



# 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: November 22, 2022

TIME: 9:35 AM

WSR 22-23-147

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 22-19-087 ; 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)  
182-531A-1200 Applied behavior analysis (ABA) – Services provided via telemedicine

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 27, 2022	10:00 AM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Health Care Authority 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:  <a href="https://us02web.zoom.us/webinar/register/WN-SNmskQIERbyW0KVphqsXXg">https://us02web.zoom.us/webinar/register/WN-SNmskQIERbyW0KVphqsXXg</a>  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: December 28, 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](mailto:arc@hca.wa.gov)  
 Fax: 360-586-9727  
 Other:  
 By (date) December 27, 2022, 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](mailto:Larson@hca.wa.gov)  
 Other:  
 By (date) December 9, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is revising this section to consolidate all telemedicine in one section for all programs. Additionally, "speech language pathology services by telemedicine when not available in person" will be removed. This was added in a rulemaking during the public health emergency in error. The consolidated telemedicine rules apply to all programs and will reside in new section WAC 182-501-0300. This new section is being developed under a different rulemaking filed under WSR 22-22-068.

Reasons supporting proposal: See Purpose.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: ESSB 1196, 67<sup>th</sup> Legislature, 2021 Regular Session, 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:	Valerie Freudenstein	PO Box 42716, Olympia, WA 98504-2716	360-725-1344
Implementation:	Alyssa Wagner	626 8 <sup>th</sup> Ave SE, Olympia, WA 98504	360-725-1194
Enforcement:	Alyssa Wagner	626 8 <sup>th</sup> Ave SE, Olympia, WA 98504	360-725-1194

**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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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:** November 22, 2022

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine.** (~~Telemedicine, as defined in chapter 182-531 WAC, may be used to provide the following authorized services:~~  
~~(1) Program supervision when the client is present;~~  
~~(2) Family/caregiver training, which does not require the client's presence; and~~  
~~(3) Speech language pathology services when otherwise not available in person.)~~) Applied behavior analysis (ABA) services delivered using telemedicine may be reimbursed by the agency when billed in accordance with the rules regarding telemedicine and store-and-forward technology in WAC 182-501-0300 and the agency's published billing instructions.