



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 24, 2025

TIME: 8:29 AM

WSR 25-08-014

Agency: Department of Health

☒ Original Notice

☐ Supplemental Notice to WSR

☐ Continuance of WSR

☒ Preproposal Statement of Inquiry was filed as WSR 24-20-032 ; 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) Behavioral Health Agency (BHA) rules concerning reporting information about early release of individuals receiving substance use disorder (SUD) treatment. The Department of Health (department) is proposing amendments to WAC 246-341-1108 to implement Second Substitute Senate Bill (2SSB) 6228 (chapter 366, Laws of 2024), that requires BHAs providing voluntary SUD treatment services to report to the department specific data on individuals who are voluntarily or involuntarily released from treatment early.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
05/06/2025	10:00 a.m.	Zoom link Register in advance for this webinar: https://us02web.zoom.us/webinar/register/WN_7pJoye34QQ6mwwQ8Fn49FQ After registering, you will receive a confirmation email containing information about joining the webinar.	This hearing will be held virtually only.

Date of intended adoption: 05/13/2025 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Dan Overton

Address PO Box 47843, Olympia, WA 98504-7843

Email dan.overton@doh.wa.gov

Fax n/a

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

Beginning (date and time): The date and time of this filing

By (date and time) 05/06/2025, 11:59 p.m.

Assistance for persons with disabilities:

Contact Dan Overton

Phone 360-236-2953

Fax n/a

TTY 711

Email dan.overton@doh.wa.gov

Other

By (date) 04/29/2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is proposing updates to WAC 246-341-1108. The purpose of the proposed updates is to alleviate barriers that prevent individuals from completing SUD treatment by requiring BHAs to report to the department each instance an individual is released prior to completion of the clinical determination of treatment. The proposed updates require BHAs to report the circumstances that led to the early release, including if the early release was voluntary or involuntary, efforts made to avoid the early release, and efforts made to establish a safe discharge plan.

Reasons supporting proposal: 2SSB 6228 directs the department to adopt a model policy for BHAs providing SUD treatment services to consider when adopting policies related to the transfer or discharge of a person without the person's consent. The bill also directs the department to adopt rules to implement the reporting requirement, using a standardized form. The goal of 2SSB 6228 is to support individuals in accessing and completing SUD treatment by preventing providers from forcing individuals to leave treatment early and removing barriers to insurance authorization.			
Statutory authority for adoption: RCW 71.24.037 and 71.24.847			
Statute being implemented: RCW 71.24.847			
Is rule necessary because of a:			
Federal Law?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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) Department of Health Type of proponent: <input type="checkbox"/> Private. <input type="checkbox"/> Public. <input checked="" type="checkbox"/> Governmental.			
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting	Dan Overton	111 Israel Rd SE, Tumwater, WA 98501	360-236-2953
Implementation	Dan Overton	111 Israel Rd SE, Tumwater, WA 98501	360-236-2953
Enforcement	Dan Overton	111 Israel Rd SE, Tumwater, WA 98501	360-236-2953
Is a school district fiscal impact statement required under RCW 28A.305.135? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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?			
<input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: Name Address Phone Fax TTY Email Other			
<input checked="" type="checkbox"/> No: Please explain: Proposed rule is exempt under RCW 34.05.328 (5)(b)(v), a rule where the content of which is explicitly and specifically dictated by statute. Portions of the rule are also considered procedural under RCW 34.05.328 (5)(c)(i).			
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:

☐ [RCW 34.05.310](#) (4)(b)
(Internal government operations)

☐ [RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

☒ [RCW 34.05.310](#) (4)(e)
(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

☐ [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: The rule is exempt under RCW 34.05.310 (4)(e) because it is dictated by statute without substantial changes. The rule adds clarifying language by adding a timeline for reporting, with no additional costs.

(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: March 24, 2025

Name: Kristin Peterson, JD for Jessica Todorovich, MS

Title: Chief of Policy for Acting Secretary of Health

Signature:



WAC 246-341-1108 Residential and inpatient substance use disorder treatment services—Service standards. Residential substance use disorder treatment services provide substance use disorder treatment for an individual in a facility with 24 hours a day supervision.

(1) An agency providing residential and inpatient substance use disorder treatment services must:

(a) Provide education to each individual admitted to the treatment facility on:

- (i) Substance use disorders;
- (ii) Relapse prevention;
- (iii) Bloodborne pathogens;
- (iv) Tuberculosis (TB);
- (v) Emotional, physical, and sexual abuse; and
- (vi) Nicotine use disorder;

(b) Maintain a list or source of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services; and

(c) Develop and implement written procedures for:

(i) Urinalysis and drug testing, including laboratory testing; and

(ii) How agency staff members respond to medical and psychiatric emergencies.

(2) An agency that provides services to a pregnant woman must:

(a) Develop and implement a written procedure to address specific issues regarding the woman's pregnancy and prenatal care needs;

(b) Provide referral information to applicable resources; and

(c) Provide education on the impact of substance use during pregnancy, risks to the developing fetus, and the importance of informing medical practitioners of substance use during pregnancy.

(3) An agency that provides an assessment to an individual under RCW 46.61.5056 must also meet the requirements for driving under the influence (DUI) assessment providers in WAC 246-341-0820.

(4) Inform individuals of their treatment options so they can make individualized choices for their treatment. This includes, as applicable, the initiation, continuation, or discontinuation of medications for substance use disorders.

(5) For individuals choosing to initiate or continue medications for their substance use disorder, make available on-site or facilitate off-site access to continue or initiate Federal Drug Administration (FDA)-approved medication for any substance use disorder, when clinically appropriate, as determined by a medical practitioner.

(6) Provide continuity of care that allows individuals to receive timely and appropriate follow up services upon discharge and, if applicable, allows the individual to continue medications with no missed doses.

(7) In addition to the requirements in WAC 246-341-0640, document in the individual service record:

(a) The individual being informed of their treatment options, including the use of medications for substance use disorder;

(b) The continuation or initiation of FDA-approved medication for substance use disorder treatment that has been provided on-site or facilitated off-site, if applicable;

(c) Referrals made to behavioral health providers, including documentation that a discharge summary was provided to the receiving behavioral health provider as allowed under 42 C.F.R. Part 2; and

(d) Contact or attempts to follow up with the individual post-discharge, including the date of correspondence.

(8) An agency may not deny admission based solely on an individual taking FDA-approved medications, under the supervision of a medical provider, for their substance use disorder or require titration of dosages in order to be admitted or remain in the program.

(9) All behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services shall submit a report to the department for each instance in which a person receiving services either:

(a) Was transferred or discharged from the facility by the agency without the person's consent including, but not limited to, when the person was:

(i) Administratively discharged against their will;

(ii) Discharged or transferred after completing treatment against their will;

(iii) Transferred to another facility against their will;

(iv) Discharged or transferred due to financial reasons against their will; or

(b) Released the person's self from the facility prior to a clinical determination that the person had completed treatment.

(10) All reports required in subsection (9) of this section must be submitted within 30 calendar days of occurrence on the department approved form and include the following information as applicable to a person's discharge or transfer:

(a) Whether the departure was voluntary or involuntary;

(b) The extent to which a therapeutic progressive disciplinary process was applied;

(c) The person's self-reported understanding of the reasons for discharge;

(d) The efforts that were made to avert the discharge; and

(e) The efforts that were made to establish a safe discharge or transfer plan prior to the person leaving the facility.

(11) Subsections (9) and (10) of this section do not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.