PROPOSED RULE MAKING

CR-102 (December 2017)  
(Implements RCW 34.05.320) 
Do NOT use for expedited rule making

Agency: Health Care Authority

☐ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

☐ Preproposal Statement of Inquiry was filed as WSR 20-11-040; 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) WAC 182-530-1080 - Requirements for prescribing and dispensing controlled substances—Prescription monitoring program (PMP).

Hearing location(s):

<table>
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<tr>
<th>Date</th>
<th>Time</th>
<th>Location (be specific)</th>
<th>Comment</th>
</tr>
</thead>
</table>
| April 6, 2021 | 10:00 AM | In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead. | To attend the virtual public hearing, you must register at the following link: https://attendee.gotowebinar.com/register/1443618498460852747  
Webinar ID: 560-087-099  
After registering, you will receive a confirmation email containing the information about joining the webinar. |

Date of intended adoption: Not sooner than April 7, 2021  
(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) April 6, 2021

Assistance for persons with disabilities:

Contact Amber Lougheed  
Phone: (360) 725-1349  
Fax: (360) 586-9727  
TTY: Telecommunication Relay Services (TRS): 711  
Email: amber.lougheed@hca.wa.gov  
Other:  
By (date) March 19, 2021
Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is establishing rules regarding prescriber and pharmacist use of the qualified prescription drug monitoring program, as required by Section 5042 of the SUPPORT for Patients and Communities Act (Public Law 115-271), prior to prescribing or dispensing scheduled drugs.

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: Public Law 115-271, Section 5042

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Health Care Authority ☒ Governmental

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drafting:</td>
<td>Melinda Froud</td>
<td>PO Box 42716, Olympia, WA 98504-2716</td>
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<td>Implementation:</td>
<td>Amy Irwin</td>
<td>PO Box 45502, Olympia, WA 98504-5502</td>
</tr>
<tr>
<td>Enforcement:</td>
<td>Amy Irwin</td>
<td>PO Box 45502, Olympia, WA 98504-5502</td>
</tr>
</tbody>
</table>

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:
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 Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, may be exempt from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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: Public Law 115-271, Section 5042; this rulemaking is required to maintain the Agency’s federal funding.

☐ 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 ______.

Explanation of exemptions, if necessary:

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**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If 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 analysis showing how costs were calculated. ______

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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 2, 2021

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**

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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.
NEW SECTION

WAC 182-530-1080 Requirements for prescribing and dispensing controlled substances—Prescription monitoring program (PMP). This section identifies the steps prescribers and pharmacists must take to check an Apple Health client’s prescription drug history in the prescription monitoring program (PMP) described in chapter 246-470 WAC, prior to prescribing a controlled substance or dispensing a controlled substance from an outpatient pharmacy.

(1) PMP review required. Except as identified in subsection (4) of this section, a prescriber or pharmacist must check all of a client's current prescriptions in the PMP, including any prescriptions not paid for by Apple Health, before prescribing or dispensing a controlled substance.

(2) Retrieval by delegates allowed. A prescriber or pharmacist may delegate the retrieval of the client's PMP information to anyone in their practice setting with authorization to access the PMP, so long as the prescriber or pharmacist reviews all of the client's current prescriptions in the PMP before prescribing or dispensing a controlled substance.

(3) Documentation. The prescriber or pharmacist must document in the client's record the date and time of the:
   (a) Retrieval of information from the PMP; and
   (b) Review of information from the PMP.

(4) Good faith effort exception.
   (a) A prescriber, pharmacist, or their delegate must make a good faith effort to review a client's prescription drug history in the PMP.
   (b) If a prescriber, pharmacist, or their delegate is unable to access the client's record in the PMP after a good faith effort, that attempt must be documented in the client's record.
   (c) A prescriber or pharmacist must document the reason or reasons they were unable to conduct the check.