



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: July 28, 2025

TIME: 1:44 PM

WSR 25-16-028

Agency: Washington State Department of Health

☒ Original Notice

☐ Supplemental Notice to WSR

☐ Continuance of WSR

☒ Preproposal Statement of Inquiry was filed as WSR 21-21-105; and WSR 24-08-043

☐ 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) Amendments to WAC 246-10-501 'Application of brief adjudicative proceedings' in 'ADMINISTRATIVE PROCEDURE—ADJUDICATIVE PROCEEDINGS' under the authority of The Department of Health (department) and WAC 246-11-420 amendments to 'Brief Adjudicative Proceedings' in 'MODEL PROCEDURAL RULES FOR BOARDS'. Proposed amendments expand applicability of brief adjudicated proceedings (BAP) to new category types eligible for Brief Adjudicated Proceedings.

Hearing location(s):

Date: September 9, 2025 **Time:** 10:00 a.m. **Location:** (be specific) You are invited to register for a Zoom webinar! **Comment:**

When: Sep 9, 2025 10:00 AM
Pacific Time (US and Canada)
Topic: Amendments to WAC
246-10-501 and and WAC 246-
11-420 on 'brief adjudicative
proceedings'

Register in advance for this
webinar:
https://us02web.zoom.us/webinar/register/WN_D4vI05kOSK2GX-SlgZI_AA

After registering, you will receive
a confirmation email containing
information about joining the
webinar.

Date of intended adoption: September 16, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Erin Brewster

Address PO Box 47890 Olympia, WA 98504-7890

Assistance for persons with disabilities:

Contact: Erin Brewster

Phone: (541)941-5999

Email: Erin.Brewster@doh.wa.gov	Fax N/A
Fax N/A	TTY 711
Other: Phone (https://fortress.wa.gov/doh/policyreview/	Email: Erin.Brewster@doh.wa.gov
Beginning (date and time): Date and time of filing	Other:
By (date and time): <u>August 26, 2025, 11:59 p.m.</u>	By (date) August 12, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department proposes to amend rules that apply to the adjudicative proceedings authorized to be conducted under the authority of the department (WAC 246-10-501) and those under the authority of a health profession board or commission (WAC 246-11-420). The department is proposing to amend rules in WAC 246-10-501 to expand the list of types of applications eligible for appeals using brief adjudicative proceeding process including: interstate license compacts, milk bank applicants, and 988-line crisis call center applicants. The department is also proposing amendments to WAC 246-11-420 to add interstate license compacts applications and ancillary utilization plan applications as provided by the Pharmacy Quality Assurance Commission to the list of applications eligible for appeals using the brief adjudicative proceedings process for boards and commissions.

Reasons supporting proposal: These applicant types are proposed to be added as appeal due process recourse for the denial or revocation of a license or certification in order to streamline application processing while maintaining fairness towards applicants.

Recent changes in Washington state law have created new programs, and licensing opportunities that have expanded the agency's application processes. Under the Administrative Procedure Act, RCW 34.05.482, a state agency is authorized in certain circumstances to use BAP to streamline an appeal of an adverse application decision without holding a hearing. WAC 246-10-501 and WAC 246-11-420 outlines under what circumstances or criteria a BAP may be used.

While the rules allow individuals to request an adjudicative proceeding that is not specifically outlined in these rule, these requests are at the discretion of the presiding officer. Adding specific application types to the "approved" list in rule creates consistency in determining qualifications and is more efficient than using the full hearing process.

Statutory authority for adoption: RCW 43.70.040, RCW 34.05.413, RCW 34.05.482, RCW 34.05.485, RCW 18.130.050, chapter 18.71B RCW, and chapter 18.74 RCW

Statute being implemented:

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 and boards and commissions having disciplining authority under chapter 18.130 RCW

Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting	Erin Brewster	Department of Health 111 Israel Rd SE Tumwater WA 98501	360-535-7315
Implementation	Erin Brewster	Department of Health 111 Israel Rd SE Tumwater WA 98501	360-535-7315
Enforcement	Kristin Peterson		Kristin.peterson@doh.wa.gov

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: This rule is exempt from significant analysis under **RCW 34.05.328(b)(ii)** Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party

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 checked="" 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.
- ☐ 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: July 23, 2025

Name: Kristin Peterson, JD for Dennis E. Worsham

Title: Chief of Policy for Secretary of Health

Signature:

A handwritten signature in black ink, appearing to read "Kristin Peterson", is written over a light blue rectangular background.

WAC 246-11-420 Application of brief adjudicative proceedings.

(1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination whether an applicant for a license meets the minimum criteria for an unrestricted license and the board proposes to deny such a license or to issue a restricted license ~~((+))~~, or a determination that a license holder is ineligible for an expedited license or compact privilege from an interstate compact. For the purposes of this subsection:

(i) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another state to practice or work in the remote state under its laws and rules as outlined in Title 18 RCW for its respective profession.

(ii) "Interstate compact" means an agreement between two or more states that allows a license holder through a streamlined process to become licensed in multiple states. The license holder is under the regulations of the state where the patient/client is located at the time of the patient/client encounter.

(iii) "Remote state" means a member state other than the home state where a license holder is exercising or seeking to exercise the compact privilege.

(b) A determination whether a person is in compliance with the terms and conditions of a final order previously issued by the board, except final orders under RCW 18.130.110;

(c) Any approval of a school or curriculum when such approval by the board is required by statute or rule;

(d) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for renewal;

(e) An action to suspend a credential under RCW 18.130.125 and 18.130.127;

(f) Issuance of written citation and assessment of a fine under RCW 18.130.230;

(g) A decision to withdraw a credential issued in error. For the purposes of this rule, "credential issued in error" means a credential issued to an individual who did not fully complete the application process or meet the credentialing requirements yet was inadvertently granted a credential; ~~((+))~~

(h) A decision to deny a request for a list of applicants for professional licenses or for professional licensees for commercial purposes under RCW 42.56.070(8); or

(i) A determination to reject or withdraw approval of an ancillary utilization plan pursuant to RCW 18.64A.040 and 18.64A.060.

(2) If an adjudicative proceeding is requested in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted in the discretion of the presiding officer when it appears that:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief adjudicative proceeding; and

(c) The protection of the public interest does not require that the board provide notice and an opportunity to participate to persons other than the parties.

WAC 246-10-501 Application of brief adjudicative proceedings.

(1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination whether an applicant for a professional, business, or facility license meets the minimum criteria for an unrestricted license and the department proposes to deny such a license or to issue a restricted license ~~((+))~~, or a determination that a license holder is ineligible for an expedited license or compact privilege from an interstate compact. For the purposes of this subsection:

(i) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another state to practice or work in the remote state under its laws and rules as outlined in Title 18 RCW for its respective profession.

(ii) "Interstate compact" means an agreement between two or more states that allows a license holder through a streamlined process to become licensed in multiple states. The license holder is under the regulations of the state where the patient/client is located at the time of the patient/client encounter.

(iii) "Remote state" means a member state other than the home state where a license holder is exercising or seeking to exercise the compact privilege.

(b) An application to approve a water system plan under WAC 246-290-100;

(c) An application to approve a project report under WAC 246-290-110;

(d) An application for source approval under WAC 246-290-130;

(e) An application to approve construction documents under WAC 246-290-120;

(f) An application to approve an existing Group A water system under WAC 246-290-140;

(g) An application for source approval under WAC 246-291-125;

(h) An application to approve a design report under WAC 246-291-120;

(i) An application to approve an existing Group B water system under WAC 246-291-280;

(j) An application to approve a water system plan under WAC 246-291-140;

(k) A decision under WAC 246-293-190;

(l) A decision with respect to service area conflicts under WAC 246-293-430;

(m) An application for approval as a satellite management agency under WAC 246-295-040;

(n) A civil penalty imposed under RCW 70A.125.040 when the amount of the civil penalty does not exceed ~~((two thousand five hundred dollars))~~ \$2,500;

(o) A request to bank nursing home beds under RCW 70.38.111(9);

(p) A determination as to whether a person is in compliance with the terms and conditions of a final order previously issued by the department, except final orders under RCW 18.130.110;

(q) Any approval of a school or curriculum when such approval by the department is required or authorized by statute or rule;

(r) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for license renewal;

(s) A decision to deny, modify, or impose conditions upon an operating permit under WAC 246-294-050;

(t) A decision to deny or revoke certification as a home care aide when a long-term care worker is disqualified from working with vulnerable persons under chapter 74.39A RCW;

(u) A civil penalty imposed against a health carrier or third-party administrator under RCW 70.290.060;

(v) A decision to deny or revoke a credential under RCW 18.108.085(3);

(w) An action to suspend a credential under RCW 18.130.127;

(x) Issuance of written citation and assessment of a fine under RCW 18.130.230;

(y) An action to invalidate a credential that was issued to a person who failed to meet credentialing requirements;

(z) A decision to withdraw a credential issued in error. For the purposes of this rule, "credential issued in error" means a credential issued to an individual who did not fully complete the application process or meet the credentialing requirements yet was inadvertently granted a credential;

(aa) A decision to deny a request for a list of applicants for professional licenses or of professional licensees for commercial purposes under RCW 42.56.070(8);

(bb) A decision to deny or revoke registration of a report or application for an amendment, or withhold or deny issuance of a certification under RCW 70.58A.040 (1)(f);

(cc) A decision to deny a request for data under RCW 70.58A.520; (~~ee~~)

(dd) A decision to deny an application for approval of a coordinated quality improvement program, or to revoke approval of a coordinated quality improvement program under RCW 43.70.510;

(ee) A decision to deny or revoke an application for certification of a milk bank for failure to meet minimum standards under WAC 246-720-100; or

(ff) A decision to deny or revoke the application of a 988 crisis line call center application for failure to meet the minimum standards under WAC 246-350-020 and 246-350-030.

(2) If an adjudicative proceeding is requested, in a matter not listed in subsection (1) of this section, a brief adjudicative proceeding may be conducted in the discretion of the presiding officer when it appears that protection of the public interest does not require that the department provide notice and an opportunity to participate to persons other than the parties and:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief adjudicative proceeding.