



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 01, 2020

TIME: 8:55 AM

WSR 20-14-118

Agency: Department of Social and Health Services, Behavioral Health Administration

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-03-155 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____ ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The department is proposing to create new sections in chapter 388-875 WAC, including WAC 388-875-0200 Forensic navigators – Access to jails.; WAC 388-875-0210 Forensic navigators – Access to records.; WAC 388-875-0220 Forensic navigator caseload.; and WAC 388-875-0230 Discharge of forensic navigator.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 4, 2020	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Street SE Olympia, WA 98504 Or by Skype	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2 Due to the COVID 19 pandemic, hearing may be held via Skype, see DSHS website for most up to date information.

Date of intended adoption: Not earlier than August 5, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator

Address: PO Box 45850
Olympia, WA 98504

Email: DSHSRPAURulesCoordinator@dshs.wa.gov

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. August 4, 2020.

Assistance for persons with disabilities:

Contact Jeff Kildahl, DSHS Rules Consultant

Phone: 360-664-6092

Fax: 360-664-6185

TTY: 711 Relay Service

Email: Kildaja@dshs.wa.gov

Other:

By (date) July 21, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of these rules is to clarify the duties and authority of the forensic navigator program under RCW 10.77.074. This RCW was the result of the settlement agreement and implementation plan for the Trueblood lawsuit. These rules describe the time frames that jails must follow in providing access to forensic navigator clients, and the time frames that entities holding relevant client records must follow in providing records to forensic navigators, to help ensure timely provision of forensic navigator services.

These rules also describe the caseload prioritization for forensic navigators, and the circumstances in which forensic navigator services will terminate.

Reasons supporting proposal: The goal of this proposal is to ensure timely access to both clients and needed documentation supporting the work of the forensic navigator program, and to clarify the prioritization and termination of forensic navigator services. The expected outcome is improved and reliable timeliness for access to clients and records by the forensic navigator program, and clarification of the duties of the forensic navigator.

Statutory authority for adoption: Chapter 10.77 RCW, RCW 72.01.090

Statute being implemented: RCW 10.77.074, and Chapter 326, Laws of 2019, Section 2

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:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Department of Social and Health Services

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Teva Weissman	1115 Washington St., Olympia WA 98501	360-902-7637
Implementation:	Jason Karpen	4450 10th St. SE Lacey, WA 98503	360-529-6116
Enforcement:	Jason Karpen	4450 10th St SE, Lacey WA 98503	360-529-6116

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:

TTY:
Email:
Other:

No: Please explain: These rules are interpretive rules which do not subject a person to a sanction or penalty.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 34.05.328 (5)(c)(ii).

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The cost of copying records is minimal due to expected electronic format of the typical request and the limited volume of forensic navigator clients affecting requests from varied entities within the state.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

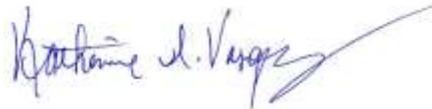
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: June 25, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



NEW SECTION

WAC 388-875-0200 Forensic navigators—Access to jails. Jails that are holding forensic navigator clients must allow forensic navigators access to their clients held within that jail within twenty-four hours of a request by a forensic navigator.

NEW SECTION

WAC 388-875-0210 Forensic navigators—Access to records. A behavioral health, educational, or law enforcement agency, or a correctional facility must provide records to the forensic navigator that relate to an individual who is receiving forensic navigator services within seventy-two hours of a records request.

NEW SECTION

WAC 388-875-0220 Forensic navigator caseload. The department has discretion over the manner in which caseloads are prioritized. This prioritization may include, but is not limited to, prioritization of clients who are:

(1) In jail awaiting competency services for whom DSHS has received an order to provide competency services, over those who are not; and

(2) Frequent users of forensic mental health services over clients who are not frequent users of the forensic mental health system.

NEW SECTION

WAC 388-875-0230 Discharge of forensic navigator. Forensic navigator services must conclude upon the occurrence of any of the following events:

(1) A forensic navigator client is determined competent to stand trial;

(2) A forensic navigator client is determined not competent to stand trial, but is not ordered into the outpatient competency restoration program (OCRP);

(3) A forensic navigator client has their criminal charges dismissed pending a civil commitment hearing;

(4) A forensic navigator client enters or returns to jail due to a revocation of OCRP or the filing of new charges;

(5) A forensic navigator client receives a new or amended order directing inpatient admission for restoration;

(6) A forensic navigator client refuses further forensic navigator services after the court ordered restoration period ends; or

(7) In other situations, as deemed appropriate by the department, in its sole discretion.