



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)  
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

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FILED

DATE: March 26, 2020

TIME: 11:17 AM

WSR 20-08-070

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

**Subject of possible rule making:** WAC 246-918-801 (physician assistants) Exclusions and WAC 246-919-851 (physicians) Exclusions. The Washington Medical Commission (commission) is considering amendments to expand the types of patients who are exempt from certain provisions of rule when being prescribed opioid drugs.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 18.71.017; RCW 18.130.050; RCW 18.71A.800; and RCW 18.71A.100

**Reasons why rules on this subject may be needed and what they might accomplish:** 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 long term acute care (LTAC) 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.

Since the rules related to ESHB 1427 became effective January 1, 2019, the commission has continued to receive comments related to LTAC and nursing home patients. To address this issue, the commission filed an interpretive statement: "Exempting Patients in Nursing Homes and Long-Term Acute Care Hospital from the Opioid Prescribing Rules." While the interpretive statement has helped to curb the comments and concerns from prescribers, the commission feels this important exemption should be in rule. Furthermore, this could allow us the rescind the interpretive statement.

The commission has also received a comment regarding patients in Residential Habilitation Centers (RHC) that they are also similarly situated to LTAC and nursing home patients. As such, the commission may also consider exempting patients in RHCs.

Adding these exemptions could accomplish several things. First, it may allow patients in LTACs and nursing homes to receive the necessary care in an efficient manner. The practitioners would not need to perform a duplicative history and physical or PMP check. Second, it would allow the commission to rescind their interpretive statement and physicians and physician assistants could rely on the rule.

This rule would meet the intent of the APA by moving the commission's interpretive statement to rule.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** None

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Collaborative rulemaking

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

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Additional comments: To join the interested parties email list, please visit:  
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**Date:** March 25, 2020

**Name:** Melanie de Leon

**Title:** Executive Director

**Signature:**

