

WSR 24-24-052

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed November 26, 2024, 1:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-16-124.

Title of Rule and Other Identifying Information: WAC 182-51-0900 Data confidentiality.

Hearing Location(s): On January 7, 2025, 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_dw_904j_SVe0DvQz_IP6NA. 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: Not sooner than January 8, 2025.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning November 27, 2024, 8:00 a.m., by January 7, 2025, 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, by December 20, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules allow the prescription drug affordability board and the health care cost transparency board to access data collected by the drug price transparency program related to prescription drug costs. This amendment aligns with RCW 70.390.050 (as revised under ESHB 1508, section 2 (2)(a), chapter 80, Laws of 2024).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 70.390.050 (ESHB 1508, section 2 (2)(a), chapter 80, 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: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Julie Colacurcio, P.O. Box 45502, Olympia, WA 98504-5502, 360-725-9585.

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.

November 26, 2024
Wendy Barcus
Rules Coordinator

OTS-5960.2

AMENDATORY SECTION (Amending WSR 21-10-008, filed 4/22/21, effective 5/23/21)

WAC 182-51-0900 Data confidentiality. (1) For the purpose of reviewing drug prices and conducting affordability reviews, the following boards may access all data collected under RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority:

(a) The prescription drug affordability board, as established in chapter 70.405 RCW; and

(b) The health care cost transparency board, as established in chapter 70.390 RCW.

(2) 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.

~~((2))~~ (3) 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 43.71C RCW;

(c) Protecting all confidential information against unauthorized use, access, disclosure, or loss by employing reasonable security measures, 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 when it is no longer needed to perform authorized activities; and

(e) Adhering to the confidentiality requirements in this section after the data recipient is no longer an authorized data recipient under RCW 43.71C.100.

~~((3))~~ (4) Data recipients must not:

(a) Disclose any confidential information, as defined by WAC 182-51-0100, 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 43.17C 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.