



Washington State
Hospital Association

WSHA Top Priority State Rule Making- Completed

3/18/2022

PRIORITY	RULE	AGENCY	DESCRIPTION	EFFECTIVE DATE	FINAL ORDER	EXTRA MATERIALS	WSHA CONTACT
1	Whistleblower Complaints	Department of Health	The Department of Health (department) is considering revising sections of this chapter to implement SHB 1049 (chapter 62, Laws of 2019) and to ensure the rules are clear, up to date, and align with best practices. Rulemaking is necessary to align rule definitions and criteria with current law, which expanded whistleblower protections. These rule updates are needed to ensure consistency and enforceability.	01/27/22	Final Order	Draft Rules	Cara Helmer Carah@wsha.org
1	Emergency Rule: Retired Active Pharmacist License	Pharmacy Quality Assurance Commission	This adopted emergency rule will extend WSR 21-12-096 filed on June 2, 2021, without change. On March 26, 2020, Governor Inslee signed Proclamation 20-32 to help increase the number of health care workers available to meet the needs of patients during the coronavirus disease 2019 (COVID-19) pandemic. This proclamation included a provision that allows a pharmacist with a retired active pharmacist license status to practice pharmacy. Specifically, the proclamation amended WAC 246-863-080(2), which was effective at that time, to allow holders of a retired active pharmacist license status to practice pharmacy while the proclamation remains in effect.	01/28/22	Emergency Rule		David Streeter DavidS@wsha.org
1	Emergency Rule: COVID-19 Test Reporting	Department of Health	DOH is adopting an emergency rule to amend WAC 246-338-026 mandating reporting of test results intended to detect SARS-CoV-2 or diagnose a possible case of the coronavirus disease 2019 (COVID-19) in alignment with the federal changes published in 85 F.R. 54820. WAC 246-338-020 is amended to add language referencing the new subsection in WAC 246-338-026. These changes will allow the new reporting, inspection, and fining processes in compliance with the new federal requirements which will ensure the current clinical laboratory improvement amendments (CLIA) exempt status is not threatened and will respond to the current public health emergency created by the COVID-19 pandemic. This is the fourth emergency rule for these amendments. It continues without change to the emergency rule that was filed on June 11, 2021, under WSR 21-13-045, and the prior filings on February 12, 2021, under WSR 21-05-048 and October 15, 2020, under WSR 20-21-062.	02/04/22	Emergency Rule		David Streeter DavidS@wsha.org
1	Payment Methods- New Hospitals	Health Care Authority	HCA plans to amend this section to include an exception to per diem rate calculations for psychiatric per diem rates. This aligns with the agency's state plan. During the course of this review, HCA may identify additional related changes that are required in order to improve clarity or update policy.	02/06/22	Final Order		Andrew Busz Andrewb@wsha.org



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1	Rebasing and Adjustments to Inpatient Rates	Health Care Authority	HCA is amending these sections to add qualifying criteria for and reflect an extension of the current rate increase for sole community hospitals. ESSB 5092, section 211(46) extends the rate increase through June of 2023. HCA also plans to implement ESSB 5092, section 215(66) to adjust rates paid for long-term civil commitments. Hospitals may now submit costs not included in their medicare cost report to be evaluated by the agency for a potential rate increase. During the course of this review, HCA may identify additional related changes that are required in order to improve clarity or update policy.	02/06/22	Final Order		Andrew Busz Andrewb@wsha.org
1	COVID 19: Schedule II Prescriptions	Pharmacy Quality Assurance Commission	The Pharmacy Quality Assurance Commission adopted emergency rules to reduce burdens on patients and practitioners when prescribing Schedule II substances during the COVID-19 pandemic. The emergency rule amends WAC 246-945-010 and increases the duration of time a practitioner has to deliver a signed prescription when authorizing an emergency prescription of a Schedule II substance to the pharmacy from seven days to fifteen days.	02/22/22	Emergency Rule		David Streeter
1	Payment of office visits for clients under the Alien Emergency Medical program for COVID-19	Health Care Authority	The Health Care Authority is revising this section to allow for payment of office visits for clients under the Alien Emergency Medical (AEM) program when the visit is specifically for the assessment and treatment of the COVID-19 virus.	02/24/22	Emergency Rule		Andrew Busz Andrewb@wsha.org
1	Severity Matrix for Fines Related to Psychiatric Hospital Enforcement	Department of Health	Section 3 of SHB 2426 directs the department to adopt in rule specific fine amounts in relation to the severity of noncompliance by a psychiatric hospital. A fine would only be assessed if the department determines the psychiatric hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the psychiatric hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.	02/24/22	Final Order	Draft Rules	Cara Helmer Carah@wsha.org
1	Chapter 246-341 WAC, Behavioral Health Services Administrative Requirements	Department of Health	The Department of Health is considering updating the chapter of rules for licensed and certified behavioral health agencies that will include: (1) Changes to reflect legislation; (2) changes related to federal requirements; (3) requests from partners and stakeholders for clarification, and areas of clean up that have been identified since the department began regulating behavioral health agencies in 2018.	07/01/22	Final Order		Cara Helmer Carah@wsha.org



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1	Notifiable Conditions (Ch. 246-101 WAC)	Department of Health Washington State Board of Health	Department of Health - Notifiable Conditions (Ch. 246-101 WAC) - The Department of Health (DOH) and the State Board of Health (SBOH) will consider adding notification and specimen submission requirements for "new conditions" and conditions currently identified as "other rare diseases of public health significance"; changing notification and specimen submission requirements for existing conditions; clarifying notification requirements for suspected cases; requiring electronic lab notification; revising reporting requirements for veterinarians and the Washington state department of agriculture; updating statutory references in the rules; updating references to the 2006 Security and Confidentiality Guidelines developed by the Centers for Disease Control and Prevention to the most recent publication; harmonizing definitions between WAC 246-100-011 and chapter 246-101 WAC; and improving clarity and usability. See Pre-Proposal for the list of conditions under consideration.	01/01/23	Final Order	Rulemaking page	David Streeter DavidS@wsha.org
2	Emergency Rule: NAC and NAR Training Requiements	Nursing Care Quality Assurance Commission	NCQAC is continuing the adoption of emergency rules as the permanent rule-making process continues. The rules in chapter 246-841 WAC provide regulatory requirements for NACs and NARs. These amendments allow additional pathways to comply with current standards. This is the fifth emergency rule and it continues the emergency rule that was filed on May 20, 2021, under WSR 21-12-011, without change. Prior filings were June 26, 2020, WSR 20-14-066; October 23, 2020, WSR 20-22-023; and January 20, 2021, WSR 21-04-004. Transition from emergency to permanent rules were approved by the commission and a notice of intent to begin rule making was filed on February 8, 2021, under WSR 21-05-021. Permanent rule language development is ongoing.	01/14/22	Emergency Rule		Ashlen Strong AshlenS@wsha.org



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2	Emergency Rule: NT, LPN, RN, and ARNP Credential and License Requirements	Nursing Care Quality Assurance Commission	<p>NCQAC is continuing the adoption of emergency rules in response to the coronavirus disease 2019 (COVID-19). This is the sixth emergency rule for these amendments and differs from the emergency rule that was filed on May 20, 2021, under WSR 21-12-012. This emergency rule does not include WAC 246-840-125 Retired active credential. Continuing competency rules, effective June 12, 2021, reduced the required education hours and replace [replaced] the emergency provisions in WAC 246-840-125. This emergency rule does not include WAC 246-840-534 Use of simulation for clinical experiences in LPN, RN, or RN to BSN nursing education programs located in Washington state. In-person training for clinical experience provides the desired academic model to assure patient safety and is required in the original rule language. This emergency rule does add clarifying language to WAC 246-840-533 regarding documentation in the nurse technician student's file explaining the reason employment is substituted for traditional clinical experiences. Changes to WAC 246-840-010 were approved by the commission on March 3, 2021, for inclusion in a CR-102. Changes to WAC 246-840-365, 246-840-367, 246-840-533 and 246-840-930 were approved by the commission on May 14, 2021, for inclusion in a CR-101.</p> <p>This emergency rule retains the amendments adopted as WSR 20-10-014, 20-14-065, 20-22-024, 21-04-005, and 21-12-012 with the exceptions stated above. The rules in chapter 246-840 WAC are the licensing requirements for LPNs, RNs, and ARNPs. The emergency rules amend training program options, delegation requirements, and remove additional continuing education hours for specific ARNP credentials. Additionally, the rules waive the requirements for an ARNP to submit evidence of completing continuing education in order to return to active status when <u>holding an inactive license or when returning to active status from expired</u></p>	01/14/22	Emergency Rule		Ashlen Strong AshlenS@wsha.org
2	Medicaid SPA: Fee Schedule Update	Health Care Authority	<p>HCA intends to submit medicaid SPA 22-0009 to update the fee schedule effective dates for several medicaid programs and services. This is a regular, budget neutral update to keep rates and billing codes in alignment with the coding and coverage changes from the Centers for Medicare and Medicaid Services (CMS), the state, and other sources. These changes are routine and do not reflect significant changes to policy or payment. SPA 22-0009 will also add social workers to the home health payment section in accordance with SPA 21-0027, approved on November 17, 2021.</p>	01/31/22	Notice		Andrew Busz Andrewb@wsha.org
2	Emergency Rule: De-Scheduling Epidiolex	Pharmacy Quality Assurance Commission	<p>PQAC is adopting emergency rules to remove Epidiolex from the list of Schedule V controlled substances in Washington state.</p>	02/25/22	Emergency Rule		David Streeter DavidS@wsha.org

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2	LPN Student Rules	Nursing Care Quality Assurance Commission	The Nursing Care Quality Assurance Commission (NCQAC) is considering amendments to nursing technician rules to provide practice opportunities to licensed practical nurse (LPN) students.	05/13/22	Final Order		Cara Helmer Carah@wsha.org
3	Emergency Rule: ABA Analysis Age Limits and Language Updates	Health Care Authority	HCA is revising these rules to remove the age limits for applied behavioral analysis (ABA) and update language to remove child or children and replace with client. In WAC 182-501-0600, the agency is updating the "N" (No) to a "Y" (Yes) in the ABA covered services table for ABP 21+, CN 21+ and MN 21+. The agency is also updating the ambulance section in the covered services table for ABP 21+ to a "Y" (Yes) as it was inadvertently left blank.	01/19/22	Emergency Rule		Cara Helmer Carah@wsha.org
3	Inpatient Withdrawal Management Services Payment	Health Care Authority	The agency is amending WAC 182-550-4300(5) to align the rule with the medicaid state plan, which does not have specific time limitations on inpatient withdrawal management services. During this review, the health care authority may identify additional related changes that are required to improve clarity or update policy.	02/06/22	Final Order		Andrew Busz Andrewb@wsha.org
3	Outpatient Hospital services—Conditions of Payment and Payment Methods	Health Care Authority	The agency is amending subsection (3)(c) of this rule, which states that the agency does not pay separately for certain services provided within one calendar day of an inpatient hospital admission. The agency is adding to this subsection to state that separate payments are not made for certain services provided within one calendar day of discharge. The agency also intends to remove subsections (6) and (7). These subsections reference the maximum allowable fee schedule and the hospital outpatient rate for payment of certain services. The agency is making these changes because it does not use these payment methods, but instead uses the enhanced ambulatory payment group method to determine payments, consistent with WAC 182-550-7200. During the course of this review, health care authority may identify additional related changes that are required in order to improve clarity or update policy.	02/27/22	Final Order		Andrew Busz Andrewb@wsha.org
3	Home Health Medical Social Services	Health Care Authority	The 2021-2023 operating budget included a proviso (section 211(65), chapter 334, Laws of 2021) specifying that certain appropriated funds are provided to reimburse social workers as part of the medical assistance home health benefit. The agency is amending home health rules in chapter 182-551 WAC, subchapter II, to include medical social services within the home health program. During the course of this review, health care authority may identify additional related changes that are required in order to improve clarity or update policy.	03/12/22	Final Order		Andrew Busz Andrewb@wsha.org



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3	Behavioral Health Certified Peer Counselor	Health Care Authority	HCA intends to adopt rules to define the process of becoming a behavioral health certified peer counselor. During the course of this review, the authority may identify additional related changes that are required in order to improve clarity or update policy.	03/13/22	Final Order		Cara Helmer Carah@wsha.org
3	HIV/AIDS Legal Changes	Washington State Board of Health	During the 2020 legislative session, the legislature passed ESHB 1551, modernizing the control of certain communicable diseases (chapter 76, Laws of 2020). This bill modernizes the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The new law took effect June 11, 2020. The board is undertaking rule making to consider possible revisions to chapters 246-100 and 246-101 WAC to assure consistency with the bill's requirements and protect public health and safety. Revisions may include, but are not limited to, establishing reporting requirements and procedures for investigations for sexually transmitted diseases; specifying behavior that endangers the public health; defining specimens that can be obtained and tests that can be administered for sexually transmitted diseases, blood-borne pathogens, and other infections; determining categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and defining what constitutes an exposure that presents a possible risk of transmission of a blood-borne pathogen.	03/28/22	Final Order		Cara Helmer Carah@wsha.org
3	Self-Insured Pension Discount Rate	Department of Labor & Industries	The pension discount rate (PDR) is the interest rate used to account for the time value of money when evaluating the present value of future pension payments. The purpose of this rule making is to lower the PDR to better align with the rate of return for long term treasuries for self-insured and state fund pensions.	04/01/22	Final Order		David Streeter DavidS@wsha.org
3	Prenatal Tests - Chapter 246-680 WAC Congenital and Heritable Disorders	Washington State Board of Health	Washington State Board of Health - Prenatal Tests - Chapter 246-680 WAC Congenital and Heritable Disorders - This rule outlines prenatal screening and diagnostic tests that are considered to be medically necessary and are required to be included in benefits packages provided by insurers, health care service contractors, and health maintenance organizations.	07/01/22	Final Order	Supplemental Notice	David Streeter DavidS@wsha.org



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4	Medicaid State Plan Amendment (SPA)-Community First Choice.	Health Care Authority	HCA in conjunction with the aging and long-term support administration (AL TSA) in the department of social and health services (DSHS) intend to submit medicaid SPA 22-0001 in order to reflect the following changes to the community first choice program: <ul style="list-style-type: none"> •Increase the payment limit for community first choice community transition services from \$850.00 to a maximum of \$2,500.00 per discharge for items and services. •Remove the DVD option for providing caregiver management training. SPA 22-0001 will have no effect on provider payments. The SPA reflects the higher costs of setting up an independent living apartment from an institutional care setting. This community transition service includes items and services involved in setting up a client to live independently in the community, including first month's rent and security deposit. 	03/01/22	Notice		Zosia Stanley zosias@wsha.org
4	Companion Home Providers' Daily Rate	Department of Social and Health Services	DDA is considering amending this rule to update companion home providers' daily rate. DDA is also considering adding new sections of rule to chapter 388-829C WAC that establish requirements for positive behavior support plans. During the course of this review, DDA may make additional changes that are necessary to improve clarity or update policy.	03/03/22	Final Order		Andrew Busz Andrewb@wsha.org
4	Osteopathic PA WACs Repeal	Department of Health	Section 59 of SHB 2378 repealed chapter 18.57A RCW in its entirety. As a result of this law being repealed, the board proposes to repeal chapter 246-854 WAC, Osteopathic physicians' assistants; and chapter 246-855 WAC, Osteopathic physicians' acupuncture assistants, as they are no longer supported by statute and under the authority of the board. All physician assistants now fall under the authority of the Washington medical commission and its rules.	07/01/22	Expedited Rule		David Streeter DavidS@wsha.org