WSR 24-10-001 PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed April 17, 2024, 12:41 p.m., effective May 18, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this proposed rule making is to implement the Federal Transit Administration's Special Directive 22-51 that requires Washington state department of transportation (WSDOT) to implement a risk-based inspection program for the rail fixed guideway public transportation systems that it oversees. Its anticipated effects will be to expand WSDOT's state safety oversight program reach to the authority and capability to enter facilities of each rail fixed guideway public transportation system that the state safety oversight agency oversees to inspect infrastructure, equipment, records, personnel, and data. This proposed rule making would not change any existing rules. Rather, it expands WSDOT's authority for risk-based inspec-

Citation of Rules Affected by this Order: New WAC 486-550-071. Statutory Authority for Adoption: RCW 81.1.4.115 [81.104.115], 43.06.120.

Other Authority: 49 U.S.C. § [5329(k)].

Adopted under notice filed as WSR 23-21-066 on October 12, 2023. Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Date Adopted: April 1, 2024.

> Sam Wilson, Director Business Support Services

OTS-4874.1

NEW SECTION

WAC 468-550-071 Access and implementation of risk-based inspections. All WSDOT trained inspection personnel, including consultants hired for the purpose of conducting inspections, are granted authority under the state safety oversight program to conduct both announced and unannounced inspections of the rail fixed guideway public transportation system (RFGPTS). Each RFGPTS must allow WSDOT and/or consultants to do all things reasonable and necessary to conduct their inspections including, but not limited to, entering RTA facilities and other relevant locations, and inspecting infrastructure, equipment, records,

personnel, and data, including the data that the rail fixed guideway public transportation agency collects when identifying and evaluating safety risks. It is expected that the RTA will provide the WSDOT inspection staff with the resources and information necessary to conduct the inspection in an effective and efficient manner.

WSDOT, in consultation with each rail fixed guideway public transportation agency that it oversees, will establish policies and procedures regarding the access to each RFGPTS for the purpose of conducting inspections of the rail fixed guideway public transportation system, including access for inspections that occur without advance notice to the rail fixed guideway public transportation agency.

Washington State Register, Issue 24-10 WSR 24-10-007

WSR 24-10-007 PERMANENT RULES DEPARTMENT OF COMMERCE

[Filed April 18, 2024, 10:48 a.m., effective May 19, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The low-income home rehabilitation revolving loan program (loan program) was established in 2017 and served homeowners in rural areas with incomes at or below 200 percent of the federal poverty level. Upon the enactment of SHB 1250 (2023), the loan program terminated on July 1, 2023, and outstanding loans will be forgiven. Additionally, the law added a new section to chapter 43.330 RCW establishing a low-income home rehabilitation grant program and requiring the department of commerce (commerce) to adopt rules for implementation of this new program. Chapter 365-175 WAC, which includes rules previously adopted for the implementation of the loan program, must be amended to include new rules for the newly established grant program and to reflect the termination of the loan program.

Citation of Rules Affected by this Order: New 1 [chapter 365-175 WAC].

Statutory Authority for Adoption: RCW 43.330.483.

Adopted under notice filed as WSR 24-03-034 on January 8, 2024.

Changes Other than Editing from Proposed to Adopted Version: Commerce has adjusted the proposed rules to allow any agencies delivering programs and services with similar eligibility criteria to the new grant program to be given preference for receiving grant funds, as specified in HB 1250 section 4(1).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Date Adopted: April 18, 2024.

> Amanda Hathaway Rules Coordinator

OTS-5136.2

Chapter 365-175 WAC RULES FOR LOW-INCOME HOME REHABILITATION ((REVOLVING LOAN)) GRANT PRO-GRAM

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-010 Authority. These rules implement RCW 43.330.480 through 43.330.488 and are adopted under the authority in RCW ((43.330.482)) 43.330.483.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-020 Purpose. To set forth the conditions and procedures for how funds for the low-income home rehabilitation ((revolving loan)) grant program will be administered and used to serve low-income clients living in rural areas.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-030 Definitions. "Commerce" means the Washington state department of commerce.

(("Consumer price index" means the annual average consumer price index for all urban consumers (CPI-U) published by the Bureau of Labor Statistics of the United States Department of Labor.))

"Home" means a single-family residential structure.

"Home rehabilitation" means residential repairs and improvements that address health, safety, and durability issues in existing housing in rural areas.

"Homeowner" means a person who owns and resides permanently in the home the person occupies.

"Low-income" means persons or households with income at or below ((two hundred)) 200 percent of the federal poverty level as ((adjusted for family size and)) determined annually by the federal Department of Health and Human Services, 80 percent of the area median income for the county in which the home receiving rehabilitation is located, or 60 percent of the state median income, whichever is greater, and as adjusted for household size.

"Rehabilitation agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for rehabilitating residences under this chapter and has been approved by the department.

"Rural areas" means areas of Washington state defined as nonentitlement areas by the United States Department of Housing and Urban Development.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-040 What agencies are eligible to use funds from the low-income home rehabilitation ((revolving loan)) grant program? A local agency must apply to and receive approval from commerce to become an authorized rehabilitation agency. The application must show that the agency is eligible to participate and must show that the agency has established procedures to administer the program in compliance with the statute and these rules. Commerce will give preference to local agencies ((that are grantees of the state low-income weatherization assistance program)) delivering programs and services with similar eligibility criteria. Authorized rehabilitation agencies must comply with reporting requirements established in grant agreements and must adopt operating procedures that are subject to approval by commerce.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

- WAC 365-175-050 How do authorized rehabilitation agencies receive funds from the low-income home rehabilitation ((revolving loan)) grant fund? (1) Commerce will initially allocate funds to authorized rehabilitation agencies using a formula developed for the low-income rural rehabilitation ((revolving loan)) grant fund. Initial funding levels may be adjusted based on the capacity and capability of each rehabilitation agency as determined through the application process.
- (2) Commerce may reallocate funds to other authorized rehabilitation agencies if doing so will better achieve the objectives of the program.
- (3) Authorized rehabilitation agencies will receive a grant for funds each biennium funding is available. Funding is subject to a grant agreement between commerce and the authorized rehabilitation agency.
- (4) Authorized rehabilitation agencies must report to commerce quarterly or in line with reporting for federal weatherization grants. Commerce will provide reporting instructions to authorized rehabilitation agencies. Timely reporting will be considered when determining future funding opportunities.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

- WAC 365-175-060 What clients are eligible to receive program loans from the low-income home rehabilitation ((revolving loan)) grant program? (1) An authorized rehabilitation agency may provide a program ((loan)) grant to a person only if the agency determines that all of these eligibility criteria are met:
- (a) The person owns and occupies the home that will receive the rehabilitation services.
- (b) The income of the person is at or below ((two hundred)) 200 percent of the federal poverty level((, as adjusted for family size and)) as determined annually by the federal Department of Health and Human Services, 80 percent of the area median income for the county in which the home receiving rehabilitation is located, or 60 percent of the state median income, whichever is greater, and as adjusted for household size.
 - (c) The property is located in a rural area.

(2) An authorized rehabilitation agency must give priority to rehabilitation applications from persons who are senior citizens, persons with disabilities, families with children five years old and younger, and veterans.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

- WAC 365-175-070 What criteria must a program ((loan)) grant meet? (1) ((The loan amount may not exceed any of the following limits:
 - (a) Forty thousand dollars.
- (b) The direct costs paid to one or more rehabilitation agency for necessary improvements, plus seven percent for administrative costs to the authorized rehabilitation agency.
- (c) An amount equal to eighty percent of the assessed value of the property.
- (d) An amount equal to eighty percent of the assessed value of the property minus the sum of the unpaid principal amounts of all existing loans that are secured by the property. (For example, if the assessed value of the property is \$100,000 and an existing mortgage has an unpaid principal amount of \$50,000, the limitation under this is \$30,000, which is eighty percent of \$100,000 minus \$50,000.)
- (2) The loan must be secured by a lien against the property that is in favor of the Washington department of commerce and subordinate to no lien other than a first mortgage or deed of trust or liens for general taxes, amounts deferred under chapter 84.37 or 84.38 RCW, or special assessments as defined in RCW 84.38.020.
- (3) The loan must specify a rate of interest equal to the annual change in consumer price index for the prior calendar year. (For loans closed in calendar year 2018, the interest rate is 2.1 percent.)
- (4) The loan must require repayment of principal, interest, and any administrative fee upon the sale or any other change in ownership of the property.
- (5) The loan must provide the borrower with the option for early repayment without prepayment penalty.
- (6) Authorized rehabilitation agencies must file lien paperwork in compliance with local recording office requirements and consistent with operating procedures approved by commerce.)) The cost of the home rehabilitation must be the lesser of:
- (a) Eighty percent of the assessed or appraised value of the property post rehabilitation, whichever is greater;
 - (b) Fifty thousand dollars.
- (2) The maximum amount that may be granted under this program may not exceed the cost of the home rehabilitation as provided in subsection (1) of this section.

WSR 24-10-018 PERMANENT RULES PARKS AND RECREATION COMMISSION

[Filed April 19, 2024, 11:13 a.m., effective May 20, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Washington state parks and recreation commission amended the annual moorage permit, WAC 352-12-030. The amendments will clarify the distinction between saltwater and freshwater annual moorage users, and nonrecreational and commercial use of the annual moorage permit.

Citation of Rules Affected by this Order: Amending WAC 352-12-030.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.070. Adopted under notice filed as WSR 24-04-073 on February 2, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Date Adopted: April 19, 2024.

> Valeria Veasley Management Analyst

OTS-5182.2

AMENDATORY SECTION (Amending WSR 08-24-006, filed 11/20/08, effective 12/21/08)

- WAC 352-12-030 Annual moorage permits. (1) Annual moorage permits may be obtained for the period January 1 through December 31, inclusive. Application for such permits may be obtained from most state park ((managers or rangers, or by writing)) office locations, or by submitting an application to the Commission Headquarters, P.O. Box 42650, Olympia, WA 98504-2650, or online at ((www.parks.wa.gov)) https://parks.wa.gov.
- (2) Annual moorage permits will be issued for a ((particular)) specific recreational vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued and will be published by state parks. Annual moorage permits are intended for recreational use only and are not valid for commercial use.
- (3) Annual permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or to the left (port) outside transom, or

if a sailboat, on the forward portion of the left (port) cabin trunk, or as otherwise instructed by the director or designee.

- (4) Annual moorage permits are accepted at state parks saltwater sites that are designated first come, first served. Annual moorage permits are not valid at reservable marinas or freshwater facilities.
- (5) Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

WSR 24-10-022 PERMANENT RULES DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed April 22, 2024, 10:08 a.m., effective April 23, 2024]

Effective Date of Rule: One day after filing [April 23, 2024]. Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This rule implements laws that are already in effect, so the department of retirement systems is putting the rule into effect one business day after filing.

Purpose: Making further revisions to recent retiree return to work rules to correct conflicting rules to achieve full implementation.

Citation of Rules Affected by this Order: Repealing WAC 415-02-170; and amending WAC 415-02-173.

Statutory Authority for Adoption: RCW 41.50.050; chapter 110, Laws of 2022; and chapters 99 and 410, Laws of 2023.

Adopted under notice filed as WSR 24-06-087 on March 6, 2024. Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 1.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Date Adopted: April 22, 2024.

> Tracy Guerin Director

OTS-5259.1

AMENDATORY SECTION (Amending WSR 23-24-091, filed 12/5/23, effective 12/7/23)

WAC 415-02-173 How is my benefit affected if I return to work and am impacted by more than one annual hourly limit? (1) How is my benefit affected if I return to work in positions with two different employers that qualify for more than one annual hourly limit?

If you return to work in more than one position, and the positions have different annual hourly limits, you will be limited to the highest annual hourly limit for all positions combined.

Examples: Don is retired from teachers' retirement system (TRS) 2 and returned to work as a teacher. Don's nonadministrative TRS position at a school district has an annual limit of 1,040 hours. While working at the school district Don also takes a position at a state agency. The state agency position is a public employees' retirement

system (PERS) position and $((\frac{Don}{}))$ is subject to an annual limit of 867 hours. Don's annual hourly limit ((is lowered to 867)) remains at 1,040 hours ((while working in both positions)). Don ((then)) later separates from the ((state agency)) TRS nonadministrative school district position and Don's annual hourly limit ((will return to)) of 1,040 hours remains in effect for the remainder of the current calendar year. Don's limit will be 867 hours the following year if he continues in the PERS position.

Pat is a 2008 ERF retiree, who returned to work as a driver for the department of transportation (DOT) in a PERS position with an annual limit of 867 hours. Pat gets a second job, working as a bus driver for a school district. The nonadministrative position in the school employees' retirement system (SERS) is subject to an annual limit of 1,040 hours. Pat's benefit is governed by the ((lowest)) <u>highest</u> limit, in this case the ((PERS)) <u>SERS bus driver</u> position at ((DOT)) the school district. Pat's annual limit will be ((867)) 1,040 hours in a calendar year.

(2) If I receive pension payments from more than one DRS administered retirement system, and each system has different annual hourly limits, how will my benefit be affected?

If you are retired from multiple DRS systems, each of your benefits will be affected according to rules of the respective system.

Example: Alex retired from two systems, PERS and SERS, and returned to work as a bus driver in a SERS-eligible position at a school district after the mandatory 30-day break. Alex's two benefits will be impacted differently.

- PERS To qualify for the 1,040-hour annual hourly limit in PERS, you need a 100-day break in service. Alex only has a 30-day break before returning to work, so Alex's PERS benefit will be ((limited)) subject to an 867-hour((s)) limit.
- SERS Alex's SERS benefit does not require the 100-day break. So, Alex's annual hourly limit for the SERS benefit will be ((limited to)) 1,040 hours.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-02-170 How is my benefit affected if I return to work and am impacted by more than

one annual hourly limit?

WSR 24-10-029 PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed April 23, 2024, 8:54 a.m., effective May 24, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington State University (university) is updating the policies and regulations for all student living groups, specifically WAC 504-24-030 Undergraduate housing requirement.

The proposed amendments modify, clarify, and update the university's undergraduate housing requirement.

Citation of Rules Affected by this Order: Amending WAC 504-24-030.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 24-04-098 on February 7, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0. Date Adopted: April 19, 2024.

> Deborah L. Bartlett, Director Policies, Records, and Forms and University Rules Coordinator

OTS-5165.2

AMENDATORY SECTION (Amending WSR 23-07-069, filed 3/13/23, effective 4/13/23)

- WAC 504-24-030 Undergraduate housing requirement. Housing requirements for single undergraduate students on residential campuses. To the extent that room is presently available, as determined by the university, all single undergraduate ((first-year)) students under 20 years of age are required to live in a residence hall for the equiva-<u>lent of</u> one academic year.
- (1) Exemptions. Exemptions are considered when a student demonstrates to the ((Pullman)) campus vice chancellor for student affairs or designee that ((either)):
- (a) The student has attended an institution of higher education as a regularly enrolled student for at least two ((regular)) full-time semesters or three ((regular)) full-time quarters (excluding summer sessions) following high school graduation or equivalent;
- (b) The student is living with immediate family in a family situation (((mother and/or father)) i.e., parent(s); legal guardian(s);

aunt or uncle; or grandparent(s)) within 40 miles of their respective campus;

- (c) The student has secured a statement from a physician or psychologist stating that ((residence)) living in a residence hall would detrimentally affect the student's physical or mental health; or
- (d) The student demonstrates that living in a residence hall would cause undue financial hardship or other extraordinary hardship.
- (2) Process. Applications for permission to reside off campus are available from Washington State University. Applications are reviewed and a determination is made whether an exemption is ((to be)) granted. Persons applying for such exemption are informed of the decision in writing. Requests for reconsideration of the decision may be submitted to ((the Pullman)) their respective campus vice chancellor for student affairs or designee. The vice chancellor or designee evaluates the appeal and approves or denies the appeal.

WSR 24-10-031 PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed April 23, 2024, 9:09 a.m., effective May 24, 2024]

Effective Date of Rule: Thirty-one days after filing. Purpose: The Washington State University (university) is updating the rules regarding standards of conduct for students, chapter 504-26

The university is modifying, clarifying, and updating the universitv's standards of conduct for students regarding composition of conduct boards and academic integrity hearings to improve the university's ability to process conduct and academic integrity violation cases in a timely manner.

Citation of Rules Affected by this Order: Amending WAC 504-26-010, 504-26-100, 504-26-105, 504-26-110, and 504-26-415. Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 24-04-099 on February 7, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0. Date Adopted: April 19, 2024.

> Deborah L. Bartlett, Director Policies, Records, and Forms and University Rules Coordinator

OTS-5170.2

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

- WAC 504-26-010 Definitions. Words and phrases used in the standards of conduct regardless of their associated gender identity include all genders. Words and phrases used in the standards of conduct in the singular or plural encompass both the singular and the plural, unless the context clearly indicates otherwise. For purposes of the standards of conduct, the following definitions apply:
- (1) Academic integrity hearing board. Teaching faculty and student representatives who $((\frac{1}{r}) - \frac{1}{r})$) are authorized by the university to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

- (2) Academic integrity violation. A violation of the university's academic integrity expectations, which is defined as:
- (a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.
- (b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.
- (c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.
- (d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:
- (i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.
- (ii) Counterfeiting a record of internship or practicum experien-
- (iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.
- (e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.
- (f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by CCS. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.
 - (g) Unauthorized collaboration on assignments.
- (h) Intentionally obtaining unauthorized knowledge of examination materials.
- (i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.
 - (j) Unauthorized multiple submission of the same work.
 - (k) Sabotage of others' work.
 - (1) Tampering with or falsifying records.
- (m) Violating any other academic rule or standards specified in published course policies.
- (3) Appeals board. The group of students, faculty, and staff, collectively, authorized in accordance with WAC 504-26-115 to consider appeals from a university conduct board's or conduct officer's deter-

mination as to whether a student has violated the standards of conduct and any sanctions assigned.

- (4) Brief adjudication. The process by which a conduct officer may adjudicate student conduct matters that are not resolving allegations that would constitute Title IX sexual harassment within the university's Title IX jurisdiction, and where possible sanctions do not include suspension for more than 10 instructional days, expulsion, loss of recognition, or revocation of degree. Also referred to as a "conduct officer hearing" or "brief adjudicative proceeding."
 - (5) CCR. The university's office of compliance and civil rights.
 - (6) CCS. The university's center for community standards.
- (7) Complainant. Any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint.
- (8) Conduct board. The group ((of students, faculty, and staff, collectively)) or individual authorized in accordance with WAC 504-26-110 to adjudicate certain student conduct matters.
- (9) Conduct officer. A university official authorized by the dean of students or their designee to initiate, manage, and/or adjudicate certain student conduct matters in accordance with WAC 504-26-401 and 504-26-402.
- (10) Faculty member. For purposes of this chapter, any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.
- (11) Full adjudication. The process by which a conduct board adjudicates matters involving possible suspension of greater than 10 instructional days, expulsion, loss of recognition, revocation of degree, or other matters as determined by the university. Also referred to as "formal adjudication," "formal (or full) adjudicative proceeding," or "conduct board hearing."
- (12) Gender identity. Having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.
- (13) Member of the university community. Includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university, including guests of and visitors to the university. A person's status in a particular situation is determined by the dean of students or designee.
- (14) Parties. The parties to a student conduct proceeding must include the university and the respondent. The parties in a student conduct matter where the allegations, if true, would constitute Title IX sexual harassment within the university's Title IX jurisdiction must also include the complainant(s). The university may designate other complainants as parties to conduct proceedings including, but not limited to, harmed parties. The dean of students or their designee determines party status for complainants.
- (15) Recognized or registered student organization. A group of students, collectively, that has complied with the formal requirements for university recognition or registration.
- (16) Respondent. A student or recognized or registered student organization alleged to have violated these standards of conduct.
- (17) Standards of conduct. The standards of conduct for students outlined in this chapter.

- (18) Student. For the purposes of this chapter, any person who:
- (a) Is enrolled in at least one undergraduate, graduate, or professional studies course at the university;
 - (b) Has been notified of their acceptance for admission but has not yet registered for their course(s);
 - (c) Is eligible to reenroll in classes without reapplying.
- (19) Title IX. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 and its implementing 34 C.F.R. Part 106.
 - (20) University. Washington State University.
- (21) University official. Any person employed by the university, performing assigned administrative or professional responsibilities.
- (22) University premises. All land, buildings, facilities, vehicles, websites, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks), including its study abroad program sites, as well as university-sponsored or hosted online platforms.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-100 Presiding officers. Full adjudicative proceedings are conducted by the conduct board and are presided over by an individual who is licensed to practice law in the state of Washington and has judicial training. The presiding officer's role is to ensure a fair and impartial process and is limited to making procedural and evidentiary rulings and handling logistical and other matters related to facilitating the proceedings to ensure compliance with legal requirements. The presiding officer must transmit a full and complete record of the proceedings to CCS and the conduct board, including such comments upon demeanor of witnesses as the presiding officer deems relevant, in accordance with RCW 34.05.461. The presiding officer does not vote ((and is not considered for purposes of creating a quorum of the conduct board)).

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-105 Recruitment, appointment, and term of conduct and appeals board members. A committee comprised of students, staff, and/or faculty members and convened by the dean of students selects a pool of members of the university community to serve as conduct board members and appeals board members. Pool members are approved by the university president and must be in good standing with the university. Pool members serve a maximum term of four calendar years but may apply to serve another four-year term after a break of two years. Terms of pool members are staggered. CCS is not involved in the ((recruitment or application)) selection processes for board members. CCS may assist in the recruitment process for board members.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-110 Composition of conduct board. A conduct board ((must consist of at least three members. A quorum of three is needed to hear a matter)) may consist of one person or multiple persons selected from the pool of approved university community members in accordance with WAC 504-26-105. The presiding officer is not a member of the conduct board ((and therefore is not considered for purposes of determining whether there is a quorum. A minimum of one conduct board member hearing a matter must be a student. The remaining members may be students, or full-time or part-time faculty or staff of any rank or classification. When the complainant or respondent is enrolled at a particular campus, at least one member of the conduct board must be from that campus)). No conduct board member may serve on a case if the member previously served on a board in a case involving the same complainant or respondent.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-415 Procedure for academic integrity violations. (1) Initial hearing.

- (a) When a responsible instructor believes that an academic integrity violation has occurred, the instructor must assemble the evidence and, upon reasonable notice to the respondent of the date, time, and nature of the allegations, make reasonable attempts to meet with the respondent suspected of committing an academic integrity violation.
- (b) If the respondent admits that they committed an academic integrity violation, the instructor assigns an outcome in keeping with published course policies and notifies CCS in writing, including the allegations, the respondent's admission, and the sanctions assigned.
- (c) If the instructor is unable to meet with the respondent or if the respondent disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor must make a determination as to whether the respondent did or did not commit an academic integrity violation based on a preponderance of the evidence standard, meaning that it is more likely than not that the violation occurred. If the instructor finds that the respondent was in violation, the instructor must provide the respondent and CCS with a written determination, the evidence relied upon, and the sanctions assigned.
- (d) The respondent has 21 calendar days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) assigned to the academic integrity hearing board.
 - (2) Review.
- (a) Upon timely request for review by a respondent who has been found by their instructor to have committed an academic integrity violation, the academic integrity hearing board must make a separate and independent determination of whether or not the respondent is responsible for committing an academic integrity violation and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.
- (b) The academic integrity hearing board must consist of a minimum of ((three)) one member((s. A quorum of three is needed to review

a matter. A minimum of one academic integrity hearing board member must be an enrolled student. The remaining members may be students, or full-time or part-time faculty of any rank or classification)). No academic integrity hearing board member may serve on a case if the member previously served on a board in a case involving the same student.

- (c) The academic integrity hearing board is empowered to provide an appropriate remedy for a respondent including arranging a withdrawal from the course, having the respondent's work evaluated, or changing a grade where it finds that:
- (i) The respondent is not responsible for violating academic integrity policies; or
- (ii) The outcome assigned by the instructor violates the instructor's published policies.
 - (d) Academic integrity hearing board proceedings.
- (i) Any respondent appealing a responsible instructor's finding of an academic integrity violation is provided written notice of an academic integrity hearing board hearing in accordance with WAC 504-26-035. The written notice must include:
- (A) The specific complaint, including the university or instructor academic integrity policy or regulation allegedly violated;
- (B) The approximate time and place of the alleged act that forms the factual basis for the violation;
 - (C) The time, date, and place of the hearing;
- (D) A list of the witnesses who may be called to testify, to the extent known; and
- (E) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the respondent must have the right to inspect the documentation.
 - (ii) Time for hearings.
- (A) Academic integrity hearing board hearings are scheduled not less than seven calendar days after the respondent has been sent notice of the hearing.
- (B) Requests to extend the time and/or date for hearing must be addressed to the chair of the academic integrity hearing board, and must be copied to CCS. A request for extension of time is granted only upon a showing of good cause.
- (iii) Academic integrity hearing board hearings are conducted according to the following procedures, except as provided by (d)(iv) of this subsection:
- (A) Academic integrity hearing board hearings are conducted in private.
- (B) The instructor, respondent, and their advisor, if any, are allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing is at the discretion of the academic integrity hearing board chair.
- (C) In academic integrity hearings involving more than one respondent, the academic integrity hearing board chair may permit joint or separate hearings at the chair's discretion.
- (D) In hearings involving graduate respondents, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.
- (E) The responsible instructor and the respondent may arrange for witnesses to present relevant information to the academic integrity hearing board. Witnesses must provide written statements to the conduct officer at least two weekdays before the hearing. The respondent

is responsible for informing their witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the academic integrity hearing board, the responsible instructor, and the respondent, as appropriate. The respondent and/or responsible instructor may submit written questions to be answered by each other or by other witnesses. Written questions are submitted to, and asked by, the academic integrity hearing board chair. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the academic integrity hearing board chair, who has the discretion to determine admissibility of information.

- (F) Pertinent records, exhibits, and written statements may be accepted as information for consideration by an academic integrity hearing board at the discretion of the chair.
- (G) Questions related to the order of the proceedings are subject to the final decision of the chair of the academic integrity hearing board.
- (H) After the portion of the hearing concludes in which all pertinent information is received, the academic integrity hearing board determines (by majority vote) whether or not the respondent is more likely than not responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.
- (I) The respondent is notified of the academic integrity hearing board's decision within 20 calendar days from the date the matter is heard. The respondent must receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the academic integrity policies), and the sanction.
- (iv) If a respondent to whom notice of the hearing has been sent (in the manner provided above) does not appear at the hearing, the information in support of the complaint is presented and considered in the respondent's absence, and the board may issue a decision based upon that information.
- (v) The academic integrity hearing board may for convenience, or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of any person, provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the chair of the academic integrity hearing board to be appropriate.
- (vi) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by academic integrity hearing board.
- (3) If the reported violation is the respondent's first offense, CCS ordinarily requires the respondent to attend a workshop separate from, and in addition to, any academic outcomes assigned by the instructor.
- (4) If the reported violation is the respondent's second offense, the respondent is ordinarily referred for a full adjudicative hearing in accordance with WAC 504-26-403, to determine appropriate sanctions, which may include expulsion from the university.
- (5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the respondent is found responsible is particularly egregious in light of all attendant

circumstances, the instructor or academic integrity hearing board may direct that the respondent's case be referred to the conduct board with a recommendation for expulsion from the university even if it is the respondent's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings must be reported to the responsible instructor and the chair or dean.

WSR 24-10-032 PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed April 23, 2024, 9:59 a.m., effective July 1, 2024]

Effective Date of Rule: July 1, 2024.

Purpose: The Washington State University (university) is updating the rules regarding the small works roster, chapter 504-50 WAC.

The proposed amendments modify, clarify, and update the university's rules regarding the small works roster in accordance with amended state law, chapter 39.04 RCW, effective July 1, 2024.

Citation of Rules Affected by this Order: New WAC 504-50-032 and 504-50-042; repealing WAC 504-50-030, 504-50-040, 504-50-050, 504-50-060, 504-50-070 and 504-50-080; and amending WAC 504-50-010 and

504-50-020.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 24-04-093 on February 7, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 2, Repealed 6.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 2, Repealed 6. Date Adopted: April 19, 2024.

> Deborah L. Bartlett, Director Policies, Records, and Forms and University Rules Coordinator

OTS-5157.1

AMENDATORY SECTION (Amending WSR 09-19-071, filed 9/15/09, effective 10/16/09)

WAC 504-50-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to RCW ((39.04.155))39.04.151, authorizing Washington State University to utilize a statewide small works roster in accordance with RCW 37.04.151 (1) and (2) or to adopt procedures to ((award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property in lieu of other procedures for such work with an estimated cost of three hundred thousand dollars (\$300,000) or less. The University, in establishing a small works roster, shall use the procedures set forth in this chapter)) establish one or more small works rosters for different specialties, categories of anticipated work, or geographic areas served by contractors on the roster that have registered for inclusion on that particular roster.

AMENDATORY SECTION (Amending WSR 09-19-071, filed 9/15/09, effective 10/16/09)

WAC 504-50-020 Project construction cost. Whenever the estimated cost of any construction((... or improvement of real property)) does not exceed ((three hundred thousand dollars (\$300,000))) \$350,000, the university is authorized to use the statewide small works roster, or a WSU established small works roster in lieu of public advertisement for bids. In the event that the legislature further increases the small works roster limit, the <u>u</u>niversity is authorized to use the small works roster for any projects up to the legislatively authorized limit. No project shall be broken into units or phases for the purpose of avoiding the maximum dollar amount of a contract that may be met using the small works roster.

NEW SECTION

WAC 504-50-032 Procedures for use. Procedures must be established for securing telephone, written, or electronic quotations from contractors on the appropriate statewide or WSU established small works rosters to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Detailed plans and specifications are not required as part of the bid invitation. Bids may be solicited from all appropriate contractors on the statewide or WSU established rosters, or, alternatively, if the estimated cost of the work is less than \$150,000, the university may direct contract with small businesses as defined by RCW 39.04.010. In the event that the legislature further increases the small business limit, the university is authorized to use small businesses for any projects up to the legislatively authorized limit. Procedures must be established for rotation, notification, and annual publication of small works contracts awarded and contractors contacted for direct negotiation pursuant to RCW 39.04.200.

NEW SECTION

WAC 504-50-042 Administration. The associate vice president for facilities services, on behalf of the board of regents, is authorized to establish procedures for university use of the statewide and WSU established small works rosters.

REPEALER

The following sections of the Washington Administrative Code are repealed:

| WAC 504-50-030 | Creation of small works roster or rosters. |
|----------------|--|
| WAC 504-50-040 | Notice of small works rosters and solicitation of contractors. |

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| WAC 504-50-050 | Contractors application form— Information required. |
|----------------|--|
| WAC 504-50-060 | Qualification requirements. |
| WAC 504-50-070 | Denial or removal of contractors from small works roster—Reasons, notice, and hearing. |
| WAC 504-50-080 | Procedures for use. |

WSR 24-10-041 PERMANENT RULES HEALTH CARE AUTHORITY

[Filed April 24, 2024, 8:07 a.m., effective May 25, 2024]

Effective Date of Rule: Thirty-one days after filing. Purpose: The health care authority amended WAC 182-543-5700 to correct the number for a form titled Medical Necessity for Wheelchair Purchase for Nursing Facility Clients. The correct form number is HCA 19-0006.

Citation of Rules Affected by this Order: Amending WAC 182-543-5700.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160. Adopted under notice filed as WSR 24-05-029 on February 12, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0. Date Adopted: April 24, 2024.

> Wendy Barcus Rules Coordinator

OTS-5224.1

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-5700 Medical equipment for clients in skilled nursing facilities. (1) The medicaid agency's skilled nursing facility per diem rate, established in chapters 74.46 RCW, 388-96, and 388-97 WAC, includes any reusable and disposable medical supplies that may be required for a skilled nursing facility client, unless otherwise specified within this section.

- (2) The agency pays for the following medical equipment outside of the skilled nursing facility per diem rate, subject to the limitations in this section:
 - (a) Manual or power-drive wheelchairs (including CRT);
 - (b) Speech generating devices (SGD); and
 - (c) Specialty beds.
- (3) The agency pays for one manual or one power-drive wheelchair for clients who reside in a skilled nursing facility, with prior authorization, according to the requirements in WAC 182-543-4100, 182-543-4200, and 182-543-4300. Requests for prior authorization must:

- (a) Be for the exclusive full-time use of a skilled nursing facility resident;
- (b) Not be included in the skilled nursing facility's per diem rate;
- (c) Include a completed General Information for Authorization form (HCA 13-835);
- (d) Include a copy of the telephone order, signed by the physician, for the wheelchair assessment;
- (e) Include a completed Medical Necessity for Wheelchair Purchase for Nursing Facility Clients form (HCA $((\frac{13-729}{19-0006}))$.
- (4) The agency pays for wheelchair accessories and modifications that are specifically identified by the manufacturer as separate line item charges, with prior authorization. To receive payment, providers must submit the following to the agency:
- (a) A copy of the telephone order, signed by the physician for the wheelchair accessories and modifications;
- (b) A completed Medical Necessity for Wheelchair Purchase for Nursing Facility Clients form (HCA $((\frac{1}{13}-729))$) 19-0006). The date on this form (HCA ((13-729))) 19-0006) must not be prior to the date on the telephone order. The agency's electronic forms are available online (see WAC 182-543-7000, Authorization);
- (c) The make, model, and serial number of the wheelchair to be modified;
 - (d) The modification requested; and
- (e) Specific information regarding the client's medical condition that necessitates modification.
- (5) The agency pays for wheelchair repairs with prior authorization. To receive payment, providers must submit the following to the
- (a) A completed Medical Necessity for Wheelchair Purchase for Nursing Facility Clients form (HCA $((\frac{13-729}{13-729}))$ 19-0006). The agency's electronic forms are available online (see WAC 182-543-7000, Authorization);
- (b) The make, model, and serial number of the wheelchair to be repaired; and
 - (c) The repair requested.
- (6) Prior authorization is required for the repair and modification of client-owned equipment.
- (7) The skilled nursing facility must provide a house wheelchair as part of the per diem rate, when the client resides in a skilled nursing facility.
- (8) When the client is eligible for both medicare and medicaid and is residing in a skilled nursing facility in lieu of hospitalization, the agency does not reimburse for medical equipment, related services, or related repairs or labor charges under fee-for-service
- (9) The agency pays for the purchase and repair of a speech generating device (SGD), with prior authorization. The agency pays for replacement batteries for SGDs in accordance with WAC 182-543-5500(3).
- (10) The agency pays for the purchase or rental of a specialty bed (a heavy duty bariatric bed is not a specialty bed), with prior authorization, when:
 - (a) The specialty bed is intended to help the client heal; and
- (b) The client's nutrition and laboratory values are within normal limits.

- (11) The agency considers decubitus care products to be included in the skilled nursing facility per diem rate and does not reimburse for these separately.
- (12) See WAC 182-543-9000 for reimbursement for wheelchairs and CRT.
- (13) The agency pays for the following medical supplies for a client in a skilled nursing facility outside the skilled nursing facility per diem rate:
- (a) Medical supplies or services that replace all or part of the function of a permanently impaired or malfunctioning internal body organ. This includes, but is not limited to, the following:
- (i) Colostomy and other ostomy bags and necessary supplies (see WAC 388-97-1060(3); and
- (ii) Urinary retention catheters, tubes, and bags, excluding irrigation supplies.
- (b) Supplies for intermittent catheterization programs, for the following purposes:
- (i) Long term treatment of atonic bladder with a large capacity; and
 - (ii) Short term management for temporary bladder atony.
- (c) Surgical dressings required as a result of a surgical procedure, for up to six weeks post-surgery.

Washington State Register, Issue 24-10 WSR 24-10-048

WSR 24-10-048 PERMANENT RULES HEALTH CARE AUTHORITY

[Filed April 24, 2024, 2:36 p.m., effective May 25, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The health care authority (agency) amended this rule to add clarifying language to subsection (5)(c). The agency added that if the state's applicable federal medical assistance percentage (FMAP) is O percent, the amount derived in subsection (5)(b) is multiplied by the lowest Washington state specific medicaid FMAP in effect at the time of claim payment.

Citation of Rules Affected by this Order: Amending WAC 182-550-4650.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160. Adopted under notice filed as WSR 24-07-101 on March 20, 2024. Number of Sections Adopted in Order to Comply with Federal Stat-

ute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0. Date Adopted: April 24, 2024.

> Wendy Barcus Rules Coordinator

OTS-5238.1

AMENDATORY SECTION (Amending WSR 22-09-079, filed 4/20/22, effective 5/21/22)

WAC 182-550-4650 "Full cost" public hospital certified public expenditure (CPE) payment program. (1) The medicaid agency's "full cost" public hospital certified public expenditure (CPE) inpatient payment program provides payments to participating government-operated hospitals based on the "full cost" of covered medically necessary services and requires the expenditure of local funds in lieu of state funds to qualify for federal matching funds. The agency's inpatient payments to participating hospitals equal the federal matching amount for allowable costs. The agency uses the ratio of costs-to-charges (RCC) method described in WAC 182-550-4500 to determine "full cost."

- (2) To be eligible for the "full cost" public hospital CPE payment program, the hospital must be:
- (a) Operated by a public hospital district in the state of Washington, not certified by the department of health (DOH) as a critical

access hospital, and has not chosen to opt-out of the CPE payment program as allowed in subsection (6) of this section;

- (b) Harborview Medical Center; or
- (c) University of Washington Medical Center.
- (3) Payments made under the inpatient CPE payment program are limited to medically necessary services provided to medical assistance clients eligible for inpatient hospital services.
- (4) Each hospital described in subsection (2) of this section is responsible to provide certified public expenditures as the required state match for claiming federal medicaid funds.
- (5) The agency determines the initial payment for inpatient hospital services under the CPE payment program by:
- (a) Multiplying the hospital's medicaid RCC by the covered charges (to determine allowable costs), then;
- (b) Subtracting the client's responsibility and any third party liability (TPL) from the amount derived in (a) of this subsection, then;
- (c) Multiplying the state's federal medical assistance percentage (FMAP) by the amount derived in (b) of this subsection. If the state's applicable FMAP is zero percent, the amount derived in (b) of this subsection is multiplied by the lowest Washington state-specific medicaid FMAP in effect at the time of claim payment.
- (6) A hospital may opt-out of the inpatient CPE payment program if the hospital:
- (a) Meets the criteria for the inpatient rate enhancement under RCW 74.09.5225; or
- (b) Is not eligible for public hospital disproportionate share hospital (PHDSH) payments under WAC 182-550-5400.
- (7) To opt-out of the inpatient CPE payment program, the hospital must submit a written request to opt-out to the agency's chief financial officer by July 1st in order to be effective for January 1st of the following year.
- (8) Hospitals participating in the inpatient CPE payment program must complete the applicable CPE medicaid cost reports as described in WAC 182-550-5410 for the inpatient fee-for-service cost settlements.

WSR 24-10-063 PERMANENT RULES DEPARTMENT OF HEALTH

(Board of Nursing) [Filed April 26, 2024, 3:14 p.m., effective May 27, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board and applicants applying via interstate endorsement. The Washington state board of nursing amended WAC 246-840-030 and 246-840-090 to clarify specific licensing requirements for out-of-state registered nurse and licensed practical nurse applicants.

Citation of Rules Affected by this Order: Amending WAC 246-840-030 and 246-840-090.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, 18.80.020.

Adopted under notice filed as WSR 24-03-103 on January 18, 2024.

A final cost-benefit analysis is available by contacting Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov, website www.nursing.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0. Date Adopted: April 26, 2024.

> Alison Bradywood, DNP, MH/MPH, RN, NEA-BC Executive Director Washington State Board of Nursing

OTS-4435.6

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-030 Initial licensure for registered nurses and practical nurses—Out-of-state traditional nursing education program approved by another United States nursing board. (1) Registered ((nursing)) nurse and practical ((nursing)) nurse applicants educated in a traditional nursing education program approved by another United States nursing board and applying for initial licensure ((must)) shall:

- (((1))) <u>(a)</u> Successfully complete a ((board approved)) nursing education program in another U.S. state, which:
 - (i) Is approved by the nursing board in that state; and
- (ii) Substantially meets requirements for nursing education approved in Washington state. The board retains authority to evaluate and determine the sufficiency of academic preparation for all applicants.
- ((Applicants from a board approved registered nurse program who are applying for a practical nurse license:
- (a) Complete all course work required of board approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.
- (b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.
- (2))) (b) Successfully pass the ((commission)) board-approved licensure examination as provided in WAC 246-840-050.
 - $((\frac{3}{3}))$ (c) Submit the following documents:
- $((\frac{1}{2}))$ (i) A completed licensure application with the required fee as defined in WAC 246-840-990.
- (((b))) <u>(ii)</u> An official transcript sent directly from the applicant's nursing education program to the ((commission)) board. The transcript must include course names and credits accepted from other programs. The transcript must show:
- $((\frac{1}{2}))$ (A) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or
- $((\frac{(ii)}{(ii)}))$ (B) That the applicant has completed all course work required in a ((commission)) board-approved practical nurse program as listed in WAC ((246-840-575(2))) 246-840-539.
- (((c) Applicants)) <u>(iii) An applicant</u> from a board_approved registered nurse program who ((are)) is applying for a practical nurse license ((must)) shall also submit an attestation sent from the nurse administrator of the applicant's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.
- (2) An applicant from an out-of-state board-approved registered nurse program who is applying for a practical nurse license shall:
- (a) Complete all course work required of board-approved practical nurse programs as listed in WAC 246-840-539. Required courses not included in the registered nurse program may be accepted if the courses were obtained through a board-approved program.
- (b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

- WAC 246-840-090 Licensure for nurses by interstate endorsement. Registered nurse and practical nurse applicants for interstate endorsement may be issued a license without examination provided the applicant meets the following requirements:
 - (1) The applicant graduated and holds a degree from:

- (a) A ((commission or)) state board_approved program preparing candidates for licensure as a nurse, which substantially meets requirements for nursing education approved in Washington state, as determined by the board; or
- (b) A nursing program that is equivalent to ((commission)) boardapproved nursing education in Washington state at the time of graduation as determined by the ((commission)) board.
- (2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory and successfully completes a ((commission)) board-approved refresher course.
- (a) An applicant whose license was inactive or expired must be issued a limited education authorization by the ((commission)) board to enroll in the clinical portion of the refresher course.
- (b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.
- (3) The applicant was originally licensed to practice as a nurse in another state or territory after passing the National Council Licensure Examination (NCLEX).
- (4) ((Applicants)) An applicant graduating from a nursing program((s)) outside the U.S. ((must)) shall demonstrate English proficiency by:
- (a) Passing a ((commission)) board-approved English proficiency test if the nursing education is not in one of the following countries: Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands((, or complete one thousand)); or
- (b) Completing 1,000 hours of employment as a licensed nurse in another state((, or provide)). The 1,000 hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the board; or
- (c) Providing evidence directly from the ((school)) program of earning a high school diploma or college degree from a United States institution.
- ((The one thousand hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.))
- (5) For RNs: If the applicant is a graduate of a nontraditional nursing education program and:
- (a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ((must submit evidence of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory)) shall meet the requirements <u>defined in WAC 246-840-048</u>.
- (b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ((must)) shall submit evidence of at least ((one thousand)) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.
 - (6) All applicants must submit the following documents:
- (a) A completed licensure application with the required fee as defined in WAC 246-840-990.

- (b) An official transcript sent directly from the applicant's nursing education program to the ((commission)) board if the education cannot be verified from the original board of nursing, or ((commission)) board-approved evaluation agency.
- (i) The transcript must contain adequate documentation demonstrating that the applicant graduated from an approved nursing program or successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.
- (ii) The transcripts ((shall)) <u>must</u> include course names and credits accepted from other programs.
- (c) Verification of an original registered or practical nurse license from the state or territory of original licensure. The verification must identify that issuance of the original licensure included passing the NCLEX.
- (d) For \underline{an} applicant((\underline{s})) educated outside the United States and in territories or countries not listed in subsection (4)(a) of this section, successful results of a ((commission)) board-approved English proficiency exam, or, evidence of ((one thousand)) 1,000 hours worked as a nurse.
- (e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:
- (i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ((must)) shall submit ((documentation of two hundred hours of preceptorship in the role of a reqistered nurse as defined in WAC 246-840-035 or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory)) the requirements outlined in WAC 246-840-048.
- (ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ((must)) shall submit documentation of at least ((one thousand)) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

WSR 24-10-065 PERMANENT RULES PUGET SOUND CLEAN AIR AGENCY

[Filed April 26, 2024, 3:54 p.m., effective June 1, 2024]

Effective Date of Rule: June 1, 2024.

Purpose: Section 5.07: The registration program fees, like the other fee programs of the Puget Sound clean air agency (agency) (operating permit, notice of construction, and asbestos), are designed to recover the costs of implementing and administering the program. The last significant changes to the registration program fee schedule in Regulation I, Section 5.07 were made in 2023, and before that in 2012.

The agency reviews the registration program fee structure annually to determine if the fees collected are adequate to cover the costs of the program. This year, the proposed fee increases apply across the board to each fee category (excluding emission fees) to reflect the increases in total program costs. These increases are attributable to cost-of-living increases and inflationary impacts to other operational costs.

Increases in fees for the entire program were implemented in 2023. However, the fees remained unchanged from 2012 to 2023 due to, among other things, closely managing program administration, implementing efficiencies, and relatively low inflationary impacts to the program costs. In the last three years, inflation has significantly increased the costs to the program and an adjustment is necessary for the upcoming budget development.

The financial information for fiscal year (FY) 2024 and the projections for FY 2025 indicate that without an increase in the registration fees, the revenues generated by the existing fee levels would be less than the annual budget for the program in FY 2025. Current expenses are also reflecting the effects of inflation, as actual expenses are now projected to exceed the revenues invoiced for calendar year 2024. Left unchanged now, that would lead to deficits for the program that would continue to erode the funding for the program that would potentially produce a deficit at some point in FY 2025.

Based on the information discussed above, the proposed increase in registration fees is five percent across the board (all fee elements in the fee structure) except for emission fees. The emission fees, a \$/ton fee for reportable air pollutant emissions levels, are proposed to remain unchanged. This recommendation regarding emission fee charges remaining unchanged will keep the emission fee charges equivalent to those for operating permit sources.

Citation of Rules Affected by this Order: Amending Regulation I, Section 5.07 (Annual Registration Fees).

Statutory Authority for Adoption: Chapter 70A.15 RCW. Adopted under notice filed as WSR 24-05-072 on February 20, 2024. Date Adopted: April 25, 2024.

> Christine Cooley Executive Director

AMENDATORY SECTION

REGULATION I SECTION 5.07 ANNUAL REGISTRATION FEES

(a) The Agency shall assess annual fees as set forth in Section 5.07(c) of this regulation for services provided in administering the registration program. Fees received under the registration program

shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating).

- (b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. Registration fees shall be deemed delinquent if not fully paid within 45 days of the date of the invoice. Persons or sources that under-report emissions, fail to submit other information used to set fees, or fail to pay required fees within 90 days of the date of the invoice, may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70A.15 RCW).
- (c) Except as specified in Section 5.07 (d) and (e) of this regulation, registered sources shall be assessed a fee of ((\$1,350))\$1,418, plus the following fees:
- (1) Sources subject to a federal emission standard as specified in Section 5.03 (a) (1) of this regulation shall be assessed ((\$2,450))\$2,573 per subpart of 40 CFR Parts 60-63;
- (2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03 (a)(2) or meeting the emission thresholds specified in Section 5.03 (a)(3) of this regulation shall be assessed ((\$2,670)) \$2,804;
- (3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed \$30 for each ton of CO and \$60 for each ton of NOx, PM10, SOx, HAP, and VOC, based on the emissions reported during the previous calendar year;
- (4) Sources with more than one coffee roaster installed on-site that are approved under a Notice of Construction Order of Approval shall be assessed ((\$2,670)) \$2,804;
- (5) Sources of commercial composting with raw materials from offsite and with an installed processing capacity of <100,000 tons per year shall be assessed ((\$6,670)) \$7,004; and
- (6) Sources of commercial composting with raw materials from offsite and with an installed processing capacity of ≥100,000 tons per year shall be assessed ((\$26,680)) \$28,014.
- (d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):
 - (1) More than 6,000,000 gallons. ((\$4,740)) \$4,977;
 - (2) 3,600,001 to 6,000,000 gallons. (($\frac{$2,355}{}$)) $\frac{$2,473}{}$;
 - (3) 1,200,001 to 3,600,000 gallons. (($\frac{$1,565}{}$)) $\frac{$1,643}{}$; (4) 840,001 to 1,200,000 gallons. (($\frac{$785}{}$)) $\frac{$824}{}$;
 - (5) 200,001 to 840,000 gallons. ((\$395)) \$415.

- (e) The following registered sources shall be assessed an annual registration fee of ((\$165)) \$173, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:
- (1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;
- (2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;
- (3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;
 - (4) Unvented dry cleaners using perchloroethylene; and
- (5) Batch coffee roasters subject to notification under Section 6.03 (b) (11) of this regulation.

WSR 24-10-066 PERMANENT RULES PUGET SOUND CLEAN AIR AGENCY

[Filed April 26, 2024, 3:57 p.m., effective June 1, 2024]

Effective Date of Rule: June 1, 2024.

Purpose: Section 7.07: The operating permit program fees, like the other fee programs of the Puget Sound clean air agency (agency) (registration, notice of construction, and asbestos), are designed to recover the costs of implementing and administering the program. Changes to the operating permit fee schedule in Regulation I, Section 7.07 were made in 2022 and 2023, recognizing the cumulative effects of inflation. Prior to these actions, the last fee increases to Section 7.07 were made in 2012.

The current proposed changes are intended to further adjust fees to keep the revenues in balance with the level of effort to complete the compliance work associated with the operating permit program. While the revenue and expenses for the operating permit program have been roughly balanced for most of the past dozen years, the increasing costs to the program in the last few years and increasing level of effort for some types of work by the agency for certain aspects of the operating permit program need to be addressed through another adjustment to the fee schedule to ensure the agency does not reach a deficit condition.

The proposed changes include recategorizing municipal solid waste landfills from the middle tier base fee level to the highest tier base fee level. There are currently two landfills in the agency's air operating permit program: King County Cedar Hills Landfill and Pierce County Graham Landfill. This change reflects a financial equity adjustment based on the amount of staff time necessary to administer permitting and compliance with the sources in this category. The proposed amendments to the operating permit fee schedule also include cost increases for each base fee category of five percent. The consumer price index increase since the last operating permit fee increase is approximately five percent (up 21 percent over the past three vears).

The proposed increase anticipates the effects of inflation will not readily ease and this proposal assumes the inflationary effects through the fiscal year 2025 time period (and the calendar year 2025 time period) will continue. The lag between proposed fee increases and the actual billings that reflects that revenue have also been considered in this proposal. The emission fees, a \$/ton fee for reportable air pollutant emissions levels, are proposed to remain unchanged. This recommendation regarding emission fee charges remaining unchanged will keep the emission fee charges equivalent to those for registration program sources. Additionally, no changes are proposed for the fee elements that relate to permit issuance transactions.

Citation of Rules Affected by this Order: Amending Regulation I, Section 7.07 (Operating Permit Fees).

Statutory Authority for Adoption: Chapter 70A.15 RCW. Adopted under notice filed as WSR 24-05-073 on February 20, 2024. Date Adopted: April 25, 2024.

> Christine Cooley Executive Director

AMENDATORY SECTION

REGULATION I SECTION 7.07 OPERATING PERMIT FEES

- (a) The Agency shall assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.
- (b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within 45 days of the invoice date. They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$8,125. In addition, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70A.15 RCW).
- (1) Sources in the following North American Industry Classification System (NAICS) codes (North American Industry Classification System Manual, U.S. Executive Office of the President, Office of Management and Budget, 2012), or sources subsequently determined by the control officer to be assigned to either Section 7.07 (b) (1) (i) or 7.07 (b) (1) (ii) shall be subject to the following facility fees:
 - (i) Operating permit sources with the following NAICS codes:

| NAICS | NAICS Description Fee |
|---------------|--|
| 221112 | Fossil Fuel Electric Power Generation |
| 324110 | Petroleum Refineries |
| 327213 | Glass Container Manufacturing |
| 327310 | Cement Manufacturing |
| 331110 | Iron and Steel Mills and Ferroalloy Manufacturing |
| 336411 | Aircraft Manufacturing |
| 336413 | Other Aircraft Parts and Auxiliary Equipment Manufacturing |
| <u>562212</u> | Solid Waste Landfill |
| 928110 | National Security |
| | ((\$83,650)) <u>\$87,833</u> |

(ii) Operating permit sources with the following NAICS codes:

| NAICS | NAICS Description Fee |
|--------|--|
| 311119 | Other Animal Food Manufacturing |
| 311812 | Commercial Bakeries |
| 321912 | Cut Stock, Resawing Lumber, and Planing |
| 321918 | Other Millwork (including Flooring) |
| 321999 | All Other Miscellaneous Wood Product Manufacturing |
| 322220 | Paper Bag and Coated and Treated Paper Manufacturing |
| 326140 | Polystyrene Foam Product Manufacturing |
| 332996 | Fabricated Pipe and Pipe Fitting Manufacturing |
| | ((\$ 20,910)) <u>\$21,956</u> |

- (iii) Operating permit sources with NAICS codes other than listed
- (2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b) (1):
- \$30 for each ton of CO reported in the previous calendar year, and

- \$60 for each ton of NOx reported in the previous calendar year, and
- \$60 for each ton of PM10 reported in the previous calendar year, and
- \$60 for each ton of SOx reported in the previous calendar year, and
- \$60 for each ton of VOC reported in the previous calendar year, and
 - \$60 for each ton of HAP reported in the previous calendar year.
- (c) In addition to the fees under Sections 7.07 (b) (1) and (b) (2) above, the Agency shall, on a source-by-source basis, assess the following fees:
- (1) \$500 for administrative permit amendments [WAC 173-401-720], and
- (2) for minor permit modifications [WAC 173-401-725 (2) and (3)], a fee equal to 10% of the annual operating permit fee, not to exceed \$8,125, and
- (3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$16,250, and
- (4) to cover the costs of public involvement under WAC 173-401-800, and
- (5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and chapter 246-247 WAC.
- (d) In addition to the fees described under Sections 7.07 (b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.
- (e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

Washington State Register, Issue 24-10

WSR 24-10-070 PERMANENT RULES DEPARTMENT OF RETIREMENT SYSTEMS

[Filed April 29, 2024, 12:05 p.m., effective May 15, 2024]

Effective Date of Rule: May 15, 2024.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The law that this rule implements is already in effect, so the department of retirement systems is putting the rule into effect less than 31 days after filing.

Purpose: Implementing SECURE Act 2.0 deferred compensation deferral dates.

Citation of Rules Affected by this Order: Amending WAC 415-501-410 and 415-501-450.

Statutory Authority for Adoption: RCW 41.50.050; and the SECURE Act 2.0, part of the Consolidated Appropriations Act of 2023 (P.L. 117 - 328).

Adopted under notice filed as WSR 24-07-068 on March 15, 2024. Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Date Adopted: April 29, 2024.

> Tracy Guerin Director

OTS-5158.1

AMENDATORY SECTION (Amending WSR 23-18-025, filed 8/25/23, effective 9/25/23)

- WAC 415-501-410 How do I enroll in the plan? (1) As an eligible employee, you may enroll in the plan by executing a participation agreement according to methods established by the department.
- (2) By executing the participation agreement, you authorize your employer to reduce your gross compensation each month by a specific amount. This amount will be contributed to your deferred compensation account. Your employer will reduce your compensation by the specified amount until you change the amount (WAC 415-501-450).
- (3) Deferrals from your compensation will start ((during the calendar month)) as soon as administratively possible after ((the month)) your participation agreement is approved by the department.

(4) Reenrollment. If you transfer from a state agency to another state agency without a separation of employment, your deferred compensation program (DCP) enrollment will be automatically transferred to the new state agency. Your contributions will automatically continue. For nonstate participants, if you separate from employment with a DCP employer (break in service) and return to employment with a DCP employer, you must reenroll in the program if you want to resume contributions to DCP. Depending on the employer you return to, you may be subject to the automatic enrollment under WAC 415-501-400.

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective $\frac{1}{1/1/17}$

WAC 415-501-450 May I change my deferral amount? You may change the amount of your deferred compensation through the methods established by the department. Changes must be made in a whole dollar increment or whole percentage.

A change in the amount will be effective ((for any calendar month only)) as soon as administratively possible if you notify the department of the change, through the methods available, ((prior to the month for which the change is requested)) and prior to your employer's established "cutoff date" for the payroll in which the change will occur.

WSR 24-10-076 PERMANENT RULES CENTRALIA COLLEGE

[Filed April 29, 2024, 4:39 p.m., effective May 30, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To repeal the skateboarding WAC.

Citation of Rules Affected by this Order: Repealing WAC

132L-136-026 Skateboarding.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 28B.50.140(13).

Adopted under notice filed as WSR 24-03-162 [24-07-020] on March 8, 2024.

Date Adopted: April 29, 2024.

Janet Reaume Executive Assistant to the President

OTS-5102.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132L-136-026 Skateboarding.

Washington State Register, Issue 24-10

WSR 24-10-081 PERMANENT RULES HEALTH CARE AUTHORITY

[Filed April 30, 2024, 10:12 a.m., effective July 1, 2024]

Effective Date of Rule: July 1, 2024.

Purpose: Chapter 182-561 WAC is a new chapter to establish the community behavioral support services (CBHS) benefit. The CBHS benefit assists eligible clients with obtaining the skills necessary to reside successfully in home and community-based settings. The chapter includes the eligibility criteria for clients; Apple Health rules requiring medical necessity do not apply to this benefit. The chapter also includes CBHS provider requirements, eligible diagnoses, covered services, and the appeal process. Additionally, the health care authority is amending WAC 182-501-0065 to include CBHS as a service category.

Citation of Rules Affected by this Order: New WAC 182-561-0100, 182-561-0200, 182-561-0300, 182-561-0400, 182-561-0500, 182-561-0600, 182-561-0700 and 182-561-0800; and amending WAC 182-501-0065.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160. Adopted under notice filed as WSR 24-07-072 on March 18, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 1, Repealed 0. Date Adopted: April 30, 2024.

> Wendy Barcus Rules Coordinator

OTS-5275.3

AMENDATORY SECTION (Amending WSR 19-14-020, filed 6/24/19, effective 7/25/19)

- WAC 182-501-0065 Health care coverage—Description of service categories. This rule provides a brief description of the medical, dental, mental health, and substance use disorder (SUD) service categories listed in the table in WAC 182-501-0060. The description of services under each category is not intended to be all inclusive.
- (1) For alternative benefits plan (ABP), categorically needy (CN), medically needy (MN), and medical care services (MCS), refer to the WAC citations listed in the following descriptions for specific details regarding each service category.

- (2) The following service categories are subject to the exclusions, limitations, restrictions, and eligibility requirements contained in agency rules:
- (a) Ambulance Emergency medical transportation and ambulance transportation for nonemergency medical needs. (WAC 182-546-0001 through 182-546-4000.)
- (b) Applied behavior analysis (ABA) (Chapter 182-531A WAC((+)).
- (c) Behavioral health services (Chapter 182-538D WAC, Behavioral health services, WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services, and chapter 246-341 WAC, Behavioral health services administrative requirements((+)).)
- (d) **Blood, blood products, and related services** Blood and/or blood derivatives, including synthetic factors, plasma expanders, and their administration. (WAC 182-550-1400 and 182-550-1500.)
- (e) Community behavioral health support services (CBHS) (Chapter 182-561 WAC.)
- (f) **Dental services** Diagnosis and treatment of dental problems including emergency treatment and preventive care. (Chapters 182-535 and 182-535A WAC.)
- (((f))) <u>(g)</u> **Diagnostic services** Clinical testing and imaging services. (WAC 182-531-0100; WAC 182-550-1400 and 182-550-1500.)
- (((g))) <u>(h)</u> Early and periodic screening, diagnosis, and treatment (EPSDT) - (Chapter 182-534 WAC and WAC 182-501-0050(10).)
- (((h))) (i) Enteral nutrition program Enteral nutrition products, equipment, and related supplies. (Chapter 182-554 WAC.)
 - $((\frac{1}{2}))$ (j) Habilitative services (Chapter 182-545 WAC(($\frac{1}{2}$)).)
- $((\frac{1}{2}))$) <u>(k)</u> Health care professional services The following services found in chapter 182-531 WAC:
 - (i) Office visits and vaccinations;
- (ii) Screening/brief intervention/referral to treatment (SBIRT), emergency room, and nursing facility services;
 - (iii) Home-based and hospital-based services;
- (iv) Surgery, anesthesia, pathology, radiology, and laboratory services;
 - (v) Obstetric services;
 - (vi) Kidney dialysis and renal disease services;
- (vii) Advanced registered nurse practitioner, naturopathy, osteopathy, podiatry, physiatry, and pulmonary/respiratory services; and (viii) Allergen immunotherapy services.
 - (((+k))) (1) **Health homes** (Chapter 182-557 WAC((+)).)
- (((1))) (m) **Hearing evaluations** The following services found in WAC $182-531-0\overline{375}$:
 - (i) Audiology;
 - (ii) Diagnostic evaluations; and
 - (iii) Hearing exams and testing.
 - $((\frac{m}{m}))$ <u>(n)</u> **Hearing aids** (Chapter 182-547 WAC(($\frac{m}{m}$)).)
- (((n))) <u>(o)</u> **Home health services** Intermittent, short-term skilled nursing care, occupational therapy, physical therapy, speech therapy, home infusion therapy, and health aide services, provided in the home. (WAC 182-551-2000 through 182-551-2220.)
- (((o))) (p) Home infusion therapy/parenteral nutrition program -Supplies and equipment necessary for parenteral infusion of therapeutic agents. (Chapter 182-553 WAC.)
- (((p))) <u>(q)</u> **Hospice services** Physician services, skilled nursing care, medical social services, counseling services for client and

- family, drugs, medications (including biologicals), medical equipment and supplies needed for palliative care, home health aide, homemaker, personal care services, medical transportation, respite care, and brief inpatient care. This benefit also includes services rendered in a hospice care center and pediatric palliative care services. (WAC 182-551-1210 through 182-551-1850.)
- (((q))) <u>(r)</u> **Hospital services—Inpatient/outpatient** Emergency room; hospital room and board (includes nursing care); inpatient services, supplies, equipment, and prescription drugs; surgery, anesthesia; diagnostic testing, laboratory work, blood/blood derivatives; radiation and imaging treatment and diagnostic services; and outpatient or day surgery, and obstetrical services. (Chapter 182-550 WAC.)
- $((\frac{r}{r}))$) <u>(s)</u> Intermediate care facility/services for persons with intellectual disabilities - Habilitative training, health-related
 care, supervision, and residential care. (Chapter 388-835 WAC.)
- (((s))) (t) **Maternity care and delivery services** Community health nurse visits, nutrition visits, behavioral health visits, midwife services, maternity and infant case management services, family planning services and community health worker visits. (WAC 182-533-0330.)
- (((t))) <u>(u)</u> Medical equipment, supplies, and appliances Medical equipment and appliances, including wheelchairs, hospital beds, respiratory equipment; casts, splints, crutches, trusses, and braces. Medical supplies, including antiseptics, germicides, bandages, dressings, tape, blood monitoring/testing supplies, braces, belts, supporting devices, decubitus care products, ostomy supplies, syringes, needles, and urological supplies. (Chapter 182-543 WAC.)
- (((u))) <u>(v)</u> **Medical nutrition therapy** Outpatient medical nutrition therapy and associated follow-ups. (Chapter 182-555 WAC.)
- (((v))) (w) Nursing facility services Nursing, therapies, dietary, and daily care services delivered in a licensed nursing facility. (Chapter 388-97 WAC.)
- ((-(w)-)) (x) Organ transplants Solid organs, e.g., heart, kidney, liver, lung, pancreas, and small bowel; bone marrow and peripheral stem cell; skin grafts; and corneal transplants. (WAC 182-550-1900 and 182-556-0400.)
 - $((\frac{x}{x}))$ Orthodontic services (Chapter 182-535A WAC(($\frac{x}{x}$)).)
 - $((\frac{y}{y}))$ <u>(z)</u> Out-of-state services (WAC 182-502-0120((+)).)
 - $((\frac{1}{2}))$ <u>(aa)</u> Outpatient rehabilitation services (OT, PT, ST) -Evaluations, assessments, and treatment. (WAC 182-545-200.)
- (((aa))) (bb) **Personal care services** Assistance with activities of daily living (e.g., bathing, dressing, eating, managing medications) and routine household chores (e.g., meal preparation, housework, essential shopping, transportation to medical services). (Chapters 388-106 and 388-845 WAC.)
- (((bb))) (cc) **Prescription drugs** Outpatient drugs (including in nursing facilities), both generic and brand name; drug devices and supplies; some over-the-counter drugs; oral, topical, injectable drugs; vaccines, immunizations, and biologicals; and family planning drugs, devices, and supplies. (WAC 182-530-2000.) Additional coverage for medications and prescriptions is addressed in specific program WAC sections.
- (((cc))) (dd) **Private duty nursing** Continuous skilled nursing services provided in a private residence, including client assessment, administration of treatment, and monitoring of medical equipment and client care. For benefits for clients age ((seventeen)) 17 and young-

- er, see WAC 182-551-3000 through 182-551-3400. For benefits for clients age ((eighteen)) 18 and older, see WAC 388-106-1000 through 388-106-1055.
- (((dd))) <u>(ee)</u> **Prosthetic/orthotic devices** Artificial limbs and other external body parts; devices that prevent, support, or correct a physical deformity or malfunction. (WAC 182-543-5000.)
- (((ee))) (ff) **Reproductive health services** Gynecological exams; contraceptives, drugs, and supplies, including prescriptions; sterilization; screening and treatment of sexually transmitted diseases; and educational services. (WAC 182-532-001 through 182-532-140.)
- (((ff))) <u>(gg)</u> Respiratory care (oxygen) All services, oxygen, equipment, and supplies related to respiratory care. (Chapter 182-552 WAC.)
- (((gg))) (hh) School-based health care services Early intervention services or special education health-related services provided in schools to medicaid-eligible children ages birth through ((twenty)) 20 who have an individualized education program (IEP) or individual-
- ized family service plan (IFSP). (Chapter 182-537 WAC.) ((\frac{(hh)}{)}) (ii) Vision care Eye exams, refractions, fittings, visual field testing, vision therapy, ocular prosthetics, and surgery. (WAC 182-531-1000.)
- (((ii))) <u>(jj)</u> **Vision hardware** Frames and lenses. (Chapter 182-544 WAC.)

OTS-4003.6

Chapter 182-561 WAC COMMUNITY BEHAVIORAL HEALTH SUPPORT SERVICES BENEFIT

- WAC 182-561-0100 General. (1) Administration. The medicaid agency, in conjunction with the department of social and health services, administers the community behavioral health support services (CBHS) benefit.
- (2) Services. The CBHS benefit tailors services designed to assist eligible clients to acquire, retain, restore, and improve the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.
- (3) Applicability. The rules in this chapter apply to benefits administered through fee-for-service delivery or a managed care organization.
 - (4) CBHS benefits determined under this chapter.
- (a) The agency determines eligibility for CBHS benefits based on the rules in this chapter.
- (b) Apple health rules requiring medical necessity do not apply to the CBHS benefit.

WAC 182-561-0200 Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter:

"Activities of daily living (ADL)" means the same as in WAC 388-106-0010.

"Home and community services (HCS)" means the division of the department of social and health services (DSHS) that manages the state's comprehensive long-term care system that provides in-home, residential, and nursing home services to clients with functional disabilities.

- WAC 182-561-0300 Eligibility. To be eligible for the community behavioral health support services (CBHS) benefit, a person must meet all requirements and criteria in this section.
 - (1) General requirements. A person must:
- (a) Be eligible for apple health under categorically needy or alternate benefit plan scope of care;
- (b) Receive at least one of the following home and community services at home or in a community residential setting:
- (i) Medicaid personal care (MPC), as described in WAC 388-106-0015(1);
- (ii) Community options program entry system (COPES), as described in WAC 388-106-0015(2);
- (iii) Community first choice (CFC), as described in WAC 388-106-0015(3);
- (iv) New freedom consumer directed services (NFCDS), as described in WAC 388-106-0015(16); or
 - (v) Residential support, as described in WAC 388-106-0015(17).
- (c) Have countable income at or below 150 percent of the federal poverty level (FPL);
 - (d) Be age 18 or older; and
- (e) Have an eligible diagnosis, as identified in WAC 182-561-0700.
- (2) Needs-based criteria. A person must be assessed by home and community services (HCS) or an HCS designee and found to have a demonstrated need for:
- (a) Assistance with three or more activities of daily living (ADL), or assistance with body care, or both, as defined in WAC 388-106-0010; or
 - (b) Hands-on assistance with one or more ADLs.
 - (3) Risk-based criteria. A person must have:
- (a) A behavioral or clinical complexity that requires the level of supplementary or specialized services and staffing available only under the CBHS benefit. This determination is based on the person exhibiting one or more of the following behaviors within the last 12 months and can be prevented only with a high level of staffing, or skilled staff intervention, or both:
- (i) Multiple assaults related to a behavioral health condition during inpatient or long-term care;
- (ii) Self-endangering behaviors related to a behavioral health condition that would result in bodily harm;

- (iii) Intrusiveness related to a behavioral health condition (e.g., rummaging, unawareness of personal boundaries) that places the person at risk of assault by others;
- (iv) Chronic psychiatric symptoms that cause distress to and escalate the person or other residents to crisis if not monitored or redirected by staff;
- (v) Sexual inappropriateness related to a behavioral health condition that may compromise the safety of the person and other vulnerable adults; or
- (b) A history of any of the above behaviors, which are currently only prevented by additional skilled staff intervention.
 - (4) Other criteria. A person must have:
- (a) A history of being unsuccessful in community living settings, as evidenced by at least one or more of the following:
- (i) A history of multiple failed stays in residential settings within the past two years;
- (ii) Be in imminent danger of losing a current community living setting due to behaviors related to a behavioral health condition or conditions;
- (iii) Frequent caregiver turnover due to behaviors related to a behavioral health condition or conditions within the past two years;
- (iv) Be at imminent risk of losing a long-term care living setting without currently receiving the CBHS benefit.
- (b) A past psychiatric history, where significant functional improvement has not been effectively maintained due to the lack of the CBHS benefit, as evidenced by one or more of the following:
- (i) Two or more inpatient psychiatric hospitalizations in the last 12 months;
- (ii) An inpatient stay in a community hospital (acute or psychiatric) or a free-standing evaluation and treatment facility for 30 days or more in the last 12 months, with barriers to discharge related to a behavioral health condition or conditions;
- (iii) Discharge from a state psychiatric hospital or a long-term 90/180-day inpatient psychiatric setting in the last 12 months; or
- (iv) Be at imminent risk of requiring inpatient level of care without currently receiving the CBHS benefit.
- (5) Service eligibility. Covered services may begin on the date the client meets all CBHS benefit criteria described in subsections (1) through (4) of this section. The agency approves one year of continuous eligibility for the CBHS benefit, unless the client:
 - (a) Moves out-of-state;
- (b) Is admitted to an institution, as defined in WAC 182-500-0050, and is likely to reside there for 30 days or longer;
- (c) No longer receives any of the home and community services as described in WAC 388-106-0015 (1), (2), (3), (16), or (17), at home or in a community residential setting;
 - (d) Dies;
- (e) Has countable income over 150 percent federal poverty level (FPL); or
 - (f) Otherwise loses eligibility for medicaid.
- (6) Service eligibility denial or termination. The agency provides a written explanation for denials as described in chapter 182-518 WAC.
- (a) A change that results in termination takes effect the first of the month following the change as described in WAC 182-504-0120.

- (b) A change that results in a decreased scope of care takes effect the first of the month following the advance notice period, as described in WAC 182-504-0120.
- (c) A person who does not agree with an agency decision regarding CBHS services, including a denial of eligibility, may request an administrative hearing as described in chapter 182-526 WAC.
- (7) Redetermination. The agency reviews client eligibility for CBHS services at least once every 12 months.

- WAC 182-561-0400 Covered services. The community behavioral health support services (CBHS) benefit covers supportive supervision and oversight services that:
- (1) Include direct monitoring, redirection, diversion, and cueing to prevent at-risk behavior that may result in harm to the client or to others.
- (2) Assist with building skills and resiliency to support stabilized living and integration.
- (3) Must be coordinated with other behavioral health services or incorporated into any existing crisis plans.

- WAC 182-561-0500 Service tiers. (1) The agency has established tiers for community behavioral health support services using the needs-based criteria and risk criteria in WAC 182-561-0300.
- (2) At a minimum, a person determined eliqible for supportive supervision qualifies to receive Tier 1 services for an average of two hours per day.
- (3) The agency determines tiers based on medical appropriateness and clinical acuity, using the following tier structure:

| Tier Level | Eligibility Criteria | Renewal or Reassessment Criteria |
|-----------------|--|--|
| Tier 1 Services | A person is eligible for Tier 1 services if they: • Demonstrate a qualifying behavior that requires daily intermittent monitoring, redirection, and cueing to promote community stability and to ensure the safety of the person and other residents; or • Have a significant history of behaviors that are well-managed in a highly structured setting but are at risk of recurring in a community setting if not met with the appropriate level of supportive supervision. | For renewal or assessment, the person has a history of behaviors meeting the guidelines for Tier 1, which are currently prevented only by additional skilled staff intervention. |

| Tier Level | Eligibility Criteria | Renewal or Reassessment Criteria |
|-----------------|--|---|
| Tier 2 Services | A person is eligible for Tier 2 services if they: • Demonstrate current qualifying behaviors at a frequency that requires an average of 2.1 to 6 hours per day of dedicated staff to redirect, deescalate, and cue to promote community stability and to ensure the safety of the person and the other residents; or • Have demonstrated multiple qualifying behaviors requiring an average of 2.1 to 6 hours per day of one-on-one staffing within the past month. Behaviors may be well-managed in a highly structured setting but are at risk of recurring in a community setting if not met with the appropriate level of supportive supervision. | For renewal or reassessment, the person has a history of behavior or behaviors meeting the guidelines for Tier 2, which are currently prevented only by additional skilled staff intervention at this tier level. |
| Tier 3 Services | A person is eligible for Tier 3 services if they: • Demonstrate multiple qualifying behaviors at a frequency and intensity that requires an average of 6.1 to 10 hours per day of one-on-one staffing to redirect, engage, deescalate, and cue to promote community stability and to ensure the safety of the person and other residents; or • Have demonstrated multiple qualifying behaviors requiring an average of 6.1 to 10 hours per day of one-on-one staffing within the past month. Behaviors may be well-managed in a highly structured setting but are at risk of recurring or increasing in frequency or severity in a community setting if not met with the appropriate level of supportive supervision. | For renewal or reassessment, the person has a history of behaviors meeting the guidelines for Tier 3, which are currently preventable only by additional skilled staff intervention at this tier level. |
| Tier 4 Services | A person is eligible for Tier 4 services if they: • Demonstrate multiple qualifying behaviors at a frequency and intensity that requires an average of 10.1 to 16 hours per day of one-on-one staffing to redirect, engage, deescalate, and cue to promote community stability and to ensure the safety of the person and other residents; or • Have demonstrated multiple qualifying behaviors requiring an average of 10.1 to 16 hours per day of one-on-one staffing within the past month. Behavior requires at least one-on-one intervention, even in a structured setting, but the behavior may be at risk of increasing in frequency, or severity, or both, in a community setting if not met with the appropriate level of supportive supervision. | For renewal or reassessment, the person has a history of behavior meeting the guidelines for Tier 4, which are currently prevented only by additional skilled staff interventions at this tier level. |

| Tier Level | Eligibility Criteria | Renewal or Reassessment Criteria |
|-----------------|---|---|
| Tier 5 Services | A person is eligible for Tier 5 services when: • The person demonstrates multiple behaviors at a frequency and intensity that requires an average of 16.1 to 20 hours per day of one-on-one staffing to redirect, engage, deescalate, and cue to promote community stability and to ensure the safety of the person and other residents; or | For renewal or reassessment, the person has a history of behavior meeting the guidelines for Tier 5, which are currently prevented only by additional skilled staff intervention at this tier level. |
| | • The person's behavior requires daily one- on-one intervention even in the context of a structured setting, and there would be an imminent risk of harm if the person does not receive an average of 16.1 to 20 hours per day of at least one-on-one staffing in a community setting. | |
| Tier 6 Services | A person is eligible for Tier 6 services when: • The person demonstrates multiple qualifying behaviors at a frequency and intensity that requires an average of 20.1 to 24 hours per day of one-on-one staffing or has regular episodes that require multiple staff to redirect, engage, deescalate, and cue to promote community stability and to ensure the safety of the person and other residents; or | For renewals or reassessment, the person has a history of behavior meeting the guidelines for Tier 6, which are currently prevented only by additional skilled staff intervention at this tier level. |
| | • The person's behavior requires constant one-on-one monitoring and intervention, even in the context of a structured setting, and there would be an imminent risk of harm if the person does not receive an average of 20.1 to 24 hours per day of at least one-on-one staffing in a community setting. | |

WAC 182-561-0600 Providers. (1) Supportive supervision and oversight services providers. The services described in WAC 182-561-0400(1) must be provided by the following medicaid agency-contracted providers:

- (a) Adult family homes, as defined in RCW 70.128.010, which are licensed under chapter 388-76 WAC;
- (b) Adult residential care facilities (ARC), which are assisted living facilities with a contract to provide ARC services and are licensed under chapters 18.20 RCW and 388-78A WAC;
- (c) Enhanced adult residential care (EARC) facilities, which are assisted living facilities with a contract to provide EARC services and are licensed under chapters 18.20 RCW and 388-78A WAC;
- (d) Assisted living facilities, which are licensed under chapters 70.97 RCW and 388-78A and 388-110 WAC; or
- (e) Enhanced services facilities, which are licensed under chapters 70.97 RCW and 388-107 WAC.
- (2) Provider requirements. For the purposes of community behavioral health support services, WAC 182-502-0020 is not applicable. Pro-

viders must follow the record requirements outlined in the billing quides.

NEW SECTION

WAC 182-561-0700 Eligible diagnoses. For purposes of this chapter, eligible diagnoses include only the following:

- Psychotic disorder with hallucinations due to known physiological condition
- · Psychotic disorder with delusions due to known physiological condition
 - · Mood disorder due to known physiological condition, unspecified
- Mood disorder due to known physiological condition with depressive features
- Mood disorder due to known physiological condition with major depressive-like episode
- Mood disorder due to known physiological condition with manic
- · Mood disorder due to known physiological condition with mixed features
 - Anxiety disorder due to known physiological condition
 - Personality change due to known physiological condition
- · Diffuse traumatic brain injury with loss of consciousness sequela
 - Paranoid schizophrenia
 - Disorganized schizophrenia
 - Catatonic schizophrenia
 - Undifferentiated schizophrenia
 - Residual schizophrenia
 - Schizophreniform disorder
 - Other schizophrenia
 - Schizophrenia, unspecified
 - Schizotypal disorder
 - Delusional disorders
 - Brief psychotic disorder
 - Shared psychotic disorder
 - Schizoaffective disorder, bipolar type
 - Schizoaffective disorder, depressive type
 - Other schizoaffective disorders
 - Schizoaffective disorder, unspecified
- · Other psychotic disorder not due to a substance or known physiological condition
- Unspecified psychosis not due to a substance or known physiological condition
 - · Manic episode without psychotic symptoms, unspecified
 - · Manic episode without psychotic symptoms, mild
 - Manic episode without psychotic symptoms, moderate
 - Manic episode, severe, without psychotic symptoms
 - Manic episode, severe with psychotic symptomsManic episode in partial remission

 - Manic episode in full remission
 - Other manic episodes
 - Manic episode, unspecified
 - Bipolar disorder, current episode hypomanic

- · Bipolar disorder, current episode manic without psychotic features, unspecified
- · Bipolar disorder, current episode manic without psychotic features, mild
- · Bipolar disorder, current episode manic without psychotic features, moderate
- Bipolar disorder, current episode manic without psychotic features, severe
- · Bipolar disorder, current episode manic severe with psychotic features
- · Bipolar disorder, current episode depressed, mild or moderate severity, unspecified
 - Bipolar disorder, current episode depressed, mild
 - Bipolar disorder, current episode depressed, moderate
- Bipolar disorder, current episode depressed, severe, without psychotic features
- Bipolar disorder, current episode depressed, severe, with psychotic features
 - Bipolar disorder, current episode mixed, unspecified
 - · Bipolar disorder, current episode mixed, mild
 - Bipolar disorder, current episode mixed, moderate
- Bipolar disorder, current episode mixed, severe, without psychotic features
- Bipolar disorder, current episode mixed, severe, with psychotic features
- · Bipolar disorder, currently in remission, most recent episode unspecified
- · Bipolar disorder, in partial remission, most recent episodic hypomanic
- · Bipolar disorder, in full remission, most recent episode hypo-
- Bipolar disorder, in partial remission, most recent episode manic
 - Bipolar disorder, in full remission, most recent episode manic
- Bipolar disorder, in partial remission, most recent episode de-
- Bipolar disorder, in full remission, most recent episode depressed
- Bipolar disorder, in partial remission, most recent episode mixed
 - Bipolar disorder, in full remission, most recent episode mixed
 - Bipolar II disorder
 - Other bipolar disorder
 - Bipolar disorder, unspecified
 - Major depressive disorder, single episode, mild
 - Major depressive disorder, single episode, moderate
- Major depressive disorder, single episode, severe without psychotic features
- · Major depressive disorder, single episode, severe with psychotic features
 - Major depressive disorder, single episode, in partial remission
 - Major depressive disorder, single episode, in full remission
 - Other depressive episodes
 - Premenstrual dysphoric disorder
 - Other specified depressive episodes
 - Major depressive disorder, single episode, unspecified
 - Depression, unspecified

- Major depressive disorder, recurrent, mild
- Major depressive disorder, recurrent, moderate
- · Major depressive disorder, recurrent severe without psychotic features
- Major depressive disorder, recurrent, severe with psychotic symptoms
 - Major depressive disorder, recurrent, in remission, unspecified
 - Major depressive disorder, recurrent, in partial remission
 - · Major depressive disorder, recurrent, in full remission
 - Other recurrent depressive disorders
 - Major depressive disorder, recurrent, unspecified
 - Cyclothymic disorder
 - Dysthymic disorder
 - Other persistent mood (affective) disorders
 - Disruptive mood dysregulation disorder
 - Other specified persistent mood disorders
 - Persistent mood (affective) disorder, unspecified
 - Unspecified mood (affective) disorder
 - · Agoraphobia, unspecified
 - · Agoraphobia with panic disorder
 - Agoraphobia without panic disorder
 - Social phobia, unspecified
 - · Social phobia, generalized
 - Claustrophobia
 - Other phobic anxiety disorders
 - Panic disorder (episodic paroxysmal anxiety)
 - Generalized anxiety disorder
 - Obsessive-compulsive disorder
 - Mixed obsessional thoughts and acts
 - Hoarding disorder
 - Excoriation (skin-picking) disorder
 - Other obsessive-compulsive disorder
 - Obsessive-compulsive disorder, unspecified
 - Post-traumatic stress disorder, unspecified
 - Post-traumatic stress disorder, acute
 - Post-traumatic stress disorder, chronic
 - Dissociative amnesia
 - Dissociative fugue
 - Dissociative stupor
 - Conversion disorder with motor symptom or deficit
 - Conversion disorder with seizures or convulsions
 - · Conversion disorder with sensory symptom or deficit
 - · Conversion disorder with mixed symptom presentation
 - Dissociative identity disorder
 - Other dissociative and conversion disorders
 - Dissociative and conversion disorder, unspecified
 - Somatization disorder
 - Undifferentiated somatoform disorder
 - Hypochondriacal disorder, unspecified
 - Hypochondriasis
 - Body dysmorphic disorder
 - Other hypochondriacal disorders
 - Pain disorder exclusively related to psychological factors
 - Pain disorder with related psychological factors
 - Other somatoform disorders
 - Somatoform disorder, unspecified
 - Depersonalization-derealization syndrome

- Nonpsychotic mental disorder, unspecified
- Borderline personality disorder
- Trichotillomania
- Intermittent explosive disorder
- Other impulse disorders
- Impulse disorder, unspecified
- Factitious disorder imposed on self, unspecified
- · Factitious disorder imposed on self, with predominantly physical signs and symptoms
- · Factitious disorder imposed on self, with combined psychological and physical signs and symptoms
 - Other specified disorders of adult personality and behavior
 - · Conduct disorder confined to family context
 - Conduct disorder, childhood-onset type
 - Conduct disorder, adolescent-onset type
 - Other conduct disorders
 - Conduct disorder, unspecified
 - Separation anxiety disorder of childhood
 - Other childhood emotional disorders
 - Childhood emotional disorder, unspecified
 - Selective mutism
 - Reactive attachment disorder of childhood
 - Disinhibited attachment disorder of childhood
 - Other childhood disorders of social functioning
 - · Childhood disorder of social functioning, unspecified
 - Traumatic brain injury-related diagnoses

WAC 182-561-0800 Appeal process. (1) The medicaid agency gives the client written notice of an action under chapter 182-518 WAC.

(2) The client has the right to appeal the agency's adverse action according to chapter 182-526 WAC.

Washington State Register, Issue 24-10

WSR 24-10-083 PERMANENT RULES HEALTH CARE AUTHORITY

[Filed April 30, 2024, 11:44 a.m., effective July 1, 2024]

Effective Date of Rule: July 1, 2024.

Purpose: The health care authority is adding the 1915i income disregard equal to the difference between 150 percent of the federal poverty level and 300 percent of the federal benefit rate. This disregard is targeted to individuals seeking community behavioral health support services (CBHS). This rule making aligns with the establishment of the CBHS program, filed under WSR 24-10-081, effective July 1, 2024.

Citation of Rules Affected by this Order: Amending WAC 182-509-0300, 182-509-0305, and 182-512-0880.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160. Adopted under notice filed as WSR 24-07-073 on March 18, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0. Date Adopted: April 30, 2024.

> Wendy Barcus Rules Coordinator

OTS-4467.1

AMENDATORY SECTION (Amending WSR 20-17-136, filed 8/18/20, effective 9/18/20)

- WAC 182-509-0300 Modified adjusted gross income (MAGI). (1) The agency uses the modified adjusted gross income (MAGI) methodology to determine eligibility for MAGI-based Washington apple health programs described in WAC 182-509-0305.
- (2) MAGI methodology is described in WAC 182-509-0300 through 182-509-0375. Generally, MAGI includes adjusted gross income (as determined by the Internal Revenue Code (IRC)) increased by:
- (a) Any amount of foreign income excluded from gross income under Section 911 of the IRC;
- (b) Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax; and
- (c) Any amount of Title II Social Security income or Tier 1 Railroad Retirement income which is excluded from gross income under Section 86 of the IRC.

- (3) When calculating a person's eligibility for the programs listed in WAC 182-509-0305, the agency uses the person's MAGI income with the following exceptions:
- (a) Scholarships or fellowship grants described in WAC 182-509-0335 used for education purposes are excluded from income;
- (b) Income received by American Indian/Alaskan Native individuals described in WAC 182-509-0340 is excluded from income;
- (c) Any income received as a lump sum as described in WAC 182-509-0375 is counted as income only in the month in which it is received; and
- (d) Income received by a child age ((eighteen)) 18 or younger or a tax dependent as described in WAC 182-509-0360 is excluded from in-
- (4) Countable MAGI income is reduced by an amount equal to five percentage points of the federal poverty level (FPL) based on household size to determine net income except that there is no such reduction of countable MAGI income for parents or caretaker relatives with an eligible dependent child (as described in WAC 182-509-0305(1)). Net income is compared to the applicable standard described in WAC 182-505-0100.
- (5) When calculating a person's eligibility for MAGI-based programs listed in WAC $182-\bar{5}09-0305$, the agency determines the medical assistance unit for each person according to WAC 182-506-0010 and 182-506-0012.
- (6) When calculating a person's eligibility for the community behavioral health support services (CBHS) benefit described in chapter 182-561 WAC, the agency disregards or deducts the amount of the person's income over 150 percent of the FPL.

AMENDATORY SECTION (Amending WSR 22-12-033, filed 5/24/22, effective 6/24/22

- WAC 182-509-0305 MAGI income—Persons subject to the modified adjusted gross income (MAGI) methodology. (1) Eligibility for Washington apple health for the following people is determined using the modified adjusted gross income (MAGI) methodology described in WAC 182-509-0300:
- (a) Parents or caretaker relatives with an eligible dependent child (described in WAC 182-503-0565) whose net countable income is below 54 percent of the federal poverty level (FPL) as described in WAC 182-505-0240.
- (b) Parents or caretaker relatives with an eligible dependent child whose net countable income exceeds the standard described in (a) of this subsection but is at or below 133 percent FPL as described in WAC 182-505-0250 and 182-507-0110.
- (c) Adults with no eligible dependent child with net countable income at or below 133 percent FPL as described in WAC 182-505-0250 and 182-507-0110.
- (d) Pregnant people whose net countable income, based on a household size that includes any unborn children, is below 193 percent FPL at the time of application, as described in WAC 182-505-0115.
- (e) People within the 12-month postpartum period beginning the month after the pregnancy ends whose net countable income is below 193

percent FPL at the time of application, as described in WAC 182-505-0115.

- (f) Children age 18 or younger in households with net countable income which is below 210 percent FPL, as described in WAC 182-505-0210 (3) (a).
- (g) Children age 18 or younger in households with net countable income that is between 210 percent and 312 percent FPL, as described in WAC 182-505-0215. Children who are eligible under this section are subject to premiums as described in WAC 182-505-0225.
- (h) People age 18 and older who have income over 150 percent FPL who are financially and functionally eligible to receive the community behavioral health support services (CBHS) benefit, as described in chapter 182-561 WAC.
- (2) Household size for a person who is subject to MAGI income methodologies is determined according to WAC 182-506-0010.

OTS-4468.1

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

- WAC 182-512-0880 SSI-related medical—Special income disregards. Portions of a person's income the agency otherwise counts are disregarded when determining eligibility for Washington apple health (((WAH))) SSI-related medical programs.
- (1) The agency disregards cost of living adjustments (COLAs) to Social Security benefits and provides categorically needy (CN) SSI-related medicaid benefits under the Pickle Amendment criteria of 42 C.F.R. 435.135 (1)(a) to a person who:
 - (a) Is currently receiving Title II Social Security benefits;
- (b) Was eligible for and received SSI or State Supplement payments (SSP) but became ineligible for those payments after April, 1977; and
- (c) Would still be eligible for SSI or SSP payments if the amount of Social Security COLA increases paid under section 215(i) of the Social Security Act were deducted from ((his or her)) the person's current Title II Social Security benefits.
- (d) To satisfy this provision, a person must have been eligible for and received SSI or SSP payments and in the same month was entitled to, but did not necessarily receive, a Title II Social Security benefit for at least one month since April 1977. This includes a person who receives a Title II Social Security benefit payment the month after the last SSI or SSP payment is made due to the fact that Social Security is paid the month after entitlement begins.
- (e) For purposes of this section, the agency also disregards CO-LAs received by a person, ((his or her)) their financially responsible spouse, and other financially responsible family members, such as a parent.
- (2) In determining SSI-related CN-WAH coverage, the agency disregards:
 - (a) Widow(er)'s benefits for a person who:

- (i) Was entitled to SSA title II (widow/widower's) benefits in December 1983;
- (ii) Was at least ((fifty)) 50 years old, but not yet ((sixty)) 60 at that time;
 - (iii) Received title II benefits and SSI in January 1984;
- (iv) Would continue to be eligible for SSI/SSP payments if the title II benefits were disregarded; and
- (v) Filed an application for medicaid with the state by July 1, 1988.
- (b) Widow, Widower or Surviving Divorced Spouse (title II) benefits for a person who:
- (i) Received SSI/SSP benefits the month prior to receipt of title
- (ii) Would continue to be eligible for SSI/SSP benefits if the title II benefits or the COLA(s) to those benefits were disregarded; and
- (iii) Is not eligible for medicare Part A. This person is considered an SSI recipient until becoming entitled to medicare Part A.
- (3) A disabled adult child (DAC) who is ineligible for SSI/SSP solely due to receipt of either Social Security benefits as a disabled adult child of a person with a Social Security account or due to receipt of a COLA to the DAC benefits, may be income eligible for ((\(\text{WAH}\)) Apple Health categorically needy (CN) health care coverage if disregarding the SSA DAC benefits and COLA brings countable income below the CN standards, and the person:
 - (a) Is ((eighteen)) <u>18</u> years of age or older;
- (b) Remains related to the SSI program through disability or blindness:
- (c) Lost SSI eligibility on or after July 1, 1988, due solely to the receipt of DAC benefits from SSA or a COLA to those benefits; and
 - (d) Meets the other ((WAH)) SSI-related CN medical requirements.
 - (4) A person is eligible for ((WAH)) CN coverage if:
 - (a) In August 1972, the person received:
 - (i) Old age assistance (OAA);
 - (ii) Aid to blind (AB);
 - (iii) Aid to families with dependent children (AFDC); or
 - (iv) Aid to the permanently and totally disabled (APTD).
- (b) The person was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or
- (c) The person was ineligible for OAA, AB, AFDC, SSI, or APTD solely because of the ((twenty)) 20 percent increase in Social Security benefits under P.L. 92-336.
- (5) ((Persons)) People who stop receiving an SSI cash payment due to earnings, but still meet all of the other SSI eligibility rules and have income below the higher limit established by the Social Security Act's Section 1619(b) are eligible for continued WAH CN medicaid.
- (6) TANF income methodology is used to determine countable income for children and pregnant ((women)) people applying for ((WAH)) medically needy (MN) coverage unless the SSI methodology would be more beneficial to the person. When using the TANF income methodologies, deduct:
- (a) A ((fifty)) 50 percent earned income disregard described in WAC 388-450-0170;
- (b) Actual child care and dependent care expenses related to employment; and
 - (c) Child support actually paid.

- (7) The agency disregards a person's income over 150 percent of the FPL when determining eligibility for the community behavioral health support services (CBHS) benefit under chapter 182-561 WAC. This disregard only applies to eligibility for the CHBS benefit and does not apply to:
- (a) Long-term services and supports eligibility determinations under chapters 182-513 and 182-515 WAC; or
 - (b) Post-eligibility treatment of income (PETI).

Washington State Register, Issue 24-10

WSR 24-10-086 PERMANENT RULES DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed April 30, 2024, 1:31 p.m., effective July 1, 2024]

Effective Date of Rule: July 1, 2024.

Purpose: This rule making adopts amendments to the contractor registration rules. The amendments affect the definitions, penalty and bond amounts, and fees for general and specialty contractors. The amendments are necessary due to the passage of 2SHB 1534 (chapter 213, Laws of 2023) and SB 5795 (chapter 155, Laws of 2019) and to support operating expenses for the contractor registration program.

The adopted rules include:

- Increasing fees by the fiscal growth factor of 6.40 percent to support operating expenses.
- Amendments for consistency with the statutory amendments under 2SHB 1534. This includes:
 - Adding a new definition to define the meaning of "due diligence" related to a successor of an entity verifying the entity is in good standing related to unsatisfied final judgment against it for work performed under chapter 18.27 RCW or owes money to the department of labor and industries for assessed penalties or fees as a result of a final judgment;
 - Increasing surety bond and savings account amounts for general and specialty contractors; and
 - Increasing the monetary penalty amounts that may be assessed for infractions issued for violations of chapter 18.27 RCW.
- Amendments for consistency with the statutory amendments under SB 5795. This includes:
 - Amending the number of final judgments and single family dwelling structures involved for when a bond or savings account can be increased.
- Amendments for updates and clarification. This includes:
 - Clarifying the service fee for summons and complaints by removing the fee amount and referencing the fee schedule; and
 - Clarifying the requirements for collection of penalties from a contractor and payments of restitution.

Citation of Rules Affected by this Order: Amending WAC 296-200A-015, 296-200A-030, 296-200A-080, 296-200A-400, and 296-200A-900.

Statutory Authority for Adoption: 2SHB 1534 (chapter 213, Laws of 2023), SB 5795 (chapter 155, Laws of 2019); and chapter 18.27 RCW.

Adopted under notice filed as WSR 24-05-077 on February 20, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Date Adopted: April 30, 2024.

> Joel Sacks Director

OTS-5143.5

AMENDATORY SECTION (Amending WSR 11-23-140, filed 11/22/11, effective 12/31/11)

WAC 296-200A-015 What terms do I need to know to understand this chapter? For the purposes of this chapter, the following terms and definitions are important:

"Administrative law judge" is any person appointed by the chief administrative law judge (as defined in RCW 34.12.020(2)) to preside at a notice of infraction appeal hearing convened under chapter 18.27 RCW and this chapter.

"Appeal bond" is a certified check or money order in the amount prescribed under RCW 18.27.250 made payable to the Washington state department of labor and industries.

"Appeal hearing" is any proceeding in which an administrative law judge is empowered to determine legal rights, duties or privileges of specific parties on behalf of the director.

"Applicant" is any person, firm, corporation or other entity applying to become a registered contractor according to chapter 18.27 RCW and this chapter. Applicant includes all principal officer(s), members, partners of a partnership, firm, corporation, or other entity named on the application.

"Citation" means the same as "infraction."

"Compliance inspector" refers to the departmental staff responsible for investigating potential violations of chapter 18.27 RCW and this chapter.

"Consultant" means any person, individual, firm, agent or other entity who directs, controls or monitors construction activities for a property owner. A general contractor registration is required. A licensed professional acting in the capacity of their license is exempt from registration.

"Contractor compliance chief" refers to the person designated by the director to address all policy and technical issues related to chapter 18.27 RCW and this chapter.

"Department" refers to the department of labor and industries. "Developer" means any person, firm, corporation or other entity that undertakes:

- The subdivision or development of land for residential purposes; or
- The construction or reconstruction of one or more residential

A general contractor registration is required.

"Director" refers to the director of the department of labor and industries or the director's designee acting in the place of the director.

"Due diligence" for the purposes of RCW 18.27.030 (3)(d), an applicant is deemed to have exercised due diligence upon conducting a reasonable review of the department's website verifying there are no unsatisfied judgments on file against the contractor or the company, either from a lawsuit or infraction. A lawsuit may be marked as open. A lawsuit can change to unsatisfied at any time.

- (a) Unsatisfied judgments from a lawsuit will show the status as "unsatisfied."
- (b) Unsatisfied judgments from an infraction will show the status as "not satisfied."
- (c) Due diligence must be exercised immediately preceding submitting the application packet.
- (d) A printout of the website confirming no record of unsatisfied judgments on file is acceptable documentation of due diligence.

"Final judgment" means any money that is owed to a claimant as a result of court action against or settlement with a contractor and/or contractor's bond or assigned savings account with the department or any money that is owed the department as a result of a contractor's unsuccessful appeal of an infraction. Final judgment also includes any penalties assessed against the contractor and owed the department as a result of an infraction or notice of correction that has not been appealed, final tax warrants or any delinquent fees or penalties due.

"Final tax warrant" is a document used by the department to establish the debt of a tax payer.

"Infraction" means a violation of chapter 18.27 RCW and this chapter as cited by the chief contractor compliance inspector or the department's construction compliance inspectors. The notice of infraction also serves as a notice of assessment.

"Mobile/manufactured home dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles and licensed as required under chapter 46.70 RCW.

"On-premise sign" means a sign at a permanent place of business or a sign placed at a job location while the registered contractor is working at the site. A sign left at a work site after a contractor has left is not an "on-premise" sign and must contain the registered contractor's registration number.

"Property management company" means any person, firm or other entity that in the pursuit of a property management business advertises, bids/offers, or performs construction, maintenance or repair services with their own employees on property not owned by the property management company. A general contractor registration is required.

"Renewal" or "renewed" means the renewal of a contractor's registration before it expires.

"Reinstatement" or "reinstated" means the reinstatement of a contractor's registration after the registration has expired, or has been suspended, or been revoked.

"Reregistration" or "reregister" means an update to a contractor's registration because of business structure change.

"Secured contractor" is a contractor who has complied with RCW 18.27.040 by assigning to the department a savings account held in a Washington state bank, or by filing with the department a surety bond.

"Security" is a savings account held in a Washington state bank and assigned to the department in lieu of a surety bond.

"Unregistered contractor" means a person, firm, corporation or other entity working as a contractor without being registered in compliance with chapter 18.27 RCW and this chapter.

"Unsatisfied final judgment" means a judgment that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

AMENDATORY SECTION (Amending WSR 08-16-091, filed 8/4/08, effective 9/4/08)

WAC 296-200A-030 How much are the surety bond or savings account amounts? (1) The continuous surety bond or savings account amounts for applicants of contractors with ((five or fewer)) no final judgments involving ((two or more)) a residential single-family dwelling((s)) in the previous five years are as follows:

- (a) $((\frac{\text{Twelve thousand dollars}}{\text{contractors}}))$ \$30,000 for general contractors.
- (b) ((Six thousand dollars)) \$15,000 for specialty contractors.
- (2) The surety bond or savings account amounts for applicants of contractors with ((three or more)) one final judgment((s)) involving $((two\ or\ more))$ <u>a</u> residential single-family dwelling((s)) in the previous five years ((will)) may be increased based upon (a) and (b) of this subsection.
 - (a) General contractors.

| Number of Final Judgments | Bond or Savings Account Amount per Registration Cycle |
|------------------------------|---|
| ((3 | \$18,000.00 |
| 4 | \$24,000.00 |
| 5 | \$30,000.00 |
| 6 or more | \$36,000.00)) |
| <u>1</u> | \$40,000.00 |
| <u>2</u> | \$60,000.00 |
| 3 or more | \$90,000.00 |

(b) Specialty contractors.

| Number of Final Judgments | Bond or Savings Account Amount per Registration Cycle |
|------------------------------|---|
| ((3 | \$ 8,000.00 |
| 4 | \$12,000.00 |
| 5 | \$16,000.00 |
| 6 or more | \$18,000.00)) |
| <u>1</u> | \$20,000.00 |
| <u>2</u> | \$30,000.00 |
| 3 or more | \$45,000.00 |

- (3) At the time of reregistration, renewal or reinstatement the department shall only consider final judgments from the previous five years which will be used to determine the bond or savings account
- amount according to subsection (2)(a) and (b) of this section.

 (4) A contractor's required bond or savings account amount may only be reviewed for reduction to a lower level at their next regular renewal. The increased bond requirement must remain in effect during

the entire registration cycle even if reinstatement or reregistration occurs.

(5) For purposes of this section, final judgment does not include infractions.

AMENDATORY SECTION (Amending WSR 11-23-140, filed 11/22/11, effective 12/31/11)

- WAC 296-200A-080 How is a suit filed against a contractor? (1) A civil suit against a contractor must be filed in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. Unless the suit is filed in a superior court, the department will not be able to direct payment on an unsatisfied final judgment against a secured contractor.
- (2) Notice that a suit has been filed (a summons and complaint) against a contractor, the contractor's bond, and/or the contractor's deposit must be exclusively delivered to the department by registered or certified mail to: P.O. Box 44450, Olympia, Washington 98504-4450 or by any delivery requiring notice of receipt to: 7273 Linderson Way S.W., Tumwater, WA 98501. The notice must be addressed to the department and must include three copies of the summons and complaint filed against the contractor, the contractor's bond and/or the contractor's deposit. The person filing the suit must pay ((a fifty-dollar)) the service fee to the department as identified in WAC 296-200A-900.
- (3) The summons and complaint against a contractor must include the following information:
- (a) The name of the contractor exactly as it appears in the contractor's registration file;
 - (b) The contractor's business address;
- (c) The names of the owners, partners or officers of the contractor if known; and
 - (d) The contractor's registration number.
- (4) If the suit joins a bonding company, the summons and complaint should also include:
- (a) The name of the bonding company that issued the contractor's bond;
 - (b) The bond number; and
 - (c) The effective date of the bond.
- (5) If the suit is against a contractor using an assigned account in lieu of a bond, the complaint must also include:
- (a) The name of the institution where the assigned account is held;
 - (b) The account number; and
 - (c) The date the assigned account was opened.
- (6) Service is not considered complete until the department receives the documents in Tumwater with the ((fifty-dollar)) required fee and three copies of the summons and complaint.
- (7) Within two days of receiving a summons and complaint, the department must mail a copy of the summons and complaint to the registrant at the address listed on the registrant's application or at their last known address provided to the department and to the registrant's surety.
- (8) The department will return a summons and complaint without it being served, if the department cannot readily identify either the contractor or bonding company being sued, if the action did not arise

under chapter 18.27 RCW, or if the fee and three copies of the summons and complaint are not received.

AMENDATORY SECTION (Amending WSR 09-10-079, filed 5/5/09, effective 6/5/09)

WAC 296-200A-400 What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.040, 18.27.100, 18.27.110, 18.27.114 or 18.27.200? (1) Each day that a violation occurs will be a separate offense.

- (2) Once a violation of chapter 18.27 RCW or this chapter becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the tables that follow.
- (3) Second or additional offenses subject to increased penalties also include individuals or entities.
- (4) A person, firm, corporation, or other entity who violates a provision of chapter 18.27 RCW and this chapter is liable for a civil penalty based upon the following schedule.
- (a) Monetary penalties that may be assessed for a violation of RCW 18.27.040(10) are:

| Monetary Penalties | Dollar Amount |
|---------------------------------|---------------|
| First Final Violation | \$250.00* |
| Second Final Violation | \$500.00 |
| Third Final Violation | \$750.00 |
| Each Additional Final Violation | \$1,000.00 |

(b)(i) Monetary penalties that may be assessed for a violation of RCW 18.27.100 (1), (2), (3), and (4) are:

| Monetary Penalties | Dollar Amount |
|---------------------------------|---------------|
| First Final Violation | \$250.00* |
| Second Final Violation | \$750.00 |
| Third Final Violation | \$2,250.00 |
| Fourth Final Violation | \$5,000.00 |
| Each Additional Final Violation | \$10,000.00 |

^{*} Minimum penalty per violation. Once a violation of RCW 18.27.100 (1), (2), (3), and (4) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(ii) Monetary penalties that may be assessed for a violation of RCW 18.27.100 (5) and (7) are:

| Monetary Penalties | Dollar Amount |
|---------------------------------|---------------|
| First Final Violation | \$2,000.00* |
| Second Final Violation | \$4,000.00 |
| Third Final Violation | \$6,000.00 |
| Each Additional Final Violation | \$10,000.00 |

^{*} Minimum penalty per violation. Once a violation of RCW 18.27.100 (5) and (7) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(iii) Monetary penalties that may be assessed for a violation of RCW 18.27.100(6) are:

| Monetary Penalties | Dollar Amount |
|---------------------------------|---------------|
| First Final Violation | \$1,000.00* |
| Second Final Violation | \$3,000.00 |
| Third Final Violation | \$6,000.00 |
| Each Additional Final Violation | \$10,000.00 |

^{*} Minimum penalty per violation. Once a violation of RCW 18.27.100(6) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(c) Monetary penalties that may be assessed for a violation of RCW 18.27.110 are:

| Monetary Penalties | Dollar Amount |
|---------------------------------|----------------------|
| First Final Violation | \$250.00* |
| Second Final Violation | \$750.00 |
| Third Final Violation | \$2,250.00 |
| Fourth Final Violation | \$7,500.00 |
| Each Additional Final Violation | \$10,000.00 |

^{*} Minimum penalty per violation. Once a violation of RCW 18.27.110 becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(d) Monetary penalties that may be assessed for a violation of RCW 18.27.114 are:

| Monetary Penalties | Dollar Amount |
|---------------------------------|---------------|
| First Final Violation | \$500.00* |
| Second Final Violation | \$1,000.00 |
| Third Final Violation | \$2,000.00 |
| Fourth Final Violation | \$4,000.00 |
| Each Additional Final Violation | \$5,000.00 |

^{*} Minimum penalty per violation. Once a violation of RCW 18.27.114 becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(e) Monetary penalties that may be assessed for a violation of RCW 18.27.200 are: (i)

| RCW 18.27.200 (1)(a) Monetary Penalties | Dollar Amount |
|--|-----------------------------|
| First Final Violation | ((\$500.00))* \$1,200.00 |
| Second Final Violation | \$3,000.00 |
| ((Each Additional)) Third Final Violation | \$5,000.00 |
| Each Additional Violation | \$10,000.00 |

Minimum penalty per violation. Once a violation of RCW 18.27.340(1) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(ii)

RCW 18.27.200 (1)(b) ((through)), (c) and (e)

| Monetary Penalties | Dollar Amount |
|------------------------|----------------------|
| First Final Violation | ((\$1,000.00))* |
| | <u>\$1,200.00</u> |
| Second Final Violation | \$3,000.00 |

RCW 18.27.200 (1)(b) ((through)), (c) and (e)

Monetary Penalties

Dollar Amount

((Each Additional)) Third Final Violation

\$5,000.00

Each Additional Violation

\$10,000.00

- * Minimum penalty per violation. Once a violation of RCW 18.27.340(3) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the above table. However, if the unregistered contractor becomes registered within ((ten)) 10 days of receiving the notice of infraction and the notice is the contractor's first offense, the director may reduce the penalty. In no case can the director reduce the penalty below ((five hundred dollars)) \$600.
- (5) For violations of RCW 18.27.200, the director may waive a penalty collection from a contractor in exchange for a payment of restitution to a damaged consumer ((in an amount at least equal to the assessed penalty. Prior to the infraction becoming final, the contractor must provide to the department a notarized release from the damaged consumer stating that he or she paid the damaged consumer in an amount at least equal to the assessed penalty)). If the assessed penalty amount or amounts are more than the restitution amount, the remaining balance is owed to the department.

AMENDATORY SECTION (Amending WSR 22-07-087, filed 3/22/22, effective 4/22/22)

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration? The department charges the following fees:

- (1) ((\$124.70)) \$132.60 for each issuance, renewal or reregistration of a certificate of registration for contractors. This registration is valid for two years from date of issuance, renewal or reregistration or until it is suspended or revoked.
- (2) ((\$58.90)) \$62.60 for the reinstatement of a certificate of registration.
- (3) ((\$13.80)) \$14.60 for providing a duplicate certificate of registration.
- (4) ((\$28.10)) \$29.90 for each requested certified letter prepared by the department.
- (5) ((\$178.10)) \$189.50 for the construction and electrical contractor listing publication on CD ROM per year, prorated according to the number of issues left in the subscription year, which runs from November 1 through October 31. Each issue costs ((\$14.80)) \$15.70.
- (6) ((\$2.10)) \$2.20 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be ((\$30.80)) \$32.70.
- (7) ((\$55.00)) \$58.50 is required to cover the costs for the service of process in an action against a contractor, the contractor's bond, or the deposit under RCW 18.27.040.
- (8) $((\frac{\$27.50}{1}))$ \$29.20 is required to cover the costs for the service of processing refunds.

WSR 24-10-091 PERMANENT RULES DEPARTMENT OF HEALTH

[Filed April 30, 2024, 2:23 p.m., effective June 6, 2024]

Effective Date of Rule: June 6, 2024.

Purpose: Midwives' limited prescriptive license extension and health equity continuing education (CE). The department of health (department) is adopting amendments to chapter 246-834 WAC to implement SSB 5765 (chapter 289, Laws of 2022), which created two levels of limited prescriptive license extensions for midwives to prescribe, obtain, and administer medications and therapies for the prevention and treatment of common prenatal and postpartum conditions, family planning methods, medical devices, and implants. SSB 5765 gave the secretary the authority to establish education and training requirements, and to specify the types of medications, implants, and devices a midwife can prescribe, obtain, and administer under each license extension in the chapter.

The adopted amendments establish the new education and training requirements for an initial license extension type and provide guidance for reactivating or requalifying for a license extension in the expired and inactive license sections of rule. The adopted rules establish CE requirements for maintaining a license extension. They also update the legend drug and devices regulations in WAC 246-834-250 to include the types of medications and therapies that midwives can prescribe, obtain, and administer under the new license extensions. Creation of these rules included collaboration with the midwifery advisory committee, Washington medical commission, and pharmacy quality assurance commission.

The department is also adopting amendments to chapter 246-834 WAC to implement ESSB 5229 (chapter 276, Laws of 2021) regarding health equity CE requirements. ESSB 5229 requires certain credential holders, including midwives, complete CE related to health equity to renew their credential. The adopted amendments in chapter 246-834 WAC are aligned with the department's model rules for health equity CE, established in WAC 246-12-800 through 246-12-830. Licensed midwives must complete two hours of health equity CE every four years to maintain licensure.

Finally, the adopted amendments replace gendered language with gender-neutral terms to make the chapter more inclusive. The adopted rules create a more inclusive chapter and implement SSB 5765 and ESSB 5229 while establishing a regulatory framework for the midwifery scope expansion and CE requirements.

Citation of Rules Affected by this Order: New WAC 246-834-165; and amending WAC 246-834-010, 246-834-062, 246-834-065, 246-834-066, 246-834-067, 246-834-080, 246-834-140, 246-834-160, 246-834-250, 246-834-255, 246-834-345, 246-834-355, 246-834-360, 246-834-370, 246-834-400, and 246-834-450.

Statutory Authority for Adoption: RCW 18.50.115, 18.50.135, and 43.70.613.

Other Authority: SSB 5765 (chapter 289, Laws of 2022) and ESSB 5229 (chapter 276, Laws of 2021).

Adopted under notice filed as WSR 24-05-052 on February 16, 2024.

A final cost-benefit analysis is available by contacting Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2901, TTY 711, email kathy.weed@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 11, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 16, Repealed 0. Date Adopted: April 30, 2024.

> April 30, 2024 Kristin Peterson, JD Chief of Policy for Umair A. Shah, MD, MPH Secretary

OTS-4944.6

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

- WAC 246-834-010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise:
- (1) "Active practice" means ((twenty)) 20 hours per month in prenatal and postpartum clinical care, or minimum of six births annually as the primary midwife;
- (2) "Administer" means to dispense, apply, and manage drugs, medical devices, and implants;
- (3) "Department" means the Washington state department of health; $((\frac{3}{3}))$ <u>(4)</u> "Directly assisted" means the act where a student midwife is learning the skills of a midwife through hands-on clinical experience in gradually increasing degrees of responsibility while under supervision of a licensed midwife or other obstetric provider;
- ((+4))) (5) "Lactation care and services" means evaluation, problem identification, treatment, education, and consultation regarding lactation and ((breastfeeding)) chest feeding to ((mothers)) gestational parents and neonates;
- $((\frac{5}{}))$ <u>(6)</u> "Nursing education" means completion of courses for credit in a school that is approved to train persons for licensure as registered nurses or licensed practical nurses, or courses in other formal training programs which include instruction in basic nursing skills, excluding nursing assistant training;
- $((\frac{(6)}{(6)}))$ (7) "Postpartum" means the 12-month period beginning on the last day of the pregnancy.
- (8) "Practical midwifery experience" means performance of tasks within the midwifery scope of practice, that is verified by affidavit, testimony or other sworn written documentation that verifies that the

experience and its documentation is equivalent to that required of students enrolled in an accepted midwifery education program;

- $((\frac{7}{}))$ "Preceptor" means a licensed midwife or other obstetric practitioner licensed by their state or jurisdiction to provide maternity care who assumes responsibility for supervising the practical (clinical obstetric) experience of a student midwife;
- ((8))) (10) "Primary attendant" means a student midwife who acts as primary midwife making intrapartum clinical decisions while under supervision of a licensed midwife or other obstetric provider;
- (((+9))) (11) "Secretary" means the secretary of the Washington state department of health;
- $((\frac{10}{10}))$ <u>(12)</u> "Supervision" means the observation and evaluation of a student midwife's practical performance. A supervisor must be physically present on-site and available to intervene when a student midwife performs any clinical care task at births and prenatal and postpartum care exams.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

- WAC 246-834-062 Initial or reinstating application for individuals who have not been in the active practice of midwifery. This section applies to applicants for an initial license as a licensed midwife, or reinstatement of a midwifery license, who have not been in the active practice of midwifery prior to initial or reinstatement license application.
- (1) Any applicant who has not been engaged in the active practice of midwifery for more than three years but less than five years prior to the date of application shall, in addition to the requirements for licensure as specified in WAC 246-834-030 and 246-834-060 ((and 246-834-140)):
- (a) Provide documentation of a minimum of ((ten)) 10 births while acting as a birth assistant under the supervision of a preceptor within the last ((twelve)) <u>12</u> months; and
- (b) Provide documentation of completion of continuing education for the three years prior to application that meets the requirements of WAC 246-834-355.
- (2) Any initial or reinstating applicant who has not been engaged in the active practice of midwifery for five or more years prior to the date of application shall, in addition to the requirements for licensure as specified in WAC 246-834-030 and 246-834-060 ((and 246-834-140)):
- (a) Provide documentation of a minimum of ((fifteen)) 15 births while acting as a birth assistant under the supervision of a preceptor within the last ((twelve)) 12 months;
- (b) Provide documentation of completion of continuing education for the three years prior that meets the requirements of WAC 246-834-355; and
- (c) If applying for reinstatement, retake and pass the current Washington state midwifery licensure examination.
- (3) This section does not apply to any applicant who has been enrolled in a recognized educational program under WAC ((246-834-135))246-834-020 or 246-834-065.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

- WAC 246-834-065 Application for examination—Foreign trained. An applicant for a midwife license who graduated from a foreign educational institution on midwifery outside of any U.S. jurisdiction may sit for the licensing examination provided the applicant completes all requirements in this section:
- (1) Complete application requirements for licensure in WAC 246-834-060;
- (2) Provide proof of a certificate or diploma from a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant graduated. If applicable, the candidates must, at ((her or his)) the individual's own expense, present with the application a certified translation of the foreign certificate or diploma ((made by and under the seal of the consulate of the country in which the certificate or diploma was issued));
- (3) Submit proof of completing at least three years of midwifery training including the study of basic nursing that meets the requirements under WAC (($\frac{246-834-140}{246-834-030}$ (1);
- (4) Submit proof of meeting minimum educational requirements under WAC ((246-834-140)) 246-834-030 (2) (a) and (b);
- (5) Submit to the department documentation of attendance at ((one hundred)) 100 births that meets the requirements of WAC ((246-834-140)) 246-834-030 (3)(a);
- (6) Submit to the department documentation of prenatal care examinations of ((fifty women)) 50 individuals and early postpartum care examinations of ((fifty women)) 50 individuals that meets the requirements of WAC ((246-834-140)) 246-834-030 (3) (b); and
- (7) Demonstrate competency in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professional who, within ((his or her)) the individual's scope of practice, is qualified in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.

AMENDATORY SECTION (Amending WSR 15-20-049, filed 9/30/15, effective 10/31/15)

- WAC 246-834-066 Certified professional midwife (CPM) licensure requirements. An applicant who holds a current North American Registry of Midwives (NARM) certified professional midwife (CPM) certification may apply for a Washington state midwife license by completing all requirements in this section.
- (1) To be eligible for a midwife license an applicant holding a CPM shall:
- (a) Complete all application requirements for licensure in WAC 246-834-060.
- (b) Ensure that proof of the CPM certification is sent to the department directly from NARM.

- (c) Submit to the department documentation of attendance at ((one hundred)) 100 births of which:
- (i) At least ((thirty)) 30 births where the applicant was the primary attendant under supervision of a qualified attendant;
- (ii) At least ((twenty)) 20 births where the applicant directly assisted;
- (iii) At least (($\frac{\text{fifty}}{\text{}}$)) $\underline{50}$ births that the applicant observed in addition to births counted in (c)(i) and (ii) of this subsection; and
- (iv) Documentation for (c)(i) through (iii) of this subsection must include at least the date, client identifier, the applicant's role at each birth, and the signature or initials of the qualified attendant at the birth of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant shall submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.
- (d) Submit to the department documentation of prenatal care examinations of ((fifty women)) 50 individuals and early postpartum care examinations of ((fifty women)) 50 individuals. The same ((women)) individuals need not be seen for both examinations. Documentation must include at least the date, client identifier, and the signature or initials of the qualified attendant at the care examination of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant must submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.
- (e) Demonstrate competency in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professional who, within ((his or her)) the individual's scope of practice, is qualified to use and administer legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.
- (f) Successfully complete courses on epidemiology and obstetric pharmacology from:
- (i) An institution that is accredited by an agency recognized by the Council for Higher Education Accreditation (CHEA) and included in their database of institutions on programs accredited by recognized United States accrediting organizations;
- (ii) An institution that is accredited by an agency recognized by the United States Department of Education (USDOE) and included in their database of accredited postsecondary institutions and programs;
 - (iii) A curriculum or program approved by the department.
- (2) Applicants applying under this section who have a current CPM but do not meet all of the requirements listed in subsection (1)(c) through (f) of this section may apply to the department for a trainee permit under WAC 246-834-068. The trainee permit authorizes the applicant to complete subsection (1)(c) through (e) of this section, under the supervision of a preceptor as described in WAC 246-834-067.

AMENDATORY SECTION (Amending WSR 15-20-049, filed 9/30/15, effective 10/31/15)

- WAC 246-834-067 Preceptor for certified professional midwife (CPM) licensure program. This section defines the role of a preceptor as used in WAC 246-834-066. A certified professional midwife (CPM) applicant for licensure as a midwife may use more than one preceptor to meet the requirements for licensure under WAC 246-834-066.
- (1) A preceptor for clinical requirements including observed, managed, and assisted births, and prenatal and postpartum examinations must:
- (a) Have a current Washington state license as a midwife under chapter 18.50 RCW, physician under chapter 18.71 RCW, osteopathic physician under chapter 18.57 RCW, or certified nurse midwife under chapter 18.79 RCW; and
- (b) Have actively practiced obstetrics for at least three consecutive years or attended at least ((one hundred fifty)) 150 births.
- (2) A preceptor for legend drugs and devices must have a current Washington state credential and be, within ((his or her)) the individual's scope of practice, qualified to use and administer legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

- WAC 246-834-080 Examination failures. (1) An applicant who has failed the NARM examination or the Washington state licensing examination, or both, shall retake and pass the examination(s) which he or she failed.
- (2) The applicant who fails the Washington state licensing examination may sit for the reexamination if ((he or she)) the individual:
- (a) Applies to the department at least ((fourteen)) 14 days prior to the next scheduled examination; and
 - (b) Pays the required fee as specified in WAC 246-834-990.
- (3) An applicant who fails the NARM or Washington licensing examination three consecutive times shall submit evidence to the secretary of completion of an individualized program of study approved by the department prior to retaking the examination.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

- WAC 246-834-140 Eligibility for state licensing examination. Candidates for the state licensing examination shall meet the following conditions, unless applying under WAC 246-834-066 Certified professional midwife (CPM) licensure requirements:
- (1) Midwifery training shall be at least three academic years, and shall consist of both didactic and clinical instruction sufficient to meet the educational standards of the school and this section. However, the length of required training may be shortened, but not to less than two academic years, after consideration of the student's documented education and experience in the required subjects, if the applicant is a registered nurse or practical nurse licensed under

chapter 18.79 RCW, or has had previous nursing education or practical midwifery experience.

- (2) The applicant must receive instruction in the following educational areas:
- (a) Midwifery, basic sciences (including biology, physiology, microbiology, anatomy with emphasis on female reproductive anatomy, genetics and embryology), normal and abnormal obstetrics and gynecology, family planning techniques, childbirth education, nutrition both during pregnancy and lactation, ((breast)) chest feeding, neonatology, epidemiology, community care, and medicolegal aspects of midwifery; and
- (b) Basic nursing skills and clinical skills including, but not limited to, vital signs, perineal prep, catheterization, aseptic techniques, administration of medications both orally and by injection, local infiltration for anesthesia, venipuncture, administration of intravenous fluids, infant and adult resuscitation, and charting.
- (3) The applicant must undertake the care of not less than ((one hundred women)) 100 individuals in the intrapartum period. No less than ((fifteen)) 15 of the ((one hundred women)) 100 individuals must be cared for in the intrapartum period while the applicant was enrolled in the school from which the student graduates.
- (a) The applicant shall submit to the department documentation of attendance at ((one hundred)) 100 births of which:
- (i) At least ((thirty)) 30 births where the applicant was the primary attendant under supervision of a qualified attendant;
- (ii) At least ((twenty)) 20 births where the applicant directly assisted;
- (iii) At least ((fifty)) <u>50</u> births that the applicant observed in addition to births counted in (d)(i) and (ii) of this subsection; and
- (iv) Documentation for (a)(i) through (iii) of this subsection must include at least the date, client identifier, the applicants role at each birth, and the signature or initials of the qualified attendant at the birth of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant shall submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.
- (b) The applicant shall submit to the department documentation of prenatal care examinations of ((fifty women)) 50 individuals and early postpartum care examinations of (($\frac{\text{fifty women}}{\text{omen}}$)) 50 individuals. The same ((women)) individuals need not be seen for both examinations.
- (i) No less than ((fifteen women)) 15 individuals must be cared for in the prenatal and postpartum periods while enrolled in the school from which the student graduates.
- (ii) Documentation must include at least the date, client identifier, and the signature or initials of the qualified attendant at the care examination of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant must submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.
- (4) The applicant shall demonstrate competency in the use and administration of legend drugs and devices described in WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professio-

nal who, within his or her scope of practice, is qualified in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.

AMENDATORY SECTION (Amending WSR 22-13-079, filed 6/10/22, effective 7/11/22)

- WAC 246-834-160 Student midwife permit. (1) A student midwife permit may be issued to any individual who has:
- (a) Successfully completed an accredited midwifery program as specified in WAC ((246-834-135)) 246-834-020, or is foreign trained as specified in WAC 246-834-065(1);
- (b) Obtained a minimum period of midwifery training of at least three academic years as required by WAC ((246-834-140)) 246-834-030;
- (c) Met the minimum education requirements required in WAC ((246-834-140)) 246-834-030 (2) (a) and (b);
- (d) Documentation of undertaking the care of not less than 50 ((women)) individuals in each of the prenatal, intrapartum and early postpartum periods as required by RCW 18.50.040 (2)(c);
- (e) Satisfactorily completed the NARM examination required by WAC 246-834-050; and
- (f) Filed a completed application for student midwife permit under WAC 246-834-060 and accompanied by a nonrefundable fee as specified in WAC 246-834-990.
- (2) The student midwife permit authorizes the ((individuals)) student to practice and observe ((women)) individuals in the intrapartum period under the supervision of a licensed midwife under 18.50 RCW, an allopathic physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW or certified nurse midwife under chapter 18.79 RCW.
- (3) Once all application requirements including clinical components are completed the applicant may be eligible to sit for the Washington state licensure examination as required in WAC 246-834-050.

- WAC 246-834-165 Application requirements for a licensed midwife seeking a limited prescriptive license extension, a license extension for medical devices, or a license extension for implants. (1) A licensed midwife seeking a limited prescriptive license extension shall:
- (a) Submit evidence of completion of 15 additional obstetrical pharmacology didactic training hours. The additional hours must include the prescription classifications listed in WAC 246-834-250(4) and provide skills and knowledge beyond entry-level skills or knowledge in antibiotics and contraceptives; and
- (b) Submit evidence of completion of additional training on family planning and treating common, low risk prenatal and postpartum conditions. Such training must be either:
- (i) A clinical experience of at least 20 cases reviewed in consultation with a licensed health care professional who, within their scope of practice, is qualified to use and administer legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250. The licensed

health care professional must attest to the applicant's knowledge and skills by signing a form provided by the department; or

- (ii) A clinical training course or courses approved by the department.
- (2) A licensed midwife seeking the license extension for medical devices or the license extension for implants shall:
- (a) Submit completion of the requirements in subsection (1) of this section;
- (b) Submit evidence of completion of training as required by the medical device manufacturers, or an equivalent. The training must include at least three simulated medical device insertions under direct supervision;
- (c) Submit evidence of completion of training as required by the implant device manufacturers, or an equivalent. The training must include at least three simulated removals under direct supervision; and
- (d) Submit evidence of completion of additional training on medical devices or implants, or both that includes:
- (i) A clinical experience of four inserted medical devices and one medical device removal under direct supervision;
- (ii) A clinical experience of one inserted implant and three implant removals under direct supervision;
- (e) The clinical experience in (d) of this subsection must be supervised by a licensed health care professional who, within their scope of practice, is qualified to administer medical devices and implants and has at least two years of experience. The health care professional must attest to the applicant's knowledge and skills by signing a form provided by the department.
- (f) A licensed midwife may pursue all three license extensions. The training on prescriptive, medical devices, and implants in subsections (1) and (2) must be completed within five years from the date of application.
- (3) The license extensions referenced in this section do not apply to newborn care.

AMENDATORY SECTION (Amending WSR 22-13-079, filed 6/10/22, effective 7/11/22)

- WAC 246-834-250 Legend drugs and devices. A licensed midwife shall have a procedure, policy or guideline for the use of each legend drug and device. A midwife may not administer or prescribe a legend drug or use a legend device for which they are not qualified by education, training, and experience.
- (1) A licensed midwife may purchase and use legend drugs and devices as follows:
- (a) Dopplers, syringes, needles, phlebotomy equipment, sutures, urinary catheters, intravenous equipment, amnihooks, airway suction devices, electronic fetal monitors, jada system, tocodynamometer monitors, oxygen and associated equipment, glucose monitoring systems and testing strips, neonatal pulse oximetry equipment, hearing screening equipment, centrifuges, and nasopharyngeal or nasal swabs for appropriate testing;
- (b) Nitrous oxide as an analgesic, self-administered inhalant in a 50 percent blend with oxygen, and associated equipment, including a scavenging system;

- (c) Ultrasound machine used in the real time ultrasound of pregnant uterus for the confirmation of viability, first trimester dating, third trimester presentation, placental location, and amniotic fluid assessment; and
- (d) Neonatal and adult resuscitation equipment and medication, including airway devices and epinephrine for neonates.
- (2) Pharmacies may issue ((breast)) the following as ordered by a licensed midwife: Lactation pumps, compression stockings and belts, maternity belts, diaphragms and cervical caps, glucometers and testing strips, iron supplements, prenatal vitamins, and recommended vaccines as specified in subsection (3) (e) through (j) of this section ((ordered by licensed midwives)).
- (3) In addition to prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho (D) immune globulin, and local anesthetic medications as listed in RCW 18.50.115, licensed midwives may obtain and administer the following medications:
- (a) Intravenous fluids limited to Lactated Ringers, ((5%)) five
- (c) Magnesium sulfate for prevention or treatment of ((maternal)) peripartum seizures pending transport;
- (d) Epinephrine for use in ((maternal)) peripartum anaphylaxis and resuscitation and neonatal resuscitation, pending transport;
- (e) Measles, Mumps, and Rubella (MMR) vaccine to nonimmune postpartum ((women)) individuals;
- (f) Tetanus, diphtheria, acellular pertussis (Tdap) vaccine for use in pregnancy;
 - (g) Hepatitis B (HBV) birth dose for any newborn administration;
- (h) HBIG and HBV for any neonates born to \underline{a} hepatitis (($\underline{B+moth-}$ ers)) B positive gestational parent;
 - (i) Influenza vaccine ((for use in pregnancy));
- (j) Any vaccines recommended by the <u>Centers for Disease Control</u> and Prevention (CDC) advisory committee on immunization practices for ((pregnant or postpartum people or)) infants in the first two weeks after birth((, as it existed on the effective date of this section)) or pregnant or postpartum people;
- (k) Terbutaline to temporarily decrease contractions pending emergent ((intrapartal)) intrapartum transport;
- (1) Antibiotics for intrapartum prophylaxis of Group B ((beta hemolytic)) Streptococcus (GBS) per current CDC guidelines; ((and))
- (m) Antihemorrhagic drugs to ((control)) treat postpartum hemorrhage including, but not limited to, intravenous tranexamic acid, oxytocins, misoprostol, methylergonovine maleate (oral or intramuscular), and prostaglandin F2 alpha; and
 - (n) Nifedipine for indication of preterm labor pending transport.
- (4) A licensed midwife with a limited prescriptive license extension may prescribe, obtain, and administer the items in subsections (1) through (3) of this section, and the following medications and therapies for the prevention and treatment of outpatient conditions that do not constitute a significant deviation from normal per RCW 18.50.010 during pregnancy or postpartum based on current evidence and practice:
 - (a) Antibiotics;
 - (b) Antiemetics;
 - (c) Antivirals;
 - (d) Antifungals;
 - (e) Low-potency topical steroids;

- (f) Antipruritic medications and therapies;
- (g) Other medications and therapies including, but not limited to:
 - (i) Galactagogues;
 - (ii) Topical analgesia for anal, vulvar, and perineal pain;
 - (iii) Preterm labor preventatives;
 - (iv) Stool softeners;
- (v) Vitamins and minerals for preventing and treating deficiencies;
 - (vi) Over-the-counter medications as needed;
 - (vii) Nonopioid medication for therapeutic rest;
 - (viii) Medications for miscarriage prevention and completion;
 - (ix) Smoking cessation;
 - (x) Prescription referrals for IV iron infusions; and
 - (h) Hormonal and nonhormonal family planning methods.
- (5) Pursuant to RCW 18.50.010, a licensed midwife with a license extension that includes medical devices or implants, or both may prescribe, obtain, and administer hormonal and nonhormonal family planning method devices including, but not limited to, copper or other nonhormonal intrauterine devices (IUD), IUDs with levonorgestrel or other progestin, implants or as consistent with current evidence and practice so long as they have a license extension to perform the task.
- (6) The client's records must contain documentation of all medications and devices prescribed, ordered, and administered.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

- WAC 246-834-255 Elements of care for the newborn. The customary scope of care of a newborn up to two weeks of age by a licensed midwife includes, but is not limited to, clinical assessment, treatment, education, support and referral as described in this section. Newborn care shall not go beyond the scope of the midwife's education, training and experience.
 - (1) Immediate newborn care includes, but is not limited to:
- (a) Appearance, pulse, grimace, activity and respiration (APGAR) assessment;
- (b) Stabilization and monitoring of the newborn for a minimum of two hours postpartum;
- (c) Early initiation and facilitation of ((breast or bottle)) infant feeding;
 - (d) Complete physical examination;
- (e) Education for parents regarding care and monitoring of the normal newborn; and
- (f) Physician consultation, referral and/or transfer of care in the event of significant deviations from normal.
 - (2) Other support may include:
 - (a) Neonatal resuscitation; and
- (b) Legend drugs and devices allowed in RCW 18.50.115 and WAC 246-834-250.
 - (3) Subsequent care may include, but is not limited to:
- (a) Evaluating the newborn for well-being such as jaundice, weight loss, and adequate feeding and elimination patterns;
 - (b) Newborn metabolic screening per RCW 70.83.020;

- (c) Critical congenital heart disease screening per RCW 70.83.090;
 - (d) Lactation care and services; and
- (e) Consultation ((and/or)) and possible referral to pediatric care for any significant deviation from normal.

AMENDATORY SECTION (Amending WSR 15-24-092, filed 11/30/15, effective 12/31/15)

WAC 246-834-345 License renewal. A licensed midwife must renew their license every year on ((his or her)) the individual's birthday. To renew a license, a licensed midwife shall comply with the requirements in:

- (1) RCW 18.50.102 License renewal;
- (2) RCW 18.50.108 Written plan for consultation, emergency transfer, and transport;
 - (3) WAC 246-12-030 How to renew a credential;
 - (4) WAC 246-834-355 Continuing education;
 - (5) WAC 246-834-360 Quality improvement program;
 - (6) WAC 246-834-370 Data submission; and
 - (7) WAC 246-834-990 Midwifery fees and renewal cycle.

AMENDATORY SECTION (Amending WSR 15-24-092, filed 11/30/15, effective 12/31/15)

- WAC 246-834-355 Continuing education. (1) A licensed midwife shall complete ((thirty)) 30 hours of continuing education (CE) every three years and must comply with ((chapter 246-12 WAC, Part 7)) WAC 246-12-170 through 246-12-240. CE course work must contribute to the professional knowledge and development of the licensed midwife.
- (a) A minimum of ((twenty-five)) 25 hours must be directly related to the clinical practice of midwifery. A licensed midwife who has a license extension shall complete a minimum of three hours of CE relevant to the license extension or extensions they hold as part of the 25-hour requirement.
- (b) In addition to the 25 hours of clinical practice CE in (a) of this subsection, a licensed midwife shall complete two hours of health equity CE every four years per chapter 43.70 RCW and in compliance with WAC 246-12-800 through 246-12-830.
- (c) Any remaining hours may be in professional development activities that enhance the practice of the licensed midwife.
- (2) A licensed midwife shall obtain CE hours through one or more of the categories listed below. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:
- (a) Acceptable CE course work. A minimum of ((ten)) 10 hours is required per reporting period in acceptable CE course work. For the purposes of this section, acceptable CE course work means courses offered or authorized by industry recognized local, state, private, national and international organizations, agencies or institutions of higher learning. The department will not authorize or approve specific CE courses. The required documentation for this category is a certificate or documentation of attendance.

- (b) Course work or classes offered by an accredited college or university. The course work must provide skills and knowledge beyond entry-level skills. The required documentation for this category is a transcript or documentation of attendance. A maximum of ((ten)) 10 hours is allowed per reporting period for this category.
- (c) Research, writing, or teaching. The required documentation for this category is a two-page synopsis for each activity written by the licensee. A maximum of ((fifteen)) 15 hours is allowed per reporting period for this category.
- (d) Documented self-study or life experience. The required documentation for this category is a two-page synopsis of each activity written by the licensee. A maximum of five hours is allowed per reporting period for this category.
- (e) Serving on a professional board, committee, disciplinary panel, or association. The required documentation for this category is a letter or other documentation from the organization. A maximum of five hours is allowed per reporting period for this category.
- (f) Professional manuscript review. The required documentation for this category is a letter from the publishing organization verifying review of the manuscript. A maximum of ((ten)) 10 hours is allowed per reporting period for this category.
- (q) Professional conference or workshop. The required documentation for this category is a certificate or documentation of attendance. A maximum of ((ten)) 10 hours is allowed per reporting period for this category.
- (3) Continuing education credit will not be given for the following:
 - (a) A cardiopulmonary resuscitation course;
 - (b) A neonatal resuscitation course; or
 - (c) Participation in data submission on perinatal outcomes.
- (4) ((Verification of)) The department may verify completion of continuing competency hours ((will begin on January 1, 2019)).

AMENDATORY SECTION (Amending WSR 15-24-092, filed 11/30/15, effective 12/31/15)

- WAC 246-834-360 Quality improvement program. (1) As a condition of renewing a license, a licensed midwife shall:
- (a) Participate in a Washington state coordinated quality improvement program peer review process that complies with the requirements in RCW 43.70.510.
- (b) Attest every two years that the midwife has completed peer review for a minimum of five of the midwife's clinical cases over the course of those two years.
- (2) A midwife may be excused from or granted an extension of participation in a peer review process due to illness or other extenuating circumstances. The department, upon request, will determine if the requirements may be waived or if an extension may be granted.
- (3) For auditing purposes, written confirmation of participation in a peer review process from the approved coordinated quality improvement program shall suffice. The midwife must keep ((her/his)) their participation records; records must not be sent to the department.
- (4) Verification of completion of participation in a peer review process will begin on January 1, 2018.

AMENDATORY SECTION (Amending WSR 22-13-079, filed 6/10/22, effective 7/11/22)

- WAC 246-834-370 Data submission. (1) As a condition of renewing a license, a licensed midwife shall report data on all courses of care for every ((mother)) gestational parent and newborn under the midwife's care to a national or state research organization approved by the department. If the ((mother)) gestational parent declines to participate in the collection of data, the midwife shall follow the protocol of the approved national or state research organization.
- (2) The licensed midwife shall verify compliance by submitting an attestation to the department annually with the license renewal. For good cause, the secretary may waive reporting requirements.
- (3) For auditing purposes, written confirmation of full participation in data collection from the approved state or national research organization shall suffice.
- (4) The midwife must keep ((her/his)) their data and participation records; data and participation records will not be submitted directly to the department.

AMENDATORY SECTION (Amending WSR 19-15-005, filed 7/5/19, effective 8/5/19)

WAC 246-834-400 Expired license. A midwife licensed under this chapter may reinstate an expired license or license extension.

- (1) If a midwife's license ((under this chapter)) has been expired for less than three years, ((to reinstate the license)) the practitioner shall meet the requirements of ((chapter 246-12 WAC, Part $\frac{2}{2}$) WAC 246-12-040.
- (2) If a midwife's license ((under this chapter)) has expired and the practitioner has been engaged in the active practice of midwifery in another United States jurisdiction or territory, or other location approved by the department, ((to reinstate the license)) the practitioner shall:
 - (a) Submit verification of active practice; and
- (b) Meet the requirements of ((chapter 246-12 WAC, Part 2)) WAC 246-12-040.
- (3) If a midwife's license ((under this chapter)) has been expired for three years or more but less than five years at time of application, and the practitioner has not been actively engaged in midwifery, the practitioner shall:
- (a) Work as a birth assistant under the supervision of a department-approved preceptor for a minimum of ((ten)) 10 births; and
- (b) Meet the requirements of ((chapter 246-12 WAC, Part 2)) WAC 246-12-040.
- (4) If a midwife's license ((under this chapter)) has been expired for more than five years at time of application, and the practitioner has not been actively engaged in midwifery, the practitioner shall:
- (a) Work as a birth assistant under the supervision of a department-approved preceptor for a minimum of ((fifteen)) 15 births;
- (b) Retake and successfully pass the Washington state licensing examination; and
- (c) Meet the requirements of ((chapter 246-12 WAC, Part 2)) WAC 246-12-040.

- (5) A proposed preceptor shall:
- (a) Hold an active license without restriction, current discipline, or conditions as a midwife under chapter 18.50 RCW, a certified nurse midwife under chapter 18.79 RCW, an allopathic physician under chapter 18.71 RCW, or an osteopathic physician under chapter 18.57 RCW:
- (b) Have actively practiced at least three consecutive years or attended at least ((one hundred fifty)) 150 births; and
- (c) Have demonstrated ability and skill to provide safe, quality care.
- (6) If a midwife's license extension has expired and the practitioner has been engaged in the active practice of midwifery prescriptive or medical devices and implant practice in another United States jurisdiction or territory, or other location approved by the department, the practitioner shall:
- (a) Submit verification of active practice of prescriptive, devices, or implant practices; and
 - (b) Meet the requirements of WAC 246-12-040.
- (7) If a licensed midwife at the time of reactivation has had an expired license extension for less than five years and has not been engaged in the active practice of midwifery prescriptive or medical devices and implant practice, the practitioner may submit their records for their initial training as required in WAC 246-834-165 and meet the requirements in WAC 246-12-040.
- (8) If a licensed midwife at the time of reactivation has had an expired license extension for five years or more and has not been engaged in the active practice of midwifery prescriptive or medical devices and implant practice, the practitioner shall retake the required training in WAC 246-834-165.

AMENDATORY SECTION (Amending WSR 19-15-005, filed 7/5/19, effective 8/5/19)

- WAC 246-834-450 Inactive license. (1) A licensed midwife may obtain an inactive license by meeting the requirements of (($\frac{1}{2}$) 246-12 WAC, Part 4)) WAC 246-12-090.
- (2) An inactive license must be renewed every year on the midwife's birthday according to WAC 246-12-100 and by paying the fee required under WAC 246-834-990.
- (3) A midwife with an inactive license may return to active sta-
- (a) A midwife with an inactive license for three years or less who wishes to return to active status must meet the requirements of ((chapter 246-12 WAC, Part 4)) <u>WAC 246-12-110</u>.
- (b) A midwife with an inactive license for more than three years, who has been in active practice in another United States jurisdiction or territory or other location approved by the department and wishes to return to active status ((must)) shall:
 - (i) Submit verification of active practice; and
- (ii) Meet the requirements of ((chapter 246-12 WAC, Part 4)) WAC 246-12-110.
- (c) A midwife with an inactive license for more than three years but less than five, who has not been in active practice and wishes to return to active status must:

- (i) Work as a birth assistant under the supervision of a department-approved preceptor for a minimum of ((ten)) 10 births; and
- (ii) Meet the requirements of ((chapter 246-12 WAC, Part 4)) WAC 246-12-110.
- (d) A midwife with an inactive license for more than five years who has not been in active practice and wishes to return to active status ((must)) shall:
- (i) Work as a birth assistant under the supervision of a department-approved preceptor for a minimum of ((fifteen)) 15 births;
- (ii) Retake and successfully pass the Washington state licensing examination; and
- (iii) Meet the requirements of ((chapter 246-12 WAC, Part 4)) WAC 246-12-110.
 - (4) A proposed preceptor shall:
- (a) Hold an active license without restriction, current discipline, or conditions as a midwife under chapter 18.50 RCW, a certified nurse midwife under chapter 18.79 RCW, an allopathic physician under chapter 18.71 RCW, or an osteopathic physician under chapter 18.57 RCW;
- (b) Have actively practiced at least three consecutive years or attended at least ((one hundred fifty)) 150 births; and
- (c) Have demonstrated ability and skill to provide safe, quality care.
- (5) A licensed midwife with an inactive license extension who has been engaged in the active practice of midwifery prescriptive or medical devices and implant practice in another United States jurisdiction or territory, or other location approved by the department, and wishes to return to active practice shall:
- (a) Submit verification of active practice of prescriptive, devices, or implant practices; and
 - (b) Meet the requirements of WAC 246-12-110.
- (6) A licensed midwife with an inactive license extension for less than five years at the time of reactivation, and has not been actively practicing in midwifery prescriptive, medical devices, and implants practice, the individual may submit their records for their initial training as required in WAC 246-834-165 and meet the requirements in WAC 246-12-040.
- (7) A licensed midwife with an inactive license extension for five years or more at the time of reactivation, and who has not been actively engaged in midwifery prescriptive or medical devices and implant practice, shall retake the required training in WAC 246-834-165.

The following sections of the Washington Administrative Code are decodified and recodified as follows:

| Old WAC Number | New WAC Number |
|----------------|----------------|
| 246-834-080 | 246-834-055 |
| 246-834-135 | 246-834-020 |
| 246-834-140 | 246-834-030 |