



WASHINGTON

**Medical  
Commission**

Licensing. Accountability. Leadership.

# Rules Hearing

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Opioid Prescribing  
Patient Exemptions

May 27, 2022 – 4:00 pm

*GoToWebinar*



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# Rule Hearing Notice



WASHINGTON  
**Medical  
Commission**  
Licensing. Accountability. Leadership.

## Public Notification and Hearing Announcement For the Washington Medical Commission

\*CR-102 for WAC 246-918-801 Exclusions (physician assistants)  
and WAC 246-919-851 Exclusions (physicians)

### **Rulemaking**

The Washington Medical Commission (Commission) officially filed a CR-102 with the Office of the Code Reviser on February 15, 2022. The Commission is amending WAC 246-918-801 Exclusions (physician assistants) and WAC 246-919-851 Exclusions (physicians). The WSR# is 22-05-083.

### **Rules Hearing**

In response to the filing, the Commission will conduct an open public rules hearing on Friday, May 27, 2022, beginning at 4:00 pm. In response to the COVID-19 public health emergency, the Washington Medical Commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.

Please register for this Rules Hearing at:

<https://attendee.gotowebinar.com/register/5336471307862283024>

After registering, you will receive a confirmation email containing information about joining the webinar.

This meeting will be open to the public and the Commission encourages your participation.

Comments may be sent to the department's Rules Comment Web Site by April 6, 2022 at: <https://fortress.wa.gov/doh/policyreview/>. Comments may also be provided at the hearing. The hearing will be recorded for record keeping purposes.

Interested parties, stakeholders, and the general public are invited to participate in the rules hearing. For continued updates on rule development, interested parties are encouraged to join the [Commission's rules GovDelivery](#).

For more information, please contact Amelia Boyd, Program Manager at (360) 918-6336 or by email at [amelia.boyd@wmc.wa.gov](mailto:amelia.boyd@wmc.wa.gov).

\*CR means Code Reviser

Attachments:

CR-102

Rule Language

# Rules Hearing Agenda



WASHINGTON  
**Medical  
Commission**  
Licensing. Accountability. Leadership.

*In response to the COVID-19 public health emergency, and to promote social distancing, the Medical Commission will not provide a physical location for this meeting. A virtual public meeting, without a physical meeting space, will be held instead. The registration link can be found below.*

**Friday – May 27, 2022 – 4:00 pm**

## **Opioid Prescribing Patient Exemptions WAC 246-918-801 Exclusions (physician assistants) and WAC 246-919-851 Exclusions (physicians)**

- Housekeeping
- Open workshop – Presiding Officer reads script
- Public Testimony
- Written comments from interested parties, if any
- Panel discusses testimony and written comments
- Vote
- Hearing adjourned

Please register for this Rules Hearing at:

<https://attendee.gotowebinar.com/register/5336471307862283024>

After registering, you will receive a confirmation email containing information about joining the webinar.

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email [civil.rights@doh.wa.gov](mailto:civil.rights@doh.wa.gov).



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: February 15, 2022

TIME: 12:24 PM

WSR 22-05-083

**Agency:** Department of Health- Washington Medical Commission

**Original Notice**

**Supplemental Notice to WSR**

**Continuance of WSR**

**Preproposal Statement of Inquiry was filed as WSR 20-08-070 ; 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).**

**Proposal is exempt under RCW .**

**Title of rule and other identifying information:** (describe subject) WAC 246-918-801 Exclusions (physician assistants) and WAC 246-919-851 Exclusions (physicians). The Washington Medical Commission (commission) is proposing amendments to expand the types of patients who are exempt from certain provisions of rule when being prescribed opioid drugs.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
04/13/2022	2:30 pm	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Washington Medical Commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.  Please register for Opioid Prescribing Patient Exemptions Rules Hearing on April 13, 2022 2:30 PM PST at: <a href="https://attendee.gotowebinar.com/register/5336471307862283024">https://attendee.gotowebinar.com/register/5336471307862283024</a> After registering, you will receive a confirmation email containing information about joining the webinar.	

**Date of intended adoption:** 04/13/2022 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Amelia Boyd

Address: PO Box 47866  
Olympia, WA 98504-7866

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: N/A

Other: N/A

By (date) 04/06/2022

**Assistance for persons with disabilities:**

Contact Amelia Boyd

Phone: (800) 525-0127

Fax:

TTY: 711

Email: medical.rules@wmc.wa.gov

Other:

By (date) 04/06/2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The commission is proposing exempting patients in Long-Term Acute Care (LTAC) facilities, nursing homes, Residential Habilitation Centers (RHC), and Residential Treatment Facilities (RTF) from the opioid prescribing rules. This change will allow physicians and physician assistants in these facilities to continue the patient's pain medications without having to perform a history and physical or wait for a history and physical to be completed on the patient.

**Reasons supporting proposal:** As part of the commission's rulemaking for Engrossed Substitute House Bill (ESHB) 1427, enacted in 2017 and codified as RCW 18.71.800, the commission received comments that adhering to the opioid prescribing rules for patients admitted to LTACs and nursing homes, is onerous. Specifically, the rules require a history and physical as well as a check of the Prescription Monitoring Program (PMP) be completed prior to prescribing opioids. It has been stated that patients transferred to LTACs and nursing homes had a history and physical while in the previous facility and that practitioners in LTACs and nursing homes can rely on that assessment.

Inpatient hospital patients are currently exempt from the opioid prescribing rules. The commission recognizes that patients in LTACs and nursing homes are similarly situated to hospital patients receiving inpatient treatment.

The commission has also received a comment regarding patients in RHCs that they are also similarly situated to LTAC and nursing home patients. We received a similar comment about RTFs, that stated RTFs are similar to RHCs except the stay at an RTF is usually short-term. As such, the commission is also exempting patients in RHCs and RTFs.

**Statutory authority for adoption:** RCW 1871A.800, 18.71.017 and 18.130.050

**Statute being implemented:** RCW 18.71A.800

**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

**Name of proponent:** (person or organization) Washington Medical Commission

Private

Public

Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Amelia Boyd	111 Israel RD SE, Tumwater, WA 98501	(360) 918-6336
Implementation:	Melanie de Leon	111 Israel RD SE, Tumwater, WA 98501	(360) 236-2755
Enforcement:	Melanie de Leon	111 Israel RD SE, Tumwater, WA 98501	(360) 236-2755

**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: Amelia Boyd

Address: PO Box 47866  
Olympia, WA98504-7866

Phone: (360) 236-2727

Fax: N/A

TTY: 711

Email: amelia.boyd@wmc.wa.gov

Other:

No: Please explain:

**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:

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 19.85.025(4).

Explanation of exemptions, if necessary: The proposed rule does not affect small businesses. These rules only apply to providers.

**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:

<b>Date:</b> February 15, 2022	<b>Signature:</b>
<b>Name:</b> Melanie de Leon	<b>Signature on file</b>
<b>Title:</b> Executive Director	



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: April 19, 2022

TIME: 1:31 PM

WSR 22-09-071

Agency: Department of Health- Washington Medical Commission

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR 22-05-083

- Preproposal Statement of Inquiry was filed as WSR 20-08-070 ; 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).
- Proposal is exempt under RCW .

**Title of rule and other identifying information:** (describe subject) WAC 246-918-801 Exclusions (physician assistants) and WAC 246-919-851 Exclusions (physicians). The Washington Medical Commission (commission) is proposing amendments to expand the types of patients who are exempt from certain provisions of rule when being prescribed opioid drugs.

Hearing location(s):			
Date:	Time:	Location: (be specific)	Comment:
05/27/2022	4:00 pm	<p>In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Washington Medical Commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.</p> <p>Please register for Opioid Prescribing Patient Exemptions Rules Hearing on May 27, 2022 4:00 PM PST at:  <a href="https://attendee.gotowebinar.com/register/5336471307862283024">https://attendee.gotowebinar.com/register/5336471307862283024</a></p> <p>After registering, you will receive a confirmation email containing information about joining the webinar.</p>	

Date of intended adoption: 05/27/2022 (Note: This is NOT the effective date)

**Submit written comments to:**

Name: Amelia Boyd  
Address: PO Box 47866  
Olympia, WA 98504-7866  
Email: <https://fortress.wa.gov/doh/policyreview>  
Fax: N/A

Other: N/A

By (date) 05/20/2022

**Assistance for persons with disabilities:**

Contact Amelia Boyd

Phone: 800-525-0127

Fax:

TTY: 711

Email: [medical.rules@wmc.wa.gov](mailto:medical.rules@wmc.wa.gov)

Other:

By (date) 05/20/2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of this filing is to continue the hearing to a date and time a commission quorum is available to participate.

**Reasons supporting proposal:**

**Statutory authority for adoption:**

**Statute being implemented:**

**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:**

**Name of proponent:** (person or organization)

Private

Public

Governmental

**Name of agency personnel responsible for:**

Name

Office Location

Phone

Drafting:

Implementation:

Enforcement:

**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:

**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:

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.

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:** April 19, 2022

**Signature:**

**Name:** Melanie de Leon

Signature on file

**Title:** Executive Director

## Physicians

AMENDATORY SECTION (Amending WSR 18-23-061, filed 11/16/18, effective 1/1/19)

**WAC 246-919-851 Exclusions.** WAC 246-919-850 through 246-919-985 do not apply to:

- (1) The treatment of patients with cancer-related pain;
  - (2) The provision of palliative, hospice, or other end-of-life care;
  - (3) ~~((The treatment of inpatient hospital patients who are patients who have been admitted to a hospital for more than twenty-four hours; or~~
  - ~~(4))~~ The provision of procedural medications; or
  - (4) The treatment of patients in the following facilities:
    - (a) Acute care hospitals licensed under chapter 70.41 RCW;
    - (b) Psychiatric hospitals licensed under chapter 71.12 RCW;
    - (c) Nursing homes licensed under chapter 18.51 RCW and nursing facilities as defined in WAC 388-97-0001;
    - (d) Long-term acute care hospitals as defined in RCW 74.60.010;
    - (e) Residential treatment facilities as defined in RCW 71.12.455;
- or
- (5) The treatment of patients in residential habilitation centers as defined in WAC 388-825-089 when the patient has been transferred directly from a facility listed in subsection (4) of this section.

## Physician Assistants

AMENDATORY SECTION (Amending WSR 18-23-061, filed 11/16/18, effective 1/1/19)

**WAC 246-918-801 Exclusions.** WAC 246-918-800 through 246-918-935 do not apply to:

- (1) The treatment of patients with cancer-related pain;
  - (2) The provision of palliative, hospice, or other end-of-life care;
  - (3) ~~((The treatment of inpatient hospital patients who are patients who have been admitted to a hospital for more than twenty-four hours; or~~
  - ~~(4))~~ The provision of procedural medications; or
  - (4) The treatment of patients in the following facilities:
    - (a) Acute care hospitals licensed under chapter 70.41 RCW;
    - (b) Psychiatric hospitals licensed under chapter 71.12 RCW;
    - (c) Nursing homes licensed under chapter 18.51 RCW and nursing facilities as defined in WAC 388-97-0001;
    - (d) Long-term acute care hospitals as defined in RCW 74.60.010;
    - (e) Residential treatment facilities as defined in RCW 71.12.455;
- or
- (5) The treatment of patients in residential habilitation centers as defined in WAC 388-825-089 when the patient has been transferred directly from a facility listed in subsection (4) of this section.

Physician Assistants

AMENDATORY SECTION (Amending WSR 18-23-061, filed 11/16/18, effective 1/1/19)

**WAC 246-918-801 Exclusions.** WAC 246-918-800 through 246-918-935 do not apply to:

(1) The treatment of patients with cancer-related pain;

(2) The provision of palliative, hospice, or other end-of-life care;

(3) ~~((The treatment of inpatient hospital patients who are patients who have been admitted to a hospital for more than twenty-four hours; or~~

~~(4))~~ The provision of procedural medications; or

(4) The treatment of patients who have been admitted to any of in the following facilities for more than twenty-four hours:

(a) Acute care hospitals licensed under chapter 70.41 RCW;

(b) Psychiatric hospitals licensed under chapter 71.12 RCW;

(c) Nursing homes licensed under chapter 18.51 RCW and nursing facilities as defined in WAC 388-97-0001;

(d) Long-term acute care hospitals as defined in RCW 74.60.010;

or

(e) Residential treatment facilities as defined in RCW 71.12.455~~r~~

. or

(5) The treatment of patients in residential habilitation centers as defined in WAC 388-825-089 when the patient has been transferred directly from a facility listed in subsection (4) of this section.

[Statutory Authority: RCW 18.71.017, 18.71.800, 18.71A.800 and 2017 c 297. WSR 18-23-061, filed 11/16/18, effective 1/1/19. Statutory Authority: RCW 18.71.450, 18.71A.100, 18.71.017, and 18.71A.020. WSR 11-12-025, § 246-918-801, filed 5/24/11, effective 1/2/12.]

Physicians

AMENDATORY SECTION (Amending WSR 18-23-061, filed 11/16/18, effective 1/1/19)

**WAC 246-919-851 Exclusions.** WAC 246-919-850 through 246-919-985 do not apply to:

(1) The treatment of patients with cancer-related pain;

(2) The provision of palliative, hospice, or other end-of-life care;

(3) ~~((The treatment of inpatient hospital patients who are patients who have been admitted to a hospital for more than twenty-four hours; or~~

~~(4))~~ The provision of procedural medications; or

(4) The treatment of patients who have been admitted to any of in the following facilities for more than twenty-four hours:

(a) Acute care hospitals licensed under chapter 70.41 RCW;

(b) Psychiatric hospitals licensed under chapter 71.12 RCW;

(c) Nursing homes licensed under chapter 18.51 RCW and nursing facilities as defined in WAC 388-97-0001;

(d) Long-term acute care hospitals as defined in RCW 74.60.010;

or

(e) Residential treatment facilities as defined in RCW

71.12.455.~~7-01~~

(5) The treatment of patients in residential habilitation centers as defined in WAC 388-825-089 when the patient has been transferred directly from a facility listed in subsection (4) of this section.

[Statutory Authority: RCW 18.71.017, 18.71.800, 18.71A.800 and 2017 c 297. WSR 18-23-061, § 246-919-851, filed 11/16/18, effective 1/1/19.

Statutory Authority: RCW 18.71.450, 18.71A.100, 18.71.017, and 18.71A.020. WSR 11-12-025, § 246-919-851, filed 5/24/11, effective 1/2/12.]