**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 22-07-103; 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) 182-531-0300, Anesthesia providers and covered physician-related services

<table>
<thead>
<tr>
<th>Hearing location(s):</th>
<th>Date</th>
<th>Time</th>
<th>Location: (be specific)</th>
<th>Comment:</th>
</tr>
</thead>
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|                       | July 26, 2022 | 10:00 AM   | Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington State. | To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_okdBEyITLCb2dmAfv3rBA  
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:** Not sooner than July 27, 2022. (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) 11:59 PM, July 26, 2022

**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) July 15, 2022
Purpose of the proposal and its anticipated effects, including any changes in existing rules: To align with 42 CFR § 482.52, the Health Care Authority (HCA) is amending WAC 182-531-0300 (1) to include a Doctor of Medicine or osteopathy (other than an anesthesiologist) to the list of providers HCA reimburses for performing covered anesthesia services.

Reasons supporting proposal: See Purpose

Statutory authority for adoption: RCW 41.05.021, 41.05.160, 42 CFR § 482.52

Statute being implemented: RCW 41.05.021, 41.05.160, 42 CFR § 482.52

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 ☒ Private ☐ Public ☒ 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: Jason Crabbe</td>
<td>PO Box 42716, Olympia WA 98504-2716</td>
<td>360-725-9563</td>
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<td>Implementation: Karin Inderbitzin</td>
<td>PO Box 45506, Olympia WA 98504-5506</td>
<td>360-725-9805</td>
</tr>
<tr>
<td>Enforcement: Karin Inderbitzin</td>
<td>PO Box 45506, Olympia WA 98504-5506</td>
<td>360-725-9805</td>
</tr>
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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: 42 CFR § 482.52, Condition of participation: Anesthesia services
☐ 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 clarity 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. ______

☐ 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: June 8, 2022
Name: Wendy Barcus
Title: HCA Rules Coordinator

Signature:
AMENDATORY SECTION (Amending WSR 17-04-039, filed 1/25/17, effective 2/25/17)

WAC 182-531-0300 Anesthesia providers and covered physician-related services. The medicaid agency bases coverage of anesthesia services on medicare policies and the following rules:

1) The agency reimburses providers for covered anesthesia services performed by:
   (a) Anesthesiologists;
   (b) A doctor of medicine or osteopathy (other than an anesthesiologist);
   (c) Certified registered nurse anesthetists (CRNAs);
   (d) Oral surgeons with a special agreement with the agency to provide anesthesia services; and
   (e) Other providers who have a special agreement with the agency to provide anesthesia services.

2) The agency covers and reimburses anesthesia services for children and noncooperative clients in those situations where the medically necessary procedure cannot be performed if the client is not anesthetized. A statement of the client-specific reasons why the procedure could not be performed without specific anesthesia services must be kept in the client's medical record. Examples of such procedures include:
   (a) Computerized tomography (CT);
   (b) Dental procedures;
   (c) Electroconvulsive therapy; and
   (d) Magnetic resonance imaging (MRI).

3) The agency covers anesthesia services provided for any of the following:
   (a) Dental restorations and/or extractions;
   (b) Maternity per subsection (9) of this section. See WAC 182-531-1550 for information about sterilization/hysterectomy anesthesia;
   (c) Pain management per subsection (5) of this section;
   (d) Radiological services as listed in WAC 182-531-1450; and
   (e) Surgical procedures.

4) For each client, the anesthesiologist provider must do all of the following:
   (a) Perform a preanesthetic examination and evaluation;
   (b) Prescribe the anesthesia plan;
   (c) Personally participate in the most demanding aspects of the anesthesia plan, including, if applicable, induction and emergence;
   (d) Ensure that any procedures in the anesthesia plan that the provider does not perform, are performed by a qualified individual as defined in the program operating instructions;
   (e) At frequent intervals, monitor the course of anesthesia during administration;
   (f) Remain physically present and available for immediate diagnosis and treatment of emergencies; and
   (g) Provide indicated post anesthesia care.

5) The agency does not allow the anesthesiologist provider to:
   (a) Direct more than four anesthesia services concurrently; and
   (b) Perform any other services while directing the single or concurrent services, other than attending to medical emergencies and other limited services as allowed by medicare instructions.
(6) The agency requires the anesthesiologist provider to document in the client's medical record that the medical direction requirements were met.

(7) General anesthesia:
(a) When a provider performs multiple operative procedures for the same client at the same time, the agency reimburses the base anesthesia units (BAU) for the major procedure only.
(b) The agency does not reimburse the attending surgeon for anesthesia services.
(c) When more than one anesthesia provider is present on a case, the agency reimburses as follows:
(i) The supervisory anesthesiologist and certified registered nurse anesthetist (CRNA) each receive ((fifty)) 50 percent of the allowed amount.
(ii) For anesthesia provided by a team, the agency limits reimbursement to ((one hundred)) 100 percent of the total allowed reimbursement for the service.

(8) Pain management:
(a) The agency pays CRNAs or anesthesiologists for pain management services.
(b) The agency allows two postoperative or pain management epidurals per client, per hospital stay plus the two associated E&M fees for pain management.

(9) Maternity anesthesia:
(a) To determine total time for obstetric epidural anesthesia during normal labor and delivery and c-sections, time begins with insertion and ends with removal for a maximum of six hours. "Delivery" includes labor for single or multiple births, and/or cesarean section delivery.
(b) The agency does not apply the six-hour limit for anesthesia to procedures performed as a result of post-delivery complications.
(c) See WAC 182-531-1550 for information on anesthesia services during a delivery with sterilization.
(d) See chapter 182-533 WAC for more information about maternity-related services.