

WSR 21-04-123

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 3:24 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-322-990 Fees, the department of health (department) is proposing raising fees for psychiatric hospitals to implement the requirements of SHB 2426 (chapter 115, Laws of 2020).

Hearing Location(s): On March 11, 2021, at 2:00 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of health (DOH) 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 physical meeting space, will be held instead. We invite you to participate in our public rules hearing using your computer, tablet or smartphone. Please register at <https://attendee.gotowebinar.com/register/8632638936705010190>. After registering, you will receive a confirmation email containing information about joining the webinar. Participants can use their telephone or computer mic and speakers (VoIP), United States +1-562-247-8321.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Stephanie Vaughn, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2321, by March 11, 2021.

Assistance for Persons with Disabilities: Contact Stephanie Vaughn, phone 360-236-4617, fax 360-236-2321, TTY 711, email stephanie.vaughn@doh.wa.gov, by March 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing an increase to the psychiatric hospital licensing fees. This increase is needed to recover the costs of implementing SHB 2426 (chapter 115, Laws of 2020) which amended chapters 43.70 and 71.12 RCW to enhance the department's regulatory oversight for psychiatric hospitals to protect the health, safety, and well-being of patients seeking behavioral health care in these facilities. The department also made three technical edits to match department WAC style guidelines.

The current initial application and renewal fee is \$135 per bed. The fee amount is determined by taking the total amount of new costs and dividing it by the number of projected licensed beds. The department estimates the amount necessary to recover the costs of this new work is \$360 per bed. This would increase fees to \$495 per bed, effective July 1, 2021.

Reasons Supporting Proposal: State law, RCW 43.70.250 License fees for professions, occupations, and businesses, requires that a business-licensing program be fully self-supporting, and that sufficient revenue be collected through fees to fund expenditures. The department requires a fee increase to recover the cost of implementing SHB 2426. One-time general-fund state funding was provided in fiscal year 2021 to cover costs until fees could be established effective July 1, 2021.

New work required by SHB 2426 that increases the department's costs includes:

(1) Providing technical assistance to psychiatric hospitals licensed under chapter 71.12 RCW;

(2) Performing additional unannounced inspections of new psychiatric hospitals during the first two years of licensure or change of ownership; and

(3) Receiving, reviewing, and investigating reports of deaths and patient elopements.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.110, and 71.12.670.

Statute Being Implemented: SHB 2426 (chapter 115, Laws of 2020); RCW 43.70.250 and 71.12.470.

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Vaughn, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4617; Implementation and Enforcement: Julie Tomaro, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2937.

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 agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5) (b) (vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

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 set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

January 29, 2021
 Jessica Todorovich
 Chief of Staff
 for Umair A. Shah, MD, MPH
 Secretary

OTS-2800.2

AMENDATORY SECTION (Amending WSR 19-16-049, filed 7/30/19, effective 10/1/19)

WAC 246-322-990 Private psychiatric hospital fees. This section establishes the initial licensure and annual renewal fees for private psychiatric hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall:

(a) Submit to the department an initial licensure fee of (~~one hundred thirty-five~~) four hundred ninety-five dollars for each bed space within the licensed bed capacity of the hospital (~~to the department~~);

(b) Submit to the department an annual renewal fee of (~~one hundred thirty-five~~) four hundred ninety-five dollars for each bed space within the licensed bed capacity of the hospital to the department;

(c) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department.

(e) Limit licensed bed spaces as required under chapter 70.38 RCW;

(f) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity;

(g) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a fifty dollar processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a fifty dollar processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because the applicant has failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

[Statutory Authority: RCW 43.70.250. WSR 19-16-049, § 246-322-990, filed 7/30/19, effective 10/1/19. Statutory Authority: RCW 70.41.080 and 71.12.485. WSR 17-18-109, § 246-322-990, filed 9/6/17, effective 11/30/17. Statutory Authority: RCW 43.70.250. WSR 07-17-174, § 246-322-990, filed 8/22/07, effective 9/22/07; WSR 05-18-073, § 246-322-990, filed 9/7/05, effective 10/8/05. Statutory Authority: RCW 43.70.250, 18.46.030, 43.70.110, 71.12.470. WSR 04-19-141, § 246-322-990, filed 9/22/04, effective 10/23/04. Statutory Authority: RCW 43.70.250 and 70.38.105(5). WSR 03-22-020, § 246-322-990, filed 10/27/03, effective 11/27/03. Statutory Authority: RCW 43.70.250. WSR 02-13-061, § 246-322-990, filed 6/14/02, effective 7/15/02. Statutory Authority: RCW 71.12.470, 43.70.110 and 43.70.250. WSR 01-15-092, § 246-322-990, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 43.70.250 and 43.20B.020. WSR 99-24-060, § 246-322-990, filed 11/29/99, effective 12/30/99. Statutory Authority: RCW 43.70.250, 43.70.110 and 43.20B.020. WSR 95-12-097, § 246-322-990, filed 6/7/95, effective 7/8/95. Statutory Authority: RCW 43.70.250. WSR 92-12-028 (Order 273), § 246-322-990, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 43.70.040. WSR 91-02-050 (Order 122), § 246-322-990, filed 12/27/90, effective 1/31/91.]