

WAC 461-08-575 Direct review to the court of appeals based upon an accepted certificate of appealability by the board. (1) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review by the court of appeals with the superior court and must serve the board and all parties of record. The application for direct review shall request the board to file a certificate of appealability.

(2) If the board's jurisdiction is among the issues on review to the superior court, the board may, on its own motion, file an application for direct review with the superior court on the jurisdictional issue.

(3) From the date the board is served a copy of the application for direct review under subsection (1) of this section, the board shall have thirty days to grant or deny the request for a certificate of appealability. The board shall file its decision granting or denying the certificate of appealability with the superior court and serve the parties of record.

(4) The board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest, and either of the following:

(a) Fundamental and urgent statewide or regional issues are raised; or

(b) The proceeding is likely to have significant precedential value.

(5) The board shall state in the certificate of appealability, or in its decision denying the certificate, which criteria set forth in subsection (4) of this section it applied and how those criteria were or were not met.

(6) Where the board issues a certificate of appealability, the parties have fifteen days from the date the certificate is served to file a notice of discretionary review in the superior court. The notice must include a copy of both the certificate of appealability and the final order or decision of the board being appealed.

(7) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(8) If the certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.

[Statutory Authority: RCW 43.21B.170, 90.58.175. WSR 15-03-044, § 461-08-575, filed 1/14/15, effective 2/14/15. Statutory Authority: RCW 43.21B.170, 90.58.174, chapters 43.21B, 34.05, and 90.58 RCW. WSR 07-03-074, § 461-08-575, filed 1/17/07, effective 2/17/07. Statutory Authority: RCW 90.58.175. WSR 96-15-002, § 461-08-575, filed 7/3/96, effective 8/3/96.]