



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)

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DATE: May 28, 2025

TIME: 12:30 PM

WSR 25-12-043

Agency: Department of Health

Subject of possible rule making: Adopting rules for hospital emergency care, including emergency abortion care, in Washington state. The Department of Health (department) is considering amendments to WAC 246-320-010 and 246-320-281 and other related rules if appropriate in accordance with recently passed legislation and Directive of the Governor 25-01 to ensure access to treatment, including abortion care, for emergency medical conditions in hospital emergency departments and protection of a pregnant person's right to exercise informed consent in prioritizing their health and safety when receiving treatment for emergency medical conditions in hospital emergency departments.

Statutes authorizing the agency to adopt rules on this subject: RCW 70.41.030 and Engrossed Substitute Senate Bill (ESSB) 5557 (chapter 182, Laws of 2025).

Reasons why rules on this subject may be needed and what they might accomplish: The department is considering rulemaking to provide direction for hospitals and providers regarding the legal requirements to provide emergency care in Washington state.

Potential changes to federal standards may cause confusion for providers and hospital emergency departments. To address this concern, Directive of the Governor 25-01 directs the department to reaffirm existing state legal requirements for hospitals and emergency departments under the federal Emergency Medical Treatment and Labor Act (EMTALA). This includes the existing requirement that hospital emergency departments provide emergency services and provide treatment, including abortion where warranted, to a pregnant person with an emergency medical condition according to the standard of care or to make a legally authorized transfer.

Additionally, the 2025 Washington State Legislature passed ESSB 5557 that codified these emergency medical standards into state law. To comply with Directive of the Governor 25-01 and ESSB 5557, the department filed emergency rules on January 13, 2025, as WSR 25-03-056, and most recently on May 12, 2025, as WSR 25-11-018.

Permanent rulemaking would provide clear legal requirements regarding the provision of emergency services, including abortion care if necessary according to the standard of care and the informed consent of pregnant persons. This will provide clarity for hospital emergency departments and providers regarding the legal expectations for emergency care in Washington state and implement ESSB 5557. Rules will promote access to necessary and life saving care while protecting health care providers' ability to serve their patients and exercise their professional judgment.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The department will consider coordination with other agencies as applicable and necessary.

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study
- ☒ Other (describe) Collaborative Rulemaking

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

(If necessary)

Name: Ian Corbridge Address: PO Box 47850, Olympia, WA 98504-7850 Phone: n/a Fax: n/a TTY: 711 Email: ochsfacilities@doh.wa.gov Web site: doh.wa.gov Other:	Name: Address: Phone: Fax: TTY: Email: Web site: Other:
Additional comments: Interested parties can participate in drafting the proposed rules. The department will conduct one or more rule workshops. Rulemaking notices will be delivered via the GovDelivery Acute Care Hospital interested parties list. To receive notices, interested persons may go to: https://public.govdelivery.com/accounts/WADOH/subscriber/new . After signing in, please click open the box labeled "Health Systems Quality Assurance." Next click open the box labeled "Facilities Licensing and Certificate of Need" and then check "Facilities" and "Hospitals". You may check other boxes next to one or more of the facilities or programs listed to receive information regarding those facilities and programs.	
Date: May 28, 2025 Name: Todd Mountin, PMP for Jessica Todorovich, MS Title: Deputy Chief of Policy for Acting Secretary of Health	Signature: 