

WSR 22-23-147

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed November 22, 2022, 9:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-19-087.

Title of Rule and Other Identifying Information: WAC

182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine.

Hearing Location(s): On December 27, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (HCA) continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington state. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_SNmskQlERbyW0KVphqsXXg. 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: December 28, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by December 27, 2022, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.Larson@hca.wa.gov, by December 9, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising this section to consolidate all telemedicine in one section for all programs. Additionally, "speech language pathology services by telemedicine when not available in person" will be removed. This was added in a rule making during the public health emergency in error. The consolidated telemedicine rules apply to all programs and will reside in new WAC 182-501-0300. This new section is being developed under a different rule making filed under WSR 22-22-068.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: ESSB 1196, 67th legislature, 2021 regular session; RCW 41.05.021, 41.05.160.

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: Alyssa Wagner, 626 8th Avenue S.E., Olympia, WA 98504, 360-725-1194.

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 22, 2022
Wendy Barcus
Rules Coordinator

OTS-3975.2

AMENDATORY SECTION (Amending WSR 22-08-035, filed 3/29/22, effective 4/29/22)

WAC 182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine. (~~Telemedicine, as defined in chapter 182-531 WAC, may be used to provide the following authorized services:~~
~~(1) Program supervision when the client is present;~~
~~(2) Family/caregiver training, which does not require the client's presence; and~~
~~(3) Speech language pathology services when otherwise not available in person.)) Applied behavior analysis (ABA) services delivered using telemedicine may be reimbursed by the agency when billed in accordance with the rules regarding telemedicine and store-and-forward technology in WAC 182-501-0300 and the agency's published billing instructions.~~

[Statutory Authority: RCW 41.05.021, 41.05.160, and Thurston County Superior Court in J.C. and H.S. v. Washington State Health Care Authority, no. 20-2-01813-34. WSR 22-08-035, § 182-531A-1200, filed 3/29/22, effective 4/29/22. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 15-19-121, § 182-531A-1200, filed 9/21/15, effective 10/22/15; WSR 14-24-083, § 182-531A-1200, filed 12/1/14, effective 1/1/15.]