

WSR 25-05-090

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 18, 2025, 2:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-15-132.

Title of Rule and Other Identifying Information: Behavioral health agency (BHA) and residential treatment facility (RTF) fee updates. The department of health (department) is proposing rule amendments to update BHA fees in WAC 246-341-0365 and RTF fees in WAC 246-337-990. The department is also proposing changes to clarify and standardize language.

Hearing Location(s): On March 25, 2025, at 9:00 a.m., virtually via Zoom. Register in advance for this webinar at <https://us02web.zoom.us/join/95869424571>. After registering, you will receive a confirmation email containing information about joining the webinar. Individuals may attend virtually or submit comments in writing.

Date of Intended Adoption: April 1, 2025.

Submit Written Comments to: Heather Cantrell, P.O. Box 47850, Olympia, WA 98504-7850, <https://fortress.wa.gov/doh/policyreview>, beginning the date and time of this filing, by March 25, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Heather Cantrell, phone 360-236-4637, TTY 711, email HSQAfeerules@doh.wa.gov, by March 12, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing amendments to sections of rule regarding initial license, annual, and other fees for BHA and RTF to address funding requirements. An update is needed to adequately fund inspection, investigation, and licensing programs to protect patients. The requirement in RCW 43.70.250 states that fees must cover regulatory program expenses, which necessitates the program(s) to be self-funding and changes to rules are the only way to make fee adjustments.

The department is proposing an adjustment to the structure of the licensed beds and service hours calculation to clarify the fees for BHAs. This change will simplify and standardize the amounts and how the costs are assessed on each agency, promoting integration and simplifying fee calculations for BHAs providing co-occurring services. The proposed changes align the fee structure for mental health (MH) and substance use disorder (SUD) facilities by:

- Making all inpatient bed fees the same amount regardless of whether the BHA is providing MH or SUD services.
- Shifting SUD outpatient fees to the scalable MH outpatient fee structure, thereby aligning outpatient fees across service types.
- Combining payments for MH and SUD outpatient facilities, enabling a facility providing both services to pay one fee based on total service hours provided.

These changes are anticipated to streamline the program's fee structure and enable the department to better assess fees based on the size and workload of the agencies seeking licensure.

The department is keeping RTF fee structure the same but proposing an increase in the fee amounts.

Reasons Supporting Proposal: RCW 43.70.250 requires that fees must cover regulatory program expenses, which necessitates the program(s) to be self-funding and changes to rules are the only way to make fee adjustments. The proposed fees will address the costs and the reserve amounts needed. The department will continue to monitor the finances and propose fee adjustments as needed.

Statutory Authority for Adoption: RCW 43.70.110, 43.70.250, and 71.24.037.

Statute Being Implemented: RCW 43.70.110, 43.70.250, and 71.24.037.

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: Heather Cantrell, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4637; 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. 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.

Explanation of exemptions: The proposed rules adjusts fees and therefore are exempt under RCW 34.05.310 (4)(f).

Scope of exemption for rule proposal:

Is fully exempt.

February 18, 2025
 Kristin Peterson, JD
 Chief of Policy
 for Jessica Todorovich, MS
 Acting Secretary of Health

RDS-6152.1

AMENDATORY SECTION (Amending WSR 24-17-003, filed 8/8/24, effective 9/8/24)

WAC 246-341-0365 Agency licensure and certification—Fee requirements. (1) An agency must include payment of licensing and certification fees required under this chapter with the initial application, renewal application, or with requests for other services.

(2) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(3) The department will not refund fees when licensure or certification is denied, revoked, or suspended.

(4) ~~((The applicant shall submit the following fees for approved substance use disorder treatment programs:~~

New agency application	\$1,000
Branch agency application	\$500
Application to add one or more certifications	\$200
Application to change ownership	\$500
Initial and annual certification fees for withdrawal management, residential, and nonresidential services	
Withdrawal management and residential services	\$100 per licensed bed, per year, for agencies not renewing certification through deeming
	\$50 per licensed bed, per year, for agencies renewing certification through deeming per WAC 246-341-0310
Nonresidential services	\$750 per year for agencies not renewing certification through deeming
	\$200 per year for agencies certified through deeming per WAC 246-341-0310
Complaint/critical incident investigation fees	
All agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

~~(5)) An agency ((providing substance use disorder treatment programs)) must annually complete a ((declaration)) form provided by the department to indicate information necessary for establishing fees and updating certification information. Required information includes, but is not limited to:~~

~~(a) ((The number of licensed withdrawal management and residential beds; and~~

~~(b) The agency provider's national accreditation status.~~

~~(6) The applicant shall submit the following fees for approved mental health treatment programs:~~

Initial licensing application fee	\$1,000
Initial and annual licensing fees for agencies not deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728
4,000-14,999	\$1,055
15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual licensing fees for deemed agencies	

Annual licensing fee for deemed agencies licensed by the department	\$500
Complaint/critical incident investigation fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

~~(7) Agencies providing nonresidential mental health services or inpatient or residential mental health services in accordance with WAC 246-341-1118 must report) The agency provider's national accreditation status, if applicable;~~

~~(b) The number of licensed beds, if applicable; and~~

~~(c) The number of annual service hours provided for outpatient services, if applicable.~~

~~((a)) (i) Existing licensed agencies must compute the annual service hours based on the most recent state fiscal year.~~

~~((b) Newly licensed) (ii) Agencies seeking initial licensure must compute the annual service hours by projecting the service hours for the first 12 months of operation.~~

~~((8) Agencies providing mental health peer respite services, 23-hour crisis relief center services, intensive behavioral health treatment services, evaluation and treatment services, and competency evaluation and restoration treatment services must pay the following certification fees:~~

~~(a) Ninety dollars initial certification fee, per bed or recliner; and~~

~~(b) Ninety dollars annual certification fee, per bed or recliner.) (5) The following fees will be charged:~~

(a) Application fees:

<u>New agency</u>	<u>\$2,250</u>
<u>Branch agency</u>	<u>\$1,150</u>
<u>To add one or more certifications</u>	<u>\$450</u>
<u>To change ownership</u>	<u>\$1,150</u>

(b) Residential and inpatient service fees:

	<u>With deemed status per WAC 246-341-0310</u>	<u>Without deemed status</u>
<u>Per licensed bed</u>	<u>\$125</u>	<u>\$250</u>

(c) Outpatient service fees:

<u>Annual service hours</u>	<u>With deemed status per WAC 246-341-0310</u>	<u>Without deemed status</u>
<u>0-3,999</u>	<u>\$830</u>	<u>\$1,650</u>
<u>4,000-14,999</u>	<u>\$1,200</u>	<u>\$2,400</u>
<u>15,000-29,999</u>	<u>\$1,600</u>	<u>\$3,200</u>
<u>30,000-49,999</u>	<u>\$2,380</u>	<u>\$4,750</u>
<u>50,000 or more</u>	<u>\$2,900</u>	<u>\$5,800</u>

(d) Investigation fees:

<p><u>Per substantiated complaint investigation and per substantiated critical incident investigation that results in a requirement for corrective action</u></p>	<p><u>\$2,250</u></p>
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RDS-6151.1

AMENDATORY SECTION (Amending WSR 08-12-036, filed 5/30/08, effective 7/1/08)

WAC 246-337-990 Licensing fees. A licensee must submit the following fees to the department:

FEE TYPE	AMOUNT
Administrative processing/initial application fee	((\$204.00)) <u>\$490.00</u>
License bed fee (per bed)	((\$190.00)) <u>\$470.00</u>
Annual renewal fee (per bed)	\$190.00
Late fee (per bed)	\$33.00 (up to \$660.00)
Follow-up compliance survey fee or a complete on-site survey fee resulting from a substantiated complaint	((\$1,320.00)) <u>\$3,250.00</u>

- (1) The department shall refund fees paid by the applicant for initial licensure if:
 - (a) The department has received an application but has not conducted an on-site survey or provided technical assistance. The department shall refund two-thirds of the fees paid, less a ((~~fifty dollar~~)) \$50 processing fee;
 - (b) The department has received an application and has conducted an on-site survey or provided technical assistance. The department shall refund one-third of the fees paid, less a ((~~fifty dollar~~)) \$50 processing fee.
- (2) The department will not refund fees paid by the applicant if:
 - (a) The department has conducted more than one on-site visit for any purpose;
 - (b) One year has elapsed since the department received an initial licensure application, and the department has not issued a license because the applicant failed to complete requirements for licensure; or
 - (c) The amount to be refunded as calculated by subsection (1)(a) or (b) of this section is ((~~ten dollars~~)) \$10 or less.