

WSR 24-08-043
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed March 27, 2024, 1:59 p.m.]

Subject of Possible Rule Making: Application of brief adjudicative proceedings under the authority of the department of health (department). The department is considering amending WAC 246-10-501 to include interstate license compacts, milk bank applicants, and 988-line crisis call center applicants to the list of applicant types who are eligible for brief adjudicated proceedings (BAPs) as a due process recourse if their application is denied. The department is considering these amendments to streamline application processing while maintaining fairness towards applicants.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.040, 34.05.413, 34.05.482, 18.130.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In certain circumstances, when a party disagrees with a decision or denial made by the department and appeals that decision, BAP may be used to preserve a party's legal rights, but increase efficiency and speed of the legal proceeding. As outlined in the Administrative Procedure Act, RCW 34.05.482, BAPs are simplified legal processes which don't require as many steps as formal administrative proceedings. Use of BAP is permitted by statute when all of the following conditions are met: (1) Using BAP would not violate a law; (2) where public comment is not needed to protect a public right; (3) where the scope of a case falls entirely within one agency-regulated area which has rules that allow the use of BAP; and (4) where the matter does not require a different adjudicative process. A BAP cannot be used to adjudicate public assistance and entitlement programs in Title 74 RCW.

Recent changes in Washington state law have created new programs and licensing opportunities for health care providers that have expanded the agency's application processes. The following applicant types meet the conditions required by RCW 34.05.482 and may benefit from the increased efficiency of the BAP process:

- Human donor milk bank applicants.
- 988 crisis line call center applicants.
- Interstate compact applicants for health care credentials.

WAC 246-10-501 outlines under what circumstances or criteria a BAP may be used under the authority of the department. While the rule allows individuals to request an adjudicative proceeding that is not specifically outlined in this rule, these requests are at the discretion of the presiding officer. Adding specific application types to the "approved" list creates consistency in determining qualifications and is more efficient than using the full hearing process.

The department is considering allowing the use of BAP for human donor milk bank applicants, 988 crisis line applicants, and interstate compact applicants for health care providers to preserve fairness and improve outcomes and efficiency for supporting parties and organizations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Other [no further information supplied by agency].

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Erin Brewster, P.O. Box 47890, Olympia, WA 98504-7890, phone 360-545-7315, TTY 711, email erin.brewster@doh.wa.gov.

Additional comments: Parties who are interested in this rule making and would like to be on the interested parties list should contact Erin Brewster.

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