

WSR 22-17-001
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-17—Filed August 3, 2022, 12:49 p.m., effective September 3, 2022]

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

Purpose: The commissioner is adopting rules relating to the exemption of health care sharing ministries (HCSM) from the definition of health carrier or insurer under RCW 48.43.009 to reduce confusion related to entities' status as HCSMs, increase transparency, and codify all applicable rules related to HCSMs in one location in the Washington Administrative Code.

Citation of Rules Affected by this Order: New WAC 284-43-8210, 284-43-8220, and 284-43-8230.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.005, and 48.15.015.

Adopted under notice filed as WSR 22-09-056 on April 18, 2022.

Changes Other than Editing from Proposed to Adopted Version: The final rule differs from the rule proposed in the supplemental CR-102 filing in the following respects:

- The definition of "annual audit" in WAC 284-43-8210 is modified to define annual audit as occurring on either a calendar or fiscal year basis.
- To reduce redundancy, the definition of "certified public accounting firm," in WAC 284-43-8210 was integrated into the definition of "independent certified public accounting firm," and a technical error in which "and" was used rather than "or," was corrected to clarify that the accounting firm need not be licensed by all states, the District of Columbia and all United States territories.
- WAC 284-43-8220 defines a timely response as one that occurs within 20 business days rather than 15 business days and allows written submissions via electronic mail. The revision clarifies and aligns the response time with current office of insurance commissioner (OIC) experience related to responses to OIC inquiries to entities that characterize themselves as HCSMs.

A final cost-benefit analysis is available by contacting Simon Casson, P.O. Box 40260, Olympia, WA 98504, phone 360-725-7038, fax 360-586-4109, email Simon.Casson@oic.wa.gov, website www.insurance.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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.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 3, 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: August 3, 2022.

Mike Kreidler

OTS-3371.4

**SUBCHAPTER N
HEALTH CARE SHARING MINISTRIES**

NEW SECTION

WAC 284-43-8210 Definitions. For the purposes of this subchapter:

(1) "Annual audit" means an audit occurring once a year at approximately the same time each year for the preceding calendar or fiscal year.

(2) "Continuously" means without a break or interruption.

(3) "Generally accepted accounting principles" means the compulsory accrual method of accounting for a public company.

(4) "Health care sharing ministry" means an organization:

(a) That is described in Section 501 (c) (3) of the Internal Revenue Code and is exempt from taxation under Section 501(a) of the Internal Revenue Code;

(b) That has members who share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the state in which a member resides or is employed;

(c) Whose members retain membership in the health care sharing ministry even after the member develops a medical condition;

(d) Which, or a predecessor of which, has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999; and

(e) That conducts an annual audit, which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

(5) "Independent certified public accounting firm" means a certified public accounting firm licensed by state boards of accountancy, the District of Columbia or U.S. territories that meets the standards of independence set forth by the American Institute of Certified Public Accountants (AICPA), the Public Company Accounting Oversight Board (PCAOB), or another similar body that oversees or sets standards for the accounting or auditing professions.

(6) "Organization" means an entity organized as a corporation, a limited liability company (LLC), an unincorporated association, or a trust. Entities must be organized under United States federal or state law.

(7) "Predecessor" means an organization that was acquired, merged with, or otherwise replaced by a successor organization, and the predecessor organization no longer shares medical expenses.

(8) "Share medical expenses" means providing for the medical needs and financial needs related to medical expenses of a participant through member contributions.

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NEW SECTION

WAC 284-43-8220 Prompt reply to the commissioner required. Any entity claiming to be a health care sharing ministry shall timely reply in writing to an inquiry of the commissioner regarding their compliance with RCW 48.43.009, and any potential violations of RCW 48.05.030(1) and 48.15.020(1) and related regulations, including this regulation. A timely response is one that is received by the commissioner within 20 business days from receipt of the inquiry. A response may be provided via electronic mail.

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NEW SECTION

WAC 284-43-8230 Continuously sharing medical expenses. A health care sharing ministry must share medical expenses among its members, and this sharing must be continuous and without interruption. In order for sharing between a predecessor organization and its successor organization to be continuous and without interruption, remaining predecessor organization members must share medical expenses with successor organization members, if any, at the time the successor organization acquires, merges with, or otherwise replaces the predecessor's medical expense sharing activities.

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WSR 22-17-004
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed August 3, 2022, 2:42 p.m., effective October 1, 2022]

Effective Date of Rule: October 1, 2022.

Purpose: Expand the qualified pool of potential employees for licensed foster care group care facilities by amending the required education, prerequisite work experience, and other requirements as follows:

- Eliminate college degree concentration restriction of "social services or a closely related field."
- Expand allowed work experience to include "caring for vulnerable populations."
- Increase case management consulting time from 1:20 hours to 1:40 [hours] of case management work.
- For executive directors and administrators:
 - Align the required education and experience for executive directors with that of program managers; and
 - Allow more types [of] acceptable work experience.
- For program managers:
 - Lower the college degree requirements and reduce the required work experience from four to three years for individuals who have no degree;
 - Allow employers to determine when program managers must be on-site; and
 - Require telephone availability when not on-site only during business hours.
- For case managers:
 - Allow a college degree equivalency.
- For all direct care staff:
 - Reduce the required work experience from one year to six months.
- For direct care staff who are not employed by a residential crisis center:
 - Create a work experience equivalency for students who are attending certain classes; and
 - Expand the criteria under which 18 to 21 year olds may work in licensed facilities.
- For volunteers:
 - Lower the minimum age from 21 to 18; and
 - Establish requirements for supervising volunteers.

The proposed rules require all positions to:

- Meet additional duties and qualifications detailed in any written agreement between their employing agency and any governmental entity; and
- Comply with any accreditation requirements that apply to their agencies.

Finally, the proposals clarify when treatment plans for children in care are needed and what they must contain, and require agencies to have and follow a written policy that describes the duties, responsibilities, professional qualifications, and safety requirements for direct care staff.

Citation of Rules Affected by this Order: Amending WAC 110-145-1425, 110-145-1430, 110-145-1440, 110-145-1445, 110-145-1450, 110-145-1460, 110-145-1475, and 110-145-1725.

Statutory Authority for Adoption: RCW 74.15.030.

Adopted under notice filed as WSR 12-12-070 [22-12-070] on May 27, 2022.

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 8, 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: August 3, 2022.

Brenda Villarreal
Rules Coordinator

OTS-3325.8

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1425 What are the duties and qualifications of an executive director or administrator? (1) ~~((You must have))~~ An executive director or administrator ~~((who is available telephonically during business hours and meets the qualifications to))~~ must:

(a) Manage the financial ~~((and)),~~ administrative, and service operations of the ~~((program))~~ facility;

(b) Be available by telephone during the regularly scheduled business hours of the facility and in-person as needed;

(c) Ensure that the program complies with all relevant and applicable laws, specifically chapter 74.15 RCW, and the licensing rules ~~((contained))~~ in this chapter;

~~((e-Effectively))~~ (d) Communicate to the department the roles, expectations, and purposes of the program;

~~((d))~~ (e) Assume responsibility for health, safety, and well-being of children in ~~((your))~~ the care of their facility; ~~((and~~

~~-e-))~~ (f) Comply with any professional accreditation requirements that apply to the agency; and

(g) Work with representatives of other agencies.

(2) An executive director or administrator must ~~((have)):~~

(a) ~~((Appropriate education relevant to the specific program; and))~~ Meet the experience and education requirements of a program manager, detailed in WAC 110-145-1430(4), unless the facility employs another person as the program manager;

(b) ~~((Four years of successful))~~ Have experience with the same or similar duties ((and responsibilities for)). Such experience must be relevant to the administrative oversight((r)) and program and fiscal management of an agency as indicated in the agency's policies and procedures; and

(c) Meet additional duties and qualifications detailed in any written agreement between the agency and any state governmental entity, if applicable. If the requirements of this section conflict with the terms in a written and signed agreement, then the higher standard will apply.

[WSR 18-14-078, recodified as § 110-145-1425, filed 6/29/18, effective 7/1/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1425, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1430 What are the ((requirements)) duties and qualifications of ((an on-site)) a program manager? (1) ~~((On days your facility is operational, you must have an on-site))~~ A program manager must be on-site at ((your)) their facility ((during business hours when youth are present. Staffed residential facilities licensed for five or fewer are required to have an on-site program manager during business hours when youth are present if the focus of the program is behavioral and a child's behavior poses a risk. The on-site program manager must meet the qualifications to:)) according to written and agreed upon terms detailed in the agency's program manager position description, policies and procedures, and in any written and signed agreement between the agency and a state governmental entity, if applicable.

(2) A program manager must:

(a) Coordinate and oversee the facility's day-to-day ((operations of the program)) services provided to children or youth;

(b) Supervise ((the)) case ((management)) managers and direct care staff; ((and))

(c) ((Have the responsibility to)) Monitor staff development and training;

(d) Ensure ((the completion of)) each child's or youth's treatment and care plan ((of care and treatment.

(2) When youth are not present and the program manager is not on-site, he or she must be available by telephone)) is executed and completed;

(e) Comply with any professional accreditation requirements that apply to the agency; and

(f) Be available by telephone during the agency's regularly scheduled business hours according to written and agreed upon terms detailed in the agency's program manager position description, policies and procedures, and any written and signed agreement between the agency and any governmental entity, if applicable.

(3) ((An on-site)) A program manager must have ((one or more of the following)):

(a) A ~~((master's))~~ bachelor's degree ~~((in social services or a closely related field))~~ from an accredited ~~((school))~~ college or university and one year of similar, full-time experience working with ~~((children or youth))~~ vulnerable populations;

(b) ~~((A bachelor's))~~ An associate's degree ~~((in social services or a closely related field))~~ from an accredited ~~((school))~~ college or university and two years of similar, full-time experience working with ~~((children or youth))~~ vulnerable populations; or

(c) ~~((Five))~~ Three years of ~~((successful))~~ similar, full-time experience ~~((in a relevant field))~~ working with ~~((children or youth; and~~

~~(i) Supervisory abilities that promote effective staff performance; and~~

~~(ii) Relevant experience, training and demonstrated skills in each area that he or she will be managing or supervising))~~ vulnerable populations.

(4) ~~((An on-site))~~ Program managers must not provide clinical oversight to case ~~((management staff))~~ managers unless ~~((they))~~ the program manager also meets the ~~((supervision requirements))~~ qualifications detailed in WAC ~~((388-145-1440(3)))~~ 110-145-1440(2).

(5) A case ~~((management staff))~~ manager or another person with the equivalent training and experience of ~~((an on-site))~~ a program manager may ~~((satisfy this requirement))~~ serve as a program manager.

(6) ~~((For overnight youth shelters, the required prior experience must be in working with adolescents.))~~ A program manager must meet additional duties and qualifications detailed in any written and signed agreement between the agency and any governmental entity, if applicable. If the requirements of this section conflict with the terms in a written and signed agreement, then the higher standard will apply.

[WSR 18-14-078, recodified as § 110-145-1430, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, 74.39A.056, 43.43.832. WSR 18-11-138, § 388-145-1430, filed 5/23/18, effective 6/23/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1430, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1440 What are the ~~((requirements))~~ duties and qualifications of a case ~~((management staff))~~ manager? (1) Case managers are required for facilities that provide medical or therapeutic services to children or youth. A case ~~((management staff will provide individualized case management and coordination of))~~ manager must coordinate and administer services ~~((For emergency respite centers and resource and assessment centers, the on-site program manager may provide individualized case management and coordination of services so additional case managers are not required. The on-site program manager must meet qualifications in WAC 388-145-1430))~~ for individual children and youth served by the agency.

(2) ~~((Case management staff hired before January 10, 2015 must have five years of experience or a bachelor's degree in social serv-~~

~~ices or closely related field from an accredited school.)) A case manager must have:~~

~~(a) A master's degree from an accredited college or university;~~

~~(b) A bachelor's degree from an accredited college or university and consult with a person with a master's degree at least one hour for every 40 hours of case management work; or~~

~~(c) Four years' full-time work experience directly working with, managing, or overseeing vulnerable populations in a related field and consult with a person with a master's degree at least one hour for every 40 hours of case management work.~~

~~(3) ((Case management staff hired after January 10, 2015 must have a master's or bachelor's degree in social services or a closely related field from an accredited school.~~

~~(4) Case management staff who has only a bachelor's degree must consult with a person with a master's degree in social services or closely related field. One hour of consultation must occur every twenty hours the employee works.~~

~~(5-)) Case managers must ((maintain)):~~

~~(a) Maintain training, experience, knowledge, and demonstrated skills in each area ((s/he)) they will be supervising;~~

~~(b) Maintain skills and understanding needed to effectively manage cases; and~~

~~(c) ((The ability to monitor staff development and training))~~

~~Comply with any professional accreditation requirements that apply to the agency.~~

~~((6-You)) (4) An agency may use case ((management staff)) managers employed or provided by another agency if ((these staff meet)):~~

~~(a) The case manager meets the ((educational qualifications and you have)) experience and education requirements in this section; and~~

~~(b) There is a written agreement ((with the agency)) between the agencies describing the scope of services to be provided by the case manager.~~

~~(5) A case manager must meet additional duties and qualifications detailed in any written and signed agreement between the agency and any state governmental entity, if applicable. If the requirements of this section conflict with the terms in a written and signed agreement, then the higher standard will apply.~~

[WSR 18-14-078, recodified as § 110-145-1440, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, and P.L. 113-183. WSR 16-17-101, § 388-145-1440, filed 8/19/16, effective 9/19/16. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1440, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1445 What are the duties and qualifications of direct care staff? (1) ((Each)) Direct care staff must:

(a) Be at least ((twenty-one)) 21 years of age, ((unless they meet the requirements)) except as provided for in subsection (2) of this section;

(b) Have a high school diploma or ~~((high school or equivalency course of study (GED/HSEC))~~ equivalent credential, for example, a GED or HSEC;

~~(c) ((Have one year of experience working directly with children. Two years of social services education may be substituted for the required experience;~~

~~(d-))~~ Have the skills and ability to ~~((work successfully with the special))~~ assist with the needs of children and youth in care; ~~((and~~

~~(e) Have effective communication and problem solving skills.))~~

(d) Meet at least one of the following criteria:

(i) Have at least six months of similar, full-time experience working directly with vulnerable populations; or

(ii) Be attending classes at an accredited college or university related to caring for vulnerable populations; and

(e) If applicable, meet additional duties and qualifications detailed in:

(i) Any professional accreditation requirements that apply to the agency; and

(ii) Any written and signed agreement between the agency and any state governmental entity. If the requirements of this section conflict with the terms in a written and signed agreement, then the higher standard will apply.

(2) Direct care staff may be between ~~((eighteen))~~ 18 and ~~((twenty-one))~~ 21 years of age if ~~((they provide sufficient documentation demonstrating one or more of the following))~~ the direct care staff meet the requirements detailed in subsection (1)(b) through (e) of this section, and work:

~~(a) ((They are professionals licensed by the Washington department of health;))~~ At a facility licensed only to provide care for children younger than 13 years of age; or

~~(b) ((They have an associate of arts, the equivalent degree, or greater; or~~

~~(c) They are enrolled in an internship or practicum program with an accredited college or university.~~

~~(3) Direct care staff under twenty-one years of age and enrolled in an internship or practicum program must be supervised by staff at least twenty-one years of age.~~

~~(4) You))~~ At a facility licensed to provide care for children 13 years of age and older if the direct care staff person works at all times with at least one other staff person who:

(i) Is at least 21 years old;

(ii) Is on-site and readily available to help when needed; and

(iii) Has at least one year of similar, full-time experience working directly with vulnerable populations.

(3) An agency must maintain sufficient direct care staff who meet the education and training requirements defined in this chapter to ensure the health, safety, and well-being of children and youth in care.

~~((5) Case aides must meet the requirements for direct care staff.))~~ (4) (a) A facility licensed under this chapter that employs direct care staff persons, must have and follow a written policy that describes the duties, responsibilities, professional qualifications, and safety requirements for direct care staff persons.

(b) A policy under this section must be reviewed and approved by the department:

(i) After the effective date of subsection (3) of this section but before any newly hired direct care staff person provides services directly to children or youth on behalf of the facility; or

(ii) Prior to the agency renewing its license.

[WSR 18-14-078, recodified as § 110-145-1445, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, and P.L. 113-183. WSR 16-17-101, § 388-145-1445, filed 8/19/16, effective 9/19/16. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1445, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1450 What are the duties and additional qualifications ~~((must the))~~ for crisis residential center direct care staff ~~((have))~~? (1) Direct care staff at a crisis residential center (CRC) must care for, supervise, and manage the behavior of children or youth in care.

(2) At least ~~((fifty))~~ 50 percent of ~~((the))~~ direct care staff at a CRC must have completed:

(a) A bachelor's degree from an accredited college or university;
or

(b) At least two academic years' worth of credit hours from an accredited college or university and one year of full-time work ~~((in))~~ experience at a group residential program for adolescents ~~((and~~
~~((e)))~~.

(3) Direct care staff at a CRC under subsection (2) of this section may substitute experience for ~~((education))~~ educational requirements on a year-for-year basis.

~~((2) The remaining))~~ (4) Direct care staff ~~((at a CRC))~~ who do not meet the requirements detailed in subsection (2) of this section must have ~~((a minimum of))~~ a high school diploma or ~~((high school equivalency course of study (GED/HSEC))~~ equivalent credential, for example, a GED or HSEC and at least one of the following:

(a) ~~((One year of successful))~~ Six months of full-time experience working with youth in a group setting; or

(b) One year of ~~((successful))~~ experience as a foster parent ~~((and~~
~~((e)))~~ with placement of one or more children or youth in their 24-hour care.

(5) Direct care staff at a CRC under subsection (4) of this section may substitute two academic years' worth of credit hours from an accredited college ~~((may be substituted))~~ or university for the required experience under subsection (4) (a) and (b) of this section.

~~((3) The primary duties of the))~~ (6) If applicable, direct care staff at a crisis residential center ~~((are the care, supervision, and behavioral management of youth))~~ must meet additional duties and qualifications detailed in:

(a) Any professional accreditation requirements that apply to the agency; and

(b) Any written and signed agreement between the agency and any state governmental entity. If the requirements of this section conflict with the terms in a written and signed agreement, then the higher standard will apply.

(7) (a) A CRC licensed under this chapter that employees direct care staff persons must have and follow a written policy that describes the duties, responsibilities, professional qualifications, and safety requirements for direct care staff persons.

(b) A policy under this section must be reviewed and approved by the department:

(i) After the effective date of this subsection but before any newly hired direct care staff person provides services directly to children or youth on behalf of the facility; or

(ii) Prior to the agency renewing their license.

[WSR 18-14-078, recodified as § 110-145-1450, filed 6/29/18, effective 7/1/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1450, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1460 ((Do I need to employ)) What are the duties and qualifications for case management consultants ((at my facility))?

(1) ((You)) An agency must have case management consultants available as needed to work with ((your)) its staff, the children ((you serve)) and youth in care, and the ((children's)) families of children and youth in care. ((Other)) Additional consultants may be used ((for)) to support programs ((support)) and services.

(2) A case management consultant is responsible for:

(a) Reviewing treatment or case plans as appropriate;

(b) ((Providing one hour of consultation/supervision to)) Consulting with or supervising case ((management staff)) managers at least one hour for every ((twenty)) 40 hours ((a person works)) of case management work. Staff consultations ((shall)) must be documented and available ((to)) for staff ((on an as-needed basis)) to review as needed; ((and))

(c) Monitoring ((staff's)) and documenting the skill development ((in order to effectively manage their cases)) of staff; and

(d) Complying with any professional accreditation requirements that apply to the agency.

(3) Each case management consultant must have:

(a) A master's degree ((in social services or a closely related field)) from an accredited ((school)) college or university;

(b) The training, experience, knowledge, and demonstrated skills for each area ((in)) which ((he or she)) they will be supervising or advising;

(c) The ability to ensure staff develop their skills, are adequately trained, and have the understanding needed to effectively manage cases; and

(d) Knowledge of mandatory child abuse and neglect reporting requirements.

(4) A case management consultant((s)) may be ((hired as staff)) employed by an agency or operate under a contract ((and)).

(5) A case management consultant must meet or exceed the ((full)) professional competency requirements and academic training ((in)) re-quired by their ((respective)) professional field((s)).

~~((5) If you have))~~ (6) In addition to the requirements in this section, a case management consultant((s)) working in an emergency respite center((s, they)) must ((also)) have training and experience in early childhood education.

(7) A case management consultant must meet any written and signed agreement between the agency and any state governmental entity, if applicable. If the requirements of this section conflict with the terms in a written and signed agreement, then the higher standard will apply.

[WSR 18-14-078, recodified as § 110-145-1460, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, 74.39A.056, 43.43.832. WSR 18-11-138, § 388-145-1460, filed 5/23/18, effective 6/23/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1460, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1475 What are the requirements for volunteers working directly with children and youth at my facility? ~~((1) These))~~ Volunteers who do or may have access to children or youth must ((meet the licensing requirements listed in this chapter, including meeting the qualifications for direct care staff and must)):

~~((a))~~ (1) Be at least ((twenty-one)) 18 years of age ((unless they are between eighteen and twenty-one years of age in an internship or practicum program as per WAC 388-145-1445; and

~~(b))~~;

(2) Be supervised by a staff person who:

(a) Is at least 21 years of age; and

(b) Has at least one year of similar, full-time experience working directly with vulnerable populations;

(3) Receive the facility's preservice training that addresses the roles, responsibilities, and duties of a volunteer, as well as the needs of the population of children in care who the volunteer will be working with;

(4) Not have unsupervised access to children in care unless the volunteer:

(a) Satisfies the preservice training requirements detailed in WAC 110-145-1490; and

(b) Meets the qualifications of a direct care staff person detailed in WAC 110-145-1445;

(5) Meet all other relevant requirements detailed in this chapter and Title 110 WAC, including background check requirements under chapter 110-04 WAC; and

(6) Meet additional duties and qualifications detailed in the agency's position description, policies and procedures, and any written agreement between the agency and any state governmental entity, if applicable.

[WSR 18-14-078, recodified as § 110-145-1475, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040,

74.15.090, 74.13.031, 74.39A.056, 43.43.832. WSR 18-11-138, § 388-145-1475, filed 5/23/18, effective 6/23/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1475, filed 12/11/14, effective 1/11/15.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1725 When do I need a treatment plan for children ((under my)) in care and what must be included in the plan? (1) ~~((If you are providing care to))~~ An agency must develop and implement an individualized written treatment plan for each child or youth in care if the agency:

(a) Provides care or services to children or youth who are under the care and authority of the department ~~((, and you have contracts or agreements))~~; and

(b) Has an agreement with the department to provide treatment or therapeutic services ~~((, you must assist in developing and implementing a written treatment plan for each child by the thirtieth day in care))~~.

(2) ~~((The))~~ Treatment plans required by this section must:

(a) Be developed and implemented on or before the child or youth's 30th day in care;

(b) Be approved by a case manager or consultant;

(c) Identify the service needs of the child ~~((,))~~ or youth and the child or youth's parent or guardian;

~~((b))~~ (d) Describe the treatment goals and strategies for achieving those goals;

~~((e))~~ (e) Include an ongoing account of the treatment received by the child or youth and others involved in the treatment plan, such as any group treatment or individual counseling; and

~~((d))~~ (f) Be updated at least quarterly to show the progress toward meeting goals and ~~((list))~~ identify barriers to the permanent plan.

(3) ~~((A master's level case management staff person or consultant must review and sign approving the child's treatment plan.))~~ An individual instruction and support plan required under WAC 388-826-0044 for youth receiving out-of-home services administered by the department of social and health services, developmental disabilities administration will satisfy the requirement in subsection (1) of this section.

[WSR 18-14-078, recodified as § 110-145-1725, filed 6/29/18, effective 7/1/18. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1725, filed 12/11/14, effective 1/11/15.]

WSR 22-17-008
PERMANENT RULES
GAMBLING COMMISSION

[Filed August 4, 2022, 6:47 a.m., effective September 4, 2022]

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

Purpose: WAC 230-16-125 (1)(a) requires that manufacturers of disposable bingo card[s] label each marketing unit to include an I.D. stamp number. This is not a practice that the agency is requiring any longer and therefore this portion of the rule can be repealed.

WAC 230-16-195 (1)(e)(iii) requires manufacturers and distributors to document the I.D. stamp number for disposable bingo cards on sales invoices. The I.D. stamp number is no longer required on the sales invoice because the I.D. stamp number is no longer required on the label; therefore, this portion of the rule can be repealed.

Citation of Rules Affected by this Order: Amending WAC 230-16-125 Disposable bingo card packing slip and package label and 230-16-195 Additional requirements for sales invoices.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 22-12-039 on May 25, 2022.

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 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 2, Repealed 0.

Date Adopted: August 2, 2022.

Jess Lohse
Acting Rules Coordinator

OTS-3861.1

AMENDATORY SECTION (Amending WSR 07-19-069, filed 9/17/07, effective 1/1/08)

WAC 230-16-125 Disposable bingo card packing slip and package label. Manufacturers of disposable bingo cards must establish marketing units that are complete and contain the correct number of cards or packets they have chosen. Manufacturers must complete a packing slip for each set of cards or collation of packets and either enclose it inside the shipping container or in an envelope attached to the container. Additionally:

(1) Manufacturers must label each marketing unit in a way that allows the contents to be determined without opening. The label must include, at least:

(a) (~~The I.D. stamp numbers; and~~

~~(b))~~ Serial number or, if packets, serial number of the top page; and

~~((e))~~ (b) Color and border pattern or, if packets, color and border pattern of the top page; and

~~((d))~~ (c) Number of the carton and the total number of cartons included in the marketing unit.

(2) If the marketing unit contains more than one container, manufacturers must include the packing slip in or attach it to the first container. The packing slip must include:

(a) The manufacturer's name; and

(b) Descriptions of the product, including the "series," "on," "cut," and "up"; and

(c) The records entry label that matches the I.D. stamp; and

(d) The serial number or, if packets, the serial number of the top page; and

(e) The color and border pattern or, if packets, colors and border patterns of all sets and the collation sequence; and

(f) A record of any skips (missing cards, sheets of cards, or packets); and

(g) The number of the carton and the total number of cartons included in the marketing unit.

(3) Manufacturers must mark the specific cards or packets on the marketing unit packing slip. Manufacturers may have a margin of error up to one percent, as long as they document all missing cards, sheets, or packets on the packing slip enclosed in the first container of the marketing unit. We prohibit shipping of marketing units with a margin of error greater than one percent.

[Statutory Authority: RCW 9.46.070. WSR 07-19-069 (Order 615), § 230-16-125, filed 9/17/07, effective 1/1/08.]

OTS-3862.1

AMENDATORY SECTION (Amending WSR 08-22-068, filed 11/4/08, effective 1/1/09)

WAC 230-16-195 Additional requirements for sales invoices. (1)

In addition to the requirements of WAC 230-16-190, manufacturers and distributors must complete sales invoices that include:

(a) For distributors, a separate line for each I.D. stamp number; and

(b) Space for the operator to either attach a records entry label or enter the I.D. stamp number and the date they placed the equipment out for play, adjacent to the written entry the distributor makes; and

(c) For each punch board or pull-tab, at least:

(i) Trade name of the game; and

(ii) Type of gambling equipment; and

(iii) Form number or other manufacturer-assigned method to specifically identify a board or series, including the size or number of chances; and

(iv) I.D. stamp number; and

(d) For each pull-tab dispenser, at least:

(i) Trade name of the dispenser; and

- (ii) Type of dispenser; and
- (iii) I.D. stamp number; and
- (e) For each set of cards or collation of packets of disposable bingo cards, at least:
 - (i) Type of product, including product line; and
 - (ii) Description of product, including the number of cartons, "series," "on," "cut," and "up"; and
 - (iii) (~~I.D. stamp number; and~~
 - ~~(iv)~~) Serial number or, if packets, serial number of the top page; and
 - ~~(v)~~) (iv) Color and border pattern or, if packets, color and border pattern of the top page; and
 - ~~(vi)~~) (v) The unit or package number when a series or collation has been divided; and
 - ~~(vii)~~) (vi) For disposable bingo cards to be sold for linked bingo prize games the beginning and ending sheet numbers sold to or returned from the operator; and
- (f) For merchandise prizes, at least:
 - (i) The date of purchase; and
 - (ii) The company's name and complete business address; and
 - (iii) A full description of each item purchased; and
 - (iv) The quantity of items purchased; and
 - (v) The cost per individual items purchased; and
- (g) For sequentially prenumbered card game recordkeeping forms, at least:
 - (i) Type of form; and
 - (ii) Beginning and ending serial numbers; and
 - (iii) Quantity of forms; and
 - (h) For all other gambling equipment, at least:
 - (i) Trade name of device; and
 - (ii) Type of device; and
 - (iii) Serial number or other identification numbers or characteristics; and
- (2) Manufacturers and distributors must record and maintain information documenting the sales of progressive jackpot pull-tabs in a separate filing system. They may use a computerized system to separately track this information and provide immediate reports.

[Statutory Authority: RCW 9.46.070 and 34.05.353. WSR 08-22-068 (Order 635), § 230-16-195, filed 11/4/08, effective 1/1/09. Statutory Authority: RCW 9.46.070. WSR 07-19-069 (Order 615), § 230-16-195, filed 9/17/07, effective 1/1/08.]

WSR 22-17-011
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed August 4, 2022, 11:21 a.m., effective September 4, 2022]

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

Purpose:

- Require requests for review of child abuse and neglect founded findings to be made as instructed in the founded finding notice and within 30 days of the date the alleged perpetrator receives the notice of founded finding;
- Clarify that a founded finding decision may not be challenged further if a request for review is not made within 30 days after the alleged perpetrator receives the notice of founded finding; and
- Require requests for administrative hearings (OAH) of founded finding decisions to be made as instructed in the notice of decision and filed with OAH no later than 30 days after a founded finding decision is received.

Citation of Rules Affected by this Order: Amending WAC

110-30-0230 and 110-30-0280.

Statutory Authority for Adoption: RCW 26.44.125(7).

Adopted under notice filed as WSR 22-07-030 on March 11, 2022.

Changes Other than Editing from Proposed to Adopted Version: WAC 110-30-0230(1) revised to refer to the instructions for requesting review that are included in child protective services' founded finding letters.

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 0, Repealed 0.

Date Adopted: August 4, 2022.

Brenda Villarreal
Rules Coordinator

OTS-3074.5

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-30-0230 How ((does an)) do alleged perpetrators challenge ((a)) their founded CPS findings? (1) ((In order to challenge a

~~founded CPS finding, the alleged perpetrator must make a written request for CPS to review the founded CPS finding of child abuse or neglect. The CPS finding notice must provide the information regarding all steps necessary to request a review.)~~ Alleged perpetrators must request a review of their founded finding in writing by following the instructions in the founded finding letter.

(2) ~~((The))~~ Alleged perpetrators must request ~~((must be provided to the same CPS office that sent))~~ the CPS review of their founded CPS finding notice within ~~((thirty))~~ 30 calendar days from the date ~~((the alleged perpetrator receives the CPS finding notice (RCW 26.44.125))~~ they received it. Alleged perpetrators may not further challenge the findings, if requests are not made within 30 days of receipt.

[WSR 18-14-078, recodified as § 110-30-0230, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 26.44.125 (2) and (4). WSR 13-17-126, § 388-15-085, filed 8/21/13, effective 9/21/13. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-085, filed 7/16/02 and 8/14/02, effective 2/10/03.]

AMENDATORY SECTION (Amending WSR 20-04-019, filed 1/27/20, effective 2/27/20)

WAC 110-30-0280 What happens if CPS management does not change ~~((the))~~ founded CPS findings after their reviews? (1) If CPS management does not change ~~((the))~~ founded CPS findings after their review, ~~((the))~~ alleged perpetrators ~~((has))~~ have the right to further challenge ~~((that finding))~~ CPS management's decision by requesting an administrative hearing.

(2) ~~((The))~~ Requests for ~~((a))~~ administrative hearings must be in writing and ~~((sent to))~~ filed with the office of administrative hearings ~~((. WAC 110-03-0070 lists the current address))~~ (OAH) as instructed in the notice of the CPS management review decision.

(3) ~~((The office of administrative hearings must receive the written request for a hearing within thirty))~~ Requests for administrative hearings with the OAH must be filed within 30 calendar days from the date that the ~~((person requesting the hearing receives))~~ alleged perpetrators received the CPS management review decision.

[Statutory Authority: 2017 c 6. WSR 20-04-019, § 110-30-0280, filed 1/27/20, effective 2/27/20. WSR 18-14-078, recodified as § 110-30-0280, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-105, filed 7/16/02 and 8/14/02, effective 2/10/03.]

WSR 22-17-020

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 4, 2022, 8:44 a.m., effective September 4, 2022]

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

Purpose: This rule-making order amends chapter 16-228 WAC, General pesticide rules, by: (1) Adding the option of computer-based examinations for prospective pesticide or structural pest inspector licenses. Fees for a computer-based examination administered by a third-party entity will not be more than \$65 per examination, as established in the vendor's contract with the department. The department will also post the computer-based exam fee on the agency website; (2) clarifying that the \$25 fee for examinations currently in rule is applicable only to paper-based examinations; (3) adding that the department may administer pesticide exams, may contract with an examination or testing vendor to administer exams, or both; and (4) correcting how numbers are displayed in rule, per new office of the code reviser standards. For instance, changing "fourteen" to "14."

Citation of Rules Affected by this Order: Amending WAC 16-228-1540.

Statutory Authority for Adoption: RCW 15.58.040, 15.58.240, 17.21.030, and 17.21.134.

Adopted under notice filed as WSR 22-13-000A on June 22, 2022.

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: August 3, 2022.

Derek I. Sandison
Director

OTS-3898.1

AMENDATORY SECTION (Amending WSR 12-22-015, filed 10/29/12, effective 1/1/13)

WAC 16-228-1540 What are the requirements for pesticide examinations? (1) An examination fee of (~~twenty-five dollars~~) \$25 shall be paid prior to administration of any paper-based pesticide or structural pest inspector license examinations. (~~The department reserves the right to restrict the number of applicants examining at any given time.~~)

(2) An examination fee of not more than \$65 shall be paid prior to the administration of each computer-based pesticide or structural pest inspector license examination. If a third-party entity administers a computer-based licensing exam, an applicant shall pay the exam cost established in the vendor's contract with the department, not to exceed the amount set in this section. The department will post this exam fee to its website.

(3) The director may administer the pesticide exams, may contract with an examination or testing vendor to administer the exams, or both.

(4) The department reserves the right to restrict the number of applicants taking examinations at any given time.

(5) Any individual who fails any pesticide licensing examination twice shall be required to wait at least (~~fourteen~~) 14 days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

~~((3))~~ (6) An applicant shall complete the application form for a pesticide or structural pest inspector license and pay the required license application fee and testing fee at the time pesticide or structural pest inspector examinations are given, unless prior arrangements have been made.

~~((4))~~ (7) Pesticide and structural pest inspector examination scores shall not be released by the department until the license application fee and testing fee have been paid.

[Statutory Authority: 2012 2nd sp.s. c 7, RCW 17.21.030, 15.58.040, and chapter 34.05 RCW. WSR 12-22-015, § 16-228-1540, filed 10/29/12, effective 1/1/13. Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. WSR 03-22-029, § 16-228-1540, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58, 17.21 RCW. WSR 00-22-073, § 16-228-1540, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. WSR 99-22-002, § 16-228-1540, filed 10/20/99, effective 11/20/99.]

WSR 22-17-029

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 8, 2022, 1:10 p.m., effective September 8, 2022]

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

Purpose: The paid family and medical leave (PFML) program (Title 50A RCW) is adopting rules to implement 2SSB 5649 (chapter 233, Laws of 2022), which passed into law during the 2022 legislative session. The rules implement an expiration date of December 31, 2023, for provisions allowing parties to collective bargaining agreements that were in effect on October 19, 2017, have not expired, have not been reopened, or have not been renegotiated to be exempt from PFML participation. The adopted rules also implement the "postnatal period" as the six-week period after an employee gives birth and specifies that leave taken for the postnatal period will default to medical leave unless otherwise selected by the employee or if the employee's available medical leave has been exhausted. The adopted rules clarify that leave taken for the postnatal period will not require a medical certification and describe other forms of documentation that may be required. The rules also implement a new provision allowing an employee to take family leave for up to seven calendar days, if available, in the event of the death of a child they would have been eligible to bond with or were bonding with. Additional changes are technical.

Citation of Rules Affected by this Order: Amending WAC 192-520-010 Parties to collective bargaining agreements, and 192-610-025 Birth, placement, or death of a child and required documentation.

Statutory Authority for Adoption: RCW 50A.05.060.

Other Authority: 2SSB 5649, chapter 233, Laws of 2022.

Adopted under notice filed as WSR 22-13-176 on June 22, 2022.

A final cost-benefit analysis is available by contacting Janette Benham, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-790-6583, TTY Washington relay 711 (contact Teresa Eckstein at 360-507-9890 for accommodations), email rules@esd.wa.gov, website <https://paidleave.wa.gov/rulemaking/>.

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 2, 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 2, Repealed 0.

Date Adopted: August 8, 2022.

April Amundson
Policy and Rules Manager
Leave and Care Division

OTS-3892.1

AMENDATORY SECTION (Amending WSR 19-16-081, filed 7/31/19, effective 8/31/19)

WAC 192-520-010 Parties to collective bargaining agreements.

(1) Parties to a collective bargaining agreement in existence on October 19, 2017, are not required to be subject to the rights and responsibilities under Title 50A RCW and related rules unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(2) Employers must inform the department immediately upon the reopening, renegotiation, or expiration of a collective bargaining agreement that was in effect prior to October 19, 2017.

(3) To be eligible for benefits, an employee must have worked at least (~~eight hundred twenty~~) 820 hours during the qualifying period. If the employee's qualifying period includes any quarter prior to a collective bargaining agreement being reopened or renegotiated by the parties or expiring, the department will request the employee's qualifying period wages and hours from the employer. The employer must provide the wages and hours to the department within (~~ten~~) 10 calendar days.

(4) Employees not covered by a collective bargaining agreement are subject to the rights and responsibilities of Title 50A RCW and related rules. Employers are also subject to the rights and responsibilities of Title 50A RCW and related rules for employees not covered by a collective bargaining agreement, regardless of whether the employer is party to a collective bargaining agreement covering other employees.

(5) Employers party to multiple collective bargaining agreements among different bargaining units are subject to the rights and responsibilities of Title 50A RCW and related rules as they pertain to the bargaining units whose collective bargaining agreement is reopened or renegotiated by the parties or expires, on or after October 19, 2017.

(6) Parties to a collective bargaining agreement in existence on October 19, 2017, that has not been reopened or renegotiated by the parties or expired may elect to be subject to all applicable rights and responsibilities under Title 50A RCW and related rules prior to the expiration, reopening or renegotiation of the agreement. Parties seeking to do so must submit to the department a memorandum of understanding, letter of agreement, or a similar document signed by all parties.

(7) The provisions described in this section are effective until December 31, 2023.

[Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-520-010, filed 7/31/19, effective 8/31/19; WSR 18-12-032, § 192-520-010, filed 5/29/18, effective 6/29/18.]

OTS-3893.1

AMENDATORY SECTION (Amending WSR 20-20-073, filed 10/2/20, effective 11/2/20)

WAC 192-610-025 ((Documenting the) Birth ((or)), placement, or death of a child ((for paid family leave)) and required documentation.

(1) When paid family or medical leave is taken for the postnatal period, to bond with the employee's child after birth, or for the death of a child as outlined in subsection (6) of this section, the employee must provide ((a copy of)):

- (a) A copy of the child's birth certificate; ((or))
- (b) Certification of birth from a health care provider; or
- (c) Documentation sufficient to verify or substantiate the

child's birth or death.

(2) When paid family leave is taken to bond with the employee's child after the child's placement as defined in WAC 192-500-195, the employee must provide a copy of a court order verifying placement.

If a court order is not available, the department may accept alternate documentation sufficient to verify the placement.

(3) Additional documentation may be requested to substantiate the qualifying event.

(4) Only the employee giving birth is eligible for medical leave taken for the postnatal period related to recovery from childbirth.

(5) (a) Leave taken by the employee giving birth for the postnatal period is subject to maximum family or medical leave duration and will be medical leave except when:

(i) Medical leave is fully or partially exhausted prior to the birth of the child; or

(ii) An employee chooses to use family leave, if available, for the postnatal period.

(b) An employee who gives birth and is not or will not be eligible for family leave to bond with a child may only use medical leave for the postnatal period.

(6) Subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in Title 50A RCW, an employee is eligible for up to seven calendar days of family leave in the event of the death of a child they would have been eligible to bond with or were bonding with. This leave is available for up to seven calendar days beginning the day after the date of the child's death or delivery of the deceased child.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-610-025, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-610-025, filed 3/22/19, effective 4/22/19.]

WSR 22-17-049
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed August 11, 2022, 11:03 a.m., effective September 11, 2022]

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

Purpose: To ensure customers understand their distribution options from their defined contribution (Plan 3) or deferred compensation program accounts, with the addition of new options permitted by the federal SECURE and CARES Acts, and the removal of direct purchases of commercial annuities.

Citation of Rules Affected by this Order: Amending WAC 415-111-310, 415-111-320, 415-501-485, 415-501-487, 415-501-488, 415-501-491, and 415-501-510.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 22-14-101 on July 5, 2022.

Changes Other than Editing from Proposed to Adopted Version: WAC 415-111-310 (6)(b) was removed.

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 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, 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: August 11, 2022.

Tracy Guerin
Director

OTS-3906.3

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-111-310 Defined contribution account distribution (withdrawal). (1) **What are the requirements to request a distribution (withdrawal) of funds from my defined contribution account?**

(a) You must separate from all eligible employment;

(b) The department must receive the notice of separation from your employer(s); and

(c) The department's ((designated)) recordkeeper must receive a completed request for a defined contribution distribution from your account. See WAC 415-111-110.

(2) **Can I receive a special exception distribution?**

(a) If you are terminally ill and eligible, the department's ((designated)) recordkeeper will arrange for payment to you within ((ten)) 10 workdays. To be eligible for a special exception payment:

- (i) You must separate from all eligible employment;
- (ii) The department must receive the notice of separation from your employer(s);
- (iii) The department's ((designated)) recordkeeper must receive documentation verifying your terminal illness; and
- (iv) The department's ((designated)) recordkeeper must receive a completed request for a defined contribution distribution from your account (see WAC 415-111-110).

(b) If you have an unforeseeable emergency, the department's ((designated)) recordkeeper will consider your request for a special exception payment and arrange for payment to you whenever possible. To be eligible for consideration:

- (i) You must separate from all eligible employment;
- (ii) The department must receive the notice of separation from your employer(s);
- (iii) The department's ((designated)) recordkeeper must receive documentation verifying and explaining your unforeseeable emergency. The recordkeeper will consider only unforeseeable emergencies. An unforeseeable emergency is defined as a severe financial hardship resulting from:

- (A) An accident or serious illness of you or an immediate family member;
- (B) The need to pay for medical expenses for you or a dependent;
- (C) Imminent foreclosure or eviction from your primary residence;
- (D) The need to pay for funeral expenses of a spouse or immediate family member; or
- (E) Loss of property due to casualty.

(iv) The department's ((designated)) recordkeeper must receive a completed request for a defined contribution distribution from your account (see WAC 415-111-110).

(c) Depending on which program you are invested in, self-directed or WSIB Total Allocation Portfolio (TAP), the recordkeeper will distribute your special exception payment as specified in the table below, less any applicable tax withholding.

	Terminal Illness	Unforeseeable Emergency
Self-Directed	Up to 100% of the balance in the account within 10 days after approvals are completed.	Up to 100% of the balance in the account within 10 days after approvals are completed.

	Terminal Illness	Unforeseeable Emergency
WSIB Total Allocation Portfolio (TAP)	Up to 100% of the balance in the account based on the most recent valuation within 10 days after approvals are completed.	Up to 80% of the balance in the account distributed as a lump sum payment through the normal month-end distribution process. If 100% liquidation is requested, the remaining balance in the account will be disbursed after the final valuation has been made.

(3) **Can I still receive my defined contribution distribution if I have returned to work before receiving my funds?** If ~~((you return to work in an eligible position after))~~ all the criteria in subsection (1) of this section are met prior to DRS being notified of you being rehired, you may receive distribution from your defined contribution account.

(4) **What are my options for distributing my defined contribution funds?** You have the following options for distributions from your Plan 3 defined contribution account. Options for both the WSIB and the self-directed investment programs are combined where applicable.

(a) **Lump sum cash distribution. In either program,** you may request the entire amount of your funds in a single lump-sum payment.

(b) **Direct rollover. In either program,** you may have some or all of your funds rolled over to an eligible retirement plan or individual retirement account (IRA). If you choose a partial rollover, the remaining funds that were not rolled over will be distributed to you as a lump sum, unless you create a personal payment schedule under (d) of this subsection.

(c) **Scheduled payments. In either program,** subject to the distribution requirements of IRC section 401 (a)(9), you may request that your funds be distributed in equal payments over a specified period of time, or that a specific dollar amount be paid on a monthly basis until the account is exhausted. You may also request equal payments over your lifetime or the lifetimes of you and your beneficiary. Scheduled payments for the WSIB program are made monthly only. Scheduled payments for the self-directed program may be made monthly, quarterly, semiannually or annually.

(d) **Personalized payment plan. In either program,** you may create a personalized payment plan using any part of one or more of the distribution options provided in (a), (b), and (c) of this subsection (see examples below).

(e) **Annuity purchase. ~~((In either program,))~~** You may purchase an annuity that pays a benefit for your lifetime or the lifetimes of you and your joint annuitant. See WAC 415-111-320 for information about purchasing an annuity ~~((and descriptions of the various annuity contracts.))~~

~~(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These~~

~~gains or losses impact the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than anticipated due to market losses).~~

EXAMPLE (WSIB - Partial rollover with payments until account exhausted) :

Pat has \$10,000 in the WSIB investment program. Pat wants to rollover \$2,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Pat selects the personalized payment schedule option and requests to do a partial rollover of \$2,000 and receive the remaining \$8,000 in equal monthly payments of \$125 until the account is exhausted (approximately 64 months).

EXAMPLE (Self - Partial rollover with payments for fixed period) :

Chris has \$10,000 in the self-directed investment program. Chris wants to rollover \$3,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Chris selects the personalized payment schedule option and requests to do a partial rollover of \$3,000 and receive the remaining \$7,000 in quarterly payments of \$250 over the next 7 years (28 quarters).

Summary of Distribution Options	
SELF	WSIB
Lump Sum Cash Distribution or Direct Rollover	Lump Sum Cash Distribution or Direct Rollover
<ul style="list-style-type: none"> - Entire account - Partial amount - Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below). 	<ul style="list-style-type: none"> - Entire account - Partial amount - Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).
Scheduled Payments	Scheduled Payments
<ul style="list-style-type: none"> - Equal payments - Monthly, quarterly, semiannual or annual - Specified period of time, or - Until the account is exhausted - Payments can be combined life expectancy of you and a beneficiary. 	<ul style="list-style-type: none"> - Equal payments - Monthly payments only - Specified period of time, or - Until the account is exhausted - Payments can be combined life expectancy of you and a beneficiary.
((Annuity Purchase))	Annuity Purchase
<ul style="list-style-type: none"> ((Purchase an annuity from an insurance company -Set up to pay benefits for -Your lifetime, or -Lifetimes of you and your joint annuitant:)) 	<ul style="list-style-type: none"> - Purchase an annuity, administered by the state of Washington - Set up to pay benefits for - Your lifetime, or - Lifetimes of you and your joint annuitant.
In addition to the above, you may set up:	In addition to the above, you may set up:

Summary of Distribution Options	
SELF	WSIB
Personalized Payment Plan	Personalized Payment Plan
– Customized for your needs – Available ((for)) <u>from</u> options above.	– Customized for your needs – Available ((for)) <u>from</u> options above.

(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses impact the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than anticipated due to market losses.

(6) **Minimum required distribution.** No later than April 1st of the calendar year following the year in which you turn age ~~((seventy-two))~~ 72, you are required to withdraw a minimum amount from your defined contributions annually. (Prior to January 2020, required minimum distributions began at age ~~((seventy and one-half))~~ 70.5.) Subsequent withdrawals must be taken by December 31st of each year. If you are still working at age ~~((seventy-two))~~ 72, distribution is required to begin by April 1st the year following separation.

Calculation. Your required distribution is calculated each year based on your account balance as of December 31st of the prior year.

(7) See RCW 41.34.070 for additional information.

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-111-310, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 15-19-027, § 415-111-310, filed 9/8/15, effective 10/9/15. Statutory Authority: RCW 41.50.050(5) and 41.50.088. WSR 05-24-050, § 415-111-310, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 41.50.050(5), 41.34.070(3). WSR 03-19-120, § 415-111-310, filed 9/17/03, effective 11/1/03. Statutory Authority: RCW 41.50.050(5) and 41.34.070. WSR 02-03-120, § 415-111-310, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. WSR 01-01-059, § 415-111-310, filed 12/12/00, effective 1/12/01.]

AMENDATORY SECTION (Amending WSR 13-18-034, filed 8/28/13, effective 10/1/13)

WAC 415-111-320 May I purchase a life annuity with my Plan 3 defined contribution account? Any time after you become eligible to withdraw funds from your Plan 3 account, you may use part or all of your funds to purchase a life annuity ~~((according to this section. To purchase a))~~ administered by the state of Washington. It is named the Total Allocation Portfolio (TAP) annuity ~~((that is administered by the state of Washington you must use funds that are in the Washington state investment board (WSIB) investment program. To purchase an annuity through an insurance company that is offered by the self-directed investment program, you must use funds that are in the self-directed investment program))~~, and it provides payments monthly.

(1) **What is a life annuity?** A life annuity is a contract that provides a guaranteed income for the rest of your life in exchange for

a lump-sum dollar amount you pay up front. The contract specifies the amount you pay to purchase the annuity, the amount you will receive each month, and any other terms and conditions.

(a) **A single life annuity** is based on your lifetime. It provides guaranteed payments for as long as you live. The payments stop upon your death.

(b) **A joint life annuity** is based on two lifetimes, yours and another person that you choose (referred to as your joint annuitant). It provides guaranteed payments to you during your lifetime, and then, if your joint annuitant survives you, to your joint annuitant for the remainder of his/her lifetime. The payments stop when both you and your joint annuitant die.

~~((c) **A term-certain Single life annuity** is based on your lifetime. It provides you with regular payments for as long as you live. It also guarantees the payments for a specific, predetermined period of time (term-certain). If you die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.~~

~~(d) **A term-certain Joint life annuity** is based on two lifetimes, yours and your joint annuitant's. It provides regular payments for as long as you or your joint annuitant lives. It also guarantees those payments for a specific, predetermined period of time (term-certain). If you and your joint annuitant should both die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.~~

Example (term-certain Joint life annuity):

John purchased a 20-year term-certain joint life annuity. He received monthly payments until his death 10 years later. Upon John's death, Mary, John's joint annuitant, will receive payments for the duration of her life.

- If Mary lives for 5 years after John's death, upon her death the annuity will make payments to John's beneficiary for 5 years, the remainder of the 20-year term.
- If Mary lives for 5 years after John's death, upon her death the annuity will make payments to John's beneficiary for 5 years, the remainder of the 20-year term.

~~(2) **Are the life annuities offered by each investment program different?** The life annuities offered through the WSIB investment program and the self-directed investment program have distinct features and options. Each program may offer some or all of the annuities described in subsection (1) of this section. Minimum purchase price, payment frequency, survivorship percentages, length of term-certain annuities, and other optional features differ between programs as well.~~

~~(3)) (2) **How is the original purchase price of the ((life)) TAP annuity determined?** You ((will choose how much of your defined contribution funds to use as your original purchase price. The minimum purchase price depends on the type of annuity you purchase:)) decide how much of your defined contribution funds to use for the original purchase. The minimum purchase price for a TAP annuity is ((twenty-five thousand dollars and the minimum purchase price for an annuity through a self-directed investment program insurance company is five thousand dollars.~~

~~The minimum purchase price for a life annuity is subject to change.~~

~~(4))~~ \$25,000.

~~(3)~~ **How are the monthly annuity payments calculated?** The amount of your monthly annuity payment is based on various actuarial assumptions, including without limitation, assumptions about life expectancy and anticipated investment returns. The amount of your monthly annuity payment will vary depending on:

(a) The original purchase price;

(b) Your age;

(c) The age of your joint annuitant (if any); and

(d) The survivorship percentage you select on a joint annuity (if any) (~~;~~ and

~~(e) Other features of your specific annuity, including, but not limited to, COLAs or refunds of undistributed balances upon your death).~~

~~((5))~~ **(4) May I cancel my purchase of an annuity contract?**

~~((Your contract will specify a period of time in which you can cancel your decision to purchase the annuity. Once))~~ You may cancel your annuity purchase during the rescission period specified in your annuity contract. After the rescission period expires, your decision is irrevocable.

~~((6))~~ **(5) Can the terms of the annuity be changed after the rescission period expires?** ~~((You may not make any changes after the rescission period unless your annuity contract explicitly states otherwise. Some contracts allow you to make changes in specific circumstances. For instance,))~~ You may make changes to ((an)) your TAP annuity ((purchased through the Washington state investment board investment program)) only as follows:

(a) If you name someone other than your spouse as the joint annuitant, you may convert to a single life annuity at any time after your payments begin. This option may only be used once and is irrevocable.

(b) If you marry after purchasing a single life annuity, you may convert to a joint life annuity and name your new spouse as joint annuitant, provided that:

(i) Your monthly annuity payment is not subject to property division pursuant to a dissolution order (definition of dissolution order in RCW 41.50.500 includes orders of legal separation);

(ii) The selection is made during a one-year window on or after the date of the first anniversary and before the second anniversary of your marriage; and

(iii) You provide satisfactory proof of your new marriage and your new spouse's birth date.

~~((7))~~ **(6) What are the tax consequences of a life annuity?**

(a) You, your joint annuitant or your beneficiary may be liable for federal and/or state taxes on payments from your annuity in the year in which they are received. You will receive an annual statement indicating the taxable portion of your annuity payments.

(b) For a TAP annuity, if you do not submit a tax withholding Form W-4P (~~to the department~~) before your first payment, taxes will be withheld according to Internal Revenue Service requirements (~~(, using a filing status of married with three exemptions))~~ and defaults.

(c) The department does not:

(i) Guarantee that payments should or should not be designated as exempt from federal income tax;

(ii) Guarantee that it was correct in withholding or not withholding federal taxes from benefit payments to you;

(iii) Withhold any amounts for state taxes or liabilities from your payments;

~~(iv)~~ Represent or guarantee any particular federal or state income, payroll, personal property or other tax consequence because of the department's determination of the taxable status of a distribution; or

~~((iv))~~ (v) Assume any liability for your compliance with the Internal Revenue Code.

~~((8))~~ **(7) How do I purchase a ((life)) TAP annuity?** ~~((a) The forms required to purchase an annuity and the applicable directions are available on the department's website or upon request from the department, and include:~~

~~(i) Plan 3 Request for Payment of Defined Contributions Funds Form;~~

~~(ii) Plan 3 Annuity Payment Request Form;~~

~~(iii))~~ Complete the application, and include:

(a) Spousal consent form, if married and not providing a survivorship option for your spouse;

~~((iv))~~ (b) Proof of your birth date;

~~((v))~~ (c) Proof of your joint annuitant's birth date, if applicable; and

~~((vi))~~ (d) Tax withholding Form W-4P.

~~((b) You may transfer funds from one investment program to the other in order to have sufficient funds in the appropriate investment program to cover the cost of the annuity purchase.~~

~~(9))~~ **(8) What if there is an error in my contract?** Carefully examine your contract upon receipt. If there is an error or omission, you must report the error or omission immediately according to the instructions in your contract.

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-111-320, filed 8/28/13, effective 10/1/13; WSR 10-16-086, § 415-111-320, filed 7/30/10, effective 9/1/10. Statutory Authority: RCW 41.50.050(5) and 41.50.088. WSR 05-24-050, § 415-111-320, filed 12/1/05, effective 1/1/06.]

OTS-3907.1

AMENDATORY SECTION (Amending WSR 21-07-044, filed 3/11/21, effective 4/11/21)

WAC 415-501-485 How do I obtain a distribution? Distribution from the plan is governed by Internal Revenue Code Sections 401 (a) (9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are available from the department's ~~((designated record keeper))~~ recordkeeper.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

- (i) A distribution for an unforeseeable emergency under WAC 415-501-510;
- (ii) A voluntary in-service distribution under subsection (4) of this section;
- (iii) A distribution from funds that were rolled into the deferred compensation account (may be subject to tax penalties); or
- (iv) An in-service distribution in any calendar year in which you will reach age (~~(seventy and one-half)~~) 70.5 or more.
- (b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:
- (i) The calendar year in which you reach age (~~(seventy-two)~~) 72;
- or
- (ii) The calendar year in which you retire.
- (c) If you do not choose a distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a) (9).
- (2) **Method of distribution.** Payment options include a lump sum payment, partial lump sum payment, or installment payments (~~(, or an annuity purchase)~~).
- Beginning at age (~~(seventy-two)~~) 72 or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a) (9).
- (3) **Voluntary in-service distribution at any age.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:
- (a) Your entire account value does not exceed (~~(five thousand dollars)~~) \$5,000;
- (b) You have not previously received an in-service distribution; and
- (c) You have made no deferrals during the two-year period ending on the date of the in-service distribution.
- (4) **Unforeseeable emergencies.** See WAC 415-501-510.
- (5) **Rehire.** If you submit an immediate lump sum or partial distribution request and the request is received in good order prior to being rehired, your distribution will be processed even if you become rehired with a DCP employer. If you are receiving installment payments or have requested to receive installment payments and then return to employment with a DCP employer, your payments from your DCP account will cease. You may request a distribution when you are again eligible consistent with these rules.

[Statutory Authority: RCW 41.50.030 and 41.50.050. WSR 21-07-044, § 415-501-485, filed 3/11/21, effective 4/11/21. Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-485, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-485, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.780(10). WSR 06-04-058, § 415-501-485, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-485, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-485, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-487 If my beneficiary dies while receiving my accumulated deferrals, who will get the remainder of the account? (1) If your beneficiary dies while receiving distributions, any remaining balance will be paid according to ~~((the))~~ their beneficiary election on file (see WAC 415-501-480).

~~((1))~~ (2) If there is no beneficiary election on file, the remaining balance will be paid to your beneficiary's estate.

~~((2) If your beneficiary is being paid under an annuity you purchased, distribution will be governed by the terms of the annuity contract.)~~

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-487, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-487, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-487, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-487, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-087, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-488 How will the account be distributed if my beneficiary is my spouse? If you die with money in your account and your beneficiary is your spouse, an account will be established in your spouse's name.

(1) The distribution options will be provided to your spouse when DCP is notified of your death. Your spouse may choose ~~((any))~~ the method of distribution ~~((annuity, periodic))~~ installment payments ~~((,))~~ or lump sum) ~~((that provides at least the))~~ and may be subject to a required minimum distribution each calendar year until your account is exhausted.

(a) The department must receive your spouse's election at least ~~((thirty))~~ 30 days before distribution is to begin.

(b) Receiving more than the required minimum distribution during one calendar year does not excuse your spouse from taking the required minimum in any calendar year to which the required minimum applies.

(2) Required minimum distribution. ~~((a) First required distribution if you die before your "required beginning date" (see WAC 415-501-485 (1)(b)). Beginning in the later of:~~

~~(i) The calendar year following the calendar year of your death;~~
or

~~(ii) The calendar year you would have attained age seventy-two, your spouse must receive the required minimum distribution. This distribution must be taken by December 31st of the applicable calendar year. (Prior to January 2020, the age for required minimum distributions was seventy and one-half.)~~

~~(b) First required distribution if you die after your "required beginning date" (see WAC 415-501-485 (1)(b)), your spouse must receive the required minimum distribution during the calendar year following the year of your death. The distribution must be taken by December 31st of the applicable calendar year.~~

~~(c) Your spouse must receive the required minimum distribution during each subsequent calendar year until the account is exhausted.~~

~~(d)) The required minimum distribution in each of the relevant calendar years is based on life expectancies set forth in the treasury regulations.~~

(3) If your spouse dies before the entire account is exhausted, the remainder of the account will be paid according to ((the)) their beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-488, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-488, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-488, filed 10/29/04, effective 11/29/04.]

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-491 How will the account be distributed if my beneficiary is not my spouse? If you die with money in your account and your beneficiary is an individual other than your spouse, an account will be established in your beneficiary's name.

(1) For rules governing distribution to an entity other than an individual (e.g., a trust, estate, or organization), see WAC 415-501-493.

(2) The distribution options will be provided to your beneficiary when DCP is notified of your death ((. Your beneficiary may choose any method of distribution (annuity, periodic payments, or lump sum) that provides at least the required minimum distribution each calendar year until your account is exhausted)), and will be based on treasury rules in effect at that time.

~~((a))~~ (3) The department must receive your beneficiary's election at least ~~((thirty))~~ 30 days before distribution is to begin.

~~((b) Receiving more than the required minimum distribution during one calendar year does not excuse your beneficiary from taking the required minimum in any calendar year to which the required minimum applies.~~

~~(3) Required minimum distribution.~~

~~(a) First required distribution if you die before your "required beginning date" (see WAC 415-501-485 (1)(b)), your beneficiary may choose to receive the required minimum distribution under either the "life expectancy rule" or the "five year rule." Your beneficiary must elect one of the two rules at least thirty days before distribution would be required to begin under the life expectancy rule. If a timely election is not received, your beneficiary will be required to receive the required minimum distribution under the "five year rule."~~

~~(i) Life expectancy rule. Distribution under this rule allows your beneficiary to spread distribution over their life expectancy.~~

~~Beginning in the calendar year following the calendar year of your death, your beneficiary must receive a required minimum distribution. This distribution must be taken by December 31st of the calendar year.~~

~~(ii) Five year rule. Under this rule, the first mandatory distribution is later than under the life expectancy rule. However, the beneficiary's entire account must be distributed on or before December 31st of the fifth calendar year following the calendar year of your death.~~

~~(b) First required distribution if you die after your "required beginning date" (see WAC 415-501-485 (1)(b)), your beneficiary must receive a required minimum distribution during the calendar year following the year of your death. The distribution must be taken by December 31st of the applicable calendar year.~~

~~(c) Your beneficiary must receive a required minimum distribution during each subsequent calendar year until the account is exhausted.~~

~~(d) The required minimum distribution in each of the relevant calendar years is based on life expectancies set forth in the treasury regulations.)~~

(4) If your beneficiary dies before the entire account is exhausted, the remainder of the account will be paid according to ~~(the)~~ their beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-491, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-491, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-491, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-491, filed 12/19/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-510 May I withdraw some or all of my accumulated deferrals in the event of an unforeseeable emergency? (1) Notwithstanding any other provisions in this chapter, you may request all or a portion of your accumulated deferrals ~~((in the event of an unforeseeable emergency. Distribution will be made within sixty days following the department's approval of your request))~~ if:

(a) You are terminally ill. The department's recordkeeper will arrange for payment to you within 10 business days following application. To be eligible, the department's recordkeeper must receive documentation verifying your terminal illness along with your application.

(b) You have a qualifying unforeseeable emergency. The department's recordkeeper will distribute payment to you typically within 60 business days following application. To be eligible, the department's recordkeeper must receive documentation verifying your unforeseeable emergency, along with your application. The amount paid will be limited strictly to that amount reasonably necessary to satisfy the emergency need.

(2) For purposes of this plan, an unforeseeable emergency is severe financial hardship resulting from:

(a) A personal illness or accident or the illness or injury of a spouse or dependent who meets the definition in Section 152(a) of the Internal Revenue Code;

(b) Loss of your property due to casualty, including the need to rebuild a home following damage not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster; or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control, such as:

(i) The imminent foreclosure of or eviction from your primary residence due to circumstances that were beyond your control;

(ii) The need to pay medical expenses, including nonrefundable deductibles as well as the cost of prescription drug medication; or

(iii) The need to pay funeral expenses of a participant's or beneficiary's spouse or dependent (as defined in Section 152(a) of the Internal Revenue Code without regard to Sections 152 (b)(1), (2), and (d)(1)).

(3) The circumstances that constitute an unforeseeable emergency depend upon the facts of each case, but, in no case will the department approve a distribution request if the financial hardship is or may be relieved:

(a) Through reimbursement or compensation by insurance or otherwise; or

(b) By liquidation of your assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(c) By cessation of deferrals under the plan.

(4) Examples: The following types of occurrences are not considered unforeseeable emergencies: Sending your child to college or purchasing a home.

(5) If the department denies your request for distribution, you may request a review of that decision according to the provisions of WAC 415-08-015.

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-510, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-510, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-510, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.770 and 41.50.780. WSR 02-02-059, § 415-501-510, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-510, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-524-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-524-010, filed 7/29/96, effective 7/29/96.]

WSR 22-17-051
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Care Administration)

[Filed August 11, 2022, 12:25 p.m., effective September 11, 2022]

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

Purpose: The purpose of these rules is to implement sections of ESHB 1120 (chapter 203, Laws of 2021) that direct the department to adopt rules to reestablish inspection timelines for nursing homes, assisted living facilities, adult family homes, and enhanced services facilities.

Citation of Rules Affected by this Order: New WAC 388-76-10912 Inspection timelines, 388-78A-3141 Inspection timelines, 388-97-4361 Inspection timelines, and 388-107-1421 Inspection timelines.

Statutory Authority for Adoption: RCW 18.20.090, 70.97.100, 70.97.230, 70.128.040, and 74.42.620.

Adopted under notice filed as WSR 22-13-122 on June 17, 2022.

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 4, 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 3, 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: August 11, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4932.2

NEW SECTION

WAC 388-76-10912 Inspection timelines (1) In response to the COVID-19 pandemic, the governor suspended the requirement for the department to conduct full licensing inspections of adult family homes required by RCW 70.128.070 (2)(b).

(2) During the suspension of the full licensing inspection requirements, the department continued to conduct complaint investigations in adult family homes when it became aware of information that indicated an immediate threat to resident health and safety may exist.

(3) The department must prioritize and resume full licensing inspections of adult family homes affected by the suspension of the inspection requirements by applying the following criteria collectively:

(a) The department has identified an ongoing threat to the health and safety of residents through one or more reported complaints, previous inspections, or previous investigations;

(b) Whether the adult family home has had a remedy imposed in the last 24 months; and

(c) The length of time since the last full licensing inspection of the adult family home.

(4) The department must conduct a full licensing inspection for adult family homes licensed after the reinstatement of RCW 70.128.070

(2) (b) in accordance with the schedule set by that section.

[]

NEW SECTION

WAC 388-78A-3141 Inspection timelines (1) In response to the COVID-19 pandemic, the governor suspended the requirement for the department to conduct full licensing inspections of assisted living facilities required by RCW 18.20.110.

(2) During the suspension of the full licensing inspection requirements, the department continued to conduct complaint investigations in assisted living facilities when it became aware of information that indicated an immediate threat to resident health and safety may exist.

(3) The department must prioritize and resume full licensing inspections of assisted living facilities affected by the suspension of the inspection requirements by applying the following criteria collectively:

(a) The department has identified an ongoing threat to the health and safety of residents through one or more reported complaints, previous inspections, or previous investigations;

(b) Whether the assisted living facility has had a remedy imposed in the last 24 months; and

(c) The length of time since the last full licensing inspection of the assisted living facility.

(4) The department must conduct a full licensing inspection for assisted living facilities licensed after the reinstatement of RCW 18.20.110 in accordance with the schedule set by that section.

[]

NEW SECTION

WAC 388-97-4361 Inspection timelines (1) In response to the COVID-19 pandemic, the governor suspended the requirement for the department to conduct general periodic inspections of nursing homes under RCW 18.51.091 and 18.51.230.

(2) During the suspension of the general periodic inspection requirements, the department continued to conduct complaint investigations in nursing homes when it became aware of information that indicated an immediate threat to resident health and safety may exist.

(3) The department must prioritize and resume general periodic inspections of nursing homes affected by the suspension of the inspection requirements by applying the following criteria collectively:

(a) The department has identified an ongoing threat to the health and safety of residents through one or more reported complaints, previous inspections, or previous investigations;

(b) Whether the nursing home has had a state or federal remedy imposed in the last 24 months;

(c) The length of time since the last general periodic inspection of the nursing home; and

(d) Any requirements imposed by the centers for medicare and medicaid services, including those for facilities designated as special focus facilities.

(4) The department must conduct a general period inspection for nursing homes licensed after the reinstatement of RCW 18.51.091 and 18.51.230 in accordance with the schedule set by RCW 18.51.091(1) and 18.51.230(1), and chapter 388-97 WAC.

[]

NEW SECTION

WAC 388-107-1421 Inspection timelines (1) In response to the COVID-19 pandemic, the governor suspended the requirement for the department to conduct full licensing inspections of enhanced services facilities required by RCW 70.97.160(1).

(2) During the suspension of the full licensing inspection requirements, the department continued to conduct complaint investigations in enhanced services facilities when it became aware of information that indicated an immediate threat to resident health and safety may exist.

(3) The department must prioritize and resume full licensing inspections of enhanced services facilities affected by the suspension of the inspection requirements by applying the following criteria collectively:

(a) The department has identified an ongoing threat to the health and safety of residents through one or more reported complaints, previous inspections, or previous investigations;

(b) Whether the enhanced services facility has had a remedy imposed in the last 24 months; and

(c) The length of time since the last full licensing inspection of the enhanced services facility.

(4) The department must conduct a full licensing inspection for enhanced services facilities licensed after the reinstatement of RCW 70.97.160(1) in accordance with the schedule set by that section.

[]

WSR 22-17-057
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed August 12, 2022, 11:43 a.m., effective September 12, 2022]

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

Purpose: The purpose of this rule making is to add new WAC 220-351-100, commercial fisheries permits/licensing, which will allow the commercial fishing license holder for specific fishing licenses four unspecified commercial crewmember licenses to obtain up to four unspecified crewmember licenses annually. The number of unspecified crewmember licenses for holders of non-salmon landing licensees fishing for albacore tuna will remain at two as specified in statute.

Citation of Rules Affected by this Order: New WAC 220-351-100.

Statutory Authority for Adoption: RCW 77.65.610 (3)(a), 77.12.047, 77.04.012, 77.04.055.

Other Authority: Not applicable.

Adopted under notice filed as WSR 22-07-109 on March 23, 2022.

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 1, 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: July 15, 2022.

Barbara Baker
Commission Chair

OTS-3699.1

NEW SECTION

WAC 220-351-100 Crewmember license. Consistent with RCW 77.65.610 (3)(a), commercial fishing license holders, except for non-salmon landing licensees fishing for albacore tuna, may obtain a total of four crewmember licenses for use by individuals working on the vessel named in the commercial fishing license if the individuals are not prohibited from obtaining a crewmember license under RCW 77.65.610.

[]

WSR 22-17-066
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed August 15, 2022, 11:51 a.m., effective September 15, 2022]

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

Purpose: Update the instructions for petitioning for review of initial administrative hearing orders necessitated by the department's board of appeals' move to a new address.

Citation of Rules Affected by this Order: Amending WAC 110-03-0530 and 110-03-0590.

Statutory Authority for Adoption: RCW 34.05.220, 43.216.020, and 43.216.065.

Adopted under notice filed as WSR 22-13-159 on June 21, 2022.

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 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 0, Repealed 0.

Date Adopted: August 15, 2022.

Brenda Villarreal
Rules Coordinator

OTS-3663.6

AMENDATORY SECTION (Amending WSR 21-11-078, filed 5/18/21, effective 6/18/21)

WAC 110-03-0530 Requesting review of the initial order. ~~((1) A party must file the review request (petition for review) in writing and it should:~~

~~(a) Clearly identify the parts of the initial order with which the party disagrees; and~~

~~(b) Clearly present arguments and refer to evidence in the record supporting the party's position.~~

~~(2) The petition for review must be filed with the BOA and the party requesting review must serve copies on the other parties and their representatives and OAH at the same time the petition is filed.~~

~~(3) Instructions for obtaining a review will be sent with the initial order. Depending on how the petition is filed, use the following contact information:~~

~~(a) Mailing address:
DCYF Board of Appeals~~

~~P.O. Box 40982~~

~~Olympia, WA 98504-0982;~~

~~(b) Fax: 360-586-5934;~~

~~(c) Email: Call the BOA at 360-902-0278 and request access to the secure email portal; or~~

~~(d) Physical address:~~

~~DCYF Board of Appeals~~

~~1115 Washington Street Southeast~~

~~Olympia, WA 98501~~

~~(4) The contact information in this subsection is current as of the effective date of these rules; however, parties should file documents using the address or fax information received with the initial order if it is different from the information provided here.~~

~~(5) The DCYF board of appeals can be contacted by phone at: 360-902-0278.)~~

(1) A party may request review of their initial order by filing a written request, known as a petition for review. A petitioner must follow the instructions included with their initial order when petitioning for review.

(2) A petition for review should state the:

(a) Specific parts of the initial order with which the party disagrees;

(b) Reasons why they disagree; and

(c) The specific evidence in the record that supports their position.

(3) A party filing a petition for review must serve a copy of their petition for review on OAH and the other parties and their representatives at the same time their petition for review is filed with the BOA.

(4) A petition for review must be filed with the BOA using one of the following methods:

(a) Mail to:

DCYF Board of Appeals

P.O. Box 40982

Olympia, WA 98504-0982;

(b) Fax: 360-586-5934;

(c) Email: Call the BOA at 360-902-0278 and request access to the secure email portal; or

(d) Personal service: The physical address where the BOA may be served is identified on the BOA website and in the initial order's instructions for petitioning for review. Parties filing by personal service are encouraged to first call the BOA at 360-902-0278 to arrange for someone to accept service.

(5) The contact information in this section is current as of the effective date of these rules. Any necessary updates are made to the initial orders' instructions for petitioning for review when changes occur.

(6) The DCYF board of appeals can be contacted by telephone at: 360-902-0278.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 21-11-078, § 110-03-0530, filed 5/18/21, effective 6/18/21; WSR 20-02-031, § 110-03-0530, filed 12/19/19, effective 1/19/20.]

AMENDATORY SECTION (Amending WSR 21-11-078, filed 5/18/21, effective 6/18/21)

WAC 110-03-0590 Judicial review. (1) Judicial review is the process of appealing ((a)) final agency orders to a superior court.

(2) Any party, except DCYF, may appeal a final order by filing a written petition for judicial review in superior court pursuant to RCW 34.05.514 that meets the requirements of RCW 34.05.546. The petition must be properly filed and served, as required by RCW 34.05.542, within ((thirty)) 30 calendar days of the date the review judge serves the final order in the case. However, as provided by RCW 34.05.470, if a petition for reconsideration has been properly filed, the ((thirty)) 30 day period does not commence until the agency disposes of the petition for reconsideration. ((Copies)) A copy of the petition must be served on DCYF, the office of the attorney general, and all other parties at the same time the petition is filed.

(3) To serve DCYF, a copy of the petition must be delivered to the DCYF secretary ((of DCYF)) or ((to the DCYF)) the BOA. The petition must be either hand delivered, mailed with proof of receipt, or sent by secure email.

(a) The physical location of the secretary is:

DCYF Office of the Secretary
1500 Jefferson Street Southeast
Olympia, WA 98501

The mailing address of the secretary is:

DCYF Office of the Secretary
P.O. Box 40975
Olympia, WA 98504-0975

(b) The ((physical location and)) mailing address for the DCYF BOA ((are as)) is stated in WAC 110-03-0530.

(c) To serve by email, call the BOA at 360-902-0278 and request access to the secure email portal.

(4) Service on the office of the attorney general and other parties of a copy of the petition for judicial review may be made at the following locations:

(a) The office of the attorney general may be served personally or by delivery at:

Office of the Attorney General
7141 Cleanwater Drive S.W.
Tumwater, WA 98501

The mailing address of the office of the attorney general is:

Office of the Attorney General
P.O. Box 40124
Olympia, WA 98504-0124

(b) Each party must be served at each party's address of record.

(5) A party may file a petition for judicial review only after it has exhausted administrative remedies, as provided under RCW 34.05.534.

(6) Filing a petition for judicial review of a final order does not stay the effectiveness of the final order.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 21-11-078, § 110-03-0590, filed 5/18/21, effective 6/18/21; WSR 20-02-031, § 110-03-0590, filed 12/19/19, effective 1/19/20.]

WSR 22-17-068

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 15, 2022, 2:38 p.m., effective September 15, 2022]

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

Purpose: This rule-making order amends chapter 16-470 WAC, Quarantine—Agricultural pests, by establishing an internal quarantine for Japanese beetle within Washington state. The quarantine area covers 49 square miles in the southeastern corner of Yakima County and the southwestern corner of Benton County. The proposed quarantine prohibits the movement of regulated articles located inside the quarantine area from moving outside of it unless they are treated in a manner described in the rule.

Citation of Rules Affected by this Order: New WAC 16-470-717; and amending WAC 16-470-700, 16-470-705, 16-470-710, 16-470-715, and 16-470-720.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

Adopted under notice filed as WSR 22-13-049 on June 8, 2022.

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 1, 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 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: August 15, 2022.

Derek I. Sandison
Director

OTS-3793.2

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-700 Quarantine—Japanese beetle. A quarantine is established under this chapter against all live life stages of the insect pest Japanese beetle (*Popillia japonica* Newman), a member of the family Scarabaeidae. The Japanese beetle is a persistent, serious, and highly destructive pest, attacking the roots, leaves, and fruits of over (~~three hundred~~) 300 kinds of plants including fruit trees, ornamentals, and field and vegetable crops. The director of agriculture has determined that the regulation and exclusion of Japanese beetle is necessary to protect the environmental quality, forests, horticulture, floriculture, and agricultural crops of the state of Washington.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-700, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-700, filed 7/16/90, effective 8/16/90.]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-705 Areas under quarantine. (1) Exterior: The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

((2)) (a) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

((a)) (i) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in WAC 16-470-715; and

((b)) (ii) Annual surveys are conducted in such counties and the results of these surveys are negative for Japanese beetle; and

((c)) (iii) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

((3)) (b) A plant health official of any state may request exemption of one or more counties under ((subsection (2) of)) this ((section)) subsection. The request must be in writing, and it must state the area surveyed, the survey method, personnel conducting the survey, and dates of any previous Japanese beetle infestations in that county.

(2) Interior: Within the state of Washington, those areas where infestations of Japanese beetle exist are declared to be under quarantine. These areas include the portion of Yakima and Benton counties designated as follows: Beginning within Yakima County at latitude N46°18'8" and longitude W120°0'26"; thence easterly across the Yakima-Benton County line to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°16'21" and longitude W119°51'40"; thence easterly to longitude W119°50'25"; thence southerly to latitude N46°13'44" and longitude W119°50'27"; thence westerly to latitude N46°13'44" and longitude W119°51'42"; thence southerly to latitude N46°12'00" and longitude W119°51'42"; thence westerly across the Yakima-Benton County line to latitude N46°12'3" and longitude W119°59'14"; thence northerly to latitude N46°14'39" and longitude W119°59'12"; thence westerly to longitude W120°0'28"; thence northerly to the point of beginning.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-705, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-705, filed 7/16/90, effective 8/16/90.]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-710 Regulated articles. The following are declared to be hosts or possible carriers of Japanese beetle and are ~~((prohibited entry into this state from an area under quarantine as declared in WAC 16-470-705 either directly, indirectly, diverted or reconsigned, except as provided for in WAC 16-470-715:~~

- ~~(1) Soil, humus, compost, and manure (except when commercially packaged);~~
- ~~(2) All plants with roots (except bareroot plants free from soil in amounts that could contain concealed Japanese beetle eggs, larvae or pupae);~~
- ~~(3) Grass sod;~~
- ~~(4) Plant crowns or roots for propagation (except when free from soil);~~
- ~~(5) Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free of soil);~~
- ~~(6-)) regulated articles under the Japanese beetle quarantine:~~
 - (1) The upper eight inches of topsoil containing vegetative material from all properties including, but not limited to, residential, agricultural, and commercial properties (including construction sites);
 - (2) Humus and compost (except when produced commercially), and growing media (except when commercially packaged);
 - (3) Yard debris, meaning plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris;
 - (4) Plants for planting and propagation, except when dormant and bareroot and free from soil or growing media, including:
 - (a) All plants with roots;
 - (b) Plant crowns or roots;
 - (c) Bulbs;
 - (d) Corms;
 - (e) Tubers; and
 - (f) Rhizomes;
 - (5) Turfgrass (sod);
 - (6) Hop bines and unshucked corn ears harvested during the Japanese beetle adult flight season (May 15th through October 15th);
 - (7) Cut flowers for decorative purposes; and
 - (8) Any other plant, plant part, article, or means of conveyance when it is determined by the director to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-710, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-710, filed 7/16/90, effective 8/16/90.]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-715 Conditions governing the movement of regulated articles into Washington state from external quarantine areas. Regulated articles are prohibited entry into this state from a state or other area under quarantine listed in WAC 16-470-705(1), either directly, indirectly, diverted or reconsigned, except as provided for below.

(1) Prior notification is required. Persons shipping regulated articles as specified in WAC 16-470-710 into this state from areas ((under)) within the external quarantine must notify the department's plant services program by sending via ((telex)) email to nursery@agr.wa.gov or other method approved by the department, a copy of the applicable phytosanitary certificate as described in subsection (2) of this section for each shipment. The phytosanitary certificate must state the nature and quantity of the shipment, ((its expected date of arrival at destination,)) the name of the intended receiver, and the destination. The person to whom the commodities are shipped must hold the shipment until it is inspected and released by the department.

(2) Each shipment of regulated articles must be accompanied by a phytosanitary certificate from the state of origin certifying that the commodity, soil, or means of conveyance is treated with methods and procedures approved and prescribed by the director. Approved methods and procedures include those specified in the National Plant Board U.S. Domestic Japanese Beetle Harmonization Plan Appendix 1. Shipment to Category 1 States, as amended June 20, 2016. A copy of this plan can be accessed at <https://agr.wa.gov/beetles>.

(3) Privately owned houseplants grown indoors may be allowed entry into this state if a department official inspects the plants and determines that they are free from Japanese beetle.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-715, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-715, filed 7/16/90, effective 8/16/90.]

NEW SECTION

WAC 16-470-717 Conditions governing the movement of regulated articles from internal quarantined areas. Regulated articles within the state of Washington quarantined areas are prohibited from moving outside the quarantined area (from all properties, including commercial and private properties), except as provided for below:

(1) The upper eight inches of topsoil containing vegetative material from all properties; humus and compost (except when produced commercially), and growing media (except when commercially packaged), may be allowed to move from the quarantine area if they are first treated by one of the following methods. Treatments must be monitored by the department for compliance.

(a) Steam heated to a temperature of 140 degrees Fahrenheit for one hour, to kill all life stages of Japanese beetle;

(b) Other treatments determined to be effective at eradicating Japanese beetle and approved in writing by the director.

(2) Yard debris may be allowed to move from the quarantine area if it is first treated by one of the following methods. Treatments must be monitored by the department for compliance.

(a) Steam heated to a temperature of 140 degrees Fahrenheit for one hour, to kill all life stages of Japanese beetle;

(b) When consisting solely of woody materials containing no soil, yard debris may be chipped to a screen size of one inch in two dimensions or smaller during the Japanese beetle adult flight season (May 15th through October 15th). Woody material containing no soil can be moved outside of the Japanese beetle adult flight season without chipping;

(c) Another treatment determined to be effective at eradicating Japanese beetle and approved in writing by the director.

(3) Plants for planting and propagation (except when dormant and bareroot and free from soil or growing media), all plants with roots, plant crowns or roots, bulbs, corms, tubers and rhizomes, and turf-grass (sod) may be allowed to move from the quarantine area if each shipment complies with one of the treatment or inspection requirements detailed under (a) through (f) of this subsection. Before the shipment moves outside the quarantined area, the shipment must be approved by the department. Approval will be documented by the issuance of a certificate of treatment or inspection when the department determines that the shipment is in compliance with the treatment or inspection requirements. The certificate must accompany the shipment while the shipment is in transit. Treated plants must be safeguarded from reinfestation prior to shipping. Plants shipped dormant and bareroot with no soil or growing media attached are exempt from these requirements, and should be identified as bareroot on shipping documents.

(a) Production in an approved Japanese beetle free greenhouse/screenhouse. All the following criteria apply to be approved as a Japanese beetle free greenhouse/screenhouse. All media must be sterilized and free of soil. All planting stock must be free of soil (bareroot) before planting into the approved medium. The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period (May 15th through October 15th). During the adult flight period, the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot enter. Such security measures must be approved by the department. No Japanese beetle contaminated material shall be allowed into the secured area at any time. The greenhouse/screenhouse will be officially inspected by the department for the presence of all life stages of Japanese beetle and must be specifically approved as a secure area. The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed, and shipped. Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation. Each greenhouse/screenhouse operation must be approved by the department as having met and maintained the above criteria. The certificate accompanying the plants shall bear the following additional declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse and were grown in sterile, soilless media."

(b) Production during a pest free window. The entire rooted plant production cycle (planting, growth, harvest, and shipping) will be completed within a pest free window (October 16th through May 14th), in clean containers with sterilized and soilless growing medium, and shipment will occur outside the adult Japanese beetle flight period

(May 15th through October 15th). The accompanying phytosanitary certificate shall bear the following additional declaration: "These plants were produced outside the Japanese beetle flight season and were grown in sterile, soilless media."

(c) Application of approved regulatory treatments. All treatments will be performed under direct supervision of the department or under a compliance agreement. Treatments and procedures under a compliance agreement will be monitored throughout the season. State phytosanitary certificates listing and verifying the treatment used must accompany the shipment. Note that not all treatments or methods approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for use within Washington state. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants are in soilless media and were treated to control *Popillia japonica* according to the criteria for shipment to Category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Washington state's Japanese beetle quarantine."

(d) Dip treatment - Not an approved treatment.

(e) Drench treatments - Container plants only. Not approved for ornamental grasses or sedges. Not approved for field potted plants. Potting media used must be sterile and soilless, containers must be clean. Only containerized nursery stock with rootballs 12 inches in diameter or smaller and free from field soil are eligible. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season, they must be retreated with an approved insecticide. Chemicals approved for drench treatments of container plants under this protocol can be found in the Japanese Beetle National Harmonization Plan for shipping to a Category 1 state, and must be labeled for use in Washington state.

(f) Media (granule) incorporation - Container plants only. Not approved for ornamental grasses or sedges. Only containerized nursery stock with rootballs 12 inches in diameter or smaller, planted in approved growing media, and free from field soil are eligible. Plants grown in field soil and then potted into soilless container substrates are not eligible for certification using this protocol, unless all field soil is removed from the roots so plants are bareroot at the time of potting. All pesticides used for media incorporation must be mixed thoroughly into the media before potting and plants should be watered at least two times following media incorporation before shipment can begin. Approved growing media used must be free from soil and consist of synthetic or other substances (other than soil) used singly or in combinations. Examples of approved growing media include conifer bark, hardwood bark, expanded or baked clay pellets, expanded polystyrene beads, floral foam, ground coconut husk, ground cocoa pods, ground coffee hulls, ground rice husk, peat, perlite, pumice, recycled paper, rock wool, sawdust, sphagnum, styrofoam, synthetic sponge, vermiculite, and volcanic ash or cinder. The media shall contain only substances that were not used previously for growing plants or other agricultural purposes. It must be free of plant pests, sand, and related matter, and safeguarded in such a manner as to prevent the introduction of all life stages of Japanese beetle to the media. The granules must be incorporated into the media before potting. Plants being stepped up into treated potting media must first have undergone an approved drench treatment to eliminate any untreated volume of potting medium. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to

be exposed to a second flight season, they must be repotted with a granular incorporated mix or retreated using one of the approved drench treatments. Chemicals approved for media (granule) incorporation for container plants under this protocol can be found in the Japanese Beetle National Harmonization Plan for shipping to a Category 1 state, and must be labeled for use in Washington state.

(4) Hop vines and unshucked corn ears: Fields where hops or corn (intended to be shipped unshucked) are planted must be trapped and monitored by the department and found free of Japanese beetle for the entire adult flight period (May 15th through October 15th), or from the date of planting up to the date of harvest if both dates are within the flight period. Fields that are not sufficiently trapped will not be considered free from Japanese beetle. If the field is found free of Japanese beetle by the department, vines and unshucked corn ears may be moved outside the quarantined area. If the department determines there is evidence of Japanese beetle presence, vines and unshucked corn ears must be treated prior to harvest or movement by a method approved by the director in advance. All shipments of hop vines and unshucked corn ears to areas outside the quarantined area must be accompanied by a compliance document issued by the department stating the field of origin and destination addresses. If a shipment is found to contain Japanese beetles, any further shipments from that field must be in vehicles sufficiently closed/covered to prevent reinfestation after treatment.

[]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-720 ((~~Special permits~~)) Compliance agreements. The director may issue ((~~special permits~~)) compliance agreements as defined in RCW 15.13.250, admitting regulated articles specified in WAC 16-470-710, from areas within the external or internal quarantine, that are not otherwise eligible for entry or movement from the area under quarantine ((~~subject to~~)). Compliance agreements will include conditions and provisions which the director may prescribe to prevent the introduction, escape, or spread of Japanese beetle.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-720, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-720, filed 7/16/90, effective 8/16/90.]

WSR 22-17-075

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed August 16, 2022, 10:23 a.m., effective September 16, 2022]

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

Purpose: The agency is amending sections of chapter 182-51 WAC, the drug price transparency program, to increase program clarity by adding definitions and rewording requirements.

Citation of Rules Affected by this Order: Amending WAC 182-51-0050, 182-51-0100, 182-51-0200, 182-51-0300, 182-51-0400, 182-51-0600, 182-51-1200, and 182-51-1600.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 43.71C.110.

Adopted under notice filed as WSR 22-13-045 on June 7, 2022.

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 8, 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 8, Repealed 0.

Date Adopted: August 16, 2022.

Wendy Barcus
Rules Coordinator

OTS-3573.4

Chapter 182-51 WAC
((PRESCRIPTION)) DRUG ((PRICING)) PRICE TRANSPARENCY PROGRAM

AMENDATORY SECTION (Amending WSR 20-19-079, filed 9/15/20, effective 10/16/20)

WAC 182-51-0050 Authority and purpose. (1) Under the authority of chapter 43.71C RCW, this chapter implements the Washington ((pre-scription)) drug ((pricing)) price transparency program.

(2) The purpose of the Washington ((prescription)) drug ((pricing)) price transparency program is to ((provide notice and disclosure of information)) improve transparency relating to the cost and ((pricing)) price of prescription drugs ((in order)) to provide accountability to the state for rising drug costs and a consumer's ability to afford prescription drugs ((pricing)).

(3) The authority publishes a data submission guide to the authority's website, detailing the data elements to report as required by chapter 43.71C RCW, and how to submit the data.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-0050, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 21-18-046, filed 8/25/21, effective 9/25/21)

WAC 182-51-0100 Definitions. For the purposes of this chapter:

- (1) "Authority" means the health care authority.
- (2) "Calendar days" means the same as in WAC 182-526-0010.
- (3) "Calendar year" means the period from January 1st to December 31st of each year.
- (4) "Confidential information" means information collected by the authority according to RCW 43.71C.020 through 43.71C.080, which is not subject to public disclosure under chapter 42.56 RCW and must be held confidential by all data recipients, according to WAC 182-51-0900.
- (5) "Course of treatment" means the duration of the actual administration of a drug to treat a condition.
- (6) "Covered drug" means any prescription drug that:
 - (a) A covered manufacturer intends to introduce to (~~the~~) market (~~(in Washington state)~~) at a wholesale acquisition cost of (~~ten thousand dollars~~) \$10,000 or more for a course of treatment lasting less than one month or a (~~thirty-day~~) 30-day supply, whichever period is longer; or
 - (b) Meets all of the following:
 - (i) (~~Is currently on the~~) Has been introduced to market (~~(in Washington state)~~);
 - (ii) Is manufactured by a covered manufacturer; and
 - (iii) Has a wholesale acquisition cost of more than (~~one hundred dollars~~) \$100 for a course of treatment lasting less than one month or a (~~thirty-day~~) 30-day supply, and, taking into account only price increases that take effect on or after October 1, 2019, the manufacturer increases the wholesale acquisition cost such that:
 - (A) The new wholesale acquisition cost is (~~twenty~~) 20 percent higher than the wholesale acquisition cost on the same day of the month, (~~twelve~~) 12 months before the date of the proposed increase; or
 - (B) The new wholesale acquisition cost is (~~fifty~~) 50 percent higher than the wholesale acquisition cost on the same day of the month, (~~thirty-six~~) 36 months before the date of the proposed increase.
- (~~6~~) (7) "Covered manufacturer" means a person, corporation or other entity engaged in the manufacture of prescription drugs sold in or into Washington state. "Covered manufacturer" does not include a private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store label, or a prescription drug repackager.
- (~~7~~) (8) "Data" means all data provided to the authority under RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.
- (~~8~~) (9) "Data recipient" means an individual or entity authorized to receive data under RCW 43.71C.100.

~~((9))~~ (10) "Data submission guide" means the document that identifies the data required under chapter 43.71C RCW, and provides instructions for submitting this data to the authority, including guidance on required format for reporting, for each reporting entity.

~~((10))~~ (11) "Food and drug administration (FDA) approval date" means the deadline for the FDA to review applications for new drugs or new biologics after the new drug application or biologic application is accepted by the FDA as complete in accordance with the Prescription Drug User Fee Act of 1992 (106 Stat. 4491; P.L. 102-571).

~~((11))~~ (12) "Health plan," "health carrier," and "carrier" mean the same as in RCW 48.43.005.

~~((12))~~ (13) "Introduced to market" or "introduce to market" means ~~(marketed)~~ to make available for purchase in Washington state.

~~((13))~~ (14) "Pharmacy benefit manager" means the same as defined in RCW ~~((19.340.010))~~ 48.200.020.

~~((14))~~ (15) "Pharmacy services administrative organization" means an entity that:

(a) Contracts with a pharmacy to act as the pharmacy's agent with respect to matters involving a pharmacy benefit manager, third-party payor, or other entities, including negotiating, executing, or administering contracts with the pharmacy benefit manager, third-party payor, or other entities; and

(b) Provides administrative services to pharmacies.

~~((15))~~ (16) "Pipeline drug" means a drug or biologic product ~~((containing a new molecular entity))~~, not yet approved by the Food and Drug Administration, for which a manufacturer intends to seek initial approval from the Food and Drug Administration under an original new drug application under 21 U.S.C. Sec. 355(b) or under a biologics license application under 42 U.S.C. Sec. 262 ~~((to be marketed in Washington state))~~.

~~((16))~~ (17) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW that is prescribed for outpatient use and distributed in a retail setting, including generic, brand name, specialty drugs, and biological products.

~~((17))~~ (18) "Private label distributor" means a firm that does not participate in the manufacture or processing of a drug but instead markets and distributes under its own trade name, and labels a drug product made by someone else.

~~((18))~~ (19) "Public domain" means information that is available to the general public, whether through internet search, Freedom of Information Act request, or through purchase or subscription, and includes information submitted to or reviewed by the Food and Drug Administration, information contained in financial statements, and information published or otherwise made available through drug information resources. "Public domain" does not include trade secrets as defined by RCW 19.108.010 and information protected by copyright law.

(20) "Qualifying price increase" means a price increase described in subsection ~~((5))~~ (6)(b) of this section.

~~((19))~~ (21) "Rebate" means negotiated price concessions, discounts, however characterized, that accrue directly or indirectly to a reporting entity in connection with utilization of prescription drugs by reporting entity members including, but not limited to, rebates, administrative fees, market share rebates, price protection rebates, performance-based price concessions, volume-related rebates, other credits, and any other negotiated price concessions or discounts that are reasonably anticipated to be passed through to a reporting entity during a coverage year, and any other form of price concession prear-

ranged with a covered manufacturer, dispensing pharmacy, pharmacy benefit manager, rebate aggregator, group purchasing organization, or other party which are paid to a reporting entity and are directly attributable to the utilization of certain drugs by reporting entity members.

~~((20))~~ (22) "Reporting entity" means carriers, covered manufacturers, health carriers, health plans, pharmacy benefit managers, and pharmacy services administrative organizations, which are required to or voluntarily submit data according to chapter 43.71C RCW.

~~((21))~~ (23) "Wholesale acquisition cost" means, with respect to a prescription drug, the manufacturer's list price for the drug to wholesalers or direct purchasers in the United States, excluding any discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale acquisition cost guides or other publications ~~((of))~~ containing prescription drug ~~((pricing))~~ prices.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-18-046, § 182-51-0100, filed 8/25/21, effective 9/25/21. Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.010, 43.71C.050, 43.71C.100, and 43.71C.110. WSR 21-10-008, § 182-51-0100, filed 4/22/21, effective 5/23/21. Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-0100, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 20-19-079, filed 9/15/20, effective 10/16/20)

WAC 182-51-0200 Reporting entity registration. (1) ~~((No later than August 1st of each year,))~~ A reporting entity must register with the authority and provide the required contact information as defined in the applicable data submission guide. Reregistration is required only if ~~((there is a change in))~~ the contact information previously provided has changed.

(2) It is the responsibility of the reporting entity to maintain current and accurate contact information with the authority.

(3) Failure to register and provide or maintain accurate contact information with the authority may result in a reporting entity's inability to submit required data in compliance with this chapter.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-0200, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 20-19-079, filed 9/15/20, effective 10/16/20)

WAC 182-51-0300 Health carriers—Cost utilization data reporting. (1) No later than October 16, 2020, a health carrier must submit to the authority the prescription drug cost and utilization data for calendar years 2018 and 2019, for each health plan it offered in Washington state in calendar years 2018 and 2019, following the guidelines set in the authority's applicable data submission guide.

(2) Beginning October 1, 2021, and no later than October 1st annually thereafter, a health carrier must submit to the authority the prescription drug cost and utilization data for the previous calendar year for each health plan it offered in Washington state, following the guidelines set in the authority's applicable data submission guide.

(3) A carrier may voluntarily submit the data described in subsection (1) of this section for ~~((any))~~ other health plans it administers such as employer-sponsored, self-funded health plans; Taft-Hartley trust health plans; worker's compensation plans; medicare Part D plans; ~~((or))~~ medicare advantage plans ~~((it administers))~~; or medicaid managed care plans.

(4) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-0300, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 20-19-079, filed 9/15/20, effective 10/16/20)

WAC 182-51-0400 Pharmacy benefit managers—Data reporting. (1) No later than March 1st of each year, a pharmacy benefit manager must submit to the authority all data specified in RCW 43.71C.030, following the guidelines set in the authority's applicable data submission guide.

(2) The authority may examine or audit a pharmacy benefit manager's financial records to ensure the information submitted under this section is accurate. Information the authority acquires in an examination of financial records according to this subsection is treated as proprietary and confidential. The information collected according to this subsection is not subject to public disclosure under chapter 42.56 RCW.

(3) A pharmacy benefit manager may voluntarily submit the data described in subsection (1) of this section for ~~((any))~~ other health plans it administers such as employer-sponsored, self-funded health plans; Taft-Hartley trust health plans; worker's compensation plans; medicare Part D plans; ~~((or))~~ medicare advantage plans ~~((it administers))~~; or medicaid managed care plans.

(4) The information submitted according to this section is not subject to public disclosure under chapter 42.56 RCW.

(5) The agency may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-0400, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 21-10-008, filed 4/22/21, effective 5/23/21)

WAC 182-51-0600 Manufacturers—Data and price reporting. (1) On or before December 31, 2020, a covered manufacturer must submit to the

authority all data specified in RCW 43.71C.050 and 43.71C.070, following the guidelines set in the authority's applicable data submission guide for each new covered drug introduced to market, or a covered drug that had a qualifying price increase between and including October 1, 2019, and October 15, 2020.

(2) Beginning October 16, 2020, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070, following the guidelines set in the authority's applicable data submission guide, for each covered drug as follows:

(a) Sixty days in advance of a qualifying price ~~(s)~~ increase for a covered drug ~~((marketed in Washington state))~~ already introduced to market; or

(b) Within ~~((thirty))~~ 30 days of a new covered drug introduced to market ~~((in Washington state))~~.

(3) For any drug approved under section 505(j) of the federal Food, Drug, and Cosmetic Act as it existed on August 18, 2020, or a biosimilar approved under section 351(k) of the federal Public Health Service Act as it existed on August 18, 2020, if submitting data in accordance with subsection (2)(a) of this section is not possible ~~((sixty))~~ 60 days before the price increase, that submission must be made as soon as known but no later than the date of the price increase.

(4) The information submitted according to this section is not subject to public disclosure under chapter 42.56 RCW.

(5) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

[Statutory Authority: RCW 41.05.021, 41.05.160, 43.71C.010, 43.71C.050, 43.71C.100, and 43.71C.110. WSR 21-10-008, § 182-51-0600, filed 4/22/21, effective 5/23/21. Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-0600, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 20-19-079, filed 9/15/20, effective 10/16/20)

WAC 182-51-1200 Extension of deadlines. (1) The authority may grant:

(a) An extension of time to a reporting requirement deadline; or

(b) Permission to correct a previously submitted ~~((data))~~ and accepted report.

(2) Extensions.

(a) A reporting entity may request an extension of time for submitting a report or the resubmission of a report due to extenuating circumstances affecting the reporting entity's ability to submit the data by the deadline.

(b) The request for an extension must contain a detailed explanation as to the reason the reporting entity is unable to meet the reporting requirements for that period.

(c) A reporting entity must submit a request for an extension to the authority at least ~~((thirty))~~ 30 calendar days before the applicable reporting deadline unless the requestor is unable to meet this deadline due to circumstances beyond the reporting entity's control. If unable to meet this deadline, the reporting entity must notify the

authority in writing as soon as the reporting entity determines that an extension is necessary.

(d) The authority may approve a request for an extension for a period of time based on the specific circumstances or other extenuating circumstances. The authority provides written notification of the approval or denial to the requestor within (~~(fifteen)~~) 15 calendar days from when the authority receives the request from the reporting entity. If the authority does not approve a request for an extension, the written notification includes the reason for the denial.

(e) A reporting entity may not appeal the authority's decision to deny an extension.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-1200, filed 9/15/20, effective 10/16/20.]

AMENDATORY SECTION (Amending WSR 20-19-079, filed 9/15/20, effective 10/16/20)

WAC 182-51-1600 Process to appeal determination of a violation and assessed fines. (1) Each reporting entity to whom the authority issues a preliminary notice of a violation and fine(s) may request (~~(and)~~) an informal dispute resolution conference under WAC 182-51-1700.

(2) If the reporting entity requests an informal dispute resolution conference under WAC 182-51-1700, the reporting entity must complete the informal dispute resolution process before requesting an administrative hearing.

(3) In lieu of an informal dispute resolution conference, the reporting entity may request a formal appeal under WAC 182-51-1800 in writing, in a manner that provides proof of receipt, within (~~(twenty-eight)~~) 28 calendar days after receipt of the preliminary notice of violation and fine(s). Upon receipt (~~(for)~~) of the reporting entity's request, the authority issues a final notice of violation and fine(s) with an explanation of the reporting entity's administrative hearing rights under WAC 182-51-1800.

(4) If the reporting entity does not request an informal dispute resolution conference or formal appeal within (~~(twenty-eight)~~) 28 calendar days after receipt of the preliminary notice of violation and fine(s), the authority issues a final notice of violation with an explanation of the reporting entity's administrative hearing rights under WAC 182-51-1800.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 334. WSR 20-19-079, § 182-51-1600, filed 9/15/20, effective 10/16/20.]

WSR 22-17-080
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 17, 2022, 5:32 a.m., effective September 17, 2022]

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

Purpose: The department is adopting amendments to WAC

388-400-0060 Who is eligible for aged, blind, or disabled (ABD) cash assistance?, 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits?,

388-447-0130 What referral to the housing and essential needs (HEN) program rules may the department implement during a state of emergency?, and 388-449-0230 What aged, blind, or disabled (ABD) program rules may the department implement during a state of emergency?

Adoption of these amendments supports elimination of the mid-certification review (MCR) requirement for ABD program recipients per the supplemental operating budget (chapter 297, Laws of 2022).

These rules have been in effect since July 1, 2022, under CR-103E filed as WSR 22-13-171 on June 22, 2022.

Citation of Rules Affected by this Order: Amending WAC

388-400-0060, 388-418-0011, 388-447-0130, and 388-449-0230.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.09.530, and 74.62.030.

Other Authority: 2021-2023 Supplemental operating budget (section 205(21), chapter 297, Laws of 2022).

Adopted under notice filed as WSR 22-14-106 on July 6, 2022.

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 4, 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 4, Repealed 0.

Date Adopted: August 17, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4933.1

AMENDATORY SECTION (Amending WSR 20-19-006, filed 9/3/20, effective 10/4/20)

WAC 388-400-0060 Who is eligible for aged, blind, or disabled (ABD) cash assistance? (1) The aged, blind, or disabled (ABD) cash

assistance program provides a state-funded cash stipend and a referral to the housing and essential needs (HEN) program under WAC 388-400-0065 to eligible low-income individuals.

(2) You are eligible for ABD if you:

(a) Are:

(i) At least ~~((sixty-five))~~ 65 years old;

(ii) Blind as defined by the Social Security Administration (SSA); or
(iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and

(b) Are at least ~~((eighteen))~~ 18 years old or, if under ~~((eighteen))~~ 18, a member of a married couple;

(c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470, and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0060;

(d) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;

(e) Meet the citizenship and alien status requirements under WAC 388-424-0015;

(f) Provide a Social Security number as required under WAC 388-476-0005;

(g) Reside in the state of Washington as required under WAC 388-468-0005;

(h) Sign an interim assistance reimbursement authorization agreeing to repay the monetary value of general assistance, disability lifeline, or aged, blind, or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210, and 388-474-0020; and

(i) Report changes of circumstances as required under WAC 388-418-0005 ~~((and))~~.

~~((j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.))~~

(3) You aren't eligible for ABD if you:

(a) Are eligible for temporary assistance for needy families (TANF) benefits;

(b) Are eligible for state family assistance (SFA) benefits;

(c) Refuse or fail to meet a TANF or SFA eligibility rule;

(d) Refuse or fail to pursue federal aid assistance, including but not limited to medicaid, without good cause;

(e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause;

(f) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200 without good cause;

(g) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225 without good cause;

(h) Are eligible for supplemental security income (SSI) benefits;

(i) Are an ineligible spouse of an SSI recipient; or

(j) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

(4) If you reside in a public institution and meet all other requirements, your eligibility for ABD depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for ABD if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and:

(A) (~~Sixty-five~~) 65 years of age or older; or

(B) (~~Twenty~~) 20 years of age or younger.

(5) You aren't eligible for ABD when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement in a work release program.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.030, and 2020 c 322. WSR 20-19-006, § 388-400-0060, filed 9/3/20, effective 10/4/20. Statutory Authority: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090, and 2018 c 48. WSR 18-18-007, § 388-400-0060, filed 8/23/18, effective 9/23/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, and 2013 2nd sp.s. c 10. WSR 13-24-040, § 388-400-0060, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-400-0060, filed 4/27/12, effective 6/1/12.]

AMENDATORY SECTION (Amending WSR 20-20-004, filed 9/24/20, effective 10/25/20)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or basic food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) (~~Only-r~~) Receive ((R)) refugee ((€)) cash ((A)) assistance as described under WAC 388-400-0030;

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060; ((and are age sixty-five or older; or))

(iii) Receive a referral to the housing and essential needs (HEN) program as described under WAC 388-400-0070; or

~~((iii))~~ (iv) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) **When we send the review form:**

If you must complete a MCR ...	We send your review form ...
(a) For one program such as basic food.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(c) For basic food and another program when either program has a certification or review period between six and ((twelve)) <u>12</u> months.	In the fifth month of your basic food certification period when you receive basic food and another program. You must complete your review by the 10th day of month six of your basic food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even

if this does not give you (~~ten~~) 10 days notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510 and 2020 c 357. WSR 20-20-004, § 388-418-0011, filed 9/24/20, effective 10/25/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510 and 2011 c 15. WSR 13-09-034, § 388-418-0011, filed 4/11/13, effective 6/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and Public Law 109-171, TANF Interim Final Rule published in the Federal Register - Volume 71, No. 125 on June 29, 2006. WSR 08-02-053, § 388-418-0011, filed 12/28/07, effective 2/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 06-24-025 and 07-01-023, § 388-418-0011, filed 11/29/06 and 12/8/06, effective 10/1/07; WSR 06-13-043, § 388-418-0011, filed 6/15/06, effective 7/17/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 05-09-020, § 388-418-0011, filed 4/12/05, effective 6/1/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-19-134, § 388-418-0011, filed 9/21/04, effective 10/1/04.]

AMENDATORY SECTION (Amending WSR 21-07-004, filed 3/4/21, effective 4/4/21)

WAC 388-447-0130 What referral to the housing and essential needs (HEN) program rules may the department implement during a state of emergency? During a declared state of emergency, the department may implement the following rules to help mitigate impacts to clients:

(1) Postpone review of your HEN referral program eligibility beyond the (~~twelve~~) 12 month period if the department determines you are not eligible for the aged, blind, or disabled (ABD) program at the time of your incapacity review. The postponement of this review may occur retroactively to the date the governor declares a state of emergency.

(2) Accept a diagnosis of a medically determinable impairment from a "supplemental medical evidence" source in subsection (2) of WAC 388-447-0005, or the predictive risk intelligence system (PRISM).

(3) Accept functional medical evidence beyond (~~ninety~~) 90 days of the date of application or incapacity review, or otherwise waive the requirement of WAC 388-447-0010 (3)(c) in its entirety.

(4) Suspend or waive eligibility review requirements detailed in WAC 388-434-0005 for referral to the HEN program.

~~((5) Suspend or waive mid-certification review requirements detailed in WAC 388-418-0001 for referral to the HEN program.))~~

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.09.530, 74.08A.100. WSR 21-07-004, § 388-447-0130, filed 3/4/21, effective 4/4/21.]

AMENDATORY SECTION (Amending WSR 21-07-004, filed 3/4/21, effective 4/4/21)

WAC 388-449-0230 What aged, blind, or disabled (ABD) program rules may the department implement during a state of emergency? During a declared state of emergency, the department may implement the following rules to help mitigate impacts to clients:

(1) Postpone review of your ABD cash eligibility beyond the ~~((twenty-four))~~ 24 month period required in WAC 388-449-0150. The postponement of this review may occur retroactively to the date the governor declares the state of emergency.

(2) Accept a diagnosis of a medically determinable impairment from a "treating medical source" in subsection (2) of WAC 388-449-0010, or the predictive risk intelligence system (PRISM).

(3) Accept functional medical evidence beyond ~~((ninety))~~ 90 days of the date of application or ~~((forty-five))~~ 45 days before the month of disability review, or otherwise waive the requirement of WAC 388-449-0015 (3) (e) in its entirety.

(4) Suspend or waive eligibility review requirements detailed in WAC 388-434-0005 for the ABD program.

~~((5) Suspend or waive mid-certification review requirements detailed in WAC 388-418-0001 for the ABD program.))~~

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.09.530, 74.08A.100. WSR 21-07-004, § 388-449-0230, filed 3/4/21, effective 4/4/21.]

WSR 22-17-083

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 17, 2022, 4:17 p.m., effective September 17, 2022]

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

Purpose: Chapter 246-850 WAC, Orthotics and prosthetic rules. The department of health (department) is adopting amendments to clarify language on examination requirements for licensure. The department identified several needed clarifications regarding the date of when applicants complete their education and take the national certification examination.

Citation of Rules Affected by this Order: Amending WAC 246-850-030 and 246-850-060.

Statutory Authority for Adoption: RCW 18.200.050.

Adopted under notice filed as WSR 22-12-053 on May 26, 2022.

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 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 2, Repealed 0.

Date Adopted: August 17, 2022.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-3652.1

AMENDATORY SECTION (Amending WSR 21-02-002, filed 12/23/20, effective 1/23/21)

WAC 246-850-030 Application requirements. An applicant for licensure shall submit to the department the following:

(1) A completed application and fee as required in chapter 246-12 WAC, Part 2;

(2) ~~((a))~~ Official transcripts, certificate, or other documentation forwarded directly from the issuing agency where the applicant has earned a bachelor degree or completed a certificate program from a program accredited by NCOPE or CAAHEP, or any other accrediting body with substantially equivalent requirements;

~~((b) Documentation of successful completion of the clinical patient management course, if the applicant completes education requirements for licensure on or after January 1, 2020;))~~

- (3) Documentation of completion of an approved internship or residency as described in WAC 246-850-050;
- (4) Documentation of successful completion of licensing examinations as ~~((approved by the secretary))~~ described in WAC 246-850-060;
- (5) Verification from all states in which the applicant holds or has held a license, whether active or inactive, indicating that the applicant is or has not been subject to charges or disciplinary action for unprofessional conduct or impairment; and
- (6) Additional documentation as required by the secretary to determine whether an applicant is eligible for licensure.

[Statutory Authority: RCW 18.19.050, 18.29.130, 18.29.210, 18.34.120, 18.46.060, 18.55.095, 18.84.040, 18.88B.060, 18.89.050, 18.130.050, 18.138.070, 18.155.040, 18.200.050, 18.205.060, 18.215.040, 18.230.040, 18.240.050, 18.250.020, 18.290.020, 18.360.030, 18.360.070, 70.41.030, 70.230.020, 71.12.670, and 18.108.085. WSR 21-02-002, § 246-850-030, filed 12/23/20, effective 1/23/21. Statutory Authority: RCW 18.200.050. WSR 19-09-065, § 246-850-030, filed 4/16/19, effective 5/17/19. Statutory Authority: RCW 18.200.050(1). WSR 98-21-086, § 246-850-030, filed 10/21/98, effective 11/21/98.]

AMENDATORY SECTION (Amending WSR 19-09-065, filed 4/16/19, effective 5/17/19)

WAC 246-850-060 Examination requirements. (1) An applicant for licensure as an orthotist shall successfully complete the following examinations:

- (a) The Washington state jurisprudence examination; and
- (b) As prepared and administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics:
- (i) ~~The orthotic written multiple choice examination ((prepared and administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics))~~;
- ~~((b))~~ (ii) ~~The orthotic written simulation examination ((prepared and administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics))~~; and
- (c) ~~((The Washington state jurisprudence examination.))~~ If the applicant completes the education requirements for licensure on or after January 1, 2020, the orthotic clinical patient management exam.
- (2) An applicant for licensure as a prosthetist shall successfully complete the following examinations:
- (a) The Washington state jurisprudence examination; and
- (b) As prepared and administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics:
- (i) ~~The prosthetic written multiple choice examination ((prepared and administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics))~~;
- ~~((b))~~ (ii) ~~The prosthetic written simulation examination ((prepared and administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics))~~; and
- ~~((c) The Washington state jurisprudence examination.))~~ (iii) If the applicant completes the education requirements for licensure on or after January 1, 2020, the prosthetic clinical patient management exam.

(3) An applicant who has successfully completed examinations administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics prior to July 1, 1991, may be considered by the secretary in order to determine if the applicant meets alternative standards that are substantially equivalent.

[Statutory Authority: RCW 18.200.050. WSR 19-09-065, § 246-850-060, filed 4/16/19, effective 5/17/19. Statutory Authority: RCW 18.200.050(8). WSR 99-07-122, § 246-850-060, filed 3/24/99, effective 4/24/99.]

WSR 22-17-097

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 18, 2022, 5:07 p.m., effective September 18, 2022]

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

Purpose: WAC 246-811-010, 246-811-030, 246-811-035, and 246-811-046; and new WAC 246-811-025 and 246-811-050. The department of health amended the rules for substance use disorder professionals and substance use disorder professional trainees in chapter 246-811 WAC to align with and implement EHB 1311 (chapter 165, Laws of 2021). The adopted rules expand the current regulatory framework to allow certification for substance use disorder professionals through an apprenticeship program.

These rule amendments align department certification requirements with statutory changes and implement EHB 1311 by: (1) Creating definitions specific to apprenticeships; (2) setting hour requirements for apprenticeship instruction and experience; (3) clarifying certification requirements for individuals completing apprenticeship programs; and (4) making other amendments as appropriate to align the chapter with the apprenticeship program requirements.

Citation of Rules Affected by this Order: New WAC 246-811-025 and 246-811-050; and amending WAC 246-811-010, 246-811-030, 246-811-035, and 246-811-046.

Statutory Authority for Adoption: RCW 18.205.060.

Other Authority: EHB 1311 (chapter 165, Laws of 2021).

Adopted under notice filed as WSR 22-12-085 on May 31, 2022.

A final cost-benefit analysis is available by contacting Ted Dale, Office of Health Professions, P.O. Box 47852, Olympia, WA 98504, phone 360-236-2991, TTY 711, email ted.dale@doh.wa.gov, website www.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 4, 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 1, 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 4, Repealed 0.

Date Adopted: August 18, 2022.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shaw, MD, MPH
Secretary

OTS-3521.2

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-811-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly states otherwise.

(1) "Agency" means a community behavioral health agency or facility operated, licensed, or certified by the state of Washington, a federally recognized Indian tribe located with the state, a county, a federally qualified health center, or a hospital.

(2) "Apprentice" means an individual enrolled in an approved and registered apprenticeship program.

(3) "Approved and registered apprenticeship program" means a substance use disorder apprenticeship program approved by the secretary under chapter 18.205 RCW and registered by the department of labor and industries under chapter 49.04 RCW.

(4) "Approved school" means any college or university accredited by a national or regional accrediting body, at the time the applicant completed the required education or other educational programs approved by the secretary.

~~((3))~~ (5) "Competent instructor" has the same meaning as provided in WAC 296-05-003.

(6) "Counseling" means employing any therapeutic techniques including, but not limited to, social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee, that offer, assist, or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential.

~~((4))~~ (7) "Core competencies of substance use disorder counseling" means competencies oriented to assist individuals with substance use disorder in their recovery. Core competencies include the following nationally recognized areas:

- (a) Knowledge;
- (b) Skills;
- (c) Attitudes of professional practice, including assessment and diagnosis of substance use disorder;
- (d) Substance use disorder treatment planning and referral;
- (e) Patient and family education in substance use disorder;
- (f) Individual and group counseling;
- (g) Relapse prevention counseling; and
- (h) Case management.

~~((5))~~ (8) "Department" means the department of health.

(9) "Direct supervision" means the supervisor is on the premises and available for immediate consultation.

~~((6))~~ (10) "Enrolled" means participating in an approved school ((and progressing toward the completion of the course work, or completion of the course work to be certified as)) or approved and registered apprenticeship program, whether a substance use disorder professional trainee is engaged in or has completed course work as described in WAC 246-811-030 ((2)) (3)(a) through (w).

~~((7))~~ (11) "Individual formal meetings" means a meeting with an approved supervisor, involving one approved supervisor and no more than four supervisees.

~~((8))~~ (12) "Official transcript" means the transcript from an approved college or school, in an envelope readily identified as having been sealed by the school.

((9)) (13) "Out-of-state" means any state or territory of the United States.

((10)) (14) "Probationary license" means a temporary license issued to out-of-state applicants qualifying for licensure reciprocity in Washington state under the restrictions and conditions of RCW 18.205.140 and this chapter.

((11)) (15) "Reciprocity" means licensure of out-of-state licensed counselors based on substantial equivalence between Washington state scope of practice and the scope of practice of the other state or territory, subject to a probationary licensure period to complete outstanding Washington state licensure requirements as determined necessary by the secretary to gain full licensure.

((12)) (16) "Recovery" means a process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential. Recovery often involves achieving remission from active substance use disorder.

((13)) (17) "Related field" means health education, behavioral science, sociology, psychology, marriage and family therapy, mental health counseling, social work, psychiatry, nursing, divinity, criminal justice, and counseling education.

((14)) (18) "Related/supplemental instruction" or "RSI" has the same meaning as provided in WAC 296-05-003.

(19) "Substance use disorder counseling" means employing the core competencies of substance use disorder counseling to assist or attempt to assist individuals with substance use disorder in their recovery.

((15)) (20) "Substance use disorder professional" or "SUDP" means an individual certified in substance use disorder counseling under chapter 18.205 RCW and this chapter.

((16)) (21) "Substance use disorder professional trainee" or "SUDPT" means an individual (~~holding a credential~~) credentialed as an SUDPT and working toward the education and experience requirements for certification as a substance use disorder professional under chapter 18.205 RCW and this chapter.

[Statutory Authority: 2019 c 444, 2019 c 446, 2019 c 351, and RCW 18.19.050, 18.205.060, 18.225.040, 43.70.110, and 43.70.250. WSR 20-12-074, § 246-811-010, filed 6/1/20, effective 7/2/20. Statutory Authority: RCW 18.205.100 and 18.205.060. WSR 16-14-052, § 246-811-010, filed 6/29/16, effective 7/30/16. Statutory Authority: Chapter 18.205 RCW. WSR 09-14-111, § 246-811-010, filed 6/30/09, effective 7/1/09. Statutory Authority: RCW 18.205.060(1). WSR 99-13-084, § 246-811-010, filed 6/14/99, effective 7/15/99.]

NEW SECTION

WAC 246-811-025 Certification of a substance use disorder professional. (1) An applicant for a substance use disorder professional certificate shall submit to the department:

- (a) An application on forms provided by the department;
- (b) Official transcripts or apprenticeship certificate of completion to verify meeting educational requirements under WAC 246-811-030;
- (c) Verification of meeting supervised experience hour requirements under WAC 246-811-046 or 246-811-050 on forms provided by the department;

(d) Official verification of meeting examination requirements under WAC 246-811-060; and

(e) The fee required under WAC 246-811-990.

(2) An applicant for a substance use disorder professional certificate under the alternative training path shall submit to the department:

(a) An application on forms provided by the department;

(b) Verification of meeting eligibility requirements for the alternative training path under WAC 246-811-076;

(c) Official verification of meeting educational requirements under WAC 246-811-077;

(d) Verification of obtaining the 1,000 supervised experience hours required under WAC 246-811-046 on forms provided by the department;

(e) Official verification of meeting examination requirements under WAC 246-811-060; and

(f) The fee required under WAC 246-811-990.

[]

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-811-030 Educational requirements. ~~((+1))~~ Except as provided for in WAC 246-811-077 and 246-811-078, to be eligible for certification as a substance use disorder professional an applicant shall meet the education requirements in this section.

(1) The minimum education requirements for a substance use disorder professional credential are:

(a) An associate's degree in human services or related field from an approved school; ~~((+))~~

(b) Successful completion of ~~((ninety))~~ 90 quarter or ~~((sixty))~~ 60 semester college credits in courses from an approved school; or

(c) Successful completion of an approved and registered apprenticeship program.

(2) The minimum amount of instruction required in topics related to the substance use disorder profession is at least:

(a) Forty-five quarter ~~((+))~~ college credits;

(b) Thirty semester college credits ~~((must be in courses relating to the substance use disorder profession and shall)); or~~

(c) Four hundred fifty hours of related/supplemental instruction provided by a competent instructor in an approved and registered apprenticeship program.

(3) Education and apprenticeship program course work must include the following topics specific to individuals with substance use disorder in their recovery:

(a) Understanding addiction;

(b) Pharmacological actions of alcohol and other drugs;

(c) Substance abuse and addiction treatment methods;

(d) Understanding addiction placement, continuing care, and discharge criteria, including American Society of Addiction Medicine (ASAM) criteria;

(e) Cultural diversity including people with disabilities and its implication for treatment;

- (f) Substance use disorder clinical evaluation (screening and referral to include comorbidity);
- (g) HIV/AIDS brief risk intervention for ~~((the chemically dependent))~~ individuals with a substance use disorder;
- (h) Substance use disorder treatment planning;
- (i) Referral and use of community resources;
- (j) Service coordination (implementing the treatment plan, consulting, continuing assessment and treatment planning);
- (k) Individual counseling;
- (l) Group counseling;
- (m) Substance use disorder counseling for families, couples and significant others;
- (n) Client, family and community education;
- (o) Developmental psychology;
- (p) Psychopathology/abnormal psychology;
- (q) Documentation, to include, screening, intake, assessment, treatment plan, clinical reports, clinical progress notes, discharge summaries, and other client related data;
- (r) Substance use disorder confidentiality;
- (s) Professional and ethical responsibilities;
- (t) Relapse prevention;
- (u) Adolescent substance use disorder assessment and treatment;
- (v) Substance use disorder case management; and
- (w) Substance use disorder rules and regulations.

[Statutory Authority: 2019 c 444, 2019 c 446, 2019 c 351, and RCW 18.19.050, 18.205.060, 18.225.040, 43.70.110, and 43.70.250. WSR 20-12-074, § 246-811-030, filed 6/1/20, effective 7/2/20. Statutory Authority: RCW 18.205.100 and 18.205.060. WSR 16-14-052, § 246-811-030, filed 6/29/16, effective 7/30/16. Statutory Authority: Chapter 18.205 RCW. WSR 09-14-111, § 246-811-030, filed 6/30/09, effective 7/1/09. Statutory Authority: RCW 18.205.060(1). WSR 99-13-084, § 246-811-030, filed 6/14/99, effective 7/15/99.]

AMENDATORY SECTION (Amending WSR 21-20-030, filed 9/24/21, effective 10/25/21)

- WAC 246-811-035 Certification of a substance use disorder professional trainee.** (1) ~~((The department of health will issue))~~ To apply for a substance use disorder professional trainee certificate ~~((to))~~ an ((individual who)) applicant shall:
- (a) ~~Submit((s))~~ an application on forms provided by the department ((provides)), including any written documentation needed to provide proof of meeting the eligibility requirements as indicated on the application;
 - ~~((b))~~ ~~Includes written documentation to meet the eligibility criteria;~~
 - ~~((c))~~ Declare((s)) that ((he or she is)) they are enrolled in an approved school or approved and registered apprenticeship program and gaining the experience required to receive a substance use disorder professional credential; and
 - Pay applicable fees in WAC 246-811-990.
- (2) To apply for annual renewal, a substance use disorder professional trainee must submit to the department applicable fees in WAC

246-811-990 and a signed declaration with their annual renewal that states they:

(a) Are enrolled in an approved ((education)) educational program or approved and registered apprenticeship program((τ)); or

(b) Have completed the educational requirements((τ)) in WAC 246-811-030 and are obtaining the experience requirements for a substance use disorder professional credential in WAC 246-811-046 or 246-811-050.

(3) A substance use disorder professional trainee certificate can only be renewed four times, except as provided in RCW 18.205.095.

[Statutory Authority: RCW 18.225.040, 18.205.060, and 2021 c 57; RCW 18.225.145, 18.205.095. WSR 21-20-030, § 246-811-035, filed 9/24/21, effective 10/25/21. Statutory Authority: RCW 18.19.050, 18.29.130, 18.29.210, 18.34.120, 18.46.060, 18.55.095, 18.84.040, 18.88B.060, 18.89.050, 18.130.050, 18.138.070, 18.155.040, 18.200.050, 18.205.060, 18.215.040, 18.230.040, 18.240.050, 18.250.020, 18.290.020, 18.360.030, 18.360.070, 70.41.030, 70.230.020, 71.12.670, and 18.108.085. WSR 21-02-002, § 246-811-035, filed 12/23/20, effective 1/23/21. Statutory Authority: 2019 c 444, 2019 c 446, 2019 c 351, and RCW 18.19.050, 18.205.060, 18.225.040, 43.70.110, and 43.70.250. WSR 20-12-074, § 246-811-035, filed 6/1/20, effective 7/2/20. Statutory Authority: Chapter 18.205 RCW. WSR 09-14-111, § 246-811-035, filed 6/30/09, effective 7/1/09.]

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-811-046 Number of experience hours required for certification as a substance use disorder professional. Except as provided in WAC 246-811-050 and 246-811-070(1), an applicant ((~~must~~)) for substance use disorder professional certification shall complete the following experience requirements based on their level of formal education((τ)):

(1) Two thousand five hundred hours of substance use disorder counseling, for individuals who have an associate degree; ((~~or~~))

(2) Two thousand hours of substance use disorder counseling for individuals who have a baccalaureate degree in human services or a related field from an approved school; ((~~or~~))

(3) One thousand five hundred hours of substance use disorder counseling for individuals who possess a master or doctoral degree in human services or a related field from an approved school; or

(4) One thousand hours of substance use disorder counseling for individuals who are credentialed according to WAC 246-811-076. The experience must be supervised by an approved supervisor meeting the requirements under WAC 246-811-049(8).

[Statutory Authority: 2019 c 444, 2019 c 446, 2019 c 351, and RCW 18.19.050, 18.205.060, 18.225.040, 43.70.110, and 43.70.250. WSR 20-12-074, § 246-811-046, filed 6/1/20, effective 7/2/20. Statutory Authority: RCW 18.205.100 and 18.205.060. WSR 16-14-052, § 246-811-046, filed 6/29/16, effective 7/30/16. Statutory Authority: Chapter 18.205 RCW. WSR 09-14-111, § 246-811-046, filed 6/30/09, effective 7/1/09. Statutory Authority: RCW 18.205.060(1). WSR 99-13-084, § 246-811-046, filed 6/14/99, effective 7/15/99.]

NEW SECTION

WAC 246-811-050 Certification of a substance use disorder professional or trainee through an apprenticeship program. (1) An apprentice accepted into an approved and registered apprenticeship program:

(a) May begin completing related/supplemental instruction at any time after becoming an apprentice; and

(b) Must be credentialed as a substance use disorder professional trainee under WAC 246-811-035 to obtain hours of supervised experience in substance use disorder counseling under subsection (2)(b) of this section.

(2) To be eligible for certification as a substance use disorder professional under WAC 246-811-025, an apprentice shall:

(a) Complete education requirements under WAC 246-811-030;

(b) Complete 2,500 hours of supervised experience in substance use disorder counseling;

(c) Meet supervision requirements under WAC 246-811-048; and

(d) Meet examination requirements under WAC 246-811-060.

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WSR 22-17-109

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 19, 2022, 4:49 p.m., effective September 19, 2022]

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

Purpose: In order to provide an economic climate conducive to the retention of skilled workers in industries adversely affected by general economic downturns and to supplement depressed buying power of employees affected by such downturns, the legislature finds that the public interest would be served by the enactment of laws providing greater flexibility in the payment of unemployment compensation benefits in situations where qualified employers elect to retain employees at reduced hours rather than instituting layoffs (RCW 50.60.010).

The employment security department (ESD) intends to expand access to this program by repealing the rule requiring that an employer be legally registered in the state for at least six months before qualifying for the shared work program.

Citation of Rules Affected by this Order: Repealing WAC 192-250-015.

Statutory Authority for Adoption: Under RCW 50.60.030, the commissioner shall approve a shared work compensation plan if certain criteria are met; the commissioner may also take into account any other factors which may be pertinent. RCW 50.12.010 and 50.12.040 provide general rule-making authority to ESD.

Adopted under notice filed as WSR 22-13-172 on June 22, 2022.

A final cost-benefit analysis is available by contacting Josh Dye, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/shared-work>.

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 1.

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: August 19, 2022.

Dan Zeitlin
Employment System Policy Director

OTS-3860.1REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-250-015

When is an employer eligible to
participate in the shared work program?

WSR 22-17-111

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed August 22, 2022, 8:01 a.m., effective September 22, 2022]

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

Purpose: New WAC 246-853-655 Administration of deep sedation and general anesthesia by osteopathic physicians in dental offices. The board of osteopathic medicine and surgery (board) is adopting a new rule section to regulate the provision of anesthesia by osteopathic physicians in a dental setting.

Citation of Rules Affected by this Order: New WAC 246-853-655.

Statutory Authority for Adoption: RCW 18.57.005 and 18.130.050.

Adopted under notice filed as WSR 22-09-061 on April 19, 2022.

A final cost-benefit analysis is available by contacting Becky McElhiney, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4766, fax 360-236-2901, TTY 711, email osteopathic@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 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 1, Amended 0, Repealed 0.

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

Date Adopted: June 3, 2022.

Alex Sobel, DO, Chair
Board of Osteopathic Medicine and Surgery

OTS-3142.3

NEW SECTION

WAC 246-853-655 Administration of deep sedation and general anesthesia by osteopathic physicians in dental offices. (1) The purpose of this section is to govern the administration of deep sedation and general anesthesia by osteopathic physicians in dental offices. The board establishes these standards to promote effective perioperative communication and appropriately timed interventions, and mitigate adverse events and outcomes.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Administering osteopathic physician" means an individual licensed under chapter 18.57 RCW, who has successfully completed an accredited anesthesiology residency, who administers deep sedation or general anesthesia to a patient in a dental office.

(b) "Deep sedation" has the same meaning as in WAC 246-853-650.

(c) "Dental office" means any facility where dentistry is practiced, as defined in chapter 18.32 RCW, except a hospital licensed under chapter 70.41 RCW or ambulatory surgical facility licensed under chapter 70.230 RCW.

(d) "General anesthesia" has the same meaning as in WAC 246-853-650.

(e) "Perioperative" includes the three phases of surgery: Preoperative, intraoperative, and postoperative.

(3) An administering osteopathic physician is responsible for the perioperative anesthetic management and monitoring of a patient and shall ensure patient care, recordkeeping, equipment, personnel, facilities, and other related matters are in accordance with acceptable and prevailing standards of care including, but not limited to, the following:

(a) Preoperative requirements. An administering osteopathic physician shall ensure the patient has undergone a preoperative health evaluation and document review of the evaluation. The administering osteopathic physician shall also conduct and document a risk assessment to determine whether a patient is an appropriate candidate for deep sedation or general anesthesia and discussion of the risks of deep sedation or general anesthesia with the patient. For a pediatric patient, this assessment must include:

(i) Whether the patient has specific risk factors that may warrant additional consultation before administration of deep sedation or general anesthesia, and how each patient meets criteria for deep sedation or general anesthesia in an outpatient environment. This must include a specific inquiry into whether the patient has signs and symptoms of sleep-disordered breathing or obstructive sleep apnea;

(ii) A discussion with a parent or guardian of a pediatric patient of the particular risks of deep sedation or general anesthesia for a patient who: (A) Is younger than six years old; (B) has special needs; (C) has airway abnormalities; or (D) has a chronic condition. This discussion must include reasoning why the pediatric patient can safely receive deep sedation or general anesthesia in an outpatient environment and any alternatives.

(b) Medical record. The administering osteopathic physician must ensure the anesthesia record be complete, comprehensive, and accurate for each patient, including documentation at regular intervals of information from intraoperative and postoperative monitoring. The recordkeeping requirements under WAC 246-853-650 and 246-817-770 apply to an administering osteopathic physician, including the elements of a separate anesthesia record. The anesthesia record must also include temperature measurement and a heart rate and rhythm measured by electrocardiogram. For a pediatric patient, the administering osteopathic physician shall ensure vital signs are postoperatively recorded at least at five-minute intervals until the patient begins to awaken, then recording intervals may be increased to 10 to 15 minutes.

(c) Equipment. An administering osteopathic physician shall ensure the requirements for equipment and emergency medications under WAC 246-817-724 and 246-817-770 are met, regardless of any delineated responsibility for furnishing of the equipment or medications in a contract between the administering osteopathic physician and dental office. Additionally, for a pediatric patient, an administering osteopathic physician shall ensure there is a complete selection of equipment for clinical application to the pediatric patient. The administering osteopathic physician shall also ensure equipment is available in the recovery area to meet the requirements in this section for mon-

itoring during the recovery period. The administering osteopathic physician shall ensure all equipment and medications are checked and maintained on a scheduled basis.

(d) Recovery and discharge requirements. An administering osteopathic physician shall ensure that:

(i) An osteopathic physician licensed under chapter 18.57 RCW, having successfully completed an accredited anesthesiology residency, allopathic physician licensed under chapter 18.71 RCW, or a certified registered nurse anesthetist licensed under chapter 18.79 RCW, capable of managing complications, providing cardiopulmonary resuscitation, and currently certified in advanced cardiac life support measures appropriate for the patient age group is immediately available for a patient recovering from anesthesia. For a pediatric patient, the osteopathic physician, allopathic physician, or certified registered nurse anesthetist shall also be trained and experienced in pediatric perioperative care;

(ii) At least one licensed health care practitioner experienced in postanesthetic recovery care and currently certified in advanced cardiac life support measures appropriate for the patient age group visually monitors the patient, at all times, until the patient has met the criteria for discharge from the facility. Consideration for prolonged observation must be given to a pediatric patient with an anatomic airway abnormality, such as significant obstructive sleep apnea. A practitioner may not monitor more than two patients simultaneously, and any such simultaneous monitoring must take place in a single recovery room. If a practitioner is qualified to administer deep sedation or general anesthesia, the practitioner may not simultaneously administer deep sedation or general anesthesia and perform recovery period monitoring functions. The practitioner shall provide: (A) Continuous respiratory monitoring via pulse oximetry and cardiovascular monitoring via electrocardiography during the recovery period; (B) monitoring, at regular intervals, during the recovery period of the patient for color of mucosa, skin, or blood, oxygen saturation, blood pressure, and level of consciousness; and (C) measurement of temperature at least once during the recovery period. If a patient's condition or other factor for the patient's health or safety preclude the frequency of monitoring during the recovery period required by this section, the practitioner shall document the reason why such a departure from these requirements is medically necessary;

(iii) Emergency equipment, supplies, medications, and services comply with the provisions of WAC 246-817-770 and are immediately available in all areas where anesthesia is used and for a patient recovering from anesthesia. Resuscitative equipment and medications must be age and size-appropriate, including for care of a pediatric patient, pediatric defibrillator paddles, and vasoactive resuscitative medications and a muscle relaxant such as dantrolene sodium, which must be immediately available in appropriate pediatric concentrations, as well as a written pediatric dose schedule for these medications. The administering osteopathic physician shall ensure that support personnel have knowledge of the emergency care inventory. All equipment and medications must be checked and maintained on a scheduled basis; and

(iv) Before discharge, the patient is awake, alert, and behaving appropriately for age and developmental status, normal patient vital signs, and if applicable, a capable parent or guardian present to assume care of the patient.

(e) Emergency care and transfer protocol. An administering osteopathic physician shall monitor for, and be prepared to treat, complications involving compromise of the airway and depressed respiration, particularly with a pediatric patient. The administering osteopathic physician shall ensure that in the event of a complication or emergency, his or her assistive personnel and all dental office clinical staff are well-versed in emergency recognition, rescue, and emergency protocols, and familiar with a written and documented plan to timely and safely transfer a patient to an appropriate hospital.

(4) (a) An administering osteopathic physician shall submit to the board a report of any patient death or serious perioperative complication, which is or may be the result of anesthesia administered by the osteopathic physician.

(b) The administering osteopathic physician shall notify the board or the department of health, by telephone, email, or fax within 72 hours of discovery and shall submit a complete written report to the board within 30 days of the incident. The written report must include the following:

(i) Name, age, and address of the patient;

(ii) Name of the dentist and other personnel present during the incident;

(iii) Address of the facility or office where the incident took place;

(iv) Description of the type of anesthetic being utilized at the time of the incident;

(v) Dosages, if any, of any other drugs administered to the patient;

(vi) A narrative description of the incident including approximate times and evolution of symptoms; and

(vii) Additional information which the board may require or request.

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WSR 22-17-121
PERMANENT RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed August 23, 2022, 7:58 a.m., effective September 23, 2022]

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

Purpose: Changes to chapter 196-12 WAC, Professional engineers, are necessary because of updates to chapter 18.43 RCW in 2019, and to clarify the processes and requirements for licensure as a professional engineer in Washington. This rule change will impact all applicants applying for licensure as a professional engineer or structural engineer in Washington, but they will have no additional costs to implement and comply. The amendments better define the requirements for licensure, the different ways an applicant can apply for licensure, and allows more flexibility to the board to consider different types of education and experience that do not follow the "normal" path to licensure.

Citation of Rules Affected by this Order: New WAC 196-12-013 and 196-12-014; repealing WAC 196-12-011 and 196-12-012; and amending WAC 196-12-005, 196-12-010, 196-12-020, 196-12-021, 196-12-030, 196-12-045, 196-12-047, 196-12-055, and 196-12-065.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 22-10-087 on May 3, 2022.

Changes Other than Editing from Proposed to Adopted Version: WAC 196-12-010 (1)(a), added "practical" back in language.

WAC 196-12-010 (2)(a)(ii)(B), added "and was administered by a board approved foreign jurisdiction."

WAC 196-12-014 (2)(b)(ii), added "per RCW 18.43.050."

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 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 2, Amended 9, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 9, Repealed 2.

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 9, Repealed 2.

Date Adopted: August 11, 2022.

Ken Fuller
Director

OTS-3207.4

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

WAC 196-12-005 Declaration and purpose. This chapter contains rules and procedures for applications, examinations, experience, education, and eligibility (~~and examinations~~) to ~~((be))~~ become licensed as professional engineers.

[Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-005, filed 1/21/04, effective 2/21/04.]

AMENDATORY SECTION (Amending WSR 18-10-085, filed 5/1/18, effective 6/1/18)

WAC 196-12-010 ((Registration)) Licensure requirements for all applicants—Initial licensure and licensed in another jurisdiction. To become licensed as a professional engineer in the state of Washington, whether you are applying for an initial license or you possess a license in another jurisdiction, you must meet the requirements for experience and examinations described below, which need not be completed within the state of Washington:

(1) **Experience:** Have eight years of experience in engineering work of a character satisfactory to the board:

(a) The eight years ~~((of experience))~~ may be a combination of education and practical work experience. ~~((Under selected circumstances a maximum of five years of education (baccalaureate and master's degrees in engineering) can be granted toward the eight-year requirement;))~~

(b) The eight years of experience must be broad based ~~((r))~~ and progressive ~~((experience))~~ to include gaining knowledge and comprehension of engineering subjects and applying engineering principles.

(2) ~~((Receive a))~~ **Examination requirements:** An applicant must have received passing scores on two stages of examination(s). One must test the fundamentals of engineering and the other must test the principles and practice of engineering. Exam results must be independently verified by a NCEES member board, or a board approved foreign jurisdiction.

(a) (i) **Fundamentals of engineering examination** must meet the following requirements:

(ii) The examination must be either:

(A) The National Council of Examiners for Engineering and Surveying (NCEES) fundamentals-of-engineering (FE) examination ~~((Or, have a current license as a Canadian professional engineer (P.Eng), and having received a passing score on the Engineers Canada Professional Practice Examination (PPE);~~

~~((3) Receive a passing score on the NCEES)); or~~

(B) An equivalent examination as determined by the board which tests the applicant's knowledge of appropriate fundamentals of engineering subjects including mathematics and the basic sciences as defined in RCW 18.43.040 (1)(b)(i) and was administered by a board approved foreign jurisdiction.

(b) **Principles and practice of engineering** ~~((PE))~~ **examination** ~~((r~~

~~((4)))~~;

The principles and practice of engineering (PE) examination must be the examination administered by NCEES.

(3) Additional licensure requirements:

An applicant must meet the following additional requirements for licensure:

(a) Receive a passing score on the Washington law review;

~~((5) Be of good character and reputation)~~ (b) Fully complete the application form to the satisfaction of the board; and

~~((6) Payment of)~~ (c) Pay all applicable fees.

~~((Exam results must be independently verified by the NCEES member board, or engineers Canada constituent association that granted approval to take the exam.))~~

[Statutory Authority: RCW 18.43.035. WSR 18-10-085, § 196-12-010, filed 5/1/18, effective 6/1/18; WSR 15-08-064, § 196-12-010, filed 3/27/15, effective 4/30/15; WSR 14-07-106, § 196-12-010, filed 3/19/14, effective 4/19/14; WSR 08-11-100, § 196-12-010, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-010, filed 1/21/04, effective 2/21/04. Statutory Authority: RCW 18.43.035. WSR 98-12-052, § 196-12-010, filed 5/29/98, effective 7/1/98; WSR 88-12-044 (Order PM 738), § 196-12-010, filed 5/27/88; WSR 87-13-005 (Order PM 606), § 196-12-010, filed 6/4/87; WSR 84-04-027 (Order PL 454), § 196-12-010, filed 1/25/84; WSR 82-01-064 (Order 81-10), § 196-12-010, filed 12/18/81; Order PL 224, § 196-12-010, filed 11/5/75; Order PL-129, § 196-12-010, filed 7/27/72; Order 11, § 196-12-010, filed 9/12/68; Rule IIA, filed 11/15/65; Rule IIA, filed 8/4/64; Rule IA, filed 12/26/62.]

NEW SECTION

WAC 196-12-013 FE examination application. (1) **ABET accredited degree applicants.** For those who have attended ABET accredited degree programs and now have reached senior standing, applications to take the FE examination may be completed online directly with NCEES. Applicants should list the state of Washington as their licensing state.

(2) **All other applicants.** Those who do not meet the requirements of subsection (1) of this section must fill out the FE exam application provided on the board website, <https://brpels.wa.gov/>, demonstrate they meet the requirements, provide required documentation, and be approved by the board to take the examination.

Further details on education experience records are provided under WAC 196-12-021.

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NEW SECTION

WAC 196-12-014 PE licensure application form. The board has a single application form for PE licensure in the state of Washington. This application form must be used by all applicants including those applying for the PE exam and licensure concurrently, those who have already taken the PE examination in another jurisdiction but have not

obtained their initial license, and those who are already licensed in another jurisdiction and are seeking a license in Washington state.

(1) **Current PE examination and licensure applications:** Applicants who have not taken the PE examination will apply for both the PE examination and licensure on the application form. In order to be approved by the board to take the PE examination, the applicant must complete all sections of the form, except the date and location of taking the PE exam and must otherwise meet all of the qualifications for licensure. Upon passing the PE examination, the applicant is also qualified for licensure.

Applications for PE examination and licensure must be received at the board's address with the applicable fee by the date posted on the board's website.

(2) **All other applicants for PE licensure in Washington state.** All other applicants applying for licensure in the state of Washington, including those who are licensed in another jurisdiction or have passed the Principles & Practices of engineering examination but have not obtained their initial license, must complete all sections of the application form provided by the board.

(a) All applicants must provide information on the application form that demonstrates they meet all requirements for licensure. This includes work experience requirements, education requirements, and examination requirements as detailed in WAC 196-12-010, 196-12-020, and 196-12-021; and RCW 18.43.040.

(b) All applicants must provide the following documents to verify these requirements:

(i) Education experience records - Official transcripts or the equivalent, showing all grades and degrees.

(ii) Work experience records - Completed form titled "Professional Engineering Experience Verification" which includes not only work experience information and details but also verifications of work experience by supervisors or other verifiers, per RCW 18.43.050.

(iii) Verification of licensing in any other jurisdiction(s), if any.

(iv) Verification of passing the FE examination or its equivalent (if any) and verification of passing the PE examination.

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AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

WAC 196-12-020 Work experience records. The following criteria will be used in evaluating an applicant's experience record:

(1) Work experience will be approved based on a demonstration of competency and progressive responsibility in the analysis, synthesis and evaluation of engineering concepts and data, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering. Under the general guidance and direct supervision of an authorized professional, the applicant must be in a position of making independent judgments and decisions in the following experience areas:

(a) Formulating conclusions and recommendations;

(b) Identifying design and/or project objectives;

(c) Identifying possible alternative methods and concepts;

- (d) Defining performance specifications and functional requirements;
- (e) Solving engineering problems;
- (f) Interacting with allied professionals (~~((from other areas of practice))~~);
- (g) Effectively communicating recommendations and conclusions;
- (h) Demonstrating an understanding and concern for energy/environmental considerations, socioeconomic impact, and sustainability of resources.

~~(2) ((The branch of structural engineering requires specialized work experience to protect the public safety. To be eligible to take the structural license examination, an applicant must have at least two years of progressive responsibility in structural engineering experience. These two years of structural experience are in addition to the eight years of engineering experience required to be registered as a professional engineer and must be documented in the application in accordance with subsection (1) of this section. The structural engineering experience must be supervised by a licensed professional engineer in the branch of structural engineering or a licensed professional engineer with substantial structural engineering work experience.~~

~~(3))~~ Engineering teaching may be considered satisfactory experience up to a maximum of two years at the discretion of the board.

~~((4))~~ (3) Applied research is considered satisfactory experience when it meets the following conditions:

(a) The research must be conducted under the guidance or supervision of a (~~licensed~~) professional engineer. For the purposes of this subsection, guidance or supervision means being cognizant of all applicable aspects of the work and a reviewer of all applicable reporting documentation.

(b) The principal result(s) of the research are in a published report or a recognized engineering journal article in which the applicant is the (~~first~~) primary author or the work is adequately documented and available to the board upon request.

~~((5))~~ (4) For military engineering experience to be considered acceptable, it should be similar to engineering experience that would be gained in a nonmilitary environment as defined in subsection (1) of this section, and such experience must be verified.

~~((6) Any)~~ (5) All work experience gained (~~(without)~~) must be under the direct supervision of a professional engineer authorized to practice under chapter 18.43 RCW or an individual authorized by another statute to practice engineering (~~(, or any work experience gained in any other situation which violates the provisions of chapters 18.43 and 18.235 RCW or Title 196 WAC will not be counted toward the statutory experience requirement)~~).

[Statutory Authority: RCW 18.43.035. WSR 08-11-100, § 196-12-020, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-020, filed 1/21/04, effective 2/21/04. Statutory Authority: RCW 18.43.035. WSR 02-01-071, § 196-12-020, filed 12/14/01, effective 1/30/02; WSR 98-12-052, § 196-12-020, filed 5/29/98, effective 7/1/98; WSR 92-01-101, § 196-12-020, filed 12/17/91, effective 1/17/92; WSR 87-13-005 (Order PM 606), § 196-12-020, filed 6/4/87; WSR 84-04-027 (Order PL 454), § 196-12-020, filed 1/25/84; WSR 82-01-064 (Order 81-10), § 196-12-020, filed 12/18/81; Order PL-115, § 196-12-020, filed 11/24/71; Rule IIB, filed 11/15/65; Rule IIB, filed 5/26/65; Rule IIB, filed 8/4/64; Rule IB, filed 12/26/62.]

AMENDATORY SECTION (Amending WSR 14-07-106, filed 3/19/14, effective 4/19/14)

WAC 196-12-021 Education experience records. Official transcripts must be sent to the board's office for ~~((full education experience credit))~~ review and approval.

(1) A baccalaureate degree in engineering in a program accredited by ~~((the engineering accreditation commission (EAC) of))~~ the accreditation board for engineering and technology (ABET) is equivalent to four years of required experience. Satisfactory completion of each year of such an approved program is equivalent to one year of experience.

(2) ~~((A baccalaureate degree in an engineering technology program accredited by the technology accreditation commission (TAC) of ABET, is equivalent to three years of required experience. Satisfactory completion of each year of such an approved program is equivalent to three-fourths of one year of experience.~~

~~((3) An approved four years in))~~ A degree in engineering from a non-ABET accredited engineering program ((will)) may be given ((a maximum of three)) four years at the discretion of the board. The board will determine if the degree is satisfactory in awarding years of experience.

~~((4))~~ (3) No more than one year may be granted for postgraduate engineering courses ~~((for those applicants having earned degrees in accordance with subsections (1), (2), or (3) of this section)).~~

~~((5))~~ (4) A baccalaureate degree in a nonengineering program will be given a maximum of two years of experience.

~~((If the degree is followed by a graduate degree in engineering from a school that has an ABET accredited undergraduate program in the same discipline as the graduate degree, a maximum of four years of experience may be granted for this combination of education.~~

~~((6))~~ (5) An associate degree in engineering from an approved program may be equivalent for up to two years of experience.

~~((7) Education gained over time where no degree is conferred will be granted no more than two years of experience. For the purpose of this subsection, education over time means:))~~ (6) Sporadic engineering related education may be considered as experience by the board at its discretion. For example, one or two engineering classes taken at a time, often at different schools; ((seminars; workshops; and)) and/or classes taken through industry ((and)) or the military may count as experience. In ~~((order to determine the appropriate amount of experience,))~~ evaluating this type of education, the board will ((be compared)) compare the courses taken to college coursework in a baccalaureate of engineering ((technology)) degree program.

~~((8) The board may approve engineering degree programs from other countries.))~~

(a) A number of foreign degree programs are included in mutual recognition agreements entered into by ABET with other accrediting authorities. Applicants with a degree from one of these programs will be evaluated ~~((in accordance with subsections (1) and (2) of this section))~~ by the board.

(b) Applicants having engineering degrees from programs in countries that are not ABET accredited will be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all necessary information to the evaluation service. The board will use the

evaluation to determine if the foreign degree is ~~((equivalent to an ABET accredited degree. If the board determines that the degree is equivalent, experience will be granted in accordance with subsection (1) or (2) of this section. If the board determines that the foreign degree is not equivalent to an ABET accredited degree, then a maximum of three years of experience will be granted in accordance with subsection (3) of this section))~~ satisfactory to the board to award years of experience.

(c) An applicant with an undergraduate degree from a foreign program that is not ABET accredited, can waive the requirement for a degree evaluation if they have a graduate degree in engineering from a school that has an ABET accredited undergraduate engineering degree program in the same discipline as the graduate degree. ~~((No more than four))~~ Years of experience will be ((granted for this combination of education)) determined at the discretion of the board.

~~((9))~~ (7) Any other education ((will)) may be taken into account and evaluated on its merits by the board.

~~((10))~~ (8) Work experience gained between semesters or quarters or during summers while enrolled in an approved curriculum ((will be considered part of the educational process. No more than one year of experience will be granted for one calendar year)) may be counted as experience at the discretion of the board.

[Statutory Authority: RCW 18.43.035. WSR 14-07-106, § 196-12-021, filed 3/19/14, effective 4/19/14; WSR 08-11-100, § 196-12-021, filed 5/20/08, effective 7/1/08.]

AMENDATORY SECTION (Amending WSR 14-07-106, filed 3/19/14, effective 4/19/14)

WAC 196-12-030 ((Principles and practice)) Additional branches of engineering ((examination)). ~~((The principles and practice of engineering examination is given at times and places as approved by the board.))~~ A professional engineer with a current registration in the state of Washington that is seeking to become licensed in an additional branch of engineering must pass the principles and practice examination for that additional branch.

[Statutory Authority: RCW 18.43.035. WSR 14-07-106, § 196-12-030, filed 3/19/14, effective 4/19/14; WSR 08-11-100, § 196-12-030, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-030, filed 1/21/04, effective 2/21/04. Statutory Authority: RCW 18.43.035. WSR 02-01-071, § 196-12-030, filed 12/14/01, effective 1/30/02; WSR 01-09-016, § 196-12-030, filed 4/6/01, effective 5/7/01; WSR 98-12-052, § 196-12-030, filed 5/29/98, effective 7/1/98; WSR 93-01-081, § 196-12-030, filed 12/15/92, effective 1/15/93; WSR 84-04-027 (Order PL 454), § 196-12-030, filed 1/25/84; WSR 82-01-064 (Order 81-10), § 196-12-030, filed 12/18/81; Order PL-129, § 196-12-030, filed 7/27/72; Order PL-115, § 196-12-030, filed 11/24/71; Order 11, § 196-12-030, filed 9/12/68; Rule IIC, filed 11/15/65, 8/4/64; Rule IC, filed 12/26/62.]

AMENDATORY SECTION (Amending WSR 18-10-085, filed 5/1/18, effective 6/1/18)

WAC 196-12-045 Registration of applicants licensed in other jurisdictions. Licenses may be issued only in the branches of engineering (~~offered~~) currently recognized by the board. The board has discretion to issue a license to an out-of-state licensee who meets the following requirements:

(1) Completes (~~an~~) the application (~~(on-forms))~~ form provided by the board including supporting documentation, as listed in WAC 196-12-010, 196-12-014, 196-12-020, 196-12-021, and pays the appropriate fee;

(2) Holds a currently valid license in a board recognized licensing jurisdiction in a state, territory, possession, district, or foreign country; and

(3) Meets minimum requirements for licensure as determined by the board under WAC 196-12-010 and 196-12-014, including testing that adequately measures the fundamentals of engineering and principles and practice of engineering.

[Statutory Authority: RCW 18.43.035. WSR 18-10-085, § 196-12-045, filed 5/1/18, effective 6/1/18; WSR 08-11-100, § 196-12-045, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-045, filed 1/21/04, effective 2/21/04. Statutory Authority: RCW 18.43.035. WSR 98-12-052, § 196-12-045, filed 5/29/98, effective 7/1/98.]

AMENDATORY SECTION (Amending WSR 18-10-085, filed 5/1/18, effective 6/1/18)

WAC 196-12-047 Structural licensing requirements. The branch of structural engineering requires specialized work experience to protect the public health, safety, and welfare. To be licensed as a structural engineer, an applicant must:

(1) Be currently licensed as a professional engineer in Washington state;

(2) Have at least two years of progressive responsibility in structural engineering experience in addition to the eight years of engineering experience required to be registered as a professional engineer. The structural experience should:

(a) Demonstrate the applicant's ability to design building structures or nonbuilding structures integrated within "significant structures" as defined in RCW 18.43.020 (~~(11) and located in International Building Code (IBC) Seismic Design Category D or above~~) (12);

(b) Be progressive in difficulty and magnitude;

(c) Demonstrate breadth and depth of seismic design (~~subject matter~~) and detailing experience for projects in seismic regions similar to those located in Washington state;

(d) Incorporate two of the four common construction materials (steel, concrete, wood, and masonry);

(e) Reflect ability to design and apply structural engineering principles that show sound judgment on projects involving public health, safety, and welfare;

(f) Be supervised by a licensed professional engineer in the branch of structural engineering or a licensed professional engineer

with substantial structural engineering work experience for projects in seismic regions similar to those located in Washington state; and

(3) Pass a board approved structural exam.

[Statutory Authority: RCW 18.43.035. WSR 18-10-085, § 196-12-047, filed 5/1/18, effective 6/1/18.]

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

WAC 196-12-055 Permit for temporary practice. Any nonresident engineer who intends to practice engineering in the state of Washington on a temporary basis must provide the board with the following before starting any work:

- (1) A completed application with applicable fees.
- (2) Dates work is to be started.
- (3) Name and address of client.
- (4) Description and location (address) of project.
- (5) Name and contact information for local permitting authority.

Plans, specifications, and reports prepared by the nonresident engineer must be signed, dated, and stamped with their professional seal. A copy of the permit issued by this board shall be attached to the engineering documents submitted for approval or building permit.

[Statutory Authority: RCW 18.43.035. WSR 08-11-100, § 196-12-055, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-055, filed 1/21/04, effective 2/21/04.]

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

WAC 196-12-065 Retired status. A professional engineer having reached the age of (~~sixty-five~~) 65 and having discontinued active practice as a professional engineer may be eligible for retired status. "Active practice" is defined as exercising direct supervision and control over any professional engineering activity as defined in RCW 18.43.020(5).

- (1) Request for retired status. Upon approval, a request for retired status will be granted effective the next scheduled renewal date.
- (2) A licensee on retired status may:
 - (a) Retain the board issued wall certificate of registration;
 - (b) Use the title "retired professional engineer" or "PE-retired" or "SE-retired" as appropriate;
 - (c) Work as an engineer in a volunteer capacity, provided that the retired licensee does not create an engineering document or use their seal;
 - (d) Provide experience verifications and references for persons seeking registration;
 - (e) Serve as an instructor for engineering related courses;

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering work performed by the licensee;

(g) Serve in a function that supports the principles of registration and/or promotes the profession of engineering, such as members of commissions, boards or committees;

(h) Serve in an engineering capacity as a "good samaritan." The state laws governing such activity are RCW 38.52.195 and 38.52.1951 and chapter 18.43 RCW.

(3) A licensee on retired status must not:

(a) Perform any engineering activity, as provided for in RCW 18.43.020(5), unless the activity is under the direct supervision of a licensed professional engineer with an active registration in Washington;

(b) Act as the designated engineer for a corporation or limited liability company;

(c) Apply their professional engineers seal to any plan, specification, (~~plat~~) or report.

(4) Certificate of registration reinstatement. A retired licensee may resume active engineering practice with payment of the current renewal fee.

(5) Exemptions. A licensee is not eligible for retired status if their license to practice is under board ordered sanction. This exemption exists until the sanctions have been lifted or satisfied by the board.

[Statutory Authority: RCW 18.43.035. WSR 08-11-100, § 196-12-065, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-065, filed 1/21/04, effective 2/21/04.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-12-011 Application requirements.

WAC 196-12-012 Reexamination requirements.

WSR 22-17-124
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 23, 2022, 9:10 a.m., effective September 26, 2022]

Effective Date of Rule: September 26, 2022.

Purpose: The department of labor and industries (L&I) conducted rule making to clarify language and correct errors in chapter 296-307 WAC, Safety standards for agriculture, Part I, Worker protection standard, to better align the standard with the Washington state department of agriculture (WSDA) worker protection standard found at chapter 16-233 WAC; and to comply with, and be at-least-as-effective-as, United States Environmental Protection Agency (EPA) regulations found in 40 C.F.R. Part 170, as required by chapter 49.17 RCW, the Washington Industrial Safety and Health Act (RCW 49.17.280 (2) (b)).

L&I collaborated with WSDA on this rule making to ensure chapter 296-307 WAC, Safety standards for agriculture, Part I, Worker protection standard, aligns with chapter 16-233 WAC, Worker protection standard, as statutorily required for these pesticide protection rules. WSDA will incorporate the same amendments within chapter 16-233 WAC, Worker protection standard.

Amended Sections:

WAC 296-307-10805:

- Changed "Worker protection standards" to "Worker protection standard" to align with EPA regulations at 40 C.F.R. 170.

WAC 296-307-10825:

- Subsection (6) (b), updated to require information be provided to the treating medical personnel, and maintained the option to give the information to the worker or handler, if requested. Adopted amendments are to align with WSDA worker protection standard and EPA regulations at 40 C.F.R. 170.309 (f) (2), which require the information be provided to the treating medical personnel.
- Updated formatting of numbers throughout the section.

WAC 296-307-10830:

- Subsection (1) (d) (ii), updated requirements related to decontamination supplies to require quantities to meet the requirements of 11 or more workers or handlers. Adopted amendments are to align with WSDA worker protection standard and EPA requirements at 40 C.F.R. 170.311 (a) (5) (ii).
- Updated formatting of numbers throughout the section.

WAC 296-307-10905:

- Subsection (3) (d) (ii), updated requirements for trainers of workers to require completion of an EPA-approved pesticide safety train-the-trainer program for trainers of workers to align with WSDA worker protection standard and EPA requirements at 40 C.F.R. 170.401 (c) (4) (ii).
- Updated formatting of numbers throughout the section.

WAC 296-307-11205:

- Subsection (3) (d) (ii), updated requirements for trainers of handlers to require completion of an EPA-approved pesticide safety train-the-trainer program for trainers of handlers to align with

WSDA worker protection standard and EPA requirements at 40 C.F.R. 170.501 (c) (4) (ii).

- Updated formatting of numbers throughout the section.

WAC 296-307-11220:

- Subsection (2) (e) (iii), moved "Table 3 Chemical Resistance Category Selection Chart for Gloves" from subsection (2) (i) to subsection (2) (e) (iii), as subsection (2) (e) details selection of gloves.
- Subsection (2) (e) (iii), added "Table 4 Solvent List" after Table 3. Table 3 currently refers to Table 4. Table 4 previously not included in error. Both Table 3 and Table 4 from "EPA Label Review Manual, Chapter 10: Worker Protection Labeling."
- Subsection (4) (f), updated language to provide clarification of requirements. Adopted amendments provide clarification and further align with WSDA worker protection standard found at chapter 16-233 WAC.
- Updated formatting of numbers throughout the section.

WAC 296-307-11225:

- Subsection (4), changed references of "eyeflushing" or "eye-flushing" to "eye flushing." Changed to use two words throughout, without hyphenating, for consistency.
- Updated formatting of numbers throughout the section.

WAC 296-307-11415:

- Subsection (2) (h), removed reference to WAC 296-307-10835(1) to align with WSDA worker protection standard found at WAC 16-233-311 (2) (h) and EPA requirements at 40 C.F.R. 170.605 (b) (8). The reference to WAC 296-307-10835(1) is not applicable.
- Updated formatting of numbers throughout the section.

Citation of Rules Affected by this Order: Amending WAC 296-307-10805, 296-307-10825, 296-307-10830, 296-307-10905, 296-307-11205, 296-307-11220, 296-307-11225, and 296-307-11415.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, 49.17.280, 49.17.285.

Adopted under notice filed as WSR 22-12-078 on May 31, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 7, 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 8, Repealed 0.

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

Date Adopted: August 23, 2022.

Joel Sacks
Director

OTS-3515.7

Part I
((Pesticides—() Worker Protection Standard()))

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10805 Federal worker protection standard((s))—Washington state department of labor and industries. This part contains the federal Environmental Protection Agency (EPA) worker protection standard((s)) as listed in 40 C.F.R., Part 170. Revisions to the federal language have been incorporated into this part in order to be consistent with other requirements of Washington state law. These rules are adopted in conjunction with rules adopted by the Washington state department of labor and industries in this chapter, Part I and the Washington state department of agriculture in chapter 16-233 WAC.

[Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-10805, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 21-04-128, filed 2/2/21, effective 3/8/21)

WAC 296-307-10825 Agricultural employer duties—40 C.F.R., Sec. 170.309. Agricultural employers must:

(1) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this part, when applied on the agricultural establishment.

(2) Ensure that each worker and handler subject to this part receives the protections required by this part.

(3) Ensure that any handler and any early entry worker is at least ~~((eighteen))~~ 18 years old.

(4) Provide to each person, including labor contractors, who supervises any workers or handlers, information and directions sufficient to ensure that each worker and handler receives the protections required by this part. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this part.

(5) Require each person, including labor contractors, who supervises any workers or handlers, to provide sufficient information and directions to each worker and handler to ensure that they can comply with the provisions of this part.

(6) Provide emergency assistance in accordance with this subsection. If there is reason to believe that a worker or handler has experienced a potential pesticide exposure during his or her employment on

the agricultural establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within (~~seventy-two~~) 72 hours after his or her employment on the agricultural establishment, and needs emergency medical treatment, the agricultural employer must do all of the following promptly after learning of the possible poisoning or injury:

(a) Make available to that person prompt transportation from the agricultural establishment, including any worker housing area on the establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

(b) Provide all of the following information to (~~that person or to~~) the treating medical personnel, and upon request to the worker or handler:

(i) Copies of the applicable safety data sheet(s) (SDS) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.

(ii) The circumstances of application or use of the pesticide on the agricultural establishment.

(iii) The circumstances that could have resulted in exposure to the pesticide.

(iv) Antidote, first aid and other medical information from the product labeling.

(7) Ensure that workers or other persons employed or supervised by the agricultural establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under WAC 296-307-11205. Before allowing any person not directly employed or supervised by the agricultural establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the agricultural employer must assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such person:

(a) Pesticide application equipment may be contaminated with pesticides.

(b) The potentially harmful effects of exposure to pesticides.

(c) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(d) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(8) Display, maintain, and provide access to pesticide safety information and pesticide application and hazard information that is legible and in accordance with WAC 296-307-10830. If workers or handlers are on the establishment and within the last (~~thirty~~) 30 days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect on the establishment.

(9) Ensure that before a handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(10) Ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or replaced.

(11) The agricultural employer must notify a commercial pesticide handler employer (CPHER) of any specific locations and descriptions of those treated areas and any restrictions on entering the treated areas with restricted-entry intervals (REIs) in effect whenever:

(a) A handler employed by a CIPHER will be on the agricultural establishment; and

(b) The CIPHER handler may be in or walk within a quarter mile of any pesticide treated area with restricted-entry interval (REI) in effect.

(12) Ensure that workers do not enter any area on the agricultural establishment where a pesticide has been applied until the applicable pesticide application and hazard information for each pesticide product applied to that area is displayed in accordance with WAC 296-307-10830(2) and until after the restricted-entry interval has expired and all treated area warning signs have been removed or covered, except for entry permitted by WAC 296-307-11410.

(13) Provide any records or other information required by this section for inspection and copying upon request by an employee of EPA, or any duly authorized representatives of the Washington state department of agriculture or department of labor and industries.

(14) Pesticide safety, application, and hazard information must remain legible at all times when the information is required to be displayed. This information must be in accordance with WAC 296-307-10830.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060. WSR 21-04-128, § 296-307-10825, filed 2/2/21, effective 3/8/21. Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-10825, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10830 Display requirements for pesticide safety information and pesticide application and hazard information—40 C.F.R., Sec. 170.311. (1) **Display of pesticide safety information.** Whenever pesticide safety information and pesticide application and hazard information are required to be provided under WAC 296-307-10825(8), pesticide safety information must be legible and displayed in accordance with this subsection.

(a) **General.** The pesticide safety information must be conveyed in a manner that workers and handlers can understand.

(b) The pesticide safety information must include all of the following points:

(i) Avoid getting on the skin or into the body any pesticides that may be on or in plants, soil, irrigation water, tractors, and other equipment, on used personal protective equipment, or drifting from nearby applications.

(ii) Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.

Note: Consider including other activities that could be a route of exposure such as using a phone or cell phone, or tablet, applying makeup, and getting into a personal vehicle.

(iii) Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).

(iv) Wash or shower with soap and water, shampoo hair, and put on clean clothes after work.

(v) Wash work clothes separately from other clothes before wearing them again.

(vi) If pesticides are spilled or sprayed on the body use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

(vii) Follow directions about keeping out of treated areas and application exclusion zones.

(viii) Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured or made ill by pesticides.

(ix) The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information must be clearly identified as emergency medical contact information on the display.

(x) The name, address, and telephone number of the Washington state department of agriculture and Washington state department of labor and industries, 1-800-4BE-SAFE (1-800-423-7233).

(c) **Changes to pesticide safety information.** The agricultural employer must update the pesticide safety information display within (~~twenty-four~~) 24 hours of notice of any changes to the information required in (b) (ix) of this subsection.

(d) **Location.** The pesticide safety information must be displayed at each of the following sites on the agricultural establishment:

(i) The site selected pursuant to subsection (2) (b) of this section for display of pesticide application and hazard information.

(ii) Anywhere that decontamination supplies must be provided on the agricultural establishment pursuant to WAC 296-307-10930, 296-307-11225 or 296-307-11415, but only when the decontamination supplies are located at permanent sites or being provided at locations and in quantities to meet the requirements (~~of ten or more gallons of water~~) for 11 or more workers or handlers.

(e) **Accessibility.** When pesticide safety information is required to be displayed, workers and handlers must be allowed access to the pesticide safety information at all times during normal work hours.

(2) **Keeping and displaying pesticide application and hazard information.** Whenever pesticide safety information and pesticide application and hazard information is required to be provided under WAC 296-307-10825(8), pesticide application and hazard information for any pesticides that are used on the agricultural establishment must be displayed in a legible manner, retained, and made accessible in accordance with this subsection.

(a) **Content.** The pesticide application and hazard information must include all of the following information for each pesticide product applied:

(i) A copy of the safety data sheet (SDS).

(ii) The name, EPA registration number, and active ingredient(s) of the pesticide product.

(iii) The crop or site treated and the location and description of the treated area.

(iv) The date(s) and times the application started and ended.

(v) The duration of the applicable labeling-specified restricted-entry interval for that application.

(b) **Location.** The pesticide application and hazard information must be displayed at a place on the agricultural establishment where workers and handlers are likely to pass by or congregate and where it can be readily seen and read.

(c) **Accessibility.** When the pesticide application and hazard information is required to be displayed, workers and handlers must be allowed access to the location of the information at all times during normal work hours.

(d) **Timing.** The pesticide application and hazard information for each pesticide product applied must be displayed no later than (~~twenty-four~~) 24 hours after the end of the application of the pesticide. The pesticide application and hazard information must be displayed continuously from the beginning of the display period until at least (~~thirty~~) 30 days after the end of the last applicable restricted-entry interval, or until workers or handlers are no longer on the establishment, whichever is earlier.

(e) **Record retention.** Whenever pesticide safety information and pesticide application and hazard information is required to be displayed in accordance with this subsection, the agricultural employer must retain the pesticide application and hazard information described in (a) of this subsection on the agricultural establishment for seven years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

(f) **Access to pesticide application and hazard information by a worker or handler.**

(i) If a person is or was employed as a worker or handler by an establishment during the period that particular pesticide application and hazard information was required to be displayed and retained in accordance with (e) and (f) of this subsection, and the person requests a copy of such application and/or hazard information, or requests access to such application and/or hazard information after it is no longer required to be displayed, the agricultural employer must provide the worker or handler with a copy of or access to all of the requested information within (~~fifteen~~) 15 days of the receipt of any such request. The worker or handler may make the request orally or in writing.

(ii) Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, nondiscriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the worker or handler for additional copies of the record.

(g) **Access to pesticide application and hazard information by treating medical personnel.** Any treating medical personnel, or any person acting under the supervision of treating medical personnel, may request, orally or in writing, access to or a copy of any information required to be retained for seven years in (f) of this subsection in order to inform diagnosis or treatment of a worker or handler who was employed on the establishment during the period that the information was required to be displayed. The agricultural employer must promptly provide a copy of or access to all of the requested information applicable to the worker's or handler's time of employment on the establishment after receipt of the request.

(h) **Access to pesticide application and hazard information by a designated representative.**

(i) Any worker's or handler's designated representative may request access to or a copy of any information required to be retained for seven years in (f) of this subsection on behalf of a worker or handler employed on the establishment during the period that the information was required to be displayed. The agricultural employer must provide access to or a copy of the requested information applicable to

the worker's or handler's time of employment on the establishment within (~~fifteen~~) 15 days after receiving any such request, provided the request meets the requirements specified in (h)(ii) of this subsection.

(ii) A request by a designated representative for access to or a copy of any pesticide application and/or hazard information must be in writing and must contain all of the following:

(A) The name of the worker or handler being represented.

(B) A description of the specific information being requested. The description should include the dates of employment of the worker or handler, the date or dates for which the records are requested, type of work conducted by the worker or handler (e.g., planting, harvesting, applying pesticides, mixing or loading pesticides) during the period for which the records are requested, and the specific application and/or hazard information requested.

(C) A written statement clearly designating the representative to request pesticide application and hazard information on the worker's or handler's behalf, bearing the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative.

(D) If the worker or handler requests that the pesticide application and/or the hazard information be sent, direction for where to send the information (e.g., mailing address or email address).

(iii) If the written request from a designated representative contains all of the necessary information specified in (h)(i) and (ii) of this subsection, the employer must provide a copy of or access to all of the requested information applicable to the worker's or handler's time of employment on the establishment to the designated representative within (~~fifteen~~) 15 days of receiving the request.

(iv) Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, nondiscriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the designated representative for additional copies of the record.

[Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-10830, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 21-04-128, filed 2/2/21, effective 3/8/21)

WAC 296-307-10905 Training requirements for workers—40 C.F.R., Sec. 170.401. (1) General requirement. Before any worker performs any task in a treated area on an agricultural establishment where within the last (~~thirty~~) 30 days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that each worker has been trained in accordance with this section within the last (~~twelve~~) 12 months, except as provided in subsection (2) of this section.

Note: In addition to the training required by this section, the agricultural employer must assure without exception, that all employees are trained in accordance with chapter 296-901 WAC, Globally harmonized system for hazard communication.

(2) Exceptions. The following workers need not be trained under this section:

(a) A worker who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A worker who has satisfied the handler training requirements in WAC 296-307-11205.

(c) A worker who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230, provided, that a requirement for such certification or licensing is pesticide safety training that includes all the topics in WAC 296-307-11205 (3)(b) or (c) as applicable depending on the date of training.

(3) Training programs.

(a) Pesticide safety training must be presented to workers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the workers can understand, such as through a translator. The training must be conducted by a person who meets the worker trainer requirements of (d) of this subsection, and who must be present during the entire training program and must respond to workers' questions.

(b) The training must include, at a minimum, all of the following topics:

(i) Where and in what form pesticides may be encountered during work activities.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes through which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures, including emergency eye flushing techniques.

(viii) Hazards from chemigation and drift.

(ix) Hazards from pesticide residues on clothing.

(x) Warnings about taking pesticides or pesticide containers home.

(xi) Requirements of this section designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.

(c) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within (~~one hundred eighty-one~~) 181 days after a notice of availability of such training materials appears in the *Federal Register*, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xxiii) of this subsection instead of the topics listed in (b)(i) through (xi) of this subsection.

(i) The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes ensuring workers and handlers have been trained on pesticide safety, providing

pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance, and notifying workers of restrictions during applications and on entering pesticide treated areas. A worker or handler may designate in writing a representative to request access to pesticide application and hazard information.

(ii) How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.

(iii) How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones.

(iv) Where and in what forms pesticides may be encountered during work activities, and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application and chemigation equipment, or used personal protective equipment, and that pesticides may drift through the air from nearby applications or be in irrigation water.

(v) Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.

(vi) Routes through which pesticides can enter the body.

(vii) Signs and symptoms of common types of pesticide poisoning.

(viii) Emergency first aid for pesticide injuries or poisonings.

(ix) Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

(x) How and when to obtain emergency medical care.

(xi) When working in pesticide treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

Note: Consider including other activities that could be a route of exposure such as using a phone or cell phone, or tablet, applying makeup, and getting into a personal vehicle.

(xii) Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.

(xiii) Potential hazards from pesticide residues on clothing.

(xiv) Wash work clothes before wearing them again and wash them separately from other clothes.

(xv) Do not take pesticides or pesticide containers used at work home.

(xvi) Safety data sheets (SDSs) provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. The responsibility of agricultural employers to do all of the following:

(A) Display safety data sheets (SDSs) for all pesticides used on the establishment.

(B) Provide workers and handlers information about the location of the safety data sheets (SDSs) on the establishment.

(C) Provide workers and handlers unimpeded access to safety data sheets (SDSs) during normal work hours.

(xvii) This section prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist

in the application of pesticides unless the worker has been trained as a handler.

(xviii) The responsibility of agricultural employers to provide specific information to workers before directing them to perform early entry activities. Workers must be ~~((eighteen))~~ 18 years old to perform early entry activities.

(xix) Potential hazards to children and pregnant women from pesticide exposure.

(xx) Keep children and nonworking family members away from pesticide treated areas.

(xxi) After working in pesticide treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.

(xxii) How to report suspected pesticide use violations to the Washington state department of agriculture.

(xxiii) This section prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this chapter part, or because the worker or handler provided, caused to be provided or is about to provide information to the employer, the EPA or its agents, or any duly authorized representative of the Washington state department of agriculture regarding conduct that the employee reasonably believes violates this chapter part, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this chapter part.

(d) The person who conducts the training must meet one of the following criteria:

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(ii) Have completed ~~((a))~~ an EPA-approved pesticide safety train-the-trainer program ~~((approved by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW))~~ for trainers of workers; or

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) Recordkeeping.

(a) For each worker required to be trained under subsection (1) of this section, the agricultural employer must maintain on the agricultural establishment, for two years from the date of the training, a record documenting each worker's training including all of the following:

(i) The trained worker's printed name and signature.

(ii) The date of the training.

(iii) Information identifying which EPA-approved training materials were used.

(iv) The trainer's name and documentation showing that the trainer met the requirements of subsection (3)(d) of this section at the time of training.

(v) The agricultural employer's name.

(b) An agricultural employer who provides, directly or indirectly, training required under subsection (1) of this section must provide to the worker upon request a copy of the record of the training that contains the information required under (a) of this subsection.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060. WSR 21-04-128, § 296-307-10905, filed 2/2/21, effective 3/8/21. Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-10905, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 21-04-128, filed 2/2/21, effective 3/8/21)

WAC 296-307-11205 Training requirements for handlers—40 C.F.R., Sec. 170.501. (1) General requirement. Before any handler performs any handler activity involving a pesticide product, the handler employer must ensure that the handler has been trained in accordance with this section within the last (~~twelve~~) 12 months, except as provided in subsection (2) of this section.

Note: In addition to the training required by this section, the agricultural employer must assure without exception, that all employees are trained in accordance with chapter 296-901 WAC, Globally harmonized system for hazard communication.

(2) Exceptions. The following handlers need not be trained under this section:

(a) A handler who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A handler who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230, provided that a requirement for such certification or licensing is pesticide safety training that includes all the topics set out in subsection (3)(b) or (c) of this section as applicable depending on the date of training.

(3) Training programs.

(a) Pesticide safety training must be presented to handlers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the handlers can understand, such as through a translator. The training must be conducted by a person who meets the handler trainer requirements of (d) of this subsection, and who must be present during the entire training program and must respond to handlers' questions.

(b) The pesticide safety training materials must include, at a minimum, all of the following topics:

(i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes by which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures.

(viii) Need for and appropriate use of personal protective equipment.

- (ix) Prevention, recognition, and first-aid treatment of heat-related illness.
- (x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill clean-up.
- (xi) Environmental concerns such as drift, runoff, and wildlife hazards.
- (xii) Warnings about taking pesticides or pesticide containers home.
- (xiii) Requirements of this section that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.
- (c) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within (~~one hundred eighty~~) 180 days after a notice of availability of such training materials appears in the *Federal Register*, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xiv) of this subsection instead of the points listed in (b)(i) through (xiii) of this subsection.
- (i) All the topics required in WAC 296-307-10905 (3)(c).
- (ii) Information on proper application and use of pesticides.
- (iii) Handlers must follow the portions of the labeling applicable to the safe use of the pesticide.
- (iv) Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide.
- (v) Need for and appropriate use and removal of all personal protective equipment.
- (vi) How to recognize, prevent, and provide first-aid treatment for heat-related illness.
- (vii) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- (viii) Environmental concerns, such as drift, runoff, and wildlife hazards.
- (ix) Handlers must not apply pesticides in a manner that results in contact with workers or other persons.
- (x) The responsibility of handler employers to provide handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes providing, cleaning, maintaining, storing, and ensuring proper use of all required personal protective equipment; providing decontamination supplies; and providing specific information about pesticide use and labeling information.
- (xi) Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone.
- (xii) Handlers must be at least (~~eighteen~~) 18 years old.
- (xiii) The responsibility of handler employers to ensure handlers have received respirator fit-testing, training and medical evaluation if they are required to wear a respirator by the product labeling.
- (xiv) The responsibility of agricultural employers to post treated areas as required by this part.
- (d) The person who conducts the training must have one of the following qualifications:

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture under chapter 15.58 or 17.21 RCW; or

(ii) Have completed ((a)) an EPA-approved pesticide safety train-the-trainer program ((approved by a state, federal, or tribal agency having jurisdiction.)) for trainers of handlers; or

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) Recordkeeping.

(a) Handler employers must maintain records of training for handlers employed by their establishment for two years after the date of the training. The records must be maintained on the establishment and must include all of the following information:

(i) The trained handler's printed name and signature.

(ii) The date of the training.

(iii) Information identifying which EPA-approved training materials were used.

(iv) The trainer's name and documentation showing that the trainer met the requirements of subsection (3)(d) of this section at the time of training.

(v) The handler employer's name.

(b) The handler employer must, upon request by a handler trained on the establishment, provide to the handler a copy of the record of the training that contains the information required under (a) of this subsection.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060. WSR 21-04-128, § 296-307-11205, filed 2/2/21, effective 3/8/21. Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-11205, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 21-04-128, filed 2/2/21, effective 3/8/21)

WAC 296-307-11220 Personal protective equipment—40 C.F.R., Sec. 170.507. (1) Handler responsibilities. Any person who performs handler activities involving a pesticide product must use the clothing and personal protective equipment specified on the pesticide product labeling for use of the product, except as provided in WAC 296-307-11420.

(2) Employer responsibilities for providing personal protective equipment. The handler employer must provide to the handler the personal protective equipment required by the pesticide product labeling in accordance with this section. The handler employer must ensure that the personal protective equipment fits, is clean and in proper operating condition. When two or more pesticides are applied to a treated area at the same time, the employer must ensure employees, workers and handlers wear the applicable PPE that would protect against all of the pesticides as a mixture and combined product. For the purposes of this section, long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, and socks are not considered personal protective equipment, although such work clothing must be worn if required by the pesticide product labeling.

(a) If the pesticide product labeling requires that "chemical-resistant" personal protective equipment be worn, it must be made of material that allows no measurable movement of the pesticide being used through the material during use.

(b) If the pesticide product labeling requires that "waterproof" personal protective equipment be worn, it must be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(c) If the pesticide product labeling requires that a "chemical-resistant suit" be worn, it must be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(d) If the pesticide product labeling requires that "coveralls" be worn, they must be loose-fitting, one- or two-piece garments that cover, at a minimum, the entire body except head, hands, and feet.

(e) Gloves must be the type specified on the pesticide product labeling.

(i) Gloves made of leather, cotton, or other absorbent materials may not be worn while performing handler activities unless gloves made of these materials are listed as acceptable for such use on the pesticide product labeling.

(ii) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with nonseparable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than (~~ten~~) 10 hours of use or within (~~twenty-four~~) 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners must not be reused. Contaminated liners must be disposed of in accordance with any federal, state, or local regulations.

Table 3

Chemical Resistance Category Selection Chart for Gloves

(For use when selecting glove types to be listed in the PPE section on pesticide label. Only select glove(s) that indicate a high level of chemical resistance.)

Note: This table below provides examples of categories of chemical resistant materials that can be used to protect against different kinds of pesticides.

Solvent Category (see Table 4)	Barrier Laminate	Butyl Rubber ≥ 14 mils	Nitrile Rubber ≥ 14 mils	Neoprene Rubber ≥ 14 mils	Natural Rubber* ≥ 14 mils	Polyethylene	Polyvinyl Chloride (PVC) ≥ 14 mils	Viton ≥ 14 mils
A (dry and water-based formulations)	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>
B	<u>high</u>	<u>high</u>	<u>slight</u>	<u>slight</u>	<u>none</u>	<u>slight</u>	<u>slight</u>	<u>slight</u>
C	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>moderate</u>	<u>moderate</u>	<u>high</u>	<u>high</u>
D	<u>high</u>	<u>high</u>	<u>moderate</u>	<u>moderate</u>	<u>none</u>	<u>none</u>	<u>none</u>	<u>slight</u>
E	<u>high</u>	<u>slight</u>	<u>high</u>	<u>high</u>	<u>slight</u>	<u>none</u>	<u>moderate</u>	<u>high</u>
F	<u>high</u>	<u>high</u>	<u>high</u>	<u>moderate</u>	<u>slight</u>	<u>none</u>	<u>slight</u>	<u>high</u>
G	<u>high</u>	<u>slight</u>	<u>slight</u>	<u>slight</u>	<u>none</u>	<u>none</u>	<u>none</u>	<u>high</u>

<u>Solvent Category</u> (see Table 4)	<u>Barrier Laminate</u>	<u>Butyl Rubber</u> ≥ 14 mils	<u>Nitrile Rubber</u> ≥ 14 mils	<u>Neoprene Rubber</u> ≥ 14 mils	<u>Natural Rubber*</u> ≥ 14 mils	<u>Poly-ethylene</u>	<u>Polyvinyl Chloride (PVC)</u> ≥ 14 mils	<u>Viton</u> ≥ 14 mils
<u>H</u>	<u>high</u>	<u>slight</u>	<u>slight</u>	<u>slight</u>	<u>none</u>	<u>none</u>	<u>none</u>	<u>high</u>

* Includes natural rubber blends and laminates.

HIGH: Highly chemical-resistant. Clean or replace PPE at end of each day's work period. Rinse off pesticides at rest breaks.

MODERATE: Moderately chemical-resistant. Clean or replace within an hour or two of contact.

SLIGHT: Slightly chemical-resistant. Clean or replace within 10 minutes of contact.

NONE: No chemical-resistance.

Table 4
Solvent List (PRN 93-7, Supplement 2)

<u>Solvent (chemical name or Trade name)</u>	<u>Chemical Resistance Category</u>	<u>Solvent (chemical name or Trade name)</u>	<u>Chemical Resistance Category</u>
<u>Acetone</u>	<u>B</u>	<u>Isopar L</u>	<u>E</u>
<u>Amyl Acetate</u>	<u>D</u>	<u>Isopar M</u>	<u>E</u>
<u>Aromatic 100</u>	<u>F or G</u>	<u>Isopar V</u>	<u>E</u>
<u>Aromatic 150</u>	<u>F or G</u>	<u>Isophorone</u>	<u>B</u>
<u>Aromatic 200</u>	<u>F or G</u>	<u>Isopropanol</u>	<u>C</u>
<u>Aromatic Petroleum</u>	<u>F or G</u>	<u>Kerosene</u>	<u>E</u>
<u>Butoxypolypropylene glycol</u>	<u>C</u>	<u>Methanol</u>	<u>C</u>
<u>Butyl acetate</u>	<u>D</u>	<u>Methyl amyl ketone</u>	<u>B</u>
<u>Cyclohexanone</u>	<u>B</u>	<u>Methyl Carbitol</u>	<u>C</u>
<u>Diacetone alcohol</u>	<u>C</u>	<u>Methyl isobutyl ketone</u>	<u>B</u>
<u>Diethanolamine</u>	<u>C</u>	<u>Mineral oil</u>	<u>E</u>
<u>Diesel fuel</u>	<u>E</u>	<u>Mineral spirits</u>	<u>E</u>
<u>Dipropylene glycol monoethylether</u>	<u>C</u>	<u>Naphtha</u>	<u>E</u>
<u>Ethanol</u>	<u>C</u>	<u>N-methyl pyrrolidone</u>	<u>B</u>
<u>Ethylene glycol</u>	<u>C</u>	<u>Penreco 2251 oil</u>	<u>E</u>
<u>Exxon 589</u>	<u>E</u>	<u>Petroleum Distillate (aliphatic)</u>	<u>E</u>
<u>Heavy Aromatic Naphtha</u>	<u>F or G</u>	<u>Petroleum oil</u>	<u>E</u>
<u>Hexylene glycol</u>	<u>C</u>	<u>Propylene glycol</u>	<u>C</u>
<u>Isopar B</u>	<u>E</u>	<u>T 500-100</u>	<u>F or G</u>
<u>Isopar C</u>	<u>E</u>	<u>Tetrahydro-furfuryl alcohol</u>	<u>C</u>
<u>Isopar E</u>	<u>E</u>	<u>1,1,1-Trichloroethane</u>	<u>H</u>
<u>Isopar G</u>	<u>E</u>	<u>Water</u>	<u>A</u>
<u>Isopar H</u>	<u>E</u>	<u>Xylene</u>	<u>F or G</u>
<u>Isopar K</u>	<u>E</u>	<u>Xylene range solvents</u>	<u>F or G</u>

(f) If the pesticide product labeling requires that "chemical-resistant footwear" be worn, one of the following types of footwear must be worn:

- (i) Chemical-resistant shoes.
- (ii) Chemical-resistant boots.
- (iii) Chemical-resistant shoe coverings worn over shoes or boots.

(g) If the pesticide product labeling requires that "protective eyewear" be worn, one of the following types of eyewear must be worn:

- (i) Goggles.

- (ii) Face shield.
- (iii) Safety glasses with front, brow, and temple protection.
- (iv) Full-face respirator.
- (h) If the pesticide product labeling requires that a "chemical-resistant apron" be worn, a chemical-resistant apron that covers the front of the body from mid-chest to the knees must be worn.
- (i) If the pesticide product labeling requires that "chemical-resistant headgear" be worn, it must be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

~~(Table 3
Chemical Resistance Category Selection Chart for Gloves~~

~~(For use when selecting glove types to be listed in the PPE section on pesticide label. Only select glove(s) that indicate a high level of chemical resistance.)~~

Note: This table below provides examples of categories of chemical resistant materials that can be used to protect against different kinds of pesticides:

Solvent Category (see Table 4)	Barrier Laminate	Butyl Rubber ≥14 mils	Nitrile Rubber ≥14 mils	Neoprene Rubber ≥14 mils	Natural Rubber* ≥14 mils	Polyethylene	Polyvinyl Chloride (PVC) ≥14 mils	Viton ≥14 mils
A (dry and water-based formulations)	high	high	high	high	high	high	high	high
B	high	high	slight	slight	none	slight	slight	slight
C	high	high	high	high	moderate	moderate	high	high
D	high	high	moderate	moderate	none	none	none	slight
E	high	slight	high	high	slight	none	moderate	high
F	high	high	high	moderate	slight	none	slight	high
G	high	slight	slight	slight	none	none	none	high
H	high	slight	slight	slight	none	none	none	high

*Includes natural rubber blends and laminates.

HIGH: Highly chemical-resistant. Clean or replace PPE at end of each day's work period. Rinse off pesticides at rest breaks.

MODERATE: Moderately chemical-resistant. Clean or replace within an hour or two of contact.

SLIGHT: Slightly chemical-resistant. Clean or replace within ten minutes of contact.

NONE: No chemical resistance.)

(j) The respirator specified by the pesticide product labeling must be used. If the label does not specify the type of respirator to be used, it must meet the requirements of Part Y-5 of this chapter. Whenever a respirator is required by the pesticide product labeling, the handler employer must ensure that the requirements of (j) (i) through (iii) of this subsection are met before the handler performs any handler activity where the respirator is required to be worn. The respiratory protection requirements of Part Y-5 of this chapter apply. The handler employer must maintain for two years, on the establishment, records documenting the completion of the requirements of (j) (i) through (iii) of this subsection.

(i) The handler employer must assure that the respirator fits correctly by using the procedures consistent with Part Y-5 of this chapter.

(ii) Handler employers must provide handlers with training in the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of Part Y-5 of this chapter.

(iii) Handler employers must provide handlers with a medical evaluation by a physician or other licensed health care professional

that conforms to the provisions of WAC 296-307-604 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

(3) Use of personal protective equipment.

(a) The handler employer must ensure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(b) The handler employer must ensure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(4) Cleaning and maintenance.

(a) The handler employer must ensure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it must be washed thoroughly in detergent and hot water.

(b) If any personal protective equipment cannot or will not be cleaned properly, the handler employer must ensure the contaminated personal protective equipment is made unusable as apparel or is made unavailable for further use by employees or third parties. The contaminated personal protective equipment must be disposed of in accordance with any applicable laws or regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word "DANGER" or "WARNING" on the label must not be reused and must be disposed of as specified in this subsection. Handler employers must ensure that any person who handles contaminated personal protective equipment described in this subsection wears the gloves specified on the pesticide product labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn must meet the requirements for mixing and loading all of the pesticide products.

(c) The handler employer must ensure that contaminated personal protective equipment is kept separate from noncontaminated personal protective equipment, other clothing or laundry and washed separately from any other clothing or laundry.

(d) The handler employer must ensure that all washed personal protective equipment is dried thoroughly before being stored or reused.

(e) The handler employer must ensure that all clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(f) The handler employer must ensure that when (~~filtering face-piece~~) respirators with particulate filtering elements are used, (~~they~~) particulate filtering elements are replaced (~~when~~) as soon as any one of the following conditions is met:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(g) The handler employer must ensure that when gas- or vapor-removing respirators are used, the gas- or vapor-removing canisters or cartridges are replaced before further respirator use when one of the following conditions is met:

- (i) At the first indication of odor, taste, or irritation.
- (ii) When the maximum use time is reached as determined by a change schedule conforming to the provisions of Part Y-5 of this chapter.
- (iii) When breathing resistance becomes excessive.
- (iv) When required according to manufacturer's recommendations or pesticide product labeling instructions, whichever is more frequent.
- (v) In the absence of any other instructions or indications of service life, at the end of each day's work period.
- (h) The handler employer must inform any person who cleans or launders personal protective equipment of all the following:
 - (i) That such equipment may be contaminated with pesticides and there are potentially harmful effects from exposure to pesticides.
 - (ii) The correct way(s) to clean personal protective equipment and how to protect themselves when handling such equipment.
 - (iii) Proper decontamination procedures that should be followed after handling contaminated personal protective equipment.
- (i) The handler employer must ensure that handlers have a place(s) away from pesticide storage and pesticide use areas where they may do all of the following:
 - (i) Store personal clothing not worn during handling activities.
 - (ii) Put on personal protective equipment at the start of any exposure period.
 - (iii) Remove personal protective equipment at the end of any exposure period.
- (j) The handler employer must not allow or direct any handler to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.
- (5) Heat-related illness. Where a pesticide's labeling requires the use of personal protective equipment for a handler activity, the handler employer must ensure that no handler is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each handler is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

Note: Additional requirements in WAC 296-307-097 Outdoor heat exposure, may apply between May 1st and September 30th of each year. See Part G-1.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060. WSR 21-04-128, § 296-307-11220, filed 2/2/21, effective 3/8/21. Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-11220, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 21-04-128, filed 2/2/21, effective 3/8/21)

WAC 296-307-11225 Decontamination and eye flushing supplies for handlers—40 C.F.R., Sec. 170.509. (1) Requirement. The handler employer must provide decontamination and eye flushing supplies in accordance with this section for any handler that is performing any handler activity or removing personal protective equipment at the place for changing required in WAC 296-307-11220 (4) (i).

(2) General conditions. The decontamination supplies required in subsection (1) of this section must include: At the site where handlers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the handlers may wash thoroughly. At least (~~ten~~) 10 gallons of water for one employee and (~~twenty~~) 20 gallons of water for two or more employees must be provided at mixing and loading sites that do not have running water. The decontamination and eye flushing supplies required in subsection (1) of this section must meet all of the following requirements:

(a) Water. At all times when this section requires handler employers to make water available to handlers for routine washing, emergency decontamination or eye flushing, the handler employer must ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination or eye flushing supplies, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(b) Soap and single-use towels. The handler employer must provide soap and single-use towels for drying in quantities sufficient to meet the handlers' needs. Hand sanitizing gels and liquids or wet towelettes do not meet the requirement for soap. Wet towelettes do not meet the requirement for single-use towels.

(c) Clean change of clothing. The handler employer must provide one clean change of clothing, such as coveralls, for use in an emergency.

(3) Location. The decontamination supplies must be located together outside any treated area or area subject to a restricted-entry interval, and must be reasonably accessible to each handler during the handler activity. The decontamination supplies must not be more than one-quarter mile from the handler, except that where the handler activity is more than one-quarter mile from the nearest place of vehicular access or more than one-quarter mile from any nontreated area, the decontamination supplies may be at the nearest place of vehicular access outside any treated area or area subject to a restricted-entry interval.

(a) Mixing sites. Decontamination supplies must be provided at any mixing site.

(b) Exception for pilots. Decontamination supplies for a pilot who is applying pesticides aerially must be in the aircraft or at the aircraft loading site.

(c) Exception for treated areas. The decontamination supplies must be outside any treated area or area subject to a restricted-entry interval, unless the soap, single-use towels, water and clean change of clothing are protected from pesticide contamination in closed containers.

(4) Emergency (~~eye-flushing~~) eye flushing.

(a) Whenever a handler is mixing or loading a pesticide product whose labeling requires protective eyewear for handlers, or is mixing or loading any pesticide using a closed system operating under pressure, the handler employer must provide at each mixing and loading station and handler decontamination sites, immediately available to the handler, at least one plumbed or portable eye wash system that is capable of delivering gently running water at a rate of at least 0.4 gallons (1.5 liters) per minute for at least (~~fifteen~~) 15 minutes,

at least six gallons of water. A plumbed or portable system meeting the above requirements must be provided at all permanent mixing and loading sites.

(b) Whenever a handler is applying a pesticide product whose labeling requires protective eyewear for handlers, the handler employer must provide at least one pint of water per handler in portable containers that are immediately available to each handler.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060. WSR 21-04-128, § 296-307-11225, filed 2/2/21, effective 3/8/21. Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-11225, filed 10/22/19, effective 2/3/20.]

AMENDATORY SECTION (Amending WSR 21-04-128, filed 2/2/21, effective 3/8/21)

WAC 296-307-11415 Agricultural employer responsibilities to protect workers entering treated areas during a restricted-entry interval—40 C.F.R., Sec. 170.605. If an agricultural employer directs a worker to perform activities in a treated area where a restricted-entry interval is in effect, all of the following requirements must be met:

(1) The agricultural employer must ensure that the worker is at least ~~((eighteen))~~ 18 years old.

(2) Prior to early entry, the agricultural employer must provide to each early entry worker the information described in (a) through (h) of this subsection. The information must be provided orally in a manner that the worker can understand.

(a) Location of early entry area where work activities are to be performed.

(b) Pesticide(s) applied.

(c) Dates and times that the restricted-entry interval begins and ends.

(d) Which exception in WAC 296-307-11410 is the basis for the early entry, and a description of tasks that may be performed under the exception.

(e) Whether contact with treated surfaces is permitted under the exception.

(f) Amount of time the worker is allowed to remain in the treated area.

(g) Personal protective equipment required by the pesticide product labeling for early entry.

(h) Location of the pesticide safety information required in WAC 296-307-10830(1) (~~((or 296-307-10835(1)))~~) and the location of the decontamination supplies required in subsection (8) of this section.

(3) Prior to early entry, the agricultural employer must ensure that each worker either has read the applicable pesticide product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid, and user safety.

(4) The agricultural employer must ensure that each worker who enters a treated area during a restricted-entry interval is provided the personal protective equipment specified in the pesticide product

labeling for early entry. The agricultural employer must ensure that the worker uses the personal protective equipment as intended according to manufacturer's instructions and follows any other applicable requirements on the pesticide product labeling. Personal protective equipment must conform to the standards in WAC 296-307-11220 (2)(a) through (i).

(5) The agricultural employer must maintain the personal protective equipment in accordance with WAC 296-307-11220 (3) and (4).

(6) The agricultural employer must ensure that no worker is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

(7)(a) The agricultural employer must instruct each worker on the proper use and removal of the personal protective equipment, and as appropriate, on its cleaning, maintenance and disposal. The agricultural employer must not allow or direct any worker to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(b) Each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

Note: Additional requirements in WAC 296-307-097 Outdoor heat exposure, may apply between May 1st and September 30th of each year. See Part G-1.

(8) During any early entry activity, the agricultural employer must provide decontamination supplies in accordance with WAC 296-307-11225, except the decontamination supplies must be outside any area being treated with pesticides or subject to a restricted-entry interval, unless the decontamination supplies would otherwise not be reasonably accessible to workers performing early entry tasks.

(9) If the pesticide product labeling of the product applied requires protective eyewear, the agricultural employer must provide at least one pint of water per worker in portable containers for eye flushing that is immediately available to each worker who is performing early entry activities.

(10) At the end of any early entry activities the agricultural employer must provide, at the site where the workers remove personal protective equipment, soap, single-use towels and an adequate amount of water so that the workers may wash thoroughly. At least (~~ten~~) 10 gallons of water for one employee and (~~twenty~~) 20 gallons of water for two or more employees must be provided at early entry sites that do not have running water.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060. WSR 21-04-128, § 296-307-11415, filed 2/2/21, effective 3/8/21. Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.280 and chapter 49.17 RCW. WSR 19-21-169, § 296-307-11415, filed 10/22/19, effective 2/3/20.]

WSR 22-17-144

PERMANENT RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed August 23, 2022, 2:41 p.m., effective September 23, 2022]

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

Purpose: WAC 246-840-010 Definitions. The nursing care quality assurance commission (commission) is adopting an amendment to the definition of nursing technician (NT). The purpose of the amendment to WAC 246-840-010 is to align the definition of NT with RCW 18.79.340. RCW 18.79.340 requires a nursing education program to be "approved by the commission." Without the amendment WAC 246-840-010(30) states an NT student preparing for registered nurse (RN) or licensed practical nurse (LPN) licensure "must be in a nursing educational program in the United States or its territories that is approved by the state or territorial nursing regulatory authority and recognized in the list of approved nursing education programs using the National Council Licensure Examination-RN or National Council Licensure Examination-PN." This potentially delegates the commission's authority to approve nursing programs to out-of-state authorities, fails to establish lines of accountability and enforcement, and is inconsistent with the statutory language.

Citation of Rules Affected by this Order: Amending WAC 246-840-010.

Statutory Authority for Adoption: RCW 18.79.110 and 18.79.340.

Adopted under notice filed as WSR 22-12-092 on June 1, 2022.

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 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 1, Repealed 0.

Date Adopted: August 23, 2022.

Paula R. Meyer, MSN, RN, FRE
Executive Director

Nursing Care Quality Assurance Commission

OTS-3733.3

AMENDATORY SECTION (Amending WSR 22-04-082, filed 1/31/22, effective 5/13/22)

WAC 246-840-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Advanced clinical practice" means practicing at an advanced level of nursing in a clinical setting performing direct patient care.
- (2) "Advanced nursing practice" means the delivery of nursing care at an advanced level of independent nursing practice that maximizes the use of graduate educational preparation, and in-depth nursing knowledge and expertise in such roles as autonomous clinical practitioner, professional and clinical leader, expert practitioner, and researcher.
- (3) "Advanced registered nurse practitioner (ARNP)" is a registered nurse (RN) as defined in RCW 18.79.050, 18.79.240, 18.79.250, and 18.79.400 who has obtained formal graduate education and national specialty certification through a commission approved certifying body in one or more of the designations described in WAC 246-840-302, and who is licensed as an ARNP as described in WAC 246-840-300. The designations include the following:
 - (a) Nurse practitioner (NP);
 - (b) Certified nurse midwife (CNM);
 - (c) Certified registered nurse anesthetist (CRNA); and
 - (d) Clinical nurse specialist (CNS).
- (4) "Associate degree registered nursing education program" means a nursing education program which, upon successful completion of course work, that includes general education and core nursing courses that provide a sound theoretical base combining clinical experiences with theory, nursing principles, critical thinking, and interactive skills, awards an associate degree in nursing (ADN) to prepare its graduates for initial licensure and entry level practice as an RN.
- (5) "Bachelor of science degree registered nursing education program" means a nursing education program which, upon successful completion of course work taught in an associate degree nursing education program, as defined in subsection (28) of this section, plus additional courses physical and social sciences, nursing research, public and community health, nursing management, care coordination, and the humanities, awards a bachelor of science in nursing (BSN) degree, to prepare its graduates for a broader scope of practice, enhances professional development, and provides the nurse with an understanding of the cultural, political, economic, and social issues that affect patients and influence health care delivery.
- (6) "Certifying body" means a nongovernmental agency using predetermined standards of nursing practice to validate an individual nurse's qualifications, knowledge, and practice in a defined functional or clinical area of nursing.
- (7) "Client advocate" means a licensed nurse who actively supports client's rights and choices, including the client's right to receive safe, high quality care, and who facilitates the client's ability to exercise those rights and choices by providing the client with adequate information about their care and options.
- (8) "Commission" means the Washington state nursing care quality assurance commission.
- (9) "Competency" means demonstrated knowledge, skill and ability in the practice of nursing.
- (10) "Conditional approval" is the approval given a nursing education program that has not met the requirements of the law and the rules of the commission. Conditions are specified that must be met within a designated time to rectify the deficiency.
- (11) "Dedicated education unit" means a clinical learning experience within a health care facility, as part of the curriculum of a nursing education program.

(12) "Delegation" means the licensed nurse transfers the performance of selected nursing tasks to competent individuals in selected situations. The nurse delegating the task is responsible and accountable for the nursing care of the client. The nurse delegating the task supervises the performance of the unlicensed person. Nurses must follow the delegation process following the RCW 18.79.260. Delegation in community and in-home care settings is defined by WAC 246-840-910 through 246-840-970.

(13) "Distance education" or "distance learning" means instruction offered by any means where the student and faculty are in separate physical locations. Teaching methods may be synchronous, where the teacher and student communicate at the same time, or asynchronous, where the student and teacher communicate at different times, and shall facilitate and evaluate learning in compliance with nursing education rules.

(14) "Full approval" of a nursing education program is the approval signifying that a nursing program meets the requirements of the law and the rules of the commission.

(15) "Good cause" as used in WAC 246-840-860 for extension of a nurse technician registration means that the nurse technician has had undue hardship such as difficulty scheduling the examination through no fault of their own; receipt of the examination results after 30 days after the nurse technician's date of graduation; or an unexpected family crisis which caused him or her to delay sitting for the examination. Failure of the examination is not "good cause."

(16) "Good standing" as applied to a nursing technician, means the nursing technician is enrolled in a registered nursing program or licensed practical nursing program approved by the commission and is successfully meeting all program requirements.

(17) "Health care professional" means the same as "health care provider" as defined in RCW 70.02.010(18).

(18) "Home state" is defined as where the nursing education program has legal domicile.

(19) "Host state" is defined as the state jurisdiction outside the home state where a student participates in clinical experiences or didactic courses.

(20) "Immediately available" as applied to nursing technicians, means that an RN who has agreed to act as supervisor is on the premises and is within audible range and available for immediate response as needed which may include the use of two-way communication devices which allow conversation between the nursing technician and an RN who has agreed to act as supervisor.

(a) In a hospital setting, the RN who has agreed to act as supervisor is on the same patient care unit as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(b) In a nursing home or clinic setting, an RN who has agreed to act as supervisor is in the same building and on the same floor as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(21) "Initial approval" of nursing education program is the approval status conferred by the commission to a new nursing program based on its proposal prior to the graduation of its first class.

(22) "Licensed practical nurse (LPN)" is a nurse licensed as defined in RCW 18.79.030(3), with a scope of practice defined in RCW 18.79.020 and 18.79.060.

(23) "Limited educational authorization" is an authorization to perform clinical training when enrolled as a student through a commission approved refresher course. This authorization does not permit practice for employment.

(24) "Minimum standards of competency" means the knowledge, skills, and abilities that are expected of the beginning practitioner.

(25) "National nursing education accreditation body" means an independent nonprofit entity, approved by the United States Department of Education as a body that evaluates and approves the quality of nursing education programs within the United States and territories.

(26) "Nontraditional program of nursing" means a school that has a curriculum which does not include a faculty supervised teaching and learning component in clinical settings.

(27) "Nursing education program administrator" is an individual who has the authority and responsibility for the administration of the nursing education program.

(28) "Nursing education program" means a division or department within a state supported educational institution or other institution of higher learning, charged with the responsibility of preparing nursing students and nurses to qualify for initial licensing or higher levels of nursing practice.

(29) "Nursing faculty" means an individual employed by a nursing education program who is responsible for developing, implementing, evaluating, updating, and teaching nursing education program curricula.

(30) "Nursing technician" means a nursing student preparing for RN or LPN licensure who meets the qualifications for ~~((licensure))~~ registration under RCW 18.79.340 who is employed in a hospital licensed under chapter 70.41 RCW or a nursing home licensed under chapter 18.51 RCW, or clinic. ~~((The nursing student must be in a nursing educational program in the United States or its territories that is approved by the state or territorial nursing regulatory authority and recognized in the list of approved nursing education programs using the National Council Licensure Examination-RN or National Council Licensure Examination-PN.))~~ Approved nursing education programs do not include nontraditional schools as defined in subsection (26) of this section.

(31) "Philosophy" means the beliefs and principles upon which a nursing education program curriculum is based.

(32) "Practical nursing education program" means a nursing education program which, upon successful completion of course work that includes core nursing course to provide a sound theoretical base combining clinical experiences with nursing principles, critical thinking, and interactive skills for entry level practical nursing, awards a certificate or degree that the graduate is prepared for interdependent practice to prepare a practical nurse for interdependent practice as an LPN.

(33) "Registered nurse" or "RN" is a licensed nurse as defined in RCW 18.79.030(1), 18.79.040, 18.79.240, and 18.79.260.

(34) "Supervision" of licensed or unlicensed nursing personnel means the provision of guidance and evaluation for the accomplishment of a nursing task or activity with the initial direction of the task or activity; periodic inspection of the actual act of accomplishing the task or activity; and the authority to require corrective action.

(a) "Direct supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the

premises, is quickly and easily available, and has assessed the patient prior to the delegation of the duties.

(b) "Immediate supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is within audible and visual range of the patient, and has assessed the patient prior to the delegation of duties.

(c) "Indirect supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is not on the premises but has given either written or oral instructions for the care and treatment of the patient and the patient has been assessed by the registered nurse prior to the delegation of duties.

(35) "Traditional nursing education program" means a program that has a curriculum which includes a faculty supervised teaching and learning component in clinical settings.

[Statutory Authority: RCW 18.79.010, 18.79.110, and 18.79.340. WSR 22-04-082, § 246-840-010, filed 1/31/22, effective 5/13/22. Statutory Authority: RCW 18.79.050, 18.79.110, and 18.79.160. WSR 16-08-042, § 246-840-010, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 18.79.110 and 2012 c 153. WSR 13-15-064, § 246-840-010, filed 7/15/13, effective 8/15/13. Statutory Authority: RCW 18.79.010 and 18.79.110. WSR 10-24-047, § 246-840-010, filed 11/24/10, effective 1/1/11. Statutory Authority: RCW 18.79.110. WSR 08-11-019, § 246-840-010, filed 5/12/08, effective 6/12/08. Statutory Authority: Chapter 18.79 RCW and 2003 c 258. WSR 04-13-053, § 246-840-010, filed 6/11/04, effective 6/11/04. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-840-010, filed 2/13/98, effective 3/16/98. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-010, filed 6/18/97, effective 7/19/97.]

WSR 22-17-155

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 24, 2022, 7:29 a.m., effective September 24, 2022]

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

Purpose: Chapter 246-292 WAC, Waterworks operator certification. The department of health (department) adopted amendments to eliminate the term "grandparented certification" and replaced it with the term "legacy certification" in WAC 246-292-010 Definitions, abbreviations, and acronyms, and 246-292-085 Grandparented certification. The amendments replace the historically racist term "grandparent" with the term "legacy" without making a substantive change. The change is intended to help achieve procedural and outcome fairness, promoting dignity, honor, and respect for all people.

Citation of Rules Affected by this Order: Amending WAC 246-292-010 and 246-292-085.

Statutory Authority for Adoption: RCW 70A.120.050.

Adopted under notice filed as WSR 22-12-068 on May 27, 2022.

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: August 22, 2022.

Lauren Jenks
Assistant Secretary

OTS-3759.1

AMENDATORY SECTION (Amending WSR 22-07-025, filed 3/9/22, effective 4/9/22)

WAC 246-292-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) **"Air gap"** means a physical separation measured vertically between the lowest point of a free-flowing discharge end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel.

(2) **"Approved air gap"** is defined in chapter 246-290 WAC.

(3) **"Approved AVB (approved atmospheric vacuum breaker)"** is defined in chapter 246-290 WAC.

- (4) **"Approved backflow preventer"** is defined in chapter 246-290 WAC.
- (5) **"Approved backflow prevention assembly"** is defined in chapter 246-290 WAC.
- (6) **"Authority having jurisdiction"** means the local official, board, department, or agency authorized to administer and enforce the Uniform Plumbing Code adopted in chapter 19.27 RCW.
- (7) **"AVB (atmospheric vacuum breaker)"** means a device that contains an air inlet, vent, air inlet valve, and check seat and is used to prevent backsiphonage backflow.
- (8) **"BAT (backflow assembly tester)"** means an individual meeting the requirements of this chapter and certified under chapter 70A.120 RCW to inspect, field test, maintain, and repair backflow prevention assemblies, devices, and air gaps that protect the public water system.
- (9) **"Backflow"** means the reversal of flow of water or other substances through a cross-connection into the public water system or consumer's water system.
- (10) **"Backflow preventer"** means a backflow prevention assembly, air gap, or AVB.
- (11) **"Backflow preventer inspection and field test"** means the set of procedures and measurements performed by a BAT to evaluate a backflow preventer's approval status, installation, and performance to determine compliance with the requirements in WAC 246-290-490.
- (12) **"Backflow prevention assembly"** means a mechanical backflow preventer designed for in-line testing and repair including, but not limited to:
- (a) Reduced pressure backflow assembly;
 - (b) Reduced pressure detector assembly;
 - (c) Double check valve assembly;
 - (d) Double check detector assembly;
 - (e) Pressure vacuum breaker assembly; or
 - (f) Spill-resistant vacuum breaker assembly.
- (13) **"BTO (basic treatment operator)"** means an individual meeting the requirements of this chapter and certified under chapter 70A.120 RCW to perform routine on-site duties in a water treatment plant. BTO duties affect water treatment plant performance, public water system performance, water quality, water quantity, or public health protection.
- (14) **"CCS (cross-connection control specialist)"** means an individual meeting the requirements of this chapter and certified under chapter 70A.120 RCW to develop and implement a cross-connection control program.
- (15) **"Certificate"** means a document issued annually by the department stating that the operator has met the requirements for a specific certified operator classification in WAC 246-292-060.
- (16) **"Certified operator"** means an individual meeting the requirements of this chapter, certified under chapter 70A.120 RCW, and who has a valid certificate for one or more of the following classifications:
- (a) BAT;
 - (b) BTO;
 - (c) CCS;
 - (d) WDS;
 - (e) WDM; or
 - (f) WTPO.

(17) "**CEU (continuing education unit)**" means the nationally recognized measurement, similar to college credit, developed by IACET, in which one CEU is awarded for every 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.

(18) "**College credit**" means a measurement that documents completion of educational courses earned toward a college degree from an accredited college or university.

(19) "**Community water system**" means any Group A public water system providing service to 15 or more service connections used by year-round residents for 180 or more days within a calendar year, regardless of the number of people, or regularly serving at least 25 year-round (i.e., more than 180 days per year) residents.

(20) "**Consumer**" means any person receiving water from a public water system from either the meter or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a water system connected to a public water system through a service connection.

(21) "**Consumer's premises**" means a consumer's real property, any easement held by a consumer for the purpose of delivering the water to the consumer's real property, and all buildings and fixtures on the consumer's real property.

(22) "**Consumer's water system**" means any potable or industrial water system that begins at the point of delivery from the public water system and is located on the consumer's premises. The consumer's water system includes all auxiliary sources of supply, storage, treatment, and distribution facilities, piping, plumbing, and fixtures under the control of the consumer.

(23) "**Contract operator**" means a certified operator who is approved by the department to operate three or more Group A public water systems.

(24) "**Cross-connection control program**" means the administrative and technical procedures the purveyor implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

(25) "**Department**" means the Washington state department of health.

(26) "**Distribution system**" means all piping components of a public water system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

(27) "**GED**" means the general educational development test of the American Council on Education.

(28) (~~"Grandparented certification" means an operator certification granted before January 1, 2001, under which the department granted an exemption for the existing operator in responsible charge from meeting the initial education, experience and examination requirements for the public water system's assigned certification classification.~~

~~(29))~~ "**Gross negligence**" means an act or omission performed or not performed in reckless disregard of a legal duty, or without even slight care.

~~((30))~~ (29) "**GWI (groundwater under the direct influence of surface water)**" means any water beneath the surface of the ground that the department determines has the following characteristics:

(a) Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*; or

(b) Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

~~((31))~~ (30) "**IACET**" means the International Association for Continuing Education and Training.

(31) "**Legacy certification**" means an operator certification granted before January 1, 2001, under which the department granted an exemption for the existing operator in responsible charge from meeting the initial education, experience, and examination requirements for the public water system's assigned certification classification.

(32) "**Major segment**" means a distinct portion of a public water system based on system size and complexity that a purveyor assigns to one or more certified operators in responsible charge.

(33) "**Nationally recognized association of certification authorities**" means an organization that:

(a) Serves as an information center for certification activities;

(b) Recommends minimum standards and guidelines for classification of potable water treatment plants, distribution systems, and certification of operators;

(c) Facilitates reciprocity between a state or provincial program; and

(d) Assists authorities in establishing new certification programs and updating existing programs.

(34) "**Noncommunity water system**" means a Group A public water system that is not a community water system. Noncommunity water systems are further defined as nontransient noncommunity and transient noncommunity.

(35) "**Nontransient noncommunity water system**" means a Group A public water system that provides service opportunities to 25 or more of the same nonresidential people for 180 or more days within a calendar year.

(36) "**OIT (operator in training)**" means an individual with less than the required amount of operating experience meeting the requirements of this chapter and certified under chapter 70A.120 RCW to perform routine on-site duties in a water treatment plant or distribution system.

(37) "**Operating experience**" means the routine performance or management of duties:

(a) In a water treatment plant or distribution system; and

(b) That affect water treatment plant performance, distribution system performance, water quality, water quantity, or public health protection.

(38) "**Operating shift**" means a designated period of time in which a certified operator makes decisions and takes actions that directly impact drinking water quality, water quantity, or public health protection.

(39) "**Person**" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(40) "**Premises isolation**" is defined in chapter 246-290 WAC.

(41) "**Professional growth reporting period**" means a designated period of time not less than three years, in which a certified operator completes the professional growth requirement in WAC 246-292-095.

(42) "**Public water system (Group A public water system)**" means:

(a) A system with 15 or more service connections, regardless of the number of people; or

(b) A system serving an average of 25 or more people per day for 60 or more days within a calendar year, regardless of the number of service connections; and

(c) In addition, a Group A public water system is further defined in WAC 246-290-020.

(43) "**Purveyor**" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of these entities.

(44) "**Relevant excess education**" means science, applied science, or technology CEUs or college credits that exceed the minimum education required for certification in a specific certified operator classification. Example fields of study include, but are not limited to:

(a) Biology;

(b) Chemistry;

(c) Engineering;

(d) Geology; and

(e) Physics.

(45) "**Relevant water system training**" means training that directly relates to information and procedures that influence water quality, water quantity, or public health protection, including:

(a) The operation or maintenance activities of a public water system; or

(b) Managing the operation or maintenance activities of a public water system.

(46) "**Responsible charge**" means the authority a purveyor grants to a certified operator to make decisions:

(a) That will directly impact water quality, water quantity, or public health protection of a public water system; and

(b) Regarding the daily operational activities, process control, or system integrity of a water treatment plant or distribution system.

(47) "**SMA (satellite system management agency)**" means a person that is approved by the department under chapter 246-295 WAC to own or operate more than one public water system on a regional or county-wide basis without the necessity for a physical connection between the systems.

(48) "**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

(49) "**Transient noncommunity water system**" means a Group A public water system that serves:

(a) Twenty-five or more different people each day for 60 or more days within a calendar year; or

(b) Twenty-five or more of the same people each day for 60 or more days, but less than 180 days within the calendar year.

(50) "**USC**" means the University of Southern California.

(51) "**Validated examination**" means an examination that is independently reviewed by subject matter experts, to verify that the examination is based on a job analysis and, where applicable, is related to the classification of a water treatment plant and distribution system.

(52) **"Water-related experience"** means experience:

- (a) Operating a water treatment plant or distribution system;
- (b) Working in water quality, water resources, or water infrastructure in a federal, state, county, local, or other governmental agency;
- (c) Working in industrial water;
- (d) Working in wastewater treatment; or
- (e) Working as a consulting engineer or operations consultant in water quality, water resources, or water infrastructure.

(53) **"Water treatment plant"** means that portion of a public water system that treats or improves the physical, chemical, or microbial quality of the system's water to comply with water quality requirements in chapter 246-290 WAC.

(54) **"WDM (water distribution manager)"** means an individual meeting the requirements of this chapter and certified under chapter 70A.120 RCW to perform or manage routine on-site duties in the distribution system of a public water system that serves more than 250 people. WDM duties affect the public water system performance, water quality, water quantity, or public health protection.

(55) **"WDS (water distribution specialist)"** means an individual meeting the requirements of this chapter and certified under chapter 70A.120 RCW to perform or manage on-site duties in a distribution system of a public water system that serves 250 people or less. WDS duties affect public water system performance, water quality, water quantity, or public health protection.

(56) **"WFI (water facilities inventory)"** means the department form required in WAC 246-290-480(2) that summarizes a public water system's characteristics.

(57) **"WTPO (water treatment plant operator)"** means an individual meeting the requirements of this chapter and certified under chapter 70A.120 RCW to perform or manage on-site duties in a water treatment plant. WTPO duties affect plant performance, public water system performance, water quality, water quantity, or public health protection.

[Statutory Authority: RCW 43.70.040 and 2020 c 20. WSR 22-07-025, § 246-292-010, filed 3/9/22, effective 4/9/22. Statutory Authority: RCW 70.119.050 and chapter 70.119 RCW. WSR 14-01-003, § 246-292-010, filed 12/4/13, effective 1/4/14. Statutory Authority: Chapter 70.119 RCW. WSR 05-06-122, § 246-292-010, filed 3/2/05, effective 4/2/05. Statutory Authority: Chapter 70.119 RCW and Safe Drinking Water Act, Public Law 104-182; 64 F.R. 5916 -5921. WSR 01-02-070, § 246-292-010, filed 12/29/00, effective 1/29/01. Statutory Authority: Chapter 70.119 RCW. WSR 94-04-004, § 246-292-010, filed 1/20/94, effective 2/20/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-292-010, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.119.050. WSR 78-10-053 (Order 1343), § 248-55-020, filed 9/22/78.]

AMENDATORY SECTION (Amending WSR 14-01-003, filed 12/4/13, effective 1/4/14)

WAC 246-292-085 ((Grandparented)) Legacy certification. (1) A certified operator who received a ((grandparented)) legacy certification prior to January 1, 2001, remains subject to the following:

(a) A ((grandparented)) legacy operator certification is valid only for the designated public water system and is not transferable to another operator or public water system;

(b) An operator with a ((grandparented)) legacy certification shall meet all renewal requirements in WAC 246-292-090; and

(c) If an operator with a ((grandparented)) legacy certification fails to renew the certificate as required in WAC 246-292-090, the operator shall no longer be certified. If the certificate expires, the operator must apply for a new certification and meet all the requirements of a new applicant as required in WAC 246-292-060 and 246-292-070.

(2) If the classification of a water treatment plant or distribution system changes to a higher level, the ((grandparented)) legacy certification is no longer valid. The purveyor shall comply with the requirements for obtaining a certified operator, as required in WAC 246-292-040 and 246-292-050.

[Statutory Authority: RCW 70.119.050 and chapter 70.119 RCW. WSR 14-01-003, § 246-292-085, filed 12/4/13, effective 1/4/14. Statutory Authority: Chapter 70.119 RCW. WSR 05-06-122, § 246-292-085, filed 3/2/05, effective 4/2/05. Statutory Authority: Chapter 70.119 RCW and Safe Drinking Water Act, Public Law 104-182; 64 F.R. 5916 - 5921. WSR 01-02-070, § 246-292-085, filed 12/29/00, effective 1/29/01.]

WSR 22-17-166

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed August 24, 2022, 10:22 a.m., effective September 24, 2022]

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

Purpose: The health care authority is amending WAC 182-557-0225(7) to update the risk score weights specifically pertaining to children of various age groups outlined and the weights for health diagnoses for children. This update aligns with the release of version 6.5 of the University of San Diego's Chronic Illness and Disability Payment System.

Citation of Rules Affected by this Order: Amending WAC 182-557-0225.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 22-15-107 on July 20 [19], 2022.

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: August 24, 2022

Wendy Barcus
Rules Coordinator

OTS-3839.1

AMENDATORY SECTION (Amending WSR 17-24-111, filed 12/6/17, effective 1/6/18)

WAC 182-557-0225 Health home services—Methodology for calculating a person's risk score. The agency uses eight steps to calculate a person's risk score.

(1) **Step 1. Collect paid claims and health plan encounter data.** The agency obtains a set of paid fee-for-service claims and managed care encounters for a client.

(a) For clients age (~~seventeen~~) 17 and younger, the agency uses all paid claims and encounters within the last (~~twenty-four~~) 24 months.

(b) For clients age (~~eighteen~~) 18 and older, the agency uses all paid claims and encounters within the last (~~fifteen~~) 15 months.

(i) The claims and encounters include the international classification of diseases (ICD) diagnosis codes and national drug codes (NDC)

submitted by health care providers. These are used in steps 2 and 3 to create a set of risk categories.

(ii) The agency uses two algorithms developed by the University of San Diego:

(A) Chronic illness and disability payment system (CDPS) which assigns ICD diagnosis codes to CDPS risk categories (see Table 3 in subsection (5)(b) of this section); and

(B) Medical Rx (MRx) which assigns NDCs to MRx risk categories (see Table 2 in subsection (3)(b) of this section).

(2) Step 2. Group ICD diagnosis codes into chronic illness and disability payment system risk categories.

(a) To group ICD diagnosis codes into the CDPS risk categories (see Table 1 in (b) of this subsection), the agency uses an ICD diagnosis code to CDPS risk categories crosswalk in subsection

(1)(b)(ii)(A) of this section. Each of the ICD diagnosis codes listed is assigned to one risk category. If an ICD diagnosis code is not listed in the crosswalk it does not map to a risk category that is used in the calculation of the risk score.

(b) Table 1. Titles of Chronic Illness and Disability Payment System Risk Categories

CARVH	Cardiovascular, very high
CARM	Cardiovascular, medium
CARL	Cardiovascular, low
CAREL	Cardiovascular, extra low
PSYH	Psychiatric, high
PSYM	Psychiatric, medium
PSYML	Psychiatric, medium low
PSYL	Psychiatric, low
SKCM	Skeletal, medium
SKCL	Skeletal, low
SKCVL	Skeletal, very low
CNSH	Central Nervous System, high
CNSM	Central Nervous System, medium
CNSL	Central Nervous System, low
PULVH	Pulmonary, very high
PULH	Pulmonary, high
PULM	Pulmonary, medium
PULL	Pulmonary, low
GIH	Gastro, high
GIM	Gastro, medium
GIL	Gastro, low
DIA1H	Diabetes, type 1 high
DIA1M	Diabetes, type 1 medium
DIA2M	Diabetes, type 2 medium
DIA2L	Diabetes, type 2 low
SKNH	Skin, high
SKNL	Skin, low
SKNVL	Skin, very low
RENEH	Renal, extra high
RENVH	Renal, very high
RENM	Renal, medium

RENL	Renal, low
SUBL	Substance abuse, low
SUBVL	Substance abuse, very low
CANVH	Cancer, very high
CANH	Cancer, high
CANM	Cancer, medium
CANL	Cancer, low
DDM	Developmental Disability, medium
DDL	Developmental Disability, low
GENEL	Genital, extra low
METH	Metabolic, high
METM	Metabolic, medium
METVL	Metabolic, very low
PRGCMP	Pregnancy, complete
PRGINC	Pregnancy, incomplete
EYEL	Eye, low
EYEVL	Eye, very low
CERL	Cerebrovascular, low
AIDSH	AIDS, high
INFH	Infectious, high
HIVM	HIV, medium
INFM	Infectious, medium
INFL	Infectious, low
HEMEH	Hematological, extra high
HEMVH	Hematological, very high
HEMM	Hematological, medium
HEML	Hematological, low

(3) Step 3. Group national drug codes (NDCs) into MRx risk categories.

(a) To group the NDC codes into MRx risk categories (see Table 2 in (b) of this subsection), the agency uses a NDC code to MRx risk categories crosswalk in subsection (1)(b)(ii)(B) of this section.

(b) Table 2. Titles of Medicaid Rx Risk Categories

MRx1	Alcoholism
MRx2	Alzheimer's
MRx3	Anti-coagulants
MRx4	Asthma/COPD
MRx5	Attention Deficit
MRx6	Burns
MRx7	Cardiac
MRx8	Cystic Fibrosis
MRx9	Depression/Anxiety
MRx10	Diabetes
MRx11	EENT
MRx12	ESRD/Renal
MRx13	Folate Deficiency
MRx14	CMV Retinitis
MRx15	Gastric Acid Disorder
MRx16	Glaucoma

MRx17	Gout
MRx18	Growth Hormone
MRx19	Hemophilia/von Willebrands
MRx20	Hepatitis
MRx21	Herpes
MRx22	HIV
MRx23	Hyperlipidemia
MRx24	Infections, high
MRx25	Infections, medium
MRx26	Infections, low
MRx27	Inflammatory/Autoimmune
MRx28	Insomnia
MRx29	Iron Deficiency
MRx30	Irrigating Solution
MRx31	Liver Disease
MRx32	Malignancies
MRx33	Multiple Sclerosis/Paralysis
MRx34	Nausea
MRx35	Neurogenic Bladder
MRx36	Osteoporosis/Pagets
MRx37	Pain
MRx38	Parkinsons/Tremor
MRx39	Prenatal Care
MRx40	Psychotic Illness/Bipolar
MRx41	Replacement Solution
MRx42	Seizure Disorders
MRx43	Thyroid Disorder
MRx44	Transplant
MRx45	Tuberculosis

(4) **Step 4. Remove duplicate risk categories.** After mapping all diagnosis and drug codes to the risk categories, the agency eliminates duplicates of each client's risk categories so that there is only one occurrence of any risk category for each client.

(5) **Step 5. Select the highest CDPS risk category within a disease group.**

(a) The agency organizes CPDS risk categories into risk category groups of different intensity levels. The high risk category in each group is used in the calculation of the risk score. The lower level risk categories are eliminated from further calculations.

(b) **Table 3. Chronic Disease Payment System Risk Category Groups**

Group Description	Risk Categories (Ordered Highest to Lowest Intensity)
AIDS/HIV and Infection	AIDSH, INFH, HIVM, INFM, INFL
Cancer	CANVH, CANH, CANM, CANL
Cardiovascular	CARVH, CARM, CARL, CAREL
Central Nervous System	CNSH, CNSM, CNSL

Group Description	Risk Categories (Ordered Highest to Lowest Intensity)
Diabetes	DIA1H, DIA1M, DIA2M, DIA2L
Developmental Disability	DDM, DDL
Eye	EYEL, EYEVL
Gastrointestinal	GIH, GIM, GIL
Hematological	HEMEH, HEMVH, HEMM, HEML
Metabolic	METH, METM, METVL
Pregnancy	PRGCMP, PRGINC
Psychiatric	PSYH, PSYM, PSYML, PSYL
Substance Abuse	SUBL, SUBVL
Pulmonary	PULVH, PULH, PULM, PULL
Renal	RENEH, RENVH, RENM, RENL
Skeletal	SKCM, SKCL, SKCVL
Skin	SKNH, SKNL, SKNVL

(6) **Step 6. Determine age/gender category.**

(a) For each client, the agency selects the appropriate age/gender category. The ~~((eleven))~~ 11 categories are listed in Table 4 in (b) of this subsection. The categories for ages below five and above ~~((sixty-five))~~ 65 are gender neutral.

(b) **Table 4. Age/Gender Categories**

Age	Gender
Age <1	
Age 1 to 4	
Age 5 to 14	Male
Age 5 to 14	Female
Age 15 to 24	Male
Age 15 to 24	Female
Age 25 to 44	Male
Age 25 to 44	Female
Age 45 to 64	Male
Age 45 to 64	Female
Age 65+	

(7) **Step 7. Apply risk weights.**

(a) The agency assigns each risk category and age/gender category a weight. The weight comes from either the model for clients who are age ~~((seventeen))~~ 17 and younger or from the model for clients age ~~((eighteen))~~ 18 and older.

(b) In each model there are three types of weights.

(i) Age/gender - Weights that correspond to the age/gender category of a client.

(ii) CDPS - Weights that correspond to ~~((fifty-eight))~~ 58 of the CDPS risk categories.

(iii) MRx - Weights that correspond to ~~((forty-five))~~ 45 of the MRx risk categories.

(c) **Table 5. Risk Score Weights**

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
Age/Gender	Age <1	Clients of age less than 1	((0.40671)) <u>0.91261</u>	0.00000
	Age 1 to 4	Clients age 1 to 4	((0.40671)) <u>0.31764</u>	0.00000
	Age 5 to 14, Male	Male clients age 5 to 14	((0.28867)) <u>0.25834</u>	0.00000
	Age 5 to 14, Female	Female clients age 5 to 14	((0.29441)) <u>0.26338</u>	0.00000
	Age 15 to 24, Male	Male clients age 15 to 24	((0.22630)) <u>0.25662</u>	-0.01629
	Age 15 to 24, Female	Female clients age 15 to 24	((0.26930)) <u>0.29685</u>	0.03640
	Age 25 to 44, Male	Male clients age 25 to 44	0.00000	0.04374
	Age 25 to 44, Female	Female clients age 25 to 44	0.00000	0.06923
	Age 45 to 64, Male	Male clients age 45 to 64	0.00000	0.13321
	Age 45 to 64, Female	Female clients age 45 to 64	0.00000	0.06841
	Age 65+	Clients age 65 and older	0.00000	-0.05623
CDPS	CARVH	Cardiovascular, very high	((0.53941)) <u>0.84325</u>	2.86702
	CARM	Cardiovascular, medium	((0.23927)) <u>0.33428</u>	0.73492
	CARL	Cardiovascular, low	((0.18510)) <u>0.12835</u>	0.24620
	CAREL	Cardiovascular, extra low	((0.06589)) <u>0.04307</u>	0.06225
	PSYH	Psychiatric, high	((0.47759)) <u>0.40351</u>	0.27085
	PSYM	Psychiatric, medium	((0.31301)) <u>0.23892</u>	0.00000
	PSYML	Psychiatric, medium low	((0.16307)) <u>0.13796</u>	0.00000
	PSYL	Psychiatric, low	((0.10344)) <u>0.07675</u>	0.00000
	SKCM	Skeletal, medium	((0.23477)) <u>0.21071</u>	0.42212
	SKCL	Skeletal, low	((0.10630)) <u>0.08343</u>	0.15467
	SKCVL	Skeletal, very low	((0.07873)) <u>0.06244</u>	0.06773
	CNSH	Central Nervous System, high	((0.30440)) <u>0.80483</u>	0.78090
	CNSM	Central Nervous System, medium	((0.34386)) <u>0.31945</u>	0.40886
	CNSL	Central Nervous System, low	((0.16334)) <u>0.15106</u>	0.18261
	PULVH	Pulmonary, very high	((1.28955)) <u>1.14056</u>	4.01723
	PULH	Pulmonary, high	((0.67772)) <u>0.34356</u>	0.39309
	PULM	Pulmonary, medium	((0.39768)) <u>0.35587</u>	0.31774
	PULL	Pulmonary, low	((0.14708)) <u>0.11315</u>	0.13017

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
	GIH	Gastro, high	((0.78046)) <u>0.65934</u>	1.34924
	GIM	Gastro, medium	((0.29755)) <u>0.24699</u>	0.24372
	GIL	Gastro, low	((0.14579)) <u>0.09767</u>	0.05104
	DIA1H	Diabetes, type 1 high	((0.31680)) <u>0.27018</u>	1.04302
	DIA1M	Diabetes, type 1 medium	((0.31680)) <u>0.27018</u>	0.23620
	DIA2M	Diabetes, type 2 medium	((0.16104)) <u>0.13647</u>	0.17581
	DIA2L	Diabetes, type 2 low	((0.16104)) <u>0.13647</u>	0.09635
	SKNH	Skin, high	((0.49898)) <u>0.56322</u>	0.37981
	SKNL	Skin, low	((0.25185)) <u>0.23664</u>	0.45155
	SKNVL	Skin, very low	((0.07523)) <u>0.05697</u>	0.02119
	RENEH	Renal, extra high	((2.43609)) <u>1.80489</u>	3.41999
	RENVH	Renal, very high	((0.93888)) <u>0.59311</u>	0.69251
	RENM	Renal, medium	((0.33264)) <u>0.28630</u>	0.92846
	RENL	Renal, low	((0.17492)) <u>0.21048</u>	0.17220
	SUBL	Substance Abuse, low	((0.27104)) <u>0.15170</u>	0.16104
	SUBVL	Substance Abuse, very low	((0.04493)) <u>0.01794</u>	0.08784
	CANVH	Cancer, very high	((1.31064)) <u>1.19700</u>	2.80074
	CANH	Cancer, high	((0.57909)) <u>0.51985</u>	0.97173
	CANM	Cancer, medium	((0.29642)) <u>0.22164</u>	0.38022
	CANL	Cancer, low	((0.15058)) <u>0.10350</u>	0.22625
	DDM	Developmental Disability, medium	((0.31414)) <u>0.50073</u>	0.27818
	DDL	Developmental Disability, low	((0.11095)) <u>0.19696</u>	0.05913
	GENEL	Genital, extra low	((0.02242)) <u>0.00790</u>	0.01121
	METH	Metabolic, high	((0.51575)) <u>0.47167</u>	0.47226
	METM	Metabolic, medium	((0.33856)) <u>0.26297</u>	0.11310
	METVL	Metabolic, very low	((0.14658)) <u>0.11546</u>	0.18678
	PRGCMP	Pregnancy, complete	((0.00000)) <u>0.00244</u>	0.00000

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
	PRGINC	Pregnancy, incomplete	<u>((0.17563))</u> 0.12631	0.51636
	EYEL	Eye, low	<u>((0.11538))</u> 0.09919	0.13271
	EYEVL	Eye, very low	<u>((0.04094))</u> 0.02835	0.00000
	CERL	Cerebrovascular, low	<u>((0.10623))</u> 0.14294	0.00000
	AIDSH	AIDS, high	<u>((0.91357))</u> 0.70597	0.47361
	INFH	Infectious, high	<u>((0.91357))</u> 0.70597	0.79689
	HIVM	HIV, medium	<u>((0.60245))</u> 0.26129	0.07937
	INFM	Infectious, medium	<u>((0.41047))</u> 0.26129	0.79689
	INFL	Infectious, low	<u>((0.15311))</u> 0.07784	0.05617
	HEMEH	Hematological, extra high	<u>((2.80021))</u> 5.37808	12.71981
	HEMVH	Hematological, very high	<u>((0.97895))</u> 0.72873	3.08836
	HEMM	Hematological, medium	<u>((0.46032))</u> 0.37824	0.63211
	HEML	Hematological, low	<u>((0.17762))</u> 0.18676	0.25601
MRx	MRx1	Alcoholism	<u>((0.11051))</u> 0.05982	0.01924
	MRx2	Alzheimer's	0.00000	0.08112
	MRx3	Anti-coagulants	<u>((0.31281))</u> 0.34428	0.13523
	MRx4	Asthma/COPD	<u>((0.09825))</u> 0.08758	0.05751
	MRx5	Attention Deficit	0.00000	0.00779
	MRx6	Burns	<u>((0.13977))</u> 0.16633	0.00000
	MRx7	Cardiac	<u>((0.09177))</u> 0.0906	0.06425
	MRx8	Cystic Fibrosis	<u>((0.48222))</u> 0.50399	0.37265
	MRx9	Depression/Anxiety	<u>((0.07013))</u> 0.06743	0.09436
	MRx10	Diabetes	<u>((0.16852))</u> 0.1519	0.17046
	MRx11	EENT	0.00000	0.00072
	MRx12	ESRD/Renal	<u>((1.32358))</u> 1.24598	1.20707
	MRx13	Folate Deficiency	<u>((0.17618))</u> 0.17973	0.11899
	MRx14	CMV Retinitis	<u>((0.41138))</u> 0.37762	0.00000
	MRx15	Gastric Acid Disorder	<u>((0.11001))</u> 0.10082	0.15470

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
	MRx16	Glaucoma	((0.03738)) <u>0.04221</u>	0.12971
	MRx17	Gout	0.00000	0.00000
	MRx18	Growth Hormone	((0.97620)) <u>0.9741</u>	1.59521
	MRx19	Hemophilia/von Willebrands	((11.68858)) <u>13.56192</u>	89.14461
	MRx20	Hepatitis	((0.16213)) <u>0.03018</u>	0.00000
	MRx21	Herpes	((0.04497)) <u>0.0348</u>	0.01725
	MRx22	HIV	((0.69702)) <u>0.65537</u>	1.01178
	MRx23	Hyperlipidemia	0.00000	0.03791
	MRx24	Infections, high	((1.23096)) <u>1.38405</u>	1.51663
	MRx25	Infections, medium	((0.07841)) <u>0.07462</u>	0.06192
	MRx26	Infections, low	0.00000	0.00918
	MRx27	Inflammatory/Autoimmune	((0.09058)) <u>0.08075</u>	0.20046
	MRx28	Insomnia	((0.08510)) <u>0.07093</u>	0.06437
	MRx29	Iron Deficiency	((0.12948)) <u>0.13306</u>	0.15054
	MRx30	Irrigating Solution	((0.64194)) <u>0.87573</u>	0.16387
	MRx31	Liver Disease	((0.34084)) <u>0.45314</u>	0.22681
	MRx32	Malignancies	((0.36730)) <u>0.36859</u>	0.44200
	MRx33	Multiple Sclerosis/Paralysis	((0.03542)) <u>0.0345</u>	0.04353
	MRx34	Nausea	((0.16101)) <u>0.18219</u>	0.17120
	MRx35	Neurogenic Bladder	((0.13864)) <u>0.15282</u>	0.07675
	MRx36	Osteoporosis/Pagets	0.00000	0.00000
	MRx37	Pain	((0.04154)) <u>0.0295</u>	0.04151
	MRx38	Parkinsons/Tremor	((0.17179)) <u>0.17163</u>	0.06257
	MRx39	Prenatal Care	0.00000	0.13192
	MRx40	Psychotic Illness/Bipolar	((0.24399)) <u>0.22819</u>	0.20274
	MRx41	Replacement Solution	((0.47152)) <u>0.58622</u>	1.49405
	MRx42	Seizure Disorders	((0.23418)) <u>0.23997</u>	0.19837
	MRx43	Thyroid Disorder	((0.04267)) <u>0.03948</u>	0.06326
	MRx44	Transplant	((0.34858)) <u>0.37388</u>	0.05810

Category Type	Category	Description	Weights for Children (age <18)	Weights for Adults (age 18+)
	MRx45	Tuberculosis	((0.22778)) 0.20006	0.00000

(8) Step 8. Sum risk weights to obtain the risk score.

After obtaining the weights that correspond to a client's age/gender category and set of risk categories, the agency takes a sum of the values of all of the weights. This sum is the risk score for a client.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-24-111, § 182-557-0225, filed 12/6/17, effective 1/6/18; WSR 15-17-065, § 182-557-0225, filed 8/14/15, effective 9/14/15.]

WSR 22-17-167

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed August 24, 2022, 10:26 a.m., effective September 24, 2022]

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

Purpose: The health care authority (HCA) is amending WAC 182-502-0110 to add that for long-term civil commitments, if medicare and medicaid cover the service, HCA pays the greater of medicare's or medicaid's allowed amount, minus what medicare paid. Due to the amendment in WAC 182-502-0110, HCA is amending WAC 182-500-0065 to add a definition for long-term civil commitments.

Citation of Rules Affected by this Order: Amending WAC 182-502-0110 and 182-500-0065.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 22-15-097 on July 19, 2022.

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 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 2, Repealed 0.

Date Adopted: August 24, 2022.

Wendy Barcus
Rules Coordinator

OTS-3922.1

AMENDATORY SECTION (Amending WSR 19-02-046, filed 12/27/18, effective 1/27/19)

WAC 182-500-0065 Definitions—L. "Limitation extension" see WAC 182-501-0169.

"Limited casualty program (LCP)" means the medically needy (MN) program.

"Long-term civil commitment" means inpatient mental health treatment for clients on 90-day or 180-day court orders whose treatment is authorized by the agency in agency-contracted beds.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 19-02-046, § 182-500-0065, filed 12/27/18, effective 1/27/19. WSR 11-14-075, redefined as § 182-500-0065, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0065, filed 6/29/11, effective 7/30/11.]

OTS-3923.1

AMENDATORY SECTION (Amending WSR 17-06-063, filed 2/28/17, effective 3/31/17)

- WAC 182-502-0110 Conditions of payment and prior authorization requirements—Medicare coinsurance, copayments, and deductibles.** (1) The following people are eligible for benefits under this section:
- (a) Dual-eligible clients enrolled in categorically needy Washington apple health programs;
 - (b) Dual-eligible clients enrolled in medically needy Washington apple health programs; or
 - (c) Clients enrolled in the qualified medicare beneficiary (QMB) program.
- (2) The agency pays the medicare coinsurance, copayments, and deductibles for Part A, Part B, and medicare advantage Part C for an eligible person under subsection (1) of this section:
- (a) Up to the published or calculated medicaid-only rate; and
 - (b) If the provider accepts assignment for medicare payment.
- (3) If a medicare Part A recipient has remaining lifetime reserve days, the agency pays the deductible and coinsurance amounts up to the allowed amount as calculated by the agency.
- (4) If a medicare Part A recipient has exhausted lifetime reserve days during an inpatient hospital stay, the agency pays the deductible and coinsurance amounts up to the agency-calculated allowed amount minus any payment made by medicare, and any payment made by the agency, up to the outlier threshold. Once the outlier threshold is reached, the agency pays according to WAC 182-550-3700.
- (5) If medicare and medicaid cover the service, the agency pays:
- (a) The deductible and coinsurance up to medicare or medicaid's allowed amount, whichever is less; or
 - (b) For long-term civil commitments, as defined in WAC 182-500-0065, the greater of medicare or medicaid's allowed amount, minus what medicare paid.
- (6) If only medicare covers the service, the agency pays the deductible and coinsurance up to the agency's allowed amount established for a QMB client, and at zero for a non-QMB client.
- (7) If a client exhausts medicare benefits, the agency pays for medicaid-covered services under Title 182 WAC and the agency's billing instructions.
- (8) When medicaid requires prior authorization for a service covered by both medicare and medicaid:
- (a) Medicaid does not require prior authorization when the client's medicare benefit is not exhausted.
 - (b) Medicaid does require prior authorization when the client's medicare benefit is exhausted. See also WAC 182-501-0050(5).
- (9) Providers must meet the timely billing requirements under WAC 182-502-0150 in order to be paid for services.
- (10) Payment for services is subject to postpayment review.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-06-063, § 182-502-0110, filed 2/28/17, effective 3/31/17; WSR 16-13-157, § 182-502-0110, filed 6/22/16, effective 7/23/16. WSR 11-14-075, recodified as § 182-502-0110, filed 6/30/11, effective 7/1/11. Statutory Au-

thority: RCW 74.08.090, 74.09.500, 74.09.530. WSR 00-15-050, §
388-502-0110, filed 7/17/00, effective 8/17/00.]

WSR 22-17-168

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed August 24, 2022, 11:19 a.m., effective September 24, 2022]

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

Purpose: The agency revised these rules to update language from "chemical" to "substance" and "detox" to "withdrawal management." Language updated to gender neutral terminology.

Citation of Rules Affected by this Order: Amending WAC 182-533-0701, 182-533-0710, 182-533-0720, and 182-533-0730.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 22-15-110 on July 19, 2022.

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 4, 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 4, Repealed 0.

Date Adopted: August 24, 2022.

Wendy Barcus
Rules Coordinator

OTS-3889.1

~~((CHEMICAL-USING))~~ SUBSTANCE-USING PREGNANT ~~((CUP) WOMEN))~~ PEOPLE
(SUPP) SERVICES

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0701 ~~((Chemical-using))~~ Substance-using pregnant ~~((CUP) women))~~ people (SUPP) program ~~Purpose.~~ The ~~((chemical-using))~~ substance-using pregnant ~~((CUP) women))~~ people (SUPP) program provides immediate access to medical care in a hospital setting to ~~((chemical-using or chemical-dependent))~~ substance-using or substance-dependent pregnant ~~((women))~~ people and their fetuses. The purpose of the immediate access to medical care is to reduce harm to and improve birth outcomes for ~~((mothers))~~ birthing parents and their fetuses by

preventing obstetric and prenatal complications related to ~~((chemical dependency))~~ substance use disorder.

[WSR 11-14-075, recodified as § 182-533-0701, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.800. WSR 04-11-008, § 388-533-701 (codified as WAC 388-533-0701), filed 5/5/04, effective 6/5/04.]

AMENDATORY SECTION (Amending WSR 15-14-038, filed 6/24/15, effective 7/25/15)

WAC 182-533-0710 ~~((Chemical-using))~~ Substance-using pregnant ~~((CUP) women))~~ people (SUPP) program—Client eligibility. (1) To be eligible for the ~~((chemical-using))~~ substance-using pregnant ~~((CUP) women))~~ people (SUPP) program, a ~~((woman))~~ person must be:

- (a) Pregnant; and
- (b) Eligible for medicaid.
- (2) A client eligible under subsection (1) of this section who is enrolled in ~~((a medicaid agency))~~ an agency-contracted managed care plan is eligible for ~~((CUP))~~ SUPP services outside ~~((her))~~ their plan. ~~((CUP))~~ SUPP services and reimbursement are delivered outside a managed care plan and are subject to fee-for-services rules.
- (3) A client receiving ~~((three-day or five-day detoxification))~~ withdrawal management services or secure withdrawal management services through the agency is not eligible for the ~~((CUP women))~~ SUPP program.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-038, § 182-533-0710, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodified as § 182-533-0710, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 05-08-061, § 388-533-0710, filed 3/31/05, effective 5/1/05; WSR 04-11-008, § 388-533-710 (codified as WAC 388-533-0710), filed 5/5/04, effective 6/5/04.]

AMENDATORY SECTION (Amending WSR 15-14-038, filed 6/24/15, effective 7/25/15)

WAC 182-533-0720 ~~((Chemical-using))~~ Substance-using pregnant ~~((CUP) women))~~ people (SUPP) program—Provider requirements. (1) The ~~((medicaid))~~ agency pays only those providers who:

- (a) Have been approved by the agency to provide ~~((chemical-using))~~ substance-using pregnant ~~((CUP) women))~~ people (SUPP) program services;
- (b) Have been licensed and certified as ~~((chemical dependency service providers by the division of))~~ a behavioral health ~~((and recovery (DBHR) under chapter 388-877 WAC))~~ agency by the department of health (DOH) under chapter 246-341 WAC;
- (c) Meet the department of health hospital ~~((accreditation standards))~~ licensing regulations in chapter 246-320 WAC; and
- (d) Meet the general provider requirements in chapter 182-502 WAC ~~((; and~~

~~(e) Are not licensed as an institution for mental disease (IMD) under Centers for Medicare and Medicaid Services (CMS) criteria).~~

(2) Providers must:

(a) Report any changes in their certification, level of care, or program operations to the agency ((~~CUP-women~~) SUPP program manager;

(b) Have written policies and procedures that include a working statement describing the purpose and methods of treatment for ((~~chemical-using or chemical-dependent~~) substance-using or substance-dependent pregnant ((~~women~~) people;

(c) Provide guidelines and resources for current medical treatment methods by specific ((~~chemical~~) substance type;

(d) Have linkages with state and community providers to ensure a working knowledge exists of current medical and substance ((~~abuse~~) use disorder resources; and

(e) Ensure that ((~~a chemical dependency~~) an assessment for substance use disorders of the client has been completed:

(i) By a ((~~chemical dependency~~) substance use disorder professional under chapter 246-811 WAC;

(ii) Using the latest criteria of the American Society of Addiction Medicine (ASAM); and

(iii) No earlier than six months before, and no later than five days after, the client's admission to the ((~~CUP-women~~) SUPP program.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-038, § 182-533-0720, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodified as § 182-533-0720, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 05-08-061, § 388-533-0720, filed 3/31/05, effective 5/1/05; WSR 04-11-008, § 388-533-720 (codified as WAC 388-533-0720), filed 5/5/04, effective 6/5/04.]

AMENDATORY SECTION (Amending WSR 15-14-038, filed 6/24/15, effective 7/25/15)

WAC 182-533-0730 ((~~Chemical-using~~) Substance-using pregnant ((~~CUP-women~~) people (SUPP) program—Covered services. (1) The ((~~medicaid~~) agency pays for the following covered services for a pregnant client and ((~~her~~) their fetus under the ((~~chemical-using~~) substance-using pregnant ((~~CUP-women~~) people (SUPP) program:

(a) Primary acute ((~~detoxification~~) withdrawal management and medical stabilization;

(b) Secondary subacute ((~~detoxification~~) withdrawal management and medical stabilization; and

(c) Rehabilitation treatment and services as determined by the provider.

(2) The maximum length of treatment per inpatient stay that the agency will pay for is ((~~twenty-six~~) 26 days, unless additional days have been preauthorized by the agency ((~~CUP-women~~) (SUPP) program manager.

(3) If a client's pregnancy ends before inpatient treatment is completed, a provider may continue ((~~her~~) treatment through the ((~~twenty-sixth~~) 26th day.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-038, § 182-533-0730, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodi-

fied as § 182-533-0730, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 05-08-061, § 388-533-0730, filed 3/31/05, effective 5/1/05; WSR 04-11-008, § 388-533-730 (codified as WAC 388-533-0730), filed 5/5/04, effective 6/5/04.]