

## WSR 24-20-117

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed October 1, 2024, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-14-076.

Title of Rule and Other Identifying Information: WAC 182-52-0050 Prescription drug affordability board—Data and confidentiality and 182-52-0095 Prescription drug affordability board—Upper payment limits—Public comment.

Hearing Location(s): On November 5, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_yD-r9EuYSnSoSXRf38FcTQ](https://us02web.zoom.us/webinar/register/WN_yD-r9EuYSnSoSXRf38FcTQ). 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: November 6, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, beginning October 2, 2024, 8:00 a.m., by November 5, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication relay service 711, email [Johanna.Larson@hca.wa.gov](mailto:Johanna.Larson@hca.wa.gov), by October 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending this rule to add language about data sharing between the prescription drug affordability board and the health care cost transparency board to align with language in RCW 70.390.050 (revised under ESHB 1508, section 2 (2) (a), chapter 80, Laws of 2024). Additionally, HCA is adding a new section regarding a time frame of 30 days for public comment prior to the board setting an upper payment limit to align with RCW 42.30.250 (new section created by SHB 1105, section 1(1), chapter 171, Laws of 2024).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 70.390.050 (ESHB 1508, section 2 (2) (a), chapter 80, Laws of 2024); RCW 42.30.250 (SHB 1105, section 1(1), chapter 171, Laws of 2024).

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Mike Neuenschwander, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0944.

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. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

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 rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:  
Is fully exempt.

October 1, 2024  
Wendy Barcus  
Rules Coordinator

### OTS-5831.1

AMENDATORY SECTION (Amending WSR 24-02-078, filed 1/2/24, effective 6/10/24)

**WAC 182-52-0050 Prescription drug affordability board—Data and confidentiality.** (1) For the purpose of reviewing drug prices and conducting affordability reviews, the board (as established in chapter 70.405 RCW) and the health care cost transparency board (established in chapter 70.390 RCW) may share data with each other and access all data collected under RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(2) Advisory group members may not access or review any confidential information.

(3) The information collected by the board pursuant to RCW 70.405.040 is not subject to public disclosure under chapter 42.56 RCW.

(4) The authority provides data only after the data recipient, as defined by this chapter, has signed a nondisclosure agreement. The authority may prohibit access to or use of the data by a data recipient who violates the nondisclosure agreement.

(5) Data recipients must keep data confidential by:

(a) Accessing, using, and disclosing information only in accordance with this section and consistent with applicable statutes, regulations, and policies;

(b) Having a public policy purpose to access and use the confidential information according to chapter 70.405 RCW;

(c) Protecting all confidential information against unauthorized use, access, disclosure, or loss by employing reasonable security measures in alignment with the agency information system security plan, including physically securing any computers, documents, or other media containing confidential information and viewing confidential information only on secure workstations in nonpublic areas;

(d) Destroying all confidential information according to document retention requirements;

(e) Adhering to the confidentiality requirements in this section after the data recipient is no longer an authorized data recipient under chapter 70.405 RCW; and

(f) Acknowledging that the data recipient may be responsible for liability arising from misuse of the data.

(6) Data recipients must not:

(a) Disclose any confidential information, as defined by WAC 182-52-0010, or otherwise publicly release the confidential information;

(b) Use or disclose any confidential information for any commercial or personal purpose, or any other purpose that is not authorized in chapter 70.405 RCW;

(c) Attempt to identify people who are the subject of the confidential information;

(d) Discuss confidential information in public spaces in a manner in which unauthorized individuals could overhear;

(e) Discuss confidential information with unauthorized individuals, including spouses, domestic partners, family members, or friends;

(f) Have any conflicts of interests under the Ethics in Public Service Act that would prevent the data recipient from accessing or using confidential information; and

(g) Share information received according to this chapter with any person who is not authorized to receive confidential information as specified by this chapter.

### OTS-5830.1

#### NEW SECTION

**WAC 182-52-0095 Prescription drug affordability board—Upper payment limits—Public comment.** The board must allow 30 calendar days for the submission of public comment before setting an upper payment limit. Prior to the 30-day comment period, the authority will notify the public of both the beginning and ending dates that written comment will be accepted.