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 20-15-124 ; 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) 182-125-0100, Tribal-designated crisis responder

Hearing location(s):

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location: (be specific)</th>
<th>Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 10, 2021</td>
<td>10:00 AM</td>
<td>In response to the coronavirus disease 2019 (COVID-19) public health emergency, HCA is not providing a physical location for this hearing. This promotes social distancing and the safety of the residents of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.</td>
<td>To attend the virtual public hearing, you must register in advance for this public hearing: <a href="https://zoom.us/webinar/register/WN_4prz5EyiTyWEI7yQgcjWwg">https://zoom.us/webinar/register/WN_4prz5EyiTyWEI7yQgcjWwg</a> After registering, you will receive a confirmation email containing information about joining the public hearing.</td>
</tr>
</tbody>
</table>

Date of intended adoption: Not sooner than August 11, 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) August 10, 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) July 30, 2021
Purpose of the proposal and its anticipated effects, including any changes in existing rules: Chapter 256, Laws of 2020, among other things, amended RCW 71.05.020(15)’s definition of “designated crisis responder” to include a mental health professional appointed by the Health Care Authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider. The Health Care Authority is adopting a new rule to govern this appointment process.

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: N/A

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

☐ Private ☐ Public

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Drafting:</th>
<th>Brian Jensen</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>PO Box 42716, Olympia WA 98504-2716</td>
<td>360-725-0815</td>
</tr>
<tr>
<td>Implementation:</td>
<td>Lucilla Mendoza</td>
<td>PO Box 45564, Olympia, WA 98504-5564</td>
<td>360-725-1834</td>
</tr>
<tr>
<td>Enforcement:</td>
<td>Lucilla Mendoza</td>
<td>PO Box 45564, Olympia, WA 98504-5564</td>
<td>360-725-1834</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 ☒ No

If Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
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.

☐ 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)(e) (Dictated by statute)
☐ RCW 34.05.310 (4)(c) (Incorporation by reference)
☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
☐ 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:

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. The proposed rule governs the agency’s appointment of Tribal-designated crisis responders and does not impose costs on 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 statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Wendy Barcus
Title: HCA Rules Coordinator

Date: June 24, 2021
Signature: Wendy Barcus
WAC 182-125-0100  Tribal-designated crisis responder.  (1) The Washington state health care authority (the authority) appoints a tribal-designated crisis responder upon request and after consultation with one or more federally recognized Indian tribes or after meeting and conferring with one or more Indian health care providers. This rule does not apply to matters heard in tribal court.

(2) This rule does not apply to counties' independent authority to appoint designated crisis responders in collaboration with tribes under RCW 71.05.020(15). This rule does not eliminate the responsibility of the agency providing crisis services to serve American Indian/Alaska Native individuals.

(3) A tribal-designated crisis responder must meet the qualifications under RCW 71.05.760.

(4) A tribe or Indian health care provider located in Washington state may request that the authority appoint a qualified person as a tribal-designated crisis responder by submitting a letter of recommendation that includes the following:
   (a) The person's name and contact information.
   (b) An explanation of how the person meets the qualifications under RCW 71.05.760, including dates on which the person completed or will complete required designated crisis responder training.
   (c) A copy of the policy and procedures for the designated crisis responder services. The policy and procedures must describe the tribe's or Indian health care provider's plan for training, back-up, information sharing, and communication for designated crisis responders who respond to private homes or nonpublic settings.
   (d) A copy of the tribe's or Indian health care provider's behavioral health agency license and certification or attestation to provide emergency involuntary detention services under WAC 246-341-0810, including documentation of any applicable exemptions under WAC 246-341-0302.

(5) Upon appointment, the authority:
   (a) Issues a certification and tribal-designated crisis responder card to the requesting tribe or Indian health care provider.
   (b) Notifies all behavioral health administrative services organizations, tribal courts, and superior courts.

(6) Within twenty-four hours of responding to an event or as soon as feasible, tribal-designated crisis responders serving as officers of a superior court must submit involuntary treatment information to the Washington Indian behavioral health hub, a statewide resource supported by the authority and the department of health for the purpose of assisting American Indian and Alaska Native individuals and their providers to refer individuals to voluntary and involuntary crisis services, including evaluation and treatment facilities and withdrawal management and stabilization facilities.

(7) The Washington Indian behavioral health hub must submit all tribal-designated crisis responder data related to tribal-designated crisis responders' service as officers of a superior court to the au-
thority within twenty-four hours of receiving the data or as soon as feasible.

(8) Tribal-designated crisis responders must comply with reporting requirements pertaining to no bed available reports under RCW 71.05.750. A tribal-designated crisis responder may submit a request for a single bed certification under RCW 71.05.745.

(9) Tribal-designated crisis responders designated by the authority may operate anywhere in Washington state and provide services to any person in Washington state.

(10) The local designated crisis responder office for any region in which a tribal-designated crisis responder provides services is expected to provide technical assistance if requested.