

WSR 25-15-031

EXPEDITED RULES

DEPARTMENT OF HEALTH

[Filed July 8, 2025, 1:03 p.m.]

Title of Rule and Other Identifying Information: In-home service agencies; audio-only telemedicine appointments.

The department of health (department) is proposing amendments to WAC 246-335-510 and 246-335-610 to implement recent legislation by updating the required frequency of in-person or real-time audio and video virtual appointments for individuals who use audio-only telemedicine services. The update changes the rule to require in-person or real-time audio and video virtual appointments every three years instead of every two years.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state legislature passed SB 5821 (chapter 215, Laws of 2024) to create a uniform standard for an "established relationship" for audio-only telemedicine services. Previously, the law required that a patient have an in-person medical appointment or real-time audio and video virtual appointment at least every two years. Under SB 5821, this time frame is expanded to three years.

The department is proposing amendments to incorporate changes made by SB 5821 to align the rule with state law. The proposed amendments only impact the home health and hospice service agency rules.

Reasons Supporting Proposal: The proposed amendments will align the rules with statutory changes. By amending the rule language, the department is aligning the rule requirements with SB 5821. These amendments provide clarity and reduce barriers to care for patients.

Statutory Authority for Adoption: RCW 70.127.120 and SB 5821 (chapter 215, Laws of 2024).

Statute Being Implemented: SB 5821.

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: Stacey Saunders, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2929; Implementation: John Hilger, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2929; and Enforcement: John Williams, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2950.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited proposal is in accordance with RCW 34.05.353 (1)(b) and updates content and aligns rule language in chapter 246-335 WAC with the law without material change.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO John Hilger, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-2929, email InHomeServices@doh.wa.gov, BEGINNING the date and time of filing, AND RECEIVED BY September 22, 2025, at 11:59 p.m.

July 8, 2025
Todd Mountin, PMP
Deputy Chief of Policy
for Jessica Todorovich, MS
Acting Secretary of Health

RDS-6409.1

AMENDATORY SECTION (Amending WSR 23-01-032, filed 12/11/22, effective 1/11/23)

WAC 246-335-510 Definitions—Home health. The definitions in the section apply throughout WAC 246-335-505 through 246-335-560 unless the context clearly indicates otherwise:

(1) "Acute care" means care provided by an in-home services agency licensed to provide home health services for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a registered nurse licensed under chapter 18.79 RCW, a physical therapist licensed under chapter 18.74 RCW, a respiratory therapist licensed under chapter 18.89 RCW, an occupational therapist licensed under chapter 18.59 RCW, a speech therapist licensed under chapter 18.35 RCW, a dietitian or nutritionist as defined in subsection (5) of this section, or social worker licensed under chapter 18.320 RCW to assess health status and progress.

(2) "Assessment" means an evaluation performed by an appropriate health care professional of a patient's needs.

(3) "Audio-only telemedicine" means the delivery of health care services through the use of HIPAA-compliant audio-only technology (including web-based applications), permitting real-time communication between the patient and the agency provider for the purpose of consultation, education, diagnosis, or treatment, as appropriate per scope of practice. "Audio-only telemedicine" also includes supervision of home health aide services to evaluate compliance with the plan of care and patient satisfaction with care. "Audio-only telemedicine" does not include the use of facsimile, electronic mail, or text messages.

(4) "Authorizing practitioner" means the individual practitioners licensed in Washington state, or another state according to the exemption criteria established in chapters 18.57, 18.71, and 18.79 RCW, and authorized to approve a home health plan of care:

(a) A physician licensed under chapter 18.57 or 18.71 RCW;

(b) A podiatric physician and surgeon licensed under chapter 18.22 RCW;

- (c) A physician assistant licensed under chapter 18.71A RCW; or
- (d) An advanced registered nurse practitioner (ARNP), as authorized under chapter 18.79 RCW.
- (5) "Cardiopulmonary resuscitation" or "CPR" means a procedure to support and maintain breathing and circulation for a person who has stopped breathing (respiratory arrest) or whose heart has stopped (cardiac arrest).
- (6) "Dietitian or nutritionist" means a person certified as such under chapter 18.138 RCW or registered by the Academy of Nutrition and Dietetics as a registered dietitian nutritionist; certified by the board for certification of nutrition specialists as a certified nutrition specialist; or certified by the American Clinical Board of Nutrition as a diplomate of the American Clinical Board of Nutrition.
- (7) "Director of clinical services" means an individual responsible for nursing, therapy, nutritional, social, and related services that support the plan of care provided by in-home health and hospice agencies.
- (8) "Established relationship" means the patient has had, within the past (~~two~~) three years, at least one in-person appointment with the agency provider providing audio-only telemedicine or with a provider employed at the same agency as the provider providing audio-only telemedicine; or the patient was referred to the agency provider providing audio-only telemedicine by another provider who has had, within the past (~~two~~) three years, at least one in-person appointment with the patient and has provided relevant medical information to the provider providing audio-only telemedicine.
- (9) "Home health agency" means a person administering or providing two or more home health services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A person administering or providing nursing services only may elect to be designated a home health agency for purposes of licensure.
- (10) "Home health aide" means an individual who is a nursing assistant certified or nursing assistant registered under chapter 18.88A RCW.
- (11) "Home health aide services" means services provided by a home health agency or a hospice agency under the supervision of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract to a home health or hospice agency. Such care includes ambulation and exercise, assistance with self-administered medications, reporting changes in patients' conditions and needs, completing appropriate records, and personal care or homemaker services.
- (12) "Home health services" means services provided to ill, disabled, or vulnerable individuals. These services include, but are not limited to, nursing services, home health aide services, physical therapy services, occupational therapy services, speech therapy services, respiratory therapy services, nutritional services, medical social services, and home medical supplies or equipment services.
- (13) "Home medical supplies or equipment services" means diagnostic, treatment, and monitoring equipment and supplies provided for the direct care of individuals within a plan of care.
- (14) "Licensed practical nurse" or "LPN" means an individual licensed under chapter 18.79 RCW.
- (15) "Licensed nurse" means a licensed practical nurse or registered nurse under chapter 18.79 RCW.
- (16) "Maintenance care" means care provided by in-home services agencies licensed to provide home health services that are necessary

to support an existing level of health, to preserve a patient from further failure or decline, or to manage expected deterioration of disease. Maintenance care consists of periodic monitoring by a licensed nurse, therapist, dietitian or nutritionist, or social worker to assess a patient's health status and progress.

(17) "Medication administration" means assistance with the application, instillation, or insertion of medications according to a plan of care, for patients of an in-home services agency licensed to provide home health services and are under the direction of appropriate agency health care personnel. The assistance is provided in accordance with the Nurse Practice Act as defined in chapters 18.79 RCW and 246-840 WAC and the nursing assistant scope of practice as defined in chapters 18.88A RCW and 246-841 WAC.

(18) "Palliative care" means specialized care for people living with serious illness. Care is focused on relief from the symptoms and stress of the illness and treatment whatever the diagnosis. The goal is to improve and sustain quality of life for both the patient, loved ones, and other care companions. It is appropriate at any age and at any stage in a serious illness and can be provided along with active treatment. Palliative care facilitates patient autonomy, access to information, and choice. The palliative care team helps patients and families understand the nature of their illness, and make timely, informed decisions about care.

(19) "Patient" means an individual receiving home health services.

(20) "Professional medical equipment assessment services" means periodic care provided by a registered nurse licensed under chapter 18.79 RCW, a physical therapist licensed under chapter 18.74 RCW, an occupational therapist licensed under chapter 18.59 RCW, a respiratory therapist licensed under chapter 18.89 RCW, or dietitian or nutritionist as defined in subsection (5) of this section within their scope of practice, for patients who are medically stable, for the purpose of assessing the patient's medical response to prescribed professional medical equipment, including, but not limited to, measurement of vital signs, oximetry testing, and assessment of breath sounds and lung function (spirometry).

(21) "Registered nurse" or "RN" means an individual licensed under chapter 18.79 RCW.

(22) "Social worker" means a person with a degree from a social work educational program accredited and approved as provided in RCW 18.320.010 or who meets qualifications provided in 42 C.F.R. Sec. 418.114 as it existed on January 1, 2012.

(23) "Telehealth" means a collection of means or methods for enhancing health care, public health, and health education delivery and support using telecommunications technology. Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services.

(24) "Telemedicine" means the delivery of health care services through the use of HIPAA-compliant, interactive audio and video technology (including web-based applications), permitting real-time communication between the patient and the agency provider, for the purpose of consultation, education, supervision, diagnosis, or treatment, as appropriate per scope of practice. "Telemedicine" also includes supervision of home health aide services to evaluate compliance with the plan of care and patient satisfaction with care. "Telemedicine" does not include the use of audio-only telephone, facsimile, electronic mail, or text messages.

(25) "Therapist" means an individual who is:

- (a) A physical therapist licensed under chapter 18.74 RCW;
- (b) A respiratory therapist licensed under chapter 18.89 RCW;
- (c) An occupational therapist licensed under chapter 18.59 RCW;
- (d) A speech therapist licensed under chapter 18.35 RCW; or
- (e) A massage therapist licensed under chapter 18.108 RCW.

(26) "Therapy assistant" means a licensed occupational therapy assistant defined under chapter 18.59 RCW or physical therapist assistant defined under chapter 18.74 RCW.

AMENDATORY SECTION (Amending WSR 23-01-032, filed 12/11/22, effective 1/11/23)

WAC 246-335-610 Definitions—Hospice. The definitions in this section apply throughout WAC 246-335-605 through 246-335-660 unless the context clearly indicates otherwise:

(1) "Assessment" means an evaluation performed by an appropriate health care professional of a patient's physical, psychosocial, emotional and spiritual status related to their terminal illness and other health conditions. This includes evaluating the caregiver's and family's willingness and capability to care for the patient.

(2) "Audio-only telemedicine" means the delivery of health care services through the use of HIPAA-compliant audio-only technology (including web-based applications), permitting real-time communication between the patient and the agency provider for the purpose of consultation, education, diagnosis, or treatment, as appropriate per scope of practice. "Audio-only telemedicine" also includes supervision of home health aide services to evaluate compliance with the plan of care and patient satisfaction with care. "Audio-only telemedicine" does not include the use of facsimile, electronic mail, or text messages.

(3) "Authorizing practitioner" means the individual practitioners licensed in Washington state and authorized to approve a hospice plan of care:

(a) A physician licensed under chapter 18.57 or 18.71 RCW; or

(b) An advanced registered nurse practitioner as authorized under chapter 18.79 RCW.

(4) "Bereavement services" means emotional, psychosocial, and spiritual support and services provided before and after the death of the patient to assist with issues related to grief, loss, and adjustment.

(5) "Dietitian or nutritionist" means a person certified as such under chapter 18.138 RCW or registered by the Academy of Nutrition and Dietetics as a registered dietitian nutritionist; certified by the board for certification of nutrition specialists as a certified nutrition specialist; or certified by the American Clinical Board of Nutrition as a diplomate of the American Clinical Board of Nutrition.

(6) "Director of clinical services" means an individual responsible for nursing, therapy, nutritional, social, or related services that support the plan of care provided by in-home health and hospice agencies.

(7) "Established relationship" means the patient has had, within the past (~~two~~) three years, at least one in-person appointment with the agency provider providing audio-only telemedicine or with a provider employed at the same agency as the provider providing audio-only

telemedicine; or the patient was referred to the agency provider providing audio-only telemedicine by another provider who has had, within the past (~~two~~) three years, at least one in-person appointment with the patient and has provided relevant medical information to the provider providing audio-only telemedicine.

(8) "Home health aide" means an individual who is a nursing assistant certified under chapter 18.88A RCW.

(9) "Hospice agency" means a person administering or providing hospice services directly or through a contract arrangement to individuals in places of permanent or temporary residence under the direction of an interdisciplinary team composed of at least a nurse, social worker, physician, spiritual counselor, and a volunteer.

(10) "Hospice services" means symptom and pain management to a terminally ill individual, and emotional, spiritual and bereavement services for the individual and their family in a place of temporary or permanent residence, and may include the provision of home health and home care services for the terminally ill individual.

(11) "Interdisciplinary team" means the group of individuals involved in patient care providing hospice services including, at a minimum, a physician, registered nurse, social worker, spiritual counselor and volunteer.

(12) "Licensed practical nurse" or "LPN" means an individual licensed under chapter 18.79 RCW.

(13) "Medication administration" means assistance in the application, instillation or insertion of medications according to a plan of care, for patients of an in-home services agency licensed to provide hospice or hospice care center services and are under the direction of appropriate agency health care personnel. The assistance is provided in accordance with the Nurse Practice Act as defined in chapters 18.79 RCW, 246-840 WAC, and the nursing assistant scope of practice as defined in chapters 18.88A RCW and 246-841 WAC.

(14) "Medical director" means a physician licensed under chapter 18.57 or 18.71 RCW responsible for the medical component of patient care provided in an in-home services agency licensed to provide hospice services according to WAC 246-335-615 (4) (a).

(15) "Patient" means an individual receiving hospice services.

(16) "Palliative care" means specialized care for people living with serious illness. Care is focused on relief from the symptoms and stress of the illness and treatment whatever the diagnosis. The goal is to improve and sustain quality of life for both the patient, loved ones, and other care companions. It is appropriate at any age and at any stage in a serious illness and can be provided along with active treatment. Palliative care facilitates patient autonomy, access to information, and choice. The palliative care team helps patients and families understand the nature of their illness, and make timely, informed decisions about care.

(17) "Registered nurse" or "RN" means an individual licensed under chapter 18.79 RCW.

(18) "Restraint" means:

(a) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move their arms, legs, body, or head freely. Restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient from falling out of bed, or to permit the patient to participate in activities without the risk of

physical harm, or to physically guide a patient from one location to another; or

(b) A drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard hospice or palliative care treatment or dosage for the patient's condition.

(19) "Seclusion" means the involuntary confinement of a patient alone in a room or an area from which the patient is physically prevented from leaving.

(20) "Social worker" means a person with a degree from a social work educational program accredited and approved as provided in RCW 18.320.010 or who meets qualifications provided in 42 C.F.R. Sec. 418.114 as it existed on January 1, 2012.

(21) "Spiritual counseling" means services provided or coordinated by an individual with knowledge of theology, pastoral counseling or an allied field.

(22) "Telehealth" means a collection of means or methods for enhancing health care, public health, and health education delivery and support using telecommunications technology. Telehealth encompasses a broad variety of technologies and tactics to deliver virtual medical, health, and education services.

(23) "Telemedicine" means the delivery of health care services through the use of HIPAA-compliant, interactive audio and video technology (including web-based applications), permitting real-time communication between the patient and the agency provider for the purpose of consultation, education, supervision, diagnosis, or treatment, as appropriate per scope of practice. "Telemedicine" also includes supervision of home health aide services to evaluate compliance with the plan of care and patient satisfaction with care. "Telemedicine" does not include the use of audio-only telephone, facsimile, electronic mail, or text messages.