

WSR 10-06-021
EXPEDITED RULES
DEPARTMENT OF HEALTH
[Filed February 22, 2010, 11:45 a.m.]

Title of Rule and Other Identifying Information: WAC 246-810-030 Client disclosure information, registered counselors, hypnotherapists, and agency affiliated counselors, department of health, repealing the rule as it no longer applies.

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 Leann Yount, Program Manager, Department of Health, Counselor Program, P.O. Box 47852, Olympia, WA 98504-7852, AND RECEIVED BY May 3, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2SHB 2674 (chapter 135, Laws of 2008) changed the requirement for client disclosure information. Registered counselors, hypnotherapists, and agency affiliated counselors are not required to provide disclosure information to clients. The proposed rule repeals WAC 246-810-030 as it is no longer necessary.

Reasons Supporting Proposal: As a result of the 2008 legislation, chapter 18.19 RCW only requires certified counselors and certified advisers to provide client disclosure information to clients. When the rules to implement the new counseling professions were adopted in July 2009, WAC 246-810-030 should have been repealed. The proposed rules are housekeeping to correct this omission.

Statutory Authority for Adoption: RCW 18.19.050.

Statute Being Implemented: Chapter 18.19 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, registered counselor, hypnotherapy, and agency affiliated counselor programs, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Leann Yount, Program Manager, 310 Israel Road S.E., Tumwater, WA 98502, (360) 236-4856.

February 22, 2010

Mary C. Selecky
Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-810-030 Client disclosure information.

WSR 10-06-037
EXPEDITED RULES
MARINE EMPLOYEES' COMMISSION
[Filed February 23, 2010, 10:01 a.m.]

Title of Rule and Other Identifying Information: Chapter 316-55 WAC, Marine employees' impasse resolution rules.

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 Kathy Marshall, Marine Employees' Commission, P.O. Box 40902, Olympia, WA 98504-0902, AND RECEIVED BY May 3, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to changes in chapter 47.64 RCW, revisions were necessary in agency rules to reflect those changes.

Reasons Supporting Proposal: In compliance with Executive Order 97-02, these rules were reviewed and required changes made to these rules.

Statutory Authority for Adoption: RCW 47.64.280.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Marine employees' commission, governmental.

Name of Agency Personnel Responsible for Drafting: Kathy J. Marshall, 711 Capitol Way South, Suite 104, (360) 586-6354; Implementation and Enforcement: John R. Swanson, Chairman, 711 Capitol Way South, Suite 104, (360) 586-6354.

February 23, 2010

Kathy J. Marshall
Administrator

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-001 Scope—Contents—Other rules.

This chapter directs activities of and proceedings before the marine employees' commission relating to ~~((the resolution of))~~ impasses occurring in collective bargaining. This chapter does not reflect, and does not provide procedures for, direct involvement of the commission in the investigation and/or settlement of contested cases between parties. The assistance rendered by the commission to the parties at impasse during collective bargaining ~~((, and the commission's review of compliance with fiscal limitations are))~~ is not adjudicatory in nature and ~~((are))~~ is not governed by RCW 34.05.425 or 34.12.020 or chapter 10-08 WAC. Such assistance ~~((and/or review of compliance are))~~ is considered to be a ministerial act ~~((s))~~ prescribed by RCW 47.64.170 through ~~((47.64.240))~~ 47.64.220. However, because the collective bargaining pro-

cess is related to bargaining unit recognition and clarification, to fair representation of ferry employees, to alleviation of ferry employee grievances, and to ~~((fact-finding))~~ salary survey procedures and requests, the terms of this chapter should be read together with the terms of:

(1) Chapter 316-02 WAC, which lists rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which lists rules about proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which lists rules about proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which lists rules about proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-65 WAC, which lists rules about arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which lists rules about determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(7) Chapter 316-85 WAC, which lists rules about ~~((fact-finding))~~ salary surveys of compensation, benefits, and conditions of employment.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-005 Impasse procedures—~~((Duty to adopt))~~ Adoption. As the first step in the performance of their duty to bargain, the ~~((ferry system management))~~ employer and the ferry employee organization will endeavor to agree upon impasse procedures. Such agreement shall provide for implementation of those impasse procedures not later than ~~((July))~~ August 1st in each ~~((odd-numbered))~~ even-numbered year ~~((following enactment of the biennial budget))~~ preceding the biennial budget period during which the bargaining agreement should take effect. If the parties fail to agree upon impasse procedures ~~((by July 1, the impasse procedures provided in WAC 316-55-010 through 316-55-600)),~~ RCW 47.64.210, 47.64.230, and 47.64.300 will apply.

Before November 1st each odd-numbered year, the parties shall execute a written agreement naming the agreed-upon arbitrator and dates reserved for bargaining and arbitration, in accordance with RCW 47.64.170 (6)(a).

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-010 Resolution of impasses—Request for mediation. When there is no impasse agreement between the parties, or either party fails to utilize ~~((the))~~ its procedures ~~((of the impasse agreement))~~ by August 1st in each ~~((odd-numbered))~~ even-numbered year, either party may ~~((make a))~~ request in writing ~~((to))~~ that the marine employees' commission ~~((for mediation))~~ appoint a mediator. A copy of the request is to be served on the other party.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-020 Mediation request—Information required. The party or parties requesting mediation must provide the following information to the commission:

(1) The name and address of the ~~((department))~~ employer and the name, address and telephone number of the ~~((department's))~~ employer's principal representative in the negotiations;

(2) The name and address of the employee organization and the name, address and telephone number of the employee organization's principal representative in the negotiations;

(3) A clear and concise statement of the disputed issues and the parties' positions;

(4) A description of the size and composition of the bargaining unit involved;

(5) The expiration date of any collective bargaining agreement then in effect or recently expired;

(6) Any other relevant information; and

(7) The name, signature, and capacity of each officer, agent, attorney, or other individual acting for the filing party or parties.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-030 Impasse resolution—Appointment of mediator. When a request for mediation is filed, the commission will appoint a qualified, impartial, and disinterested person to serve as mediator. ~~((If the parties have listed the names of one or more persons who are acceptable to both parties as mediator, then the commission shall consider their desires.))~~

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-090 Impasse resolution—Confidential nature of function. Information disclosed by the parties to the mediator in confidence during the course of mediation will not be revealed by the mediator. Mediation meetings ~~((will be of an executive, private or nonpublic nature))~~ are exempt from the provisions of chapter 42.30 RCW.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-160 ~~((Fact-finding))~~ Salary survey. Before collective bargaining, the commission will conduct a salary survey as required by RCW 47.64.220 in the manner and procedure described in chapter 316-85 WAC. ~~((The parties may request the commission make other findings of fact during bargaining or impasse.))~~ The ~~((obtained))~~ published salary survey ~~((data))~~ report is a public document.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-170 Waiver of mediation ~~((and fact finding))~~. By mutual agreement, the parties may waive medi-

ation (~~and fact finding~~) and proceed with binding arbitration as provided for in the impasse procedures agreed to under RCW 47.64.200 or 47.64.300 through 47.64.320. This waiver must be in writing and signed by the representatives of the parties. (~~If the parties waive mediation or fact finding, impasse resolution is to continue as described in WAC 316-55-500 et seq.~~) Regardless of the status of the mediation, the parties must comply with the interest arbitration agreement under RCW 47.64.170 (6)(a).

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-500 Binding arbitration. If (~~impasse continues fourteen days after the mediator's appointment, or beyond any other date mutually agreed to by the parties~~) agreement has not been reached within a reasonable period of negotiations and mediation, if applicable, or in compliance with the parties' interest arbitration agreement under RCW 47.64.170 (6)(a), all impasse items will be submitted to arbitration. (~~That arbitration will be binding upon the parties in accordance with RCW 47.64.240. The parties will notify the commission in writing. This~~) Each of the parties will notify the commission of the outstanding disputed issues, in writing, within five days after reaching impasse. Notice to the commission must contain:

(1) The name (~~and address of the department and the name~~), address and telephone number of the (~~department's~~) parties' principal representative in ((the)) negotiations;

(2) (~~The name and address of the employee organization party to the impasse and the name, address and telephone number of that party's principal representative in the negotiations;~~

(3) ~~A clear and concise statement of the disputed issues and the parties' positions;~~

(4) ~~A description of the size and composition of the bargaining unit involved;~~

(5) ~~The expiration date of any collective bargaining agreement in effect at the time or recently expired;~~

(6) ~~Any other relevant information; and~~

(7) ~~The name, signature and capacity of each officer, agent, attorney or other representative acting for the filing party or parties.~~) (3) A clear and concise statement of the disputed issues and the party's final positions.

The commission will review the issues submitted and issue an order certifying those appropriate for interest arbitration. If the parties have a dispute over the issues for arbitration, the commission may convene a hearing to take evidence to decide the issue.

The issues for arbitration shall be limited to the issues certified by the commission.

The original notice must be filed with the commission at its Olympia office. (~~The~~) Each party ((filing the notice must serve a copy on each of the other parties)) must file the notice with both the commission and the selected arbitrator and serve a copy on the other party to ((the)) impasse. Amendments to notices must be filed and served in the same manner as the original notice in the proceeding.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-525 Conduct of interest arbitration.

(~~(1) Submission of the impasse items to the arbitration panel is limited to those issues upon which the parties have not reached agreement. With respect to each such item, the arbitration panel award is restricted to the final offers on each impasse item submitted by the parties to the arbitration board on each impasse item.~~

(2) ~~The arbitration panel will at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in chapter 47.64 RCW.~~

(3) ~~From the time of appointment until the arbitration panel makes its final determination, there is to be no discussion concerning recommendations for settlement of the dispute by the members of the arbitration panel with parties other than those who are direct parties to the dispute. The arbitration panel may conduct formal or informal hearings to discuss offers submitted by both parties.~~

(4) ~~The arbitration panel will consider, in addition to any other relevant factors, the following factors:~~

(a) ~~Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;~~

(b) ~~Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable work but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;~~

(c) ~~The interests and welfare of the public, the ability of the ferry system to finance economic adjustments, and the effect of the adjustments on the normal standard of services;~~

(d) ~~The right of the legislature to appropriate and to limit funds for the conduct of the ferry system; and~~

(e) ~~The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature.~~

(5) ~~The chairman of the arbitration panel may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the arbitration panel. The chairman of the arbitration panel may petition the superior court in Thurston county, or any county in which any hearing is held, to enforce the order of the chairman compelling the attendance of witnesses and the production of records.~~

(6) ~~A majority of the arbitration panel will within thirty days after its first meeting select the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.~~

(7) ~~The selections by the arbitration panel and items agreed upon by the ferry system management and the employee organization will be deemed to be the collective bargaining agreement between the parties.~~

(8) ~~The determination of the arbitration panel will be by majority vote and will be final and binding, subject to RCW 47.64.180 and 47.64.190. The arbitration panel will write an explanation for its selection and inform the parties of its decision.~~

~~(9) Two copies of the final award, including the written explanation required by subsection (8) of this section will be filed with the commission.))~~ The issues for arbitration shall be limited to the issues certified by the commission. Except with respect to biennial bargaining described under RCW 47.64.170(6), the parties will follow interest arbitration procedures contained in RCW 47.64.300 through 47.64.330. The parties will provide the commission with a copy of the final award when issued.

AMENDATORY SECTION (Amending WSR 03-12-074, filed 6/3/03, effective 7/4/03)

WAC 316-55-600 Central filing of agreements. The parties to collective bargaining agreements entered into as a result of collective bargaining in accordance with chapter 47.64 RCW will file ~~((two))~~ a complete ~~((copies))~~ copy of their agreement with the commission.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 316-55-110	Impasse resolution—Dispute resolution panel.
WAC 316-55-120	Impasse resolution—Expenses.
WAC 316-55-130	Impasse resolution—Disclosure.
WAC 316-55-150	Impasse resolution—Vacancies.
WAC 316-55-505	Final offer.
WAC 316-55-510	Single arbitrator.
WAC 316-55-515	Arbitration panel.
WAC 316-55-517	Arbitration panel chairman—Qualifications—Replacement.
WAC 316-55-700	Result of collective bargaining agreements—If budget or fares exceeded.
WAC 316-55-710	Collective bargaining agreements stayed.
WAC 316-55-730	Commission action.