



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 22, 2024
TIME: 9:48 AM

WSR 24-21-133

Agency: Department of Labor & Industries

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 24-18-096 ; 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) Physician Assistant Billing Procedure (WAC 296-20-12501)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 4, 2024	3:00 p.m.	To join electronically via Zoom: https://lni-wa.gov.zoom.us/j/81272605343?pwd=0W82SbeoVuLedcdaEixacjqlJYvm91.1 Meeting ID: 812 7260 5343 Passcode: 22Hearing% To join by phone (audio only): 253-215-8782 US (Tacoma) 253-205-0468 US	The hearing will begin at 3:00 p.m. (Pacific Time US and Canada) and will continue until all oral comments are received.

Date of intended adoption: January 21, 2025 (Note: This is NOT the effective date)

Submit written comments to:

Name Marc Hobbs
 Address Department of Labor & Industries
 Insurance Services / Health Services Analysis
 PO Box 44322
 Olympia, WA 98504-4322
 Email Marc.Hobbs@Lni.wa.gov
 Fax 360-902-4249
 Other

Beginning (date and time) October 23, 2024, at 8:00 a.m.
 By (date and time) December 4, 2024, at 5:00 p.m.

Assistance for persons with disabilities:

Contact Marc Hobbs
 Phone 360-902-4244

 Fax 360-902-4249
 TTY
 Email Marc.Hobbs@Lni.wa.gov
 Other
 By (date) November 26, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking proposes to repeal WAC 296-20-12501 in its entirety. WAC 296-20-12501 requires physician assistants to be paid at 90 percent of the value listed in the fee schedule for services they perform. This change will allow the department to pay physician assistants at parity with other providers.

Reasons supporting proposal: The pay differential in rule was put in place when physician assistants were exclusively supervised by other providers. Due to the passage of Engrossed Substitute House Bill 2041 (ESHB 2041), Chapter 62, Laws of 2024, physician assistants may now practice autonomously in collaborative agreements. Therefore, it no longer makes sense to pay them less than other providers who practice independently.

Billing procedures are commonly published as part of payment policies rather than in WAC sections. No other WACs would be rendered inaccurate by the repeal of WAC 296-20-12501. Nothing in this WAC must by necessity appear in rule;

therefore, it makes the most sense to repeal it in its entirety and move any necessary information physician assistants may need to payment policy, where it can be explained in greater detail and updated to reflect changes.

L&I will do a separate rulemaking to make any changes related to non-billing language in chapter 296-20 WAC needed to align with ESHB 2041.

Statutory authority for adoption: RCW 51.04.020, 51.04.030, and 51.16.035

Statute being implemented: n/a

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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) Department of Labor & Industries

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Marc Hobbs	Tumwater, WA	360-902-4244
Implementation	Brenda Heilman	Tumwater, WA	360-902-4997
Enforcement	Brenda Heilman	Tumwater, WA	360-902-4997

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 Marc Hobbs
Address Department of Labor & Industries
Insurance Services / Health Services Analysis
PO Box 44322
Olympia, WA 98504-4322
Phone 360-902-4244
Fax 360-902-4249
TTY
Email Marc.Hobbs@Lni.wa.gov
Other

No: Please explain:

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:

[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\(4\)](#). (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. Removing the pay differential represents a 0.41 percent increase in the overall portion of the Medical Aid Fund spent on physician assistants and is not expected to affect the base rates for a classification or the experience factor of an employer. As such, the proposed rules are not expected to add additional costs. Also, if more physician assistants are encouraged to treat injured workers, it can improve workers' ability to find a provider. Increasing access to care reduces delays in medical treatment and time loss payments, resulting in reduced claim costs and helping workers heal and return to work more quickly resulting in overall cost savings.

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: October 22, 2024

Name: Joel Sacks

Title: Director

Signature:

