



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: February 20, 2024

TIME: 10:27 AM

WSR 24-05-063

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 24-02-050 and 22-09-074 ; 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) 182-502-0002, Eligible provider types; 182-531-1400, Psychiatric physician-related services and other professional mental health services

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 26, 2024	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_IJS763_JQbuScCIMjjsSA 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: No sooner than March 27, 2024 (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:

By (date) March 26, 2024, by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson

Phone: 360-725-1349

Fax: 360-586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: Johanna.larson@hca.wa.gov

Other:

By (date) March 15, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending these rules to add advanced social worker associates, independent clinical social worker associates, marriage and family therapist associates, and mental health counselor associates as provider types eligible to provide covered health care services to eligible clients. In WAC 182-502-0002, HCA replaced social workers with advanced social workers and independent clinical social workers.

The agency is also adding community behavioral health support services provider facilities to the list of eligible provider types in WAC 182-502-0002. HCA filed a preproposal statement of inquiry (CR-101) under WSR 22-09-074 to develop new rules in Title 182 regarding the Community Behavioral Health Support Services (CBHS) program. This rulemaking was postponed after necessary funding for the program was not provided. HCA is restarting this rulemaking in anticipation that the funding will be provided during this legislative session. If funding is not provided, the agency will remove community behavioral health support services provider facilities from the list of eligible provider types before finalizing these rules.

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

Type of proponent: Private Public Governmental
Name of proponent: (person or organization) Health Care Authority

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jason Crabbe	PO Box 42716, Olympia, WA 98504-2716	360-725-9563
Implementation:	Teresa Claycamp	PO Box 42730, Olympia, WA 98504-2730	360-974-9448
Enforcement:	Teresa Claycamp	PO Box 42730, Olympia, WA 98504-2730	360-974-9448

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 agency is amending this rule to add advanced social worker associates, independent clinical social worker associates, marriage and family therapist associates, and mental health counselor associates as provider types eligible to provide covered health care services to eligible clients. The agency has determined that the addition of these payable provider types does not impose a more-than-minor cost 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: February 20, 2024

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-502-0002 Eligible provider types. The following health care professionals, health care entities, suppliers or contractors of service may request enrollment with the Washington state health care authority (medicaid agency) to provide covered health care services to eligible clients. For the purposes of this chapter, health care services include treatment, equipment, related supplies, and drugs.

- (1) Professionals:
 - (a) Advanced registered nurse practitioners;
 - (b) Advanced social workers;
 - (c) Advanced social worker associates;
 - (d) Anesthesiologists;
 - ~~((e))~~ (e) Applied behavior analysis (ABA) professionals, as provided in WAC 182-531A-0800:
 - (i) Licensed behavior analyst;
 - (ii) Licensed assistant behavior analyst; and
 - (iii) Certified behavior technician~~((-))~~;
 - ~~((d))~~ (f) Audiologists;
 - ~~((e))~~ (g) Chiropractors;
 - ~~((f))~~ (h) Dentists;
 - ~~((g))~~ (i) Dental health aide therapists, as provided in chapter 70.350 RCW;
 - ~~((h))~~ (j) Dental hygienists;
 - ~~((i))~~ (k) Denturists;
 - ~~((j))~~ (l) Dietitians or nutritionists;
 - ~~((k))~~ (m) Hearing aid fitters/dispensers;
 - ~~((l))~~ (n) Home health aide credentialed with DOH as nursing assistant certified or nursing assistant registered;
 - ~~((m))~~ (o) Independent clinical social workers;
 - (p) Independent clinical social worker associates;
 - (q) Licensed practical nurse;
 - ~~((n))~~ (r) Marriage and family therapists;
 - ~~((o))~~ (s) Mental health counselors;
 - ~~((p))~~ (t) Mental health counselor associates;
 - (u) Mental health care providers;
 - ~~((q))~~ (v) Midwives;
 - ~~((r))~~ (w) Naturopathic physicians;
 - ~~((s))~~ (x) Nurse anesthetist;
 - ~~((t))~~ ~~Ocularists;~~
 - ~~((u))~~ (y) Ocularists;
 - (z) Occupational therapists;
 - ~~((v))~~ (aa) Ophthalmologists;
 - ~~((w))~~ (bb) Opticians;
 - ~~((x))~~ (cc) Optometrists;
 - ~~((y))~~ (dd) Orthodontists;
 - ~~((z))~~ (ee) Orthotist;
 - ~~((aa))~~ (ff) Osteopathic physicians;
 - ~~((bb))~~ (gg) Osteopathic physician assistants;
 - ~~((cc))~~ (hh) Peer counselors;
 - ~~((dd))~~ (ii) Podiatric physicians;
 - ~~((ee))~~ (jj) Pharmacists;
 - ~~((ff))~~ (kk) Physicians;
 - ~~((gg))~~ (ll) Physician assistants;
 - ~~((hh))~~ (mm) Physical therapists;

~~((+ii))~~ (nn) Prosthetist;
~~((+jj))~~ (oo) Psychiatrists;
~~((+kk))~~ (pp) Psychologists;
~~((+ll))~~ (qq) Radiologists;
~~((+mm))~~ (rr) Registered nurse;
~~((+nn))~~ (ss) Registered nurse delegators;
~~((+oo))~~ (tt) Registered nurse first assistants;
~~((+pp))~~ (uu) Respiratory therapists;
~~((+qq))~~ ~~Social workers; and~~
~~((+rr))~~ (vv) Speech/language pathologists; and
~~((+ss))~~ (ww) Substance use disorder professionals:
(i) Mental health providers; and
(ii) Peer counselors.
(2) Agencies, centers and facilities:
(a) Adult day health centers;
(b) Ambulance services (ground and air);
(c) Ambulatory surgery centers (medicare-certified);
(d) Birthing centers (licensed by the department of health);
(e) Cardiac diagnostic centers;
(f) Case management agencies;
(g) Substance use disorder treatment facilities certified by the department of health (DOH);
(h) Withdrawal management treatment facilities certified by DOH;
(i) Community AIDS services alternative agencies;
(j) Community behavioral health support services provider facilities;
(k) Community mental health centers;
~~((+k))~~ (l) Diagnostic centers;
~~((+l))~~ (m) Early and periodic screening, diagnosis, and treatment (EPSDT) clinics;
~~((+m))~~ (n) Family planning clinics;
~~((+n))~~ (o) Federally qualified health centers (designated by the federal department of health and human services);
~~((+o))~~ (p) Genetic counseling agencies;
~~((+p))~~ (q) Health departments;
~~((+q))~~ (r) Health maintenance organization (HMO)/managed care organization (MCO);
~~((+r))~~ (s) HIV/AIDS case management;
~~((+s))~~ (t) Home health agencies;
~~((+t))~~ (u) Hospice agencies;
~~((+u))~~ (v) Hospitals;
~~((+v))~~ (w) Indian health service facilities/tribal 638 facilities;
~~((+w))~~ (x) Tribal or urban Indian clinics;
~~((+x))~~ (y) Inpatient psychiatric facilities;
~~((+y))~~ (z) Intermediate care facilities for individuals with intellectual disabilities (ICF-IID);
~~((+z))~~ (aa) Kidney centers;
~~((+aa))~~ (bb) Laboratories (CLIA certified);
~~((+bb))~~ (cc) Maternity support services agencies; maternity case managers; infant case management, first steps providers;
~~((+cc))~~ (dd) Neuromuscular and neurodevelopmental centers;
~~((+dd))~~ (ee) Nurse services/delegation;
~~((+ee))~~ (ff) Nursing facilities (approved by the DSHS aging and long-term support administration);
~~((+ff))~~ (gg) Pathology laboratories;
~~((+gg))~~ (hh) Pharmacies;

- ~~((hh))~~ (ii) Private duty nursing agencies;
- ~~((ii))~~ (jj) Radiology - Stand-alone clinics;
- ~~((jj))~~ (kk) Rural health clinics (medicare-certified);
- ~~((kk))~~ (ll) School districts and educational service districts;

and

~~((ll))~~ (mm) Sleep study centers ~~(; and~~
~~(mm) Washington state school districts and educational service~~
~~districts)~~.

(3) Suppliers of:

- (a) Blood, blood products, and related services;
- (b) Durable and nondurable medical equipment and supplies;
- (c) Complex rehabilitation technologies;
- (d) Infusion therapy equipment and supplies;
- (e) Prosthetics/orthotics;
- (f) Hearing aids; and
- (g) Respiratory care, equipment, and supplies.

(4) Contractors:

- (a) Transportation brokers;
- (b) Spoken language interpreter services agencies;
- (c) Independent sign language interpreters; and
- (d) Eyeglass and contact lens providers.

WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services. (1) The mental health services covered in this section are different from the mental health services covered under community mental health and involuntary treatment programs in chapter 182-538D WAC.

(2) Inpatient and outpatient mental health services not covered under chapter 182-538D WAC may be covered by the agency under this section.

Inpatient mental health services

(3) For hospital inpatient psychiatric admissions, providers must comply with chapter 182-538D WAC.

(4) The agency covers professional inpatient mental health services as follows:

(a) When provided by a psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric mental health nurse practitioner-board certified (PMHNP-BC), or psychologist in conjunction with the prescribing provider;

(b) The agency pays only for the total time spent on direct psychiatric client care during each visit, including services provided when making rounds. The agency considers services provided during rounds to be direct client care services and may include, but are not limited to:

- (i) Individual psychotherapy up to one hour;
- (ii) Family/group therapy; or
- (iii) Electroconvulsive therapy.

(c) One electroconvulsive therapy or narcosynthesis per client, per day, and only when performed by a psychiatrist.

Outpatient mental health services

(5) The agency covers outpatient mental health services when provided by the following licensed health care practitioners who are eligible providers under chapter 182-502 WAC:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) Psychiatric advanced registered nurse practitioners (ARNP);
- (d) Psychiatric mental health nurse practitioners-board certified (PMHNP-BC);
- (e) Mental health counselors;
- (f) Mental health counselor associates;
- (g) Independent clinical social workers;
- ~~((g))~~ (h) Independent clinical social worker associates;
- (i) Advanced social workers; ~~((e~~
- ~~(h))~~ (j) Advanced social worker associates;
- (k) Marriage and family therapists; or
- (l) Marriage and family therapist associates.

(6) With the exception of child psychiatrists, as defined in RCW 71.34.020, qualified practitioners listed in subsection (5) of this section who diagnose and treat clients age 18 and younger must meet one of the following:

(a) The education and experience requirements for a child mental health specialist found in WAC 182-538D-0200; or

(b) Be working under the supervision of a practitioner who meets these requirements.

(7) The agency does not limit the total number of outpatient mental health visits a licensed health care professional can provide.

(8) The agency evaluates a request for covered outpatient mental health services in excess of the limitations in this section under WAC 182-501-0169.

(9) The agency covers outpatient mental health services with the following limitations:

(a) Diagnostic evaluations. One psychiatric diagnostic evaluation, per provider, per client, per calendar year, unless significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the agency.

(i) For clients 20 years of age and younger, additional evaluations are paid for when medically necessary and authorized by the agency, per WAC 182-534-0100 and 182-501-0165.

(ii) For clients five years of age and younger, the agency pays for the following without requiring prior authorization:

(A) Up to five sessions to complete a psychiatric diagnostic evaluation; and

(B) Evaluations in the home or community setting, including reimbursement for provider travel.

(iii) For clients age five through age 20, the services in (a)(ii)(A) and (B) of this subsection are paid for when medically necessary and authorized by the agency.

(b) Psychotherapy. One or more individual or family/group psychotherapy visits, with or without the client, per day, per client, when medically necessary.

(c) Medication management. One psychiatric medication management service, per client, per day, in an outpatient setting when performed by one of the following:

(i) Psychiatrist;

(ii) Psychiatric advanced registered nurse practitioner (ARNP);

or

(iii) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC).

(10) To receive payment for providing mental health services, providers must bill the agency using the agency's published billing instructions.