 18 RCW; and

(d) Have a signed ABA Day Program Capacity Attestation form, HCA 13-0007, on file with the agency.