



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: August 29, 2019

TIME: 2:12 PM

WSR 19-18-040

**Agency:** Department of Health- Nursing Care Quality Assurance Commission

**Title of rule and other identifying information:** (describe subject) WAC 246-840-4651, Patient notification, secure storage, and disposal. The Nursing Care Quality Assurance Commission (commission) proposes amendments to existing rule to implement the legislative requirement of Substitute Senate Bill 5380, Section 10 (chapter 314, Laws of 2019) regarding patient notification for right to refuse an opioid prescription or order and the corresponding documentation.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Section 10 of SSB 5380 directs the commission to adopt or amend rules establishing the requirement for advanced registered nurse practitioners (ARNPs) to notify patients of their right to refuse an opioid prescription or order, and the requirement for ARNPs to document any refusal in the patient's record. SSB 5380 requires the commission to adopt or amend rules by January 1, 2020.

**Reasons supporting proposal:** The commission proposes amending WAC 246-840-4651, with language nearly identical to Section 10, to satisfy the legislative requirement. This proposed rule change meets the intent of RCW 34.05.353(d) for the expedited rulemaking process by adopting rules explicitly and specifically dictated by statute. Adopting rules under the expedited procedure also allows the commission to meet the statutory deadline of January 1, 2020.

**Statutory authority for adoption:** RCW 18.79.110, 18.79.800, and SSB 5380, Section 10

**Statute being implemented:** Substitute Senate Bill 5380, Section 10 (chapter 314, Laws of 2019)

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Name of proponent:** (person or organization) Nursing Care Quality Assurance Commission

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Amber Zawislak-Bielaski	111 Israel Road SE Tumwater, WA 98504	360-236-4785
Implementation:	Chris Archuleta	111 Israel Road SE Tumwater, WA 98504	360-236-2748
Enforcement:	Catherine Woodard	111 Israel Road SE Tumwater, WA 98504	360-236-4757

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** N/A

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- 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;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** This proposed rule change meets the intent of RCW 34.05.353(d) for the expedited rulemaking process by adopting rules explicitly and specifically dictated by Substitute Senate Bill 5380, Section 10 (chapter 314, Laws of 2019).

**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**

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Other:

**AND RECEIVED BY** (date) 11/04/2019

**Date:** 08/29/19

**Name:** Paula R. Meyer, MSN, RN, FRE

**Title:** Executive Director

**Signature:**

*Paula R. Meyer* MSN, RN, FRE

**WAC 246-840-4651 Patient notification, secure storage, and disposal.** (1) The practitioner shall provide information to the patient educating them of:

(a) Risks associated with the use of opioids as appropriate to the medical condition, the type of patient, and the phase of treatment;

(b) The safe and secure storage of opioid prescriptions; (~~and~~)

(c) The proper disposal of unused opioid medications including, but not limited to, the availability of recognized drug take-back programs; and

(d) The patient's right to refuse an opioid prescription or order for any reason.

(2) The practitioner shall document such notification in the patient record. If the patient refuses an opioid prescription or order, the practitioner must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

(3) Patient notification must occur, at a minimum, at the following points of treatment:

(a) The first issuance of a prescription for an opioid; and

(b) The transition between phases of treatment, as follows:

(i) Acute nonoperative pain or acute perioperative pain to subacute pain; and

(ii) Subacute pain to chronic pain.