

WSR 24-20-008

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed September 19, 2024, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-09-012.

Title of Rule and Other Identifying Information: Clarifying "culturally congruent care" in chapter 246-835 WAC, Birth doula. The department of health (department) is proposing amendments to WAC 246-835-010 and 246-835-025 to update the definition of "culturally congruent care" and to clarify education and training requirements related to "culturally congruent care" and "culturally congruent ancestral practices."

Hearing Location(s): On November 26, 2024, at 2:00 p.m., in person at the Washington State Department of Health, Town Center 2, Room 166/167, 111 Israel Road S.E., Tumwater, WA 98501; or Zoom. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_9S43VRINTjaKZqaRJC BWQw. After registering, you will receive a confirmation email containing information about joining the webinar. The department will be offering a hybrid public hearing. Participants may attend virtually or in person at the physical location. You may also submit comments in writing.

Date of Intended Adoption: December 3, 2024.

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, beginning the date and time of this filing, by November 26, 2024, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck, Program Manager, phone 360-236-2912, TTY 711, email kimboi.shadduck@doh.wa.gov, by November 12, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing amendments to the definition of the term "culturally congruent care" in WAC 246-835-010. The updated definition better reflects the practice of "culturally congruent care" for the birth doula profession. This amendment addresses concerns expressed by the doula community regarding the definition of the term and is the result of consultation with interested individuals and birth doula community organizations.

The department is also proposing amendments to WAC 246-835-025 to provide clarity regarding the training and education requirements in this section. Proposed amendments provide clarity by separating the term "culturally congruent care" from "culturally congruent ancestral practices." The proposed amendments address concerns expressed by interested individuals and groups by clarifying that training related to "culturally congruent care" fulfills the requirements in WAC 246-835-025, as well as training or experience related to "culturally congruent ancestral practices."

Reasons Supporting Proposal: The department is proposing amendments to address concerns expressed by interested parties and groups regarding the definition of "culturally congruent care" and the use of the term in WAC 246-835-025. The department received a petition request for rule making in February of 2024 requesting that the department update the definition of "culturally congruent care." Amending WAC 246-835-025 and the definition could address concerns raised by interested parties by clarifying the practice of "culturally congruent care" and the required competencies for a birth doula seeking state

certification. Without rule making, there would be continued confusion between "culturally congruent care" and "culturally congruent ancestral practices." The proposed rules provide clarity, more accurately reflect what is best practice in the profession and aligns rule language with what the department has done in practice when reviewing applications and providing certifications for birth doulas.

Statutory Authority for Adoption: RCW 18.47.030 and 18.47.800.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2912.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules do not create new requirements for state certified birth doulas. The proposed rule amendments clarify and align with the department's existing practices when evaluating applications. The proposed rules more accurately reflect what the department intends by the rule. The proposed amendments are exempt from a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv) as they only clarify the language of a rule without changing its effect.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules only impact Washington state certified birth doulas not businesses. The proposed rules clarify and align with the department's existing practices when evaluating applications. The proposed rules more accurately reflect what the department intends by the rule.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not apply to businesses.

September 19, 2024
Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-5436.6

AMENDATORY SECTION (Amending WSR 23-18-048, filed 8/30/23, effective 10/1/23)

WAC 246-835-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Birth doula" or "doula" mean a state-certified birth doula under this chapter.

(2) "Culturally congruent care" means ~~((the care and respect towards families to uphold their cultural practices around birth as the duty of the doula regardless of their identity, as well as assisting families in accessing other doulas from the same background))~~ respecting and upholding a client's cultural practices around birth, regardless of one's own cultural identity. Culturally congruent care includes a birth doula's responsibility to use community resources and networks to help families access other doulas from the same background, religion, culture, and community as ((them)) the client.

(3) "Department" means the department of health.

(4) "Postpartum" means the 12-month period beginning on the last day of pregnancy.

(5) "Secretary" means the secretary of the department of health.

AMENDATORY SECTION (Amending WSR 23-18-048, filed 8/30/23, effective 10/1/23)

WAC 246-835-025 Culturally congruent ancestral practices, training, and education. (1) To apply for a birth doula certification, an applicant shall ~~((complete))~~ demonstrate knowledge of culturally congruent ancestral practices, training, and education that ~~((demonstrates learned familiarity with clients' cultural practices using culturally congruent care related to birth in client communities where the doula may practice. Such))~~ upholds culturally congruent care as defined in WAC 246-835-010(2).

(2) Culturally congruent ancestral training or experience may include, but is not limited to:

(a) ~~((Multicultural, ancestral and culturally congruent care; such as, but not limited to, rebozo use, belly binding, placenta burial, placenta encapsulation, cord burning, lotus birth, development of intuition;~~

~~((b)))~~ History of obstetrics; such as erasure of granny midwives and indigenous birth work;

~~((c)))~~ (b) Trauma-informed care;

~~((d)))~~ (c) Social determinants of health ~~((and));~~

(d) Adverse childhood experiences; or

(e) Other training and education that enhances the applicant's knowledge of culturally congruent care or culturally congruent ancestral practices, training, and education.

~~((2)))~~ (3) Documentation of completion must include:

(a) An attestation that they have successfully completed a training or have experience in one of the categories in subsection ~~((1))~~ (2) of this section; or

(b) A certificate of completion from a relevant training that lists the applicant's name.