

WSR 23-21-071

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Nursing)

[Filed October 12, 2023, 4:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-06-057.

Title of Rule and Other Identifying Information: Temporary practice permit effective dates for licensed practical nurses (LPN) and registered nurses (RN). The Washington state board of nursing (board) is proposing amendments to WAC 246-840-095 Temporary practice permits, reducing the length of time a temporary practice permit is effective and updating criteria to issue a temporary practice permit in order to align the internal board process with rule language and implement 2SHB 1009 (chapter 165, Laws of 2023), Military spouses—Professional licensing and employment.

Hearing Location(s): On November 29, 2023, at 12:00 p.m., at the Department of Health (DOH), 111 Israel Road S.E., TC2 Room 145, Tumwater, WA 98501; or virtually. We invite you to participate in our public rules hearing using your computer, tablet, or smart phone. Please register at <https://us02web.zoom.us/meeting/register/tZItcOCqpjoqGdYBYxNLU64Tw-cwu3F-xVWq>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: November 29, 2023.

Submit Written Comments to: Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by November 21, 2023.

Assistance for Persons with Disabilities: Contact Jessilyn Dagum, phone 360-236-3538, fax 360-236-4738, TTY 711, email NCQAC.Rules@doh.wa.gov, by November 21, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Nurse applicants with an out-of-state address, including RNs, advanced registered nurse practitioners, and LPNs, are required under RCW 18.130.064 to complete a national fingerprint background check prior to licensure. The board is proposing amendments to reduce the length of time a temporary practice permit is active from 180 days after the temporary practice permit is issued to 60 days, and reducing the extension of 180 days to 30 days to align WAC 246-840-095 with the current practice of the board and promote completion of the licensure process.

The proposed amendments exclude military spouses in accordance with 2SHB 1009 (chapter 165, Laws of 2023), Military spouses—Professional licensing and employment, which requires the board to issue a temporary practice permit, which is active for no less than 180 days, to a person who meets the criteria of RCW 18.340.020 within 30 days of receiving a completed application.

Reasons Supporting Proposal: The board's current practice is to issue a temporary practice permit after the applicant meets all other licensure requirements aside from receipt of the national fingerprint background check, allowing the nurse to begin working in Washington state.

Currently, under WAC 246-840-095 the temporary practice permit is valid for 180 days, until the board issues a permanent Washington state license to the nurse, or a notice of decision to deny the application is mailed to the applicant. WAC 246-840-095 also allows for an

additional 180-day extension of the temporary practice permit if the department has not received the fingerprint results during the initial 180-day period.

According to the board's licensing data, over the past five years, almost 19 percent of nurses are not in compliance with completing the national fingerprint background check and are working under the temporary practice permit and never complete the FBI fingerprint process thus potentially compromising patient safety.

The current temporary practice permit expiration of 180 days does not encourage applicants, including travel nurses, to complete the requirement. Reducing the length of the temporary practice permit would encourage completion of the FBI requirement thus ensuring patient safety and reducing the quantity of incomplete applications.

The board is proposing amendments to reduce the length of time a temporary practice permit is active from 180 days after the temporary practice permit is issued to 60 days with an extension of 30 days, rather than 180 days, to align WAC 246-840-095 with the current practice of the board and promote completion of the licensure process. The board's licensing data supports that the fingerprint process can be completed in 90 days or less.

The proposed amendments exclude military spouses in accordance with RCW 18.340.020(2), effective October 1, 2023, which requires the board to issue a temporary practice permit, which is active for no less than 180 days, to a person who meets the criteria of RCW 18.340.020.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, 18.79.160, 18.79.200, 18.340.020, 18.130.075, and 18.130.064.

Statute Being Implemented: RCW 18.340.020, 18.340.075, and 18.340.064.

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

Name of Proponent: Washington state board of nursing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jessilyn Dagum, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-3538; Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email NCQAC.Rules@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

October 12, 2023
Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director
Washington State Board of Nursing

OTS-4709.3

AMENDATORY SECTION (Amending WSR 10-07-015, filed 3/5/10, effective 4/5/10)

WAC 246-840-095 Temporary practice permits. The ~~((nursing care quality assurance commission (NCQAC)))~~ Washington state board of nursing (board) conducts background checks on applicants to assure safe patient care. Completion of a fingerprint-based national background check may cause a delay in licensing.

(1) The ~~((NCQAC))~~ board may issue a temporary practice permit to an applicant who holds an unrestricted, active license in another state which has substantially equivalent licensing standards to those in Washington. The applicant must not be subject to denial of a license or issuance of a conditional or restricted license.

(2) A temporary practice permit serves as a license to practice nursing during the time period specified on the permit.

(3) A temporary practice permit expires when:

(a) A license is granted;

(b) A notice of decision on application is mailed to the applicant, unless the notice of decision on application specifically extends the duration of the temporary practice permit; or

(c) ~~((One hundred eighty))~~ Sixty days after the temporary practice permit is issued, or 180 days for military spouse applicants.

If, at the expiration of the original temporary practice permit, the department of health (department) has not received information from the fingerprint-based national background check, the ~~((NCQAC))~~ board may renew the temporary practice permit for an additional ~~((one hundred eighty))~~ 30 days.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit to the board an application and the necessary application fee(s) ~~((and documentation))~~ for the license.

(b) ~~((Submit a completed national background check fingerprint card, if required.~~

~~((e)))~~ Meet all other requirements and qualifications for the license, except for the results from a fingerprint-based national background check, if required.

~~((d)))~~ (c) Provide to the board verification of holding an unrestricted nursing license from another state that has substantially equivalent licensing standards to those in Washington.

~~((e) Submit a separate application for a temporary practice permit.)~~ (5) The applicant shall submit to the department a completed national fingerprint background check within 30 days of applying to the board, or the permanent license application may be closed as incomplete. The temporary practice permit shall not be extended in accordance with subsection (3)(c) of this section unless the applicant's fingerprint cards have been received by the department and a national fingerprint background check is in process.

[Statutory Authority: RCW 18.130.075 and 18.130.064. WSR 10-07-015, § 246-840-095, filed 3/5/10, effective 4/5/10; WSR 09-17-053, § 246-840-095, filed 8/13/09, effective 9/13/09.]