



# PREPROPOSAL STATEMENT OF INQUIRY

## CR-101 (October 2017) (Implements RCW 34.05.310) Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: May 27, 2020

TIME: 11:43 AM

WSR 20-12-033

**Agency:** Office of the Insurance Commissioner

**Subject of possible rule making:** Implementation of SHB 2338 (Chap. 228, Laws of 2020) – Prohibiting discrimination in health care coverage

Insurance Commissioner Matter R 2020-06

**Statutes authorizing the agency to adopt rules on this subject:** RCW 48.02.060, 48.20.460, 48.43.0128, 48.44.050, 48.46.200

**Reasons why rules on this subject may be needed and what they might accomplish:** The provisions of SHB 2338 amend Washington state’s mental health parity law. Rules adopted to implement the original mental health parity law need to be amended to be consistent with the provisions of SHB 2338.

The standard for rulemaking with respect to section 9 of the law, which addresses protection from discrimination in health plans, is as follows:

Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

Existing rules adopted to implement RCW 48.43.0128 will need to be amended to be consistent with SHB 2338, and new rules may be required. Such rules will facilitate implementation of the law by ensuring that all affected entities understand their rights and obligations under the new law.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** The federal HHS Centers for Medicare and Medicaid Services and the Department of Labor are the federal agencies tasked with implementation of the Mental Health Parity and Addiction Equity Act (MHPAEA). State insurance regulators also have authority to enforce MHPAEA, as well as to enact and implement their own mental health parity laws, as Washington state has done. These federal agencies will have an opportunity to participate in this rulemaking proceeding.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Comments due by June 17, 2020

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

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Web site:

Other:

Other:

Additional comments:

**Date:** May 27, 2020

**Signature:**

**Name:** Mike Kreidler



**Title:** Insurance Commissioner