

WSR 23-12-090

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed June 6, 2023, 5:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-14-105.

Title of Rule and Other Identifying Information: New chapter 246-835 WAC, Birth doula. The department of health (department) is proposing a new chapter of rule to implement ESHB 1881, which created the birth doula profession. The department is proposing rules to establish the education, training, and certification requirements, fees, and continuing education (CE), which includes health equity CE requirements.

Hearing Location(s): On July 13, 2023, at 3:30 p.m. The department is holding a virtual only hearing, with no physical meeting space. Register in advance for this webinar <https://us02web.zoom.us/join/9876543210>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: July 31, 2023.

Submit Written Comments to: Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email birthdoula@doh.wa.gov, fax 360-236-2901, <https://fortress.wa.gov/doh/policyreview>, by July 13, 2023.

Assistance for Persons with Disabilities: Contact Kathy Weed, phone 360-236-4883, fax 360-236-2901, TTY 360-833-6388 or 711, email kathy.weed@doh.wa.gov by July 6, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement ESHB 1881 (chapter 217, Laws of 2022) which created birth doulas as a new profession in the state of Washington. The department is proposing rules that establish the new profession's education, training, and certification requirements.

The proposed rules incorporate education requirements that include culturally congruent ancestral practices, training, and education. Training may be completed through educational programs or completing ancestral pathway competencies.

The proposed rules establish certification requirements which include an application process, fees, and other requirements necessary to comply with the Uniform Disciplinary Act, chapter 18.130 RCW, which is required for all credential holders.

The proposed rules also will require credential holders to complete CE to renew the credential. The CE requirements include two hours of health equity CE every four years that comply with the department's model rules. The health equity CE requirements comply with ESSB 5229 (chapter 276, Laws of 2021) which is a requirement for all health care professionals with CE requirements.

As established in the statute, a person may practice as a birth doula without obtaining a certification under the proposed rules and chapter 18.47 RCW. However, no person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or indirectly, that the person is a state-certified birth doula without being certified by the department in accordance with the rules and statute.

Reasons Supporting Proposal: The department proposes these rules to align with the legislative intent of ESHB 1881 and ESSB 5229 and

the Uniform Disciplinary Act. Rules are needed to establish the framework for regulating birth doulas.

Statutory Authority for Adoption: Chapter 18.47 RCW; RCW 43.70.250, 43.70.613; chapter 18.130 RCW.

Statute Being Implemented: ESHB 1881 (chapter 217, Laws of 2022), codified as chapter 18.47 RCW, and ESSB 5229 (chapter 276, Laws 2021), codified as RCW 43.70.613.

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: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4883.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2901, TTY 711, email birthdoula@doh.wa.gov.

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.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023
 Todd Mountin, PMP
 Deputy Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-4500.5

**Chapter 246-835 WAC
 BIRTH DOULA**

NEW SECTION

WAC 246-835-005 State-certified birth doula. (1) An individual who meets the certification requirements of this chapter and chapter 18.47 RCW is considered a "state-certified birth doula."

(2) Nothing in this chapter prohibits a person from practicing as a birth doula without obtaining a certification under this chapter and chapter 18.47 RCW.

(3) No person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or

indirectly, that the person is a state-certified birth doula without being certified in accordance with this chapter as a birth doula.

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NEW SECTION

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 and community as them.

(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.

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NEW SECTION

WAC 246-835-015 Education requirements. To qualify for certification, an individual shall:

(1) Successfully complete culturally congruent ancestral practices, training, and education as required in WAC 246-835-025.

(2) In addition to subsection (1) of this section an individual shall also successfully complete:

(a) An approved program in WAC 246-835-020; or

(b) Requirements for ancestral pathway competencies in WAC 246-835-022.

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NEW SECTION

WAC 246-835-020 Approved birth doula educational programs. (1) The secretary accepts any birth doula training program that requires attendance at a minimum of three births and introduces students to the key principles of the following topics:

(a) Role of a birth doula: History of birth work, scope of work, individual practice and skill set, when and how to refer out;

(b) Prenatal and birth care: Prenatal wellness and preparing for birth including, but not limited to, nutrition, movement, mental health, spiritual wellness, relationship support, education, and resources; physiology of labor and birth; comfort measures; coping tech-

niques and pain management; common medical terminology and interventions; creating a birth plan;

(c) Postpartum care: Lactation and newborn feeding techniques, newborn care, family integration and bonding, healing and comfort measures, postpartum mood and anxiety disorders, self and community care, and grief;

(d) Communication and interpersonal skills: Collaboration with birth team, emotional intelligence and sensitivity, active listening, informed consent and decision making, advocacy, accessible and affirming language; community support networks;

(e) Doula safety and self-care: Boundaries with clients, capacity and burn out, emotional wellness practices such as mindfulness, meditation, reiki, and prayer, networking, and community building; and

(f) Birth justice and advocacy: LGBTQ+/gender inclusive care, black and indigenous perinatal health crisis, medical racism and advocacy.

(2) Birth doula training programs meeting the criteria in subsection (1) of this section may apply for department approval. Programs that have applied for, and received approval, will be listed on the department's webpage.

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NEW SECTION

WAC 246-835-022 Ancestral pathway competencies. To qualify for certification as a birth doula by completing the ancestral pathway competencies, the applicant shall complete birth doula ancestral training that is substantially equivalent to the required training in WAC 246-835-020. Documentation of completion must include:

(1) An attestation on forms provided by the department that they have completed training that is substantially equivalent to the required training in WAC 246-835-020; and

(2) An attestation that they have attended at least one birth in the capacity of a doula in either a paid or volunteer capacity within the last five years; or

(3) Three written client testimonial letters or letters of recommendation from professionals or peers using testimonial templates provided by the department. Letters must be written within the last five years. One letter must be from either a licensed provider, a community-based organization, or a practicing doula or midwife.

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NEW SECTION

WAC 246-835-025 Culturally congruent ancestral practices, training, and education. (1) To apply for a birth doula certification, an applicant shall complete 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 training 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; or

(c) Other training and education that enhances the applicant's knowledge of culturally congruent ancestral practices.

(2) Documentation of completion must include:

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

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

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NEW SECTION

WAC 246-835-030 Application process. An applicant for a birth doula certification shall submit the following to the department:

(1) A completed application as provided by the department;

(2) Proof of successful completion of the education requirements in WAC 246-835-015:

(a) Culturally congruent ancestral practices, training, and education as required in WAC 246-835-025; and

(b) If the applicant completed the birth and core curricula training requirements through a program meeting the requirements in WAC 246-835-020(1), documentation must be submitted by the applicant to the department; or

(c) If the applicant completed the training requirements from an approved program through WAC 246-835-020(2) listed on the department's webpage, proof of completion must be received by the department directly from the program where the applicant completed the training; or

(d) If the applicant completed the education requirements through completion of the ancestral pathway and legacy competencies in WAC 246-835-022, documentation must be submitted by the applicant to the department.

(3) Verification from all states in which the applicant holds or has held a health care credential, indicating that the applicant has or has not been subject to charges or disciplinary action for unprofessional conduct or impairment;

(4) Additional documentation as required by the secretary to determine whether an applicant is qualified for certification; and

(5) Any fees required in WAC 246-835-990.

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NEW SECTION

WAC 246-835-060 Continuing education. State-certified birth doulas shall complete 10 hours of continuing education every renewal cycle in the form of continuing education and professional develop-

ment. The credential holder shall submit documentation upon request as required by chapter 246-12 WAC.

(1) Eight hours of continuing education and professional development must be obtained through one of the activities listed in (a) through (f) of this subsection. A minimum of five hours must directly relate to the practice of a birth doula as defined in chapter 18.47 RCW. Any remaining hours may be in professional development activities that enhance the practice of the birth doula. Documentation for all activities must include credential holders name, date of activity, and number of hours. Approved continued education activities include:

- (a) Continuing education course work;
- (b) Employer sponsored in-service training or professional study groups;
- (c) Attendance at a professional conference or workshop presented by a professional organization;
- (d) Online courses and webinars;
- (e) Self-study of professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials; and
- (f) Service on a professional board, committee, collective, disciplinary panel, or association.

(2) In addition to the eight hours of continued education in subsection (1) of this section, a birth doula shall complete two hours of health equity CE every four years per chapter 43.70 RCW and in compliance with WAC 246-12-800 through 246-12-830.

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NEW SECTION

WAC 246-835-990 Birth doula fees and renewal cycle. (1) A birth doula must renew their certification every two years on the practitioner's birthday as provided in chapter 246-12 WAC.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application for initial certification	\$190.00
License renewal	\$190.00
Late renewal penalty	\$95.00
Expired certificate reissuance	\$95.00
Duplicate certificate	\$10.00
Verification of certification	\$25.00

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