WSR 08-05-013
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed February 11, 2008, 10:55 a.m.]

Supplemental Notice to WSR 07-16-090.

Preproposal statement of inquiry was filed as WSR 05-23-096.

Title of Rule and Other Identifying Information: Chapter 246-320 WAC, Hospital licensing regulations (construction standards only).

Hearing Location(s): Department of Health, Point Plaza East, Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501-7852, on March 25, 2008, at 1:00 p.m.

Date of Intended Adoption: March 28, 2008.

Submit Written Comments to: Chad Beebe, 310 Israel Road S.E., Tumwater, WA 98501-7852, (360) 236-2933 or chad.beebe@doh.wa.gov, web site http://www3.doh.wa.gov/policyreview/, fax (360) 236-2901, by March 20, 2008.

Assistance for Persons with Disabilities: Contact Chad Beebe by March 17, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules would adopt new hospital construction requirements. This would be accomplished through adopting the 2006 edition of the Guidelines for Design and Construction of Health Care Facilities as published by the American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006, and Washington amendments in WAC 246-320-600. The guidelines are nationally recognized and developed by the Facilities Guidelines Institute with assistance from the United States Department of Health and Human Services. Nationally, forty-six states have adopted the guidelines as the minimum health care construction guidelines for health care facilities. The original proposal amended sections within chapter 2.1 of the guidelines concerning capacity in typical patient rooms and support areas for the surgical suite (view windows at scrub stations). This proposal retains the original guideline language (in chapter 2.1) without amendment.

Reasons Supporting Proposal: The constituency and affected parties have urged the department to move forward with the construction portion of the rules. This is due in part to the potential health care construction cost savings and recognition of the proposed standards as an established industry standard.

Statutory Authority for Adoption: Chapter 70.41 RCW.

Statute Being Implemented: RCW 70.41.030.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Chad Beebe, Tumwater, Washington, (360) 236-2944; Implementation and Enforcement: Steven Saxe, Tumwater, Washington, (360) 236-2900.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not impose new, more minor costs on affected businesses that employ fifty individuals or less (reference RCW 19.85.020 (1)).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chad Beebe, 310 Israel Road S.E., Tumwater, WA 98501-7852, phone (360) 236-2944, fax (360) 236-2901, e-mail chad.beebe@doh.wa.gov.

February 11, 2008
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 04-11-057, filed 5/17/04, effective 6/17/04)

WAC 246-320-010 Definitions. For the purposes of this chapter and chapter 70.41 RCW, the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

(1) "Abuse" means injury or sexual abuse of a patient under circumstances indicating the health, welfare, and safety of the patient is harmed. Person "legally responsible" will include a parent, guardian, or an individual to whom parental or guardian responsibility is delegated (e.g., teachers, providers of residential care and treatment, and providers of day care):

(a) "Physical abuse" means damaging or potentially damaging nonaccidental acts or incidents which may result in bodily injury or death.

(b) "Emotional abuse" means verbal behavior, harassment, or other actions which may result in emotional or behavioral problems, physical manifestations, disordered or delayed development.

(2) ((~~"Accredited" means approved by the joint commission on accreditation of healthcare organizations (JCAHO).~~

~~(3) "Administrative business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, 8:00 a.m. to 5:00 p.m., exclusive of recognized state of Washington holidays.~~

~~(4)~~)) "Agent," when used in a reference to a medical order or a procedure for a treatment, means any power, principle, or substance, whether physical, chemical, or biological, capable of producing an effect upon the human body.

(((~~(5) "Airborne precaution room" means a room that is designed and equipped to care for patients known or suspected to be infected with microorganisms transmitted by airborne droplet nuclei (small particle residue [five microns or smaller in size] of evaporated droplets containing microorganisms that remain suspended in the air and can be widely dispersed by air currents within a room or over a long distance).~~

~~(6)~~)) (3) "Alcoholism" means an illness characterized by lack of control as to the consumption of alcoholic beverages, or the consumption of alcoholic beverages to the extent an individual's health is substantially impaired or endangered, or his or her social or economic function is substantially disrupted.

(((~~(7)~~)) (4) "Alteration"((~~:~~

~~(a) "Alteration"~~)) means any change, addition, ((~~remodel~~)) or modification ((~~in construction, or occupancy~~)) to an existing hospital or a portion of an existing hospital.

(((~~(b) "Major alteration" means any physical change within an existing hospital that changes the occupancy (as defined in state building code) and scope of service within a~~

~~room or area, results in reconstruction to major portions of a floor or department, or requires revisions to building systems or services.~~

~~(e)~~)) "Minor alteration" means ((~~any physical change to an existing hospital which does not affect the structural integrity of the hospital building~~)) renovation that does not require an increase in capacity to structural, mechanical or electrical systems, which does not affect fire and life safety, and which does not add beds or facilities ((~~over those for which the hospital is~~)) in addition to that for which the hospital is currently licensed.

(((~~(8) "Ambulatory" means an individual physically and mentally capable of walking or traversing a normal path to safety, including the ascent and descent of stairs, without the physical assistance of another person.~~

~~(9) "Area" means a portion of a room or building that is separated from other functions in the room or portions of the building by a physical barrier or adequate space.~~

~~(10)~~)) (5) "Assessment" means the: (a) Systematic collection and review of patient-specific data; (b) process established by a hospital for obtaining appropriate and necessary information about each individual seeking entry into a health care setting or service; and (c) information to match an individual's need with the appropriate setting and intervention.

(((~~(11)~~)) (6) "Authentication" means the process used to verify that an entry is complete, accurate, and final.

(((~~(12) "Bathing facility" means a bathtub or shower, but does not include sitz bath or other fixtures designated primarily for therapy.~~

~~(13) "Birthing room" or "labor-delivery-recovery (LDR) room" or "labor-delivery-recovery-postpartum (LDRP) room" means a room designed and equipped for the care of a woman, fetus, and newborn, and to accommodate her support people during the complete process of vaginal childbirth.~~

~~(14)~~)) (7) "Child" means an individual under the age of eighteen years.

(((~~(15) "Clean" when used in reference to a room, area, or facility means space or spaces and/or equipment for storage and handling of supplies and/or equipment which are in a sanitary or sterile condition.~~

~~(16) "Communication system" means telephone, intercom, nurse call or wireless devices used by patients and staff to communicate.~~

~~(17)~~)) (8) "Critical care unit or service" means the specialized medical and nursing care provided to patients facing an immediate life-threatening illness or injury. The care is provided by multidisciplinary teams of highly experienced and skilled physicians, nurses, pharmacists or other allied health professionals who have the ability to interpret complex therapeutic and diagnostic information and access to highly sophisticated equipment.

(((~~(18)~~)) (9) "Department" means the Washington state department of health.

(((~~(19) "Detoxification" means the process of ridding the body of the transitory effects of intoxication and any associated physiological withdrawal reaction.~~

~~(20) "Dialysis facility" means a separate physical and functional nursing unit of the hospital serving patients receiving renal dialysis.~~

~~(21) "Dialysis station" means an area designed, equipped, and staffed to provide dialysis services for one patient.~~

~~(22)~~)) (10) "Dietitian" means an individual meeting the eligibility requirements for active membership in the American Dietetic Association described in Directory of Dietetic Programs Accredited and Approved, American Dietetic Association, edition 100, 1980.

(((~~(23) "Direct access" means access to one room from another room or area without going through an intervening room or into a corridor.~~

~~(24)~~)) (11) "Double-checking" means verification of patient identity, agent to be administered, route, quantity, rate, time, and interval of administration by two persons legally qualified to administer such agent prior to administration of the agent.

(((~~(25)~~)) (12) "Drugs" as defined in RCW 18.64.011(3) means:

(a) Articles recognized in the official U.S. pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection but not including devices or component parts or accessories.

(((~~(26) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, proper selection, measuring, labeling, packaging, and issuance of the drug for a patient or for a service unit of the facility.~~

~~(27) "Easily cleanable" means readily accessible and made with materials and finishes fabricated to permit complete removal of residue or dirt by accepted cleaning methods.~~

~~(28) "Electrical receptacle outlet" means an outlet where one or more electrical receptacles are installed.~~

~~(29)~~)) (13) "Emergency care to victims of sexual assault" means medical examinations, procedures, and services provided by a hospital emergency room to a victim of sexual assault following an alleged sexual assault.

(((~~(30)~~)) (14) "Emergency contraception" means any health care treatment approved by the food and drug administration that prevents pregnancy, including, but not limited to, administering two increased doses of certain oral contraceptive pills within seventy-two hours of sexual contact.

(((~~(31)~~)) (15) "Emergency triage" means the immediate patient assessment by a registered nurse, physician, or physician assistant to determine the nature and urgency of the person's medical need and the time and place care and treatment is to be given.

(((~~(32) "Facilities" means a room or area and equipment serving a specific function.~~

~~(33) "Failure or major malfunction" means an essential environmental, life safety or patient care function, equipment or process ceasing operation or capability of working as~~

~~intended and any back up, reserve or replacement to the function, equipment or process has not occurred or is nonexistent. Such as, but not limited to, the:~~

~~(a) Normal electrical power ceases and the emergency generator(s) do not function;~~

~~(b) Ventilation system ceases to operate or reverses air flow and causes contaminated air to circulate into areas where it was not designated or intended to flow; or~~

~~(c) Potable water in the hospital becomes contaminated so it cannot be used.~~

~~(34)~~)) (16) "Family" means individuals important to and designated by a patient who need not be relatives.

(((~~(35) "Faucet controls" means wrist, knee, or foot control of the water supply:~~

~~(a) "Wrist control" means water supply is controlled by handles not less than four and one-half inches overall horizontal length designed and installed to be operated by the wrists;~~

~~(b) "Knee control" means the water supply is controlled through a mixing valve designed and installed to be operated by the knee;~~

~~(c) "Foot control" means the water supply is controlled through a mixing valve designed and installed to be operated by the foot.~~

~~(36)~~)) (17) "Governing authority/body" means the person or persons responsible for establishing the purposes and policies of the hospital.

(((~~(37) "Grade" means the level of the ground adjacent to the building. The ground must be level or slope downward for a distance of at least ten feet away from the wall of the building. From there the ground may slope upward not greater than an average of one foot vertical to two feet horizontal within a distance of eighteen feet from the building.~~

~~(38) "He, him, his, or himself" means an individual of either sex, male or female, and does not mean preference for nor exclude reference to either sex.~~

~~(39)~~)) (18) "High-risk infant" means an infant, regardless of gestational age or birth weight, whose extrauterine existence is compromised by a number of factors, prenatal, natal, or postnatal needing special medical or nursing care.

(((~~(40)~~)) (19) "Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include:

(a) Hotels, or similar places furnishing only food and lodging, or simply domiciliary care;

(b) Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more;

(c) Nursing homes, as defined and which come within the scope of chapter 18.51 RCW;

(d) Birthing centers, which come within the scope of chapter 18.46 RCW;

(e) Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; nor

(f) Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

(g) Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(((~~(41)~~)) (20) "Individualized treatment plan" means a written statement of care planned for a patient based upon assessment of the patient's developmental, biological, psychological, and social strengths and problems, and including:

(a) Treatment goals, with stipulated time frames;

(b) Specific services to be utilized;

(c) Designation of individuals responsible for specific service to be provided;

(d) Discharge criteria with estimated time frames; and

(e) Participation of the patient and the patient's designee as appropriate.

(((~~(42)~~)) (21) "Infant" means a baby or very young child up to one year of age.

(((~~(43) "Infant station" means a space for a bassinet, incubator, or equivalent, including support equipment used for the care of an individual infant.~~

~~(44) "Inpatient" means a patient receiving services that require admission to a hospital for twenty-four hours or more.~~

~~(45) "Intermediate care nursery" means an area designed, organized, staffed, and equipped to provide constant care and treatment for mild to moderately ill infants not requiring neonatal intensive care, but requiring physical support and treatment beyond support required for a normal neonate and may include the following:~~

~~(a) Electronic cardiorespiratory monitoring;~~

~~(b) Gavage feedings;~~

~~(c) Parenteral therapy for administration of drugs; and~~

~~(d) Respiratory therapy with intermittent mechanical ventilation not to exceed a continuous period of twenty-four hours for stabilization when trained staff are available.~~

~~(46) "Interventional service facility" means a facility other than operating room (OR) where invasive procedures are performed.~~

~~(47)~~)) (22) "Invasive procedure" means a procedure involving puncture or incision of the skin or insertion of an instrument or foreign material into the body including, but not limited to, percutaneous aspirations, biopsies, cardiac and vascular catheterizations, endoscopies, angioplasties, and implantations. Excluded are venipuncture and intravenous therapy.

(((~~(48) "JCAHO" means joint commission on accreditation of healthcare organizations.~~

~~(49) "Labor room" means a room in which an obstetric patient is placed during the first stage of labor, prior to being taken to the delivery room.~~

~~(50) "Labor-delivery-recovery (LDR) room," "birthing room," or "labor-delivery-recovery-postpartum (LDRP) room" means a room designed and equipped for the care of a~~

~~woman, fetus, and newborn and to accommodate her support people during the complete process of vaginal childbirth.~~

~~(51)~~)) (23) "Licensed practical nurse," abbreviated LPN, means an individual licensed under provisions of chapter 18.78 RCW.

(((~~(52) "Long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.~~

~~(53) "Maintainable" means able to preserve or keep in an existing condition.~~

~~(54)~~)) (24) "Maintenance" means the work of keeping something in suitable condition.

(((~~(55) "Major permanent loss of function" means sensory, motor, physiological, or intellectual impairment not present on admission requiring continued treatment or lifestyle change. When this condition cannot be immediately determined, the designation will be made when the patient is discharged with continued major loss of function, or two weeks have elapsed with persistent major loss of function, whichever occurs first.~~

~~(56)~~)) (25) "Medical staff" means physicians and may include other practitioners appointed by the governing authority to practice within the parameters of the governing authority and medical staff bylaws.

(((~~(57)~~)) (26) "Medication" means any substance, other than food or devices, intended for use in diagnosing, curing, mitigating, treating, or preventing disease.

(((~~(58) "Movable equipment" means equipment not built-in, fixed, or attached to the building.~~

~~(59) "Must" means compliance is mandatory.~~

~~(60)~~)) (27) "Multidisciplinary treatment team" means a group of individuals from the various disciplines and clinical services who assess, plan, implement, and evaluate treatment for patients.

(((~~(61)~~)) (28) "Neglect" means mistreatment or maltreatment; an act or omission evincing; a serious disregard of consequences of a magnitude constituting a clear and present danger to an individual patient's health, welfare, and safety.

(a) "Physical neglect" means physical or material deprivation, such as lack of medical care, lack of supervision necessary for patient level of development, inadequate food, clothing, or cleanliness.

(b) "Emotional neglect" means acts such as rejection, lack of stimulation, or other acts of commission or omission which may result in emotional or behavioral problems, physical manifestations, and disordered development.

(((~~(62)~~)) (29) "Neonate" or "newborn" means a newly born infant under twenty-eight days of age.

(((~~(63) "Neonatal intensive care nursery" means an area designed, organized, equipped, and staffed for constant nursing, medical care, and treatment of high-risk infants who may require:~~

~~(a) Continuous ventilatory support, twenty-four hours per day;~~

~~(b) Intravenous fluids or parenteral nutrition;~~

~~(c) Preoperative and postoperative monitoring when anesthetic other than local is administered;~~

~~(d) Cardiopulmonary or other life support on a continuing basis.~~

~~(64)~~)) (30) "Neonatologist" means a pediatrician who is board certified in neonatal-perinatal medicine or board eligible in neonatal-perinatal medicine, provided the period of eligibility does not exceed three years, as defined and described in *Directory of Residency Training Programs* by the Accreditation Council for Graduate Medical Education, American Medical Association, 1998 or the *American Osteopathic Association Yearbook and Directory*, 1998.

(((~~(65) "Newborn nursery care" means the provision of nursing and medical services described by the hospital and appropriate for well and convalescing infants including supportive care, ongoing physical assessment, and resuscitation.~~

~~(66)~~)) (31) "New construction" means any of the following:

(a) New ((~~buildings~~)) facilities to be licensed as a hospital;

(b) ((~~Additions to an existing hospital;~~

~~(c) Conversion of an existing building or portions thereof for use as a hospital;~~

~~(d)~~)) Alterations ((~~to an existing hospital~~)).

(((~~(67)~~)) (32) "Nonambulatory" means an individual physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another.

(((~~(68) "Notify" means to provide notice of required information to the department by the following methods, unless specifically stated otherwise in this chapter:~~

~~(a) Telephone;~~

~~(b) Facsimile;~~

~~(c) Written correspondence; or~~

~~(d) In person.~~

~~(69) "Nursing unit" means a separate physical and functional unit of the hospital including a group of patient rooms, with ancillary, administrative, and service facilities necessary for nursing service to the occupants of these patient rooms.~~

~~(70) "Nutritional assessment" means an assessment of a patient's nutritional status conducted by a registered dietitian.~~

~~(71) "Nutritional risk screen" means a part of the initial assessment that can be conducted by any trained member of the multidisciplinary treatment team.~~

~~(72) "Observation room" means a room for close nursing observation and care of one or more outpatients for a period of less than twenty-four consecutive hours.~~

~~(73) "Obstetrical area" means the portions or units of the hospital designated or designed for care and treatment of women during the antepartum, intrapartum, and postpartum periods, and/or areas designed as nurseries for care of newborns.~~

~~(74)~~)) (33) "Operating room (OR)" means a room within the surgical department intended for invasive and noninvasive procedures requiring anesthesia.

(((~~(75) "Outpatient" means a patient receiving services that generally do not require admission to a hospital bed for twenty-four hours or more.~~

~~(76) "Outpatient services" means services that do not require admission to a hospital for twenty-four hours or more.~~

~~(77)~~)) (34) "Patient" means an individual receiving (or having received) preventive, diagnostic, therapeutic, rehabil-

itative, maintenance, or palliative health services at the hospital.

(((78) "Patient care areas" means all nursing service areas of the hospital where direct patient care is rendered and all other areas of the hospital where diagnostic or treatment procedures are performed directly upon a patient.

(79) "Patient related technology" means equipment used in a patient care environment to support patient treatment and diagnosis, such as electrical, battery and pneumatic powered technology as well as support equipment and disposables.

(80))) (35) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(((81))) (36) "Pharmacist" means an individual licensed by the state board of pharmacy to engage in the practice of pharmacy under the provisions of chapter 18.64 RCW as now or hereafter amended.

(((82))) (37) "Pharmacy" means the central area in a hospital where drugs are stored and are issued to hospital departments or where prescriptions are filled.

(((83))) (38) "Physician" means an individual licensed under provisions of chapter 18.71 RCW, Physicians, chapter 18.22 RCW, Podiatric medicine and surgery, or chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery.

(((84))) (39) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(((85) "Pressure relationships" of air to adjacent areas means:

(a) Positive (P) pressure is present in a room when the:

(i) Room sustains a minimum of 0.001 inches of H_20 pressure differential with the adjacent area, the room doors are closed, and air is flowing out of the room; or

(ii) Sum of the air flow at the supply air outlets (in CFM) exceeds the sum of the air flow at the exhaust/return air outlets by at least 70 CFM with the room doors and windows closed;

(b) Negative (N) pressure is present in a room when the:

(i) Room sustains a minimum of 0.001 inches of H_20 pressure differential with the adjacent area, the room doors are closed, and air is flowing into the room; or

(ii) Sum of the air flow at the exhaust/return air outlets (in CFM) exceeds the sum of the air flow at the supply air outlets by at least 70 CFM with the room doors and windows closed;

(c) Equal (E) pressure is present in a room when the:

(i) Room sustains a pressure differential range of plus or minus 0.0002 inches of H_20 with the adjacent area, and the room doors are closed; or

(ii) Sum of the air flow at the supply air outlets (in CFM) is within ten percent of the sum of the air flow at the exhaust/return air outlets with the room doors and windows closed.

(86))) (40) "Procedure" means a particular course of action to relieve pain, diagnose, cure, improve, or treat a patient's condition ((usually requiring specialized equipment)).

(((87) "Protective precaution room" means a room designed and equipped for care of patients with a high risk for contracting infections, such as bone marrow and organ transplant patients.

(88))) (41) "Protocols" and "standing order" mean written descriptions of actions and interventions for implementation by designated hospital personnel under defined circumstances and authenticated by a legally authorized person under hospital policy and procedure.

(((89))) (42) "Psychiatric service" means the treatment of patients pertinent to the psychiatric diagnosis whether or not the hospital maintains a psychiatric unit.

(((90) "Psychiatric unit" means a separate area of the hospital specifically reserved for the care of psychiatric patients (a part of which may be unlocked and a part locked), as distinguished from "seclusion rooms" or "security rooms" as defined in this section.

(91) "Reassessment" means ongoing data collection comparing the most recent data with the data collected on the previous assessment(s).

(92))) (43) "Recovery unit" means a special physical and functional area for the segregation, concentration, and close or continuous nursing observation and care of patients for a period of less than twenty-four hours immediately following anesthesia, obstetrical delivery, surgery, or other diagnostic or treatment procedures which may produce shock, respiratory obstruction or depression, or other serious states.

(((93))) (44) "Registered nurse" means an individual licensed under the provisions of chapter 18.79 RCW and practicing in accordance with the rules and regulations promulgated thereunder.

(((94) "Remodel" means the reshaping or reconstruction of a part or area of the hospital.

(95))) (45) "Restraint" means any method used to prevent or limit free body movement including, but not limited to, involuntary confinement, an apparatus, or a drug given not required to treat a patient's medical symptoms.

(((96))) (46) "Room" means a space set apart by floor-to-ceiling partitions on all sides with proper access to a corridor and with all openings provided with doors or windows.

(((97))) (47) "Seclusion room" means a small, secure room specifically designed and organized for temporary placement, care, and observation of one patient and for an environment with minimal sensory stimuli, maximum security and protection, and visual observation of the patient by authorized personnel and staff. Doors of seclusion rooms are provided with staff-controlled locks.

(((98) "Secretary" means the secretary of the department of health.

(99) "Self-administration of drugs" means a patient administering or taking his or her own drugs from properly labeled containers: Provided, That the facility maintains the responsibility for seeing the drugs are used correctly and the patient is responding appropriately.

(100) "Sensitive area" means a room used for surgery, transplant, obstetrical delivery, nursery, post-anesthesia recovery, special procedures where invasive techniques are used, emergency or critical care including, but not limited to, intensive and cardiac care or areas where immunosuppressed inpatients are located and central supply room.

~~(101)~~)) (48) "Sexual assault" has the same meaning as in RCW 70.125.030.

(((~~102) "Sinks":~~

~~(a) "Clinic service sink (siphon jet)" means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inch diameter.~~

~~(b) "Scrub sink" means a plumbing fixture of adequate size and proper design for thorough washing of hands and arms, equipped with knee, foot, electronic, or equivalent control, and gooseneck spout without aerators including brush and handsfree soap dispenser.~~

~~(c) "Service sink" means a plumbing fixture of adequate size and proper design for filling and emptying mop buckets.~~

~~(d) "Handsfree handwash sink" means a plumbing fixture of adequate size and proper design to minimize splash and splatter and permit handwashing without touching fixtures, with adjacent soap dispenser with foot control or equivalent and single service hand drying device.~~

~~(e) "Handwash sink" means a plumbing fixture of adequate size and proper design for washing hands, with adjacent soap dispenser and single service hand drying device.~~

~~(103) "Soiled" (when used in reference to a room, area, or facility) means space and equipment for collection or cleaning of used or contaminated supplies and equipment or collection or disposal of wastes.~~

~~(104) "Special procedure" means a distinct and/or special diagnostic exam or treatment, such as, but not limited to, endoscopy, angiography, and cardiac catheterization.~~

~~(105)~~)) (49) "Staff" means paid employees, leased or contracted persons, students, and volunteers.

(((~~106) "Stretcher" means a four-wheeled cart designed to serve as a litter for the transport of an ill or injured individual in a horizontal or recumbent position.~~

~~(107)~~)) (50) "Surgical procedure" means any manual or operative procedure performed upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defect, prolonging life or relieving suffering, and involving any of the following:

(a) Incision, excision, or curettage of tissue or an organ;

(b) Suture or other repair of tissue or an organ including a closed as well as an open reduction of a fracture;

(c) Extraction of tissue including the premature extraction of the products of conception from the uterus; or

(d) An endoscopic examination with use of anesthetizing agents.

(((~~108~~))) (51) "Surrogate decision-maker" means an individual appointed to act on behalf of another. Surrogates make decisions only when an individual is without capacity or has given permission to involve others.

(((~~109) "Through traffic" means traffic for which the origin and destination are outside the room or area serving as a passageway.~~

~~(110) "Toilet" means a room containing at least one water closet.~~

~~(111)~~)) (52) "Treatment" means the care and management of a patient to combat, improve, or prevent a disease, disorder, or injury, and may be:

(a) Pharmacologic, surgical, or supportive;

(b) Specific for a disorder; or

(c) Symptomatic to relieve symptoms without effecting a cure.

(((~~112) "Treatment room" means a hospital room for medical, surgical, dental, or psychiatric management of a patient.~~

~~(113)~~)) (53) "Victim of sexual assault" means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient.

(((~~114) "Water closet" means a plumbing fixture fitted with a seat and device for flushing the bowl of the fixture with water.~~

~~(115) "Will" means compliance is mandatory.~~

~~(116) "Window" means a glazed opening in an exterior wall.~~

~~(a) "Maximum security window" means a window that can only be opened by keys or tools under the control of personnel. The operation will be restricted to prohibit escape or suicide. Where glass fragments may create a hazard, safety glazing and other appropriate security features will be incorporated. Approved transparent materials other than glass may be used.~~

~~(b) "Relite" means a glazed opening in an interior partition between a corridor and a room or between two rooms to permit viewing.~~

~~(c) "Security window" means a window designed to inhibit exit, entry, and injury to a patient, incorporating approved, safe transparent material.~~

~~(117) "Work surface" means a flat hard horizontal surface such as a table, desk, counter, or cart surface.~~))

AMENDATORY SECTION (Amending WSR 99-04-052, filed 1/28/99, effective 3/10/99)

WAC 246-320-165 Management of human resources. The purpose of the management of human resources section is to ensure the hospital provides competent staff consistent with scope of services.

Hospitals will:

(1) Establish, review, and update written job descriptions for each job classification;

(2) Conduct periodic staff performance reviews;

(3) Ensure qualified and competent staff are available to operate each department;

(4) Ensure supervision of staff;

(5) Document verification of current staff licensure, certification, or registration;

(6) Complete tuberculosis screening for new and current employees consistent with the ((~~current guidelines of the Centers for Disease Control and Prevention (CDC) as defined by WAC 246-320-99902(15)~~)) *Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Healthcare Facilities*, 2005. *Morbidity Mortality Weekly Report* (MMWR) Volume 54, December 30, 2005;

(7) Provide orientation to the work environment;

(8) Provide information on infection control to staff upon hire and annually which includes:

(a) Education on general infection control in accordance with WAC 296-62-08001 bloodborne pathogens exposure control; and

(b) General and department specific infection control measures related to the work of each department in which the staff works; and

(9) Establish and implement an education plan that verifies or arranges for the appropriate education and training of staff on prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) consistent with RCW 70.24.310.

AMENDATORY SECTION (Amending WSR 99-04-052, filed 1/28/99, effective 3/10/99)

WAC 246-320-265 Infection control program. The purpose of the infection control program section is to identify and reduce the risk of acquiring and transmitting nosocomial infections and communicable diseases between patients, employees, medical staff, volunteers, and visitors.

Hospitals must develop and implement an infection control program and will:

(1) Designate a member or members of the staff to:

(a) Oversee, review, evaluate, and approve the activities of the infection control program and the infection control aspects of appropriate hospital policies and procedures; and

(b) Provide consultation;

(2) Assure staff managing the infection control program have:

(a) Documented evidence of a minimum of two years experience in a health related field; and

(b) Training in the principles and practices of infection control;

(3) Adopt and implement written policies and procedures consistent with the published guidelines of the centers for disease control and prevention (CDC) regarding infection control in hospitals, to guide the staff. Where appropriate, policies and procedures are specific to the service area and address:

(a) Receipt, use, disposal, processing, or reuse of hospital and nonhospital equipment to assure prevention of disease transmission;

(b) Prevention of cross contamination between soiled and clean items during sorting, processing, transporting, and storage;

(c) Environmental management and housekeeping functions, including:

(i) The process for approval of disinfectants, sanitation procedures, and equipment;

(ii) Cleaning areas used for surgical procedures as appropriate, before, between, and after cases;

(iii) General hospital-wide daily and periodic cleaning; and

(iv) A laundry and linen system that will ensure:

(A) The supply of linen/laundry is adequate to meet the needs of the hospital and patients; and

(B) Standards used for processing linens assure that clean linen/laundry is free of toxic residues and within industry standard pH range(s)((~~; and~~

~~(C) Processing and storage in accordance with WAC 246-320-595(3)~~));

(d) Occupational health consistent with current practice;

(e) Attire;

(f) Traffic patterns;

(g) Antisepsis and handwashing;

(h) Scrub technique and surgical preparation;

(i) Biohazardous waste management in accordance with applicable federal, state, and local regulations;

(j) Barrier and transmission precautions; and

(k) Pharmacy and therapeutics; and

(4) Establish and implement a plan for:

(a) Public health coordination, including a system for reporting communicable diseases in accordance with chapter 246-100 WAC Communicable and certain other diseases; and

(b) Surveillance and investigation consistent with WAC 246-320-225 Improving organizational performance.

AMENDATORY SECTION (Amending WSR 99-04-052, filed 1/28/99, effective 3/10/99)

WAC 246-320-365 Specialized patient care services. The purpose of the specialized patient care services section is to guide the development of the plan for patient care. This is accomplished by ensuring availability of materials and resources and through establishing, monitoring, and enforcing policies and procedures that promote the delivery of quality health care in specialized patient care areas.

Hospitals will:

(1) Meet the requirements in Inpatient care services, WAC 246-320-345;

(2) Adopt and implement policies and procedures which address accepted standards of care for each specialty service;

(3) Assure physician oversight for each specialty service by a physician with experience in those specialized services;

(4) Assure staff for each nursing service area are supervised by a registered nurse who provides a leadership role to plan, provide, and coordinate care;

(5) If providing surgery and interventional services:

(a) Adopt and implement policies and procedures that address appropriate access:

(i) To areas where invasive procedures are performed; and

(ii) To information regarding practitioner's delineated privileges for operating room staff;

(b) Provide:

(i) Emergency equipment, supplies, and services available in a timely manner and appropriate for the scope of service; and

(ii) Separate refrigerated storage equipment with temperature alarms, when blood is stored in the surgical department;

(6) If providing a post anesthesia recovery unit (PACU), adopt and implement written policies and procedures requiring:

(a) The availability of an authorized practitioner in the facility capable of managing complications and providing cardiopulmonary resuscitation for patients when patients are in the PACU; and

(b) The immediate availability to the PACU of a registered nurse trained and current in advanced cardiac life support measures;

(7) If providing obstetrical services:

(a) Have capability to perform cesarean sections twenty-four hours per day; or

(b) Meet the following criteria when the hospital does not have twenty-four hour cesarean capability:

(i) Limit planned obstetrical admissions to "low risk" obstetrical patients as defined in WAC 246-329-010(13) childbirth centers;

(ii) Inform each obstetrical patient in writing, prior to the planned admission, of the hospital's limited obstetrical services as well as the transportation and transfer agreements;

(iii) Maintain current written agreements for adequately staffed ambulance and/or air transport services to be available twenty-four hours per day; and

(iv) Maintain current written agreements with another hospital to admit the transferred obstetrical patients;

(c) Ensure one licensed nurse trained in neonatal resuscitation is in the hospital when infants are present;

(8) If providing an intermediate care nursery, have nursing, laboratory, pharmacy, radiology, and respiratory care services appropriate for infants:

(a) Available in a timely manner; and

(b) In the hospital during assisted ventilation;

(c) Ensure one licensed nurse trained in neonatal resuscitation is in the hospital when infants are present;

(9) If providing a neonatal intensive care nursery, have:

(a) Nursing, laboratory, pharmacy, radiology, and respiratory care services appropriate for neonates available in the hospital at all times;

(b) An anesthesia practitioner, neonatologist, and a pharmacist on call and available in a timely manner twenty-four hours a day; and

(c) One licensed nurse trained in neonatal resuscitation in the hospital when infants are present;

(10) If providing a critical care unit or services, have:

(a) At least two licensed nursing personnel skilled and trained in care of critical care patients on duty in the hospital at all times when patients are present, and:

(i) Immediately available to provide care to patients admitted to the critical care area; and

(ii) Trained and current in cardiopulmonary resuscitation including at least one registered nurse with:

(A) Training in the safe and effective use of the specialized equipment and procedures employed in the particular area; and

(B) Successful completion of an advanced cardiac life support training program; and

(b) Laboratory, radiology, and respiratory care services available in a timely manner;

(11) If providing an alcoholism and/or chemical dependency unit or services:

(a) Adopt and implement policies and procedures that address development, implementation, and review of the individualized treatment plan, including the participation of the multidisciplinary treatment team, the patient, and the family, as appropriate;

(b) Ensure provision of patient privacy for interviewing, group and individual counseling, physical examinations, and social activities of patients; and

(c) Provide staff in accordance with WAC 246-324-170(3);

(12) If providing a psychiatric unit or services:

(a) Adopt and implement policies and procedures that address development, implementation, and review of the individualized treatment plan, including the participation of the multidisciplinary treatment team, the patient, and the family, as appropriate;

(b) Ensure provision of patient privacy for interviewing, group and individual counseling, physical examinations, and social activities of patients;

(c) Provide staff in accordance with WAC 246-322-170(3); and

(d) Provide:

(i) Separate patient sleeping rooms for children and adults;

(ii) Access to at least one seclusion room;

(iii) For close observation of patients;

(13) If providing a long-term care unit or services, provide an activities program designed to encourage each long-term care patient to maintain or attain normal activity and achieve an optimal level of independence;

(14) If providing an emergency care unit or services, provide basic, outpatient emergency care including:

(a) Capability to perform emergency triage and medical screening exam twenty-four hours per day;

(b) At least one registered nurse skilled and trained in care of emergency department patients on duty in the hospital at all times, and:

(i) Immediately available to provide care; and

(ii) Trained and current in advanced cardiac life support;

(c) Names and telephone numbers of medical and other staff on call must be posted; and

(d) Communication with agencies as indicated by patient condition;

(15) If providing renal dialysis service:

(a) Meet ((~~WAC 246-320-99902(2) for~~)) the *Association for the Advancement of Medical Instrumentation (AAMI) Standards, Dialysis Edition, 2005*:

(i) The cleaning and sterilization procedures if dialyzers are reused;

(ii) Water treatment, if necessary to ensure water quality; and

(iii) Water testing for bacterial contamination and chemical purity;

(b) Test dialysis machine for bacterial contamination monthly or demonstrate a quality assurance program establishing effectiveness of disinfection methods and intervals;

(c) Take appropriate measures to prevent contamination, including backflow prevention in accordance with ((~~WAC 246-320-525 (4)(a)~~)) the state plumbing code;

(d) Provide for the availability of any special dialyzing solutions required by a patient; and

(e) Through a contract provider, that provider must meet the requirements in this section.

AMENDATORY SECTION (Amending WSR 99-04-052, filed 1/28/99, effective 3/10/99)

WAC 246-320-405 Management of environment for care. The purpose of the management of environment for care section is to ((~~reduce and control~~)) manage the environmental hazards and risks, prevent accidents and injuries, and maintain safe conditions for patients, visitors, and staff.

(1) The hospital will designate a person or persons responsible to develop, implement, monitor, and follow-up on safety, security, hazardous materials, emergency preparedness, life safety, patient related technology, utility system, and physical plant elements of the management plan.

(2) Safety. The hospital will:

(a) Establish and implement a plan to:

(i) Maintain a physical environment free of hazards; and

(ii) Reduce the risk of injury to patients, staff, and visitors;

(b) Report and investigate safety related incidents and when appropriate correct and/or take steps to avoid reoccurrence in the future; and

(c) Educate and review periodically with staff, policies and procedures relating to safety and job-related hazards.

(3) Security. The hospital will:

(a) Establish and implement a plan to maintain a secure environment for patients, visitors, and staff, including a plan to prevent abduction of patients;

(b) Educate staff on security procedures; and

(c) If they have a designated security staff, assure security staff have a minimum level of training and competency commensurate with their assigned responsibility, as defined by the hospital.

(4) Hazardous materials and waste. The hospital will:

(a) Establish and maintain a program to safely control hazardous materials and waste in accordance with applicable federal, state, and local regulations;

(b) Provide space and equipment for safe handling and storage of hazardous materials and waste;

(c) Investigate all hazardous materials or waste spills, exposures, and other incidents, and report as required to appropriate agency(s);

(d) Educate staff on policies and procedures relating to safe control of hazardous materials and waste.

(5) Emergency preparedness. The hospital will:

(a) Establish and implement a disaster plan designed to meet both internal and external disasters. The plan is:

(i) Specific to the hospital;

(ii) Relevant to the area;

(iii) Internally implementable, twenty-four hours a day, seven days a week; and

(iv) Reviewed and revised periodically;

(b) Ensure the disaster plan identifies:

(i) Who is responsible for each aspect of the plan; and

(ii) Essential and key personnel who would respond to a disaster;

(c) Include in the plan:

(i) Provision for staff education and training; and

(ii) A debriefing and evaluation after each disaster incident or drill.

(6) Life safety. The hospital will:

(a) Establish and implement a plan to maintain a fire-safe environment of care that meets fire protection requirements established by the Washington state patrol, fire protection bureau;

(b) Investigate fire protection deficiencies, failures, and user errors; and

(c) Orient, educate, and drill staff on policies and procedures relating to life safety management and emergencies.

(7) Patient related technologies. The hospital will:

(a) Establish and implement a plan to:

(i) Complete a technical and an engineering review to ensure that patient related technology will function safely and with appropriate building support systems;

(ii) Inventory all patient related technologies that require preventive maintenance;

(iii) Address and document preventive maintenance (PM); and

(iv) Assure quality delivery of service, independent of service vendor or methodology;

(b) Investigate, report, and evaluate procedures in response to system failures; and

(c) Educate staff regarding relevant patient related medical technology.

(8) Utility systems. The hospital will:

(a) Establish and implement a plan to:

(i) Maintain a safe, controlled, comfortable environment;

(ii) Assess and minimize risks of utility system failures, and ensure operational reliability of utility systems;

(iii) Investigate utility systems management problems, failures, or user errors and report incidents and corrective actions; and

(iv) Address and document preventive maintenance (PM);

(b) Educate staff on utility management policies and procedures.

(9) Physical plant. The hospital will provide:

(a) Storage;

(b) Plumbing with:

(i) A water supply providing hot and cold water under pressure which conforms to the quality standards of the department;

(ii) Hot water supplied for bathing and handwashing purposes not exceeding 120°F; and

(iii) The cross connection controls meeting requirements ((~~in WAC 246-320-525 (4)(a); and~~

~~(iv) Medical gas piping meeting requirements in WAC 246-320-99902 (6) and (10)~~)) of the state plumbing code;

(c) Ventilation:

(i) To prevent objectionable odors and/or excessive condensation; and

(ii) With air pressure relationships ((~~meeting the requirements in WAC 246-320-525 (Table 525-3)~~)) as designed and approved by the department when constructed and maintained within industry standard tolerances;

(d) ((~~Interior finishes suitable to the function in accordance with WAC 246-320-525(6);~~)) Clean interior surfaces and finishes;

(e) ((~~Electrical with:~~

~~(i)~~)) Functional patient call system((~~s in accordance with WAC 246-320-525 (Table 525-1); and~~

~~(ii) Tamper resistant receptacles in waiting areas and where noted in Table 525-5 and WAC 246-320-99902(3)~~)).

AMENDATORY SECTION (Amending WSR 99-04-052, filed 1/28/99, effective 3/10/99)

WAC 246-320-500 Applicability of WAC 246-320-500 through ((~~246-320-99902~~)) 246-320-600. The purpose of ((~~the new~~)) construction regulations is to provide ((~~minimum standards~~)) for a safe and effective patient care environment ((~~consistent with other applicable rules and regulations without redundancy and contradictory requirements. Rules allow flexibility in achieving desired outcomes and enable hospitals to respond to changes in technologies and health care innovations~~)). These rules are not retroactive and are intended to be applied as outlined below.

(1) These regulations apply to ((~~a~~)) hospitals ((~~as defined in RCW 70.41.020~~)) including:

(a) ((~~Including:~~

~~(i)~~)) New buildings to be licensed as a hospital;

(((~~ii~~))) (b) Conversion of an existing building or portion ((~~thereof~~)) of an existing building for use as a hospital;

(((~~iii~~))) (c) Additions to an existing hospital;

(((~~iv~~))) (d) Alterations to an existing hospital; and

(((~~v~~))) (e) Buildings or portions of buildings licensed as a hospital and used for ((~~outpatient care facilities~~)) hospital services;

(((~~b~~))) (f) Excluding nonpatient care ((~~areas~~)) buildings used exclusively for administration functions.

(2) The requirements of chapter 246-320 WAC in effect at the time the application((~~,~~)) and fee((~~, and construction documents~~)) are submitted to the department ((~~for review will~~)), and project number is assigned by the department, apply for the duration of the construction project.

(3) Standards for design and construction.

Facilities constructed and intended for use under this chapter shall comply with:

(a) The following chapters of the 2006 edition of the *Guidelines for Design and Construction of Health Care Facilities* as published by the American Institute of Architects, 1735 New York Avenue, N.W., Washington D.C. 20006, as amended in this section:

(i) 1.1 Introduction
(ii) 1.2 Environment of Care
(iii) 1.3 Site
(iv) 1.4 Equipment
(v) 1.5 Planning, Design and Construction
(vi) 1.6 Common Requirements
(vii) 2.1 General Hospital
(viii) 2.2 Small Inpatient Primary Care Hospitals
(ix) 2.3 Psychiatric Hospital
(x) 2.4 Rehabilitation Facilities
(xi) 3.1 Outpatient Facilities
(xii) 3.2 Primary Care Outpatient Centers
(xiii) 3.3 Small Primary (Neighborhood) Outpatient Facilities
(xiv) 3.4 Freestanding Outpatient Diagnostic and Treatment Facilities
(xv) 3.5 Freestanding Urgent Care Facilities
(xvi) 3.6 Freestanding Birthing Centers
(xvii) 3.7 Outpatient Surgical Facilities
(xviii) 3.8 Office Surgical Facilities
(xix) 3.9 Gastrointestinal Endoscopy Facilities
(xx) 3.10 Renal Dialysis Centers
(xxi) 3.11 Psychiatric Outpatient Centers
(xxii) 3.12 Mobile, Transportable, and Relocatable Units
(xxiii) 4.2 Hospice Facility

(b) *The National Fire Protection Association, Life Safety Code*, NFPA 101, 2000.

(c) *The State Building Code* as adopted by the state building code council under the authority of chapter 19.27 RCW.

(d) Accepted procedure and practice in cross-contamination control, *Pacific Northwest Edition, 6th Edition, December 1995, American Waterworks Association*.

AMENDATORY SECTION (Amending WSR 99-04-052, filed 1/28/99, effective 3/10/99)

WAC 246-320-505 Design, construction review, and approval of plans. (1) Drawings and specifications for new construction, excluding minor alterations, must be prepared by((~~,~~)) or under the direction of, an architect registered under chapter 18.08 RCW. The services of a consulting engineer registered under chapter 18.43 RCW must be used for the various branches of ((~~the~~)) work where appropriate. The services of a registered ((~~professional~~)) engineer may be used in lieu of the services of an architect if work involves engineering only.

(2) A hospital ((~~must submit construction documents for proposed new construction to the department for review and approval prior to occupying the new construction, as specified in this subsection, with the exception of administration areas that do not affect fire and life safety, mechanical and electrical for patient care areas. Compliance with these standards and regulations does not relieve the hospital of the need to comply with applicable state and local building and zoning codes. The construction documents must include:~~

~~(a)~~)) will meet the following requirements:

(a) Request and attend a presubmission conference for projects with a construction value of two hundred fifty thousand dollars or more. The presubmission conference shall be scheduled to occur for the review of construction documents that are no less than fifty percent complete.

(b) Submit construction documents for proposed new construction to the department for review within ten days of submission to the local authorities. Compliance with these standards and regulations does not relieve the hospital of the need to comply with applicable state and local building and zoning codes.

(c) The construction documents must include:

(i) A written program containing, ((~~at a minimum~~)) but not limited to the following:

(((~~i~~))) (A) Information concerning services to be provided and operational methods to be used; ((~~and~~

~~(ii) A plan to show how they will ensure the health and safety of occupants during construction and installation of finishes. This includes taking appropriate infection control measures, keeping the surrounding area free of dust and fumes, and assuring rooms or areas are well-ventilated, unoc-~~

~~cupied, and unavailable for use until free of volatile fumes and odors;~~

~~(b)~~)) (B) An interim life safety measures plan to ensure the health and safety of occupants during construction and installation of finishes.

(C) An infection control risk assessment indicating appropriate infection control measures, keeping the surrounding area free of dust and fumes, and ensuring rooms or areas are well ventilated, unoccupied, and unavailable for use until free of volatile fumes and odors;

(ii) Drawings and specifications to include coordinated architectural, mechanical, and electrical work. Each room, area, and item of fixed equipment and major movable equipment must be identified on all drawings to demonstrate that the required facilities for each function are provided; and

((~~(c)~~)) (iii) Floor plan of the existing building showing the alterations and additions, and indicating((~~:~~

~~(i)~~)) location of any service or support areas; and

((~~(ii)~~)) (iv) Required paths of exit serving the alterations or additions.

((~~(3) A hospital will:~~

~~(a)~~)) (d) The hospital will respond in writing when the department requests additional or corrected construction documents;

((~~(b)~~)) (e) Notify the department in writing when construction has commenced;

((~~(c) Submit to the department for review any addenda or modifications to the construction documents;~~

~~(d) Assure construction is completed in compliance with the final "department approved" documents; and~~

~~(e) Notify the department in writing when construction is completed and include a copy of the local jurisdiction's approval for occupancy.~~

~~(4) A hospital will not use any new or remodeled areas until:~~

~~(a) The construction documents are approved by the department; and~~

~~(b) The local jurisdictions have issued an approval to occupy~~)) (f) Provide the department with a signed form acknowledging the risks if starting construction before the plan review has been completed. The acknowledgment of risks form shall be signed by the:

(i) Architect; and

(ii) Hospital CEO, COO or designee; and

(iii) Hospital facilities director.

(g) Submit to the department for review any addenda or modifications to the construction documents;

(h) Assure construction is completed in compliance with the final "department approved" documents. Compliance with these standards and regulations does not relieve the hospital of the need to comply with applicable state and local building and zoning codes. Where differences in interpretations occur, the hospital will follow the most stringent requirement.

(i) The hospital will allow any necessary inspections for the verification of compliance with the construction document, addenda, and modifications.

(j) Notify the department in writing when construction is completed and include a copy of the local jurisdiction's approval for occupancy.

(3) The hospital will not begin construction or use any new or remodeled areas until:

(a) The infection control risk assessment has been approved by the department;

(b) The interim life safety plan has been approved by the department;

(c) An acknowledgment of risk form has been submitted to the department as required by subsection (2)(f) of this section;

(d) The department has approved construction documents or granted authorization to begin construction; and

(e) The local jurisdictions have issued a building permit, when applicable or given approval to occupy.

(4) The department will issue an "authorization to begin construction" when subsection (3)(a), (b), and (c) are approved and the presubmission conference is concluded.

NEW SECTION

WAC 246-320-600 Washington state amendments. This section contains the Washington state amendments to the 2006 edition of the *Guidelines for Design and Construction of Health Care Facilities* as published by the American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006.

CHAPTER 1.2 ENVIRONMENT OF CARE

2.1.3.4 This section is not adopted.

CHAPTER 1.3 SITE

2.2 Availability of Transportation

This section is not adopted.

3.3 Parking

This section is not adopted.

CHAPTER 1.4 EQUIPMENT

A1.3.1 Design should consider the placement of cables from portable equipment so that personnel circulation and safety are maintained.

CHAPTER 1.5 PLANNING, DESIGN AND CONSTRUCTION

2.1 General

2.1.1 ICRA Panel

The ICRA shall be conducted by a panel with expertise in the areas affected by the project; at a minimum this would include infection control, epidemiology and facility representation.

CHAPTER 1.6 COMMON REQUIREMENTS

2.1.1 General

Unless otherwise specified herein, all plumbing systems shall be designed and installed in accordance with the plumbing code as adopted by the state building code council.

2.1.3.2 Handwashing Stations

General handwashing stations used by medical and nursing staff, patients, and food handlers shall be trimmed with valves that can be operated without hands. Single-lever or wrist blade devices shall be permitted. Blade handles used for this purpose shall be at least 4 inches (10.2 centimeters) in length.

2.2.2 HVAC Air Distribution

2.2.2.1 HVAC Ductwork

(2) Humidifiers.

(a) If humidifiers are located within a ventilation system upstream of the final filters, they shall be at least 15 feet (4.57 meters) upstream of the final filters.

(b) Ductwork with duct-mounted humidifiers shall have a means of water removal.

(c) An adjustable high-limit humidistat shall be located downstream of the humidifier to reduce the potential for condensation inside the duct.

(d) Humidifiers shall be connected to airflow proving switches that prevent humidification unless the required volume of airflow is present or high-limit humidistats are provided.

(e) All duct takeoffs shall be sufficiently downstream of the humidifier to ensure complete moisture absorption.

(f) Steam humidifiers shall be used. Reservoir type water spray or evaporative pan humidifiers shall not be used.

A2.2.2.1(2) It is recognized that some facilities may not require humidity control within the ranges in table 2.1-2 and that the final determination of a facility's ability to control humidity will be made by that facility.

CHAPTER 2.1 GENERAL HOSPITALS

1.2.2 Swing Beds

When the concept of swing beds is part of the functional program, care shall be taken to include requirements for all intended categories. Nursing homes and long-term care units must be distinct and separate from swing beds.

A1.2.2 Swing Beds

Every bed must be able to provide both acute care and skilled nursing care. The concept is that the patient would not have to be moved, rather their status would change from "acute" to "swing bed" status.

2.2.1 Toilet Rooms

2.2.1.3 Toilet room doors shall swing outward or be double acting. Where local requirements permit, surface mounted sliding doors may be used, provided adequate provisions are made for acoustical and visual privacy.

2.3.5 Nourishment Area

2.3.5.1 A nourishment area shall have a sink, work counter, refrigerator, storage cabinets, and equipment for hot and cold nourishment between scheduled meals. This area shall include space for trays and dishes used for nonscheduled meal service. This function may be combined with a clean utility without duplication of sinks and work counters.

2.3.10 Housekeeping Room

2.3.10.1 Housekeeping rooms shall be directly accessible from the unit or floor they serve and may serve more than one nursing unit on a floor. Housekeeping and soiled rooms may be combined.

3.1.1.5 Handwashing Stations. These shall be provided to serve each patient room.

(1) A handwashing station shall be provided in the toilet room.

(2) Or, in private rooms, a handwashing station shall be provided in the patient room provided alcohol-based hand sanitizers are provided in the toilet room. The handwashing station shall be located outside the patient's cubicle curtain and convenient to staff entering and leaving the room.

(3) A hand sanitation station in patient rooms utilizing waterless cleaners shall be permitted in renovations of existing facilities where existing conditions prohibit an additional handwashing station.

3.1.2 Patient/Family Centered Care Rooms

This section is not adopted.

3.1.5 Support Areas for Medical/Surgical Nursing Units

3.1.5.5 Handwashing Stations

(1) Handwashing stations or waterless cleansing stations shall be conveniently accessible to the nurse station, medication station, and nourishment station. "Convenient" is defined as not requiring staff to access more than two spaces separated by a door.

(2) One handwashing station may serve several areas if convenient to each.

4.3.1 Labor Rooms

4.3.1.1 General

(2) Access. Labor rooms shall have controlled access with doors.

5.1.3 Definitive Emergency Care

5.1.3.7(5) Decontamination Area

(a) Location. In new construction, a decontamination room shall be provided with an outside entry door as far as practical from the closest other entrance. The internal door of this room shall open into a corridor of the emergency department, swing into the room and be lockable against ingress from the corridor.

(b) Space requirements. The room shall provide a minimum of 80 square feet (7.43 square meters) clear floor area.

(c) Facility requirements.

(i) The room shall be equipped with two hand-held shower heads with temperature controls.

(ii) Portable or hard-piped oxygen shall be provided. Portable suction shall also be available.

(d) Construction requirements. The room shall have all smooth, nonporous, scrubbable, nonabsorptive, nonperforated surfaces. Fixtures shall be acid resistant. The floor of the decontamination room shall be self-coving to a height of 6 inches (15.24 centimeters).

(e) This section does not preclude decontamination capability at other locations or entrances immediately adjacent to the emergency department.

5.3.3 Pre- and Postoperative Holding Areas

5.3.3.2 Post-anesthetic Care Units (PACUs)

(4) Facility requirements. Each PACU shall contain a medication station; handwashing stations; nurse station with charting facilities; clinical sink; provisions for bedpan cleaning; and storage space for stretchers, supplies, and equipment.

(a) Handwashing station(s). At least one handwashing station with hands-free or wrist blade-operable controls shall be available for every six beds or fraction thereof, uniformly distributed to provide equal access from each bed.

(b) Staff toilet. A staff toilet shall be located within the working area to maintain staff availability to patients.

5.3.5 Support Areas for the Surgical Suite

5.3.5.4 Scrub Facilities. Two scrub positions shall be provided near the entrance to each operating room.

5.9.3 Examination Room

This section is not adopted.

6.1. Pharmacy

Until final adoption of USP 797 by either federal or other state programs, facilities may request plan review for conformance to USP 797 with their initial submission to the Department of Health, Construction Review Services. The most current edition of USP 797 at the time of the application will be used for plan review service.

8.2.2.3 Doors

(2) Door Size.

(a) General. Where used in these Guidelines, door width and height shall be the nominal dimension of the door leaf, ignoring projections of frame and stops. Note: While these standards are intended for access by patients and patient equipment, size of office furniture, etc., shall also be considered.

(b) Inpatient bedrooms.

(i) New construction. The minimum door size for inpatient bedrooms in new work areas shall be 4 feet (1.22 meters) wide and 7 feet (2.13 meters) high to provide clearance for movement of beds and other equipment.

(ii) Renovation. Existing doors of not less than 2 feet 10 inches (86.36 centimeters) wide may be considered for acceptance where function is not adversely affected and replacement is impractical.

(c) Rooms for stretchers/wheelchairs. Doors to other rooms used for stretchers (including hospital wheeled-bed stretchers) and/or wheelchairs shall have a minimum width of 2 feet 10 inches (86.36 centimeters).

10.1.2 Plumbing and Other Piping Systems

10.1.2.5 Drainage Systems

(1) Piping.

(a) Drain lines from sinks used for acid waste disposal shall be made of acid resistant material.

(b) Drain lines serving some types of automatic blood-cell counters shall be of carefully selected material that will eliminate potential for undesirable chemical reactions (and/or explosions) between sodium azide wastes and copper, lead, brass, solder, etc.

(c) Reasonable effort shall be made to avoid installing drainage piping within the ceiling or exposed in operating and delivery rooms, nurseries, food preparation centers, food-serving facilities, food storage areas, central services, electronic data processing areas, electric closets, and other sensitive areas. Where exposed overhead drain piping in these areas is unavoidable, special provision shall be made to protect the space below from leakage, condensation or dust particles.

10.2.1 General

10.2.1.1 Mechanical System Design

(2) Air-handling systems.

(a) These shall be designed with an economizer cycle where appropriate to use outside air. (Use of mechanically circulated air does not reduce need for filtration.)

(b) VAV systems. The energy-saving potential of variable-air-volume systems is recognized and the standards herein are intended to maximize appropriate use of those systems. Any system used for occupied areas shall include provisions to avoid air stagnation in interior spaces where thermostat demands are met by temperatures of surrounding areas and air movement relationship changes if constant volume and variable volume are supplied by one air-handling system with a common pressure dependent return system.

(c) Noncentral air-handling systems (i.e., individual room units used for heating and cooling purposes, such as fan-coil units, heat pump units, etc.). These units may be used as recirculating units only. All outdoor air requirements shall be met by a separate central air-handling system with proper filtration, as noted in Table 2.1-3.

10.2.1.2 Ventilation and Space Conditioning Requirements. All rooms and areas used for patient care shall have provisions for ventilation.

(2) Air change rates. Air supply and exhaust in rooms for which no minimum total air change rate is noted may vary down to zero in response to room load. For rooms listed in Table 2.1-2, where VAV systems are used, minimum total air change shall be within limits noted, the minimum required by the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC).

(3) Temperature. Space temperature shall be as indicated in Table 2.1-2.

10.2.4 HVAC Air Distribution

10.2.4.3 Exhaust Systems

(1) General.

(a) Exhaust systems may be combined.

(b) Local exhaust systems shall be used whenever possible in place of dilution ventilation to reduce exposure to hazardous gases, vapors, fumes, or mists.

(c) Fans serving exhaust systems shall be located at the discharge end and shall be readily serviceable.

(d) Airborne infection isolation rooms shall not be served by exhaust systems incorporating a heat wheel.

10.2.5 HVAC Filters

10.2.5.2 Filter Bed Location. Where two filter beds are required, filter bed no. 1 shall be located upstream of the air conditioning equipment and filter bed no. 2 shall be downstream of the last component of any central air-handling unit and plenum/duct liner except: Steam injection-type humidifiers; terminal heating coils; and mixed boxes and acoustical traps that have special covering over the lining. Terminal cooling coils and linings are permitted downstream of filter bed no. 2 with additional filtration downstream of coil meeting requirements of filter bed no. 2.

10.2.5.5 Filter Manometers. A manometer shall be installed across each filter bed having a required efficiency of 75 percent or more, including hoods requiring HEPA filters. Manometers may be omitted at HEPA-filtered ceiling diffusers if pressure-independent terminal units provide the operator a means to verify the actual airflow to the HEPA-filtered diffusers in each room. Provisions shall be made to allow access for field testing. A recognized air flow measuring device would be acceptable, in lieu of terminal units.

Table 2.1-2 Ventilation Requirements for Areas Affecting Patient Care in Hospitals and Outpatient Facilities

Footnote 8 The ranges listed are the minimum and maximum limits where control is specifically needed. The maximum and minimum limits are not intended to be independent of a space's associated temperature. See figure 2.1-1 for a graphic representation of the indicated changes on a psychometric chart. Shaded area is acceptable range.

CHAPTER 2.2 SMALL INPATIENT PRIMARY CARE HOSPITALS

1.3.2 Parking

This section not adopted.

CHAPTER 2.3 PSYCHIATRIC HOSPITALS

1.6.1 Parking

This section is not adopted.

CHAPTER 3.1 OUTPATIENT FACILITIES

1.7.2 Parking

This section is not adopted.

7.1.2 Plumbing and Other Piping Systems

7.1.2.1 General Piping and Valves

(3) To prevent food contamination, no plumbing lines shall be exposed overhead or on walls where possible accumulation of dust or soil may create a cleaning problem or where leaks would create a potential for food contamination.

CHAPTER 3.2 PRIMARY CARE OUTPATIENT CENTERS

1.3.1 Parking

This section is not being adopted.

CHAPTER 3.3 SMALL PRIMARY (NEIGHBORHOOD) OUTPATIENT FACILITIES

1.3.2 Parking

This section is not adopted.

CHAPTER 3.5 FREESTANDING URGENT CARE FACILITIES

1.2.2 Parking

This section is not adopted.

CHAPTER 3.6 FREESTANDING BIRTHING CENTERS

1.2.1 Parking

This section is not adopted.

CHAPTER 3.7 OUTPATIENT SURGICAL FACILITIES

1.6.1 Parking

This section is not adopted.

CHAPTER 3.9 GASTROINTESTINAL ENDOSCOPY FACILITIES

1.6.1 Parking

This section is not adopted.

CHAPTER 3.11 PSYCHIATRIC OUTPATIENT CENTERS

1.3.1 Parking

This section is not adopted.

AMENDATORY SECTION (Amending WSR 07-17-174, filed 8/22/07, effective 9/22/07)

WAC 246-320-990 Fees. This section establishes the licensure fee for hospitals licensed under chapter 70.41 RCW.

(1) Applicants and licensees shall:

(a) Submit an annual license fee of one hundred thirteen dollars and zero cents for each bed space within the licensed bed capacity of the hospital to the department;

(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(c) Include neonatal intensive care bassinet spaces;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The hospital currently possesses the required movable equipment and certifies this fact to the department;

(e) Exclude all normal infant bassinets;

(f) Limit licensed bed spaces as required under chapter 70.38 RCW;

(g) Submit an application for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the hospital licensed bed capacity;

(h) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not performed an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a fifty dollar processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a fifty dollar processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because the applicant has failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

(3) Construction review applicants shall submit the appropriate fee per chapter 246-314 WAC at the time of application to construction review services.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-320-515	Site and site development.
WAC 246-320-525	General design.
WAC 246-320-535	Support facilities.
WAC 246-320-545	Maintenance, engineering, mechanical, and electrical facilities.
WAC 246-320-555	Admitting, lobby, and medical records facilities.
WAC 246-320-565	Receiving, storage, and distribution facilities.
WAC 246-320-575	Central processing service facilities.
WAC 246-320-585	Environmental services facilities.
WAC 246-320-595	Laundry and/or linen handling facilities.
WAC 246-320-605	Food and nutrition facilities.
WAC 246-320-625	Laboratory and pathology facilities.

WAC 246-320-635	Surgery facilities.
WAC 246-320-645	Recovery/post anesthesia care unit (PACU).
WAC 246-320-655	Obstetrical delivery facilities.
WAC 246-320-665	Birthing/delivery rooms, labor, delivery, recovery (LDR) and labor, delivery, recovery, postpartum (LDRP).
WAC 246-320-675	Interventional service facilities.
WAC 246-320-685	Nursing unit.
WAC 246-320-695	Pediatric nursing unit.
WAC 246-320-705	Newborn nursery facilities.
WAC 246-320-715	Intermediate care nursery and neonatal intensive care nursery.
WAC 246-320-725	Critical care facilities.
WAC 246-320-735	Alcoholism and chemical dependency nursing unit.
WAC 246-320-745	Psychiatric facilities.
WAC 246-320-755	Rehabilitation facilities.
WAC 246-320-765	Long-term care and hospice unit.
WAC 246-320-775	Dialysis facilities.
WAC 246-320-785	Imaging facilities.
WAC 246-320-795	Nuclear medicine facilities.
WAC 246-320-805	Emergency facilities.
WAC 246-320-815	Outpatient care facilities.
WAC 246-320-99902	Appendix B—Dates of documents adopted by reference in chapter 246-320 WAC.

WSR 08-05-019
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(By the Code Reviser's Office)
[Filed February 12, 2008, 9:04 a.m.]

WAC 388-76-10875 and 388-76-11045, proposed by the department of social and health services in WSR 07-14-082 appearing in issue 07-16 of the State Register, which was distributed on August 15, 2007, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 08-05-020
WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
(By the Code Reviser's Office)
[Filed February 12, 2008, 9:04 a.m.]

WAC 51-50-0308, 51-50-0406, 51-50-0702, 51-50-0704, 51-50-0705, 51-50-2702 and 51-50-2900, proposed by the building code council in WSR 07-16-025 appearing in issue 07-16 of the State Register, which was distributed on August 15, 2007, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 08-05-021
WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
(By the Code Reviser's Office)
[Filed February 12, 2008, 9:04 a.m.]

WAC 51-54-0604, proposed by the building code council in WSR 07-16-029 appearing in issue 07-16 of the State Register, which was distributed on August 15, 2007, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 08-05-022
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF CORRECTIONS
(By the Code Reviser's Office)
[Filed February 12, 2008, 9:05 a.m.]

WAC 137-78-010, 137-78-030, 137-78-060 and 137-78-070, proposed by the department of corrections in WSR 07-16-118 appearing in issue 07-16 of the State Register, which was distributed on August 15, 2007, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 08-05-027
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed February 12, 2008, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-22-063.

Title of Rule and Other Identifying Information: The department is amending WAC 388-513-1350 Defining the resource standard and determining resource eligibility for long-term care (LTC) services and 388-513-1380 Determining a client's financial participation in the cost of care for long-term care (LTC) services.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6094), on March 25, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 26, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on March 25, 2008.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by March 18, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- DSHS is updating the 2008 federal maximum resource standard that increases January 1, 2008. This includes the formula and a link to the long-term care standards.
- DSHS is updating the 2008 federal maximum maintenance standard that increases January 1, 2008. This includes the formula and a link to the long-term care standards.
- Because both standards increase annually, the links to the updated standards will show the updated amounts starting in January 2009 and each year thereafter.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.530.

Rule is necessary because of federal law, Public Law 106-554; Section 1924 of the Social Security Act (42 U.S.C.).

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lori Rolley, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2271.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and determined that no new costs will be imposed on small businesses or nonprofit organizations.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(vii), relating only to client medical or financial eligibility.

February 6, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-19-128, filed 9/19/07, effective 10/20/07)

WAC 388-513-1350 Defining the resource standard and determining resource eligibility for long-term care (LTC) services. This section describes how the department defines the resource standard and countable or excluded resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for:

(i) A single client; or

(ii) A legally married client with a community spouse, subject to the provisions described in subsections (8) through (11) of this section; or

(b) Three thousand dollars for a legally married couple, unless subsection (3) of this section applies.

(2) When both spouses apply for LTC services the department considers the resources of both spouses as available to each other through the month in which the spouses stopped living together.

(3) When both spouses are institutionalized, the department will determine the eligibility of each spouse as a single client the month following the month of separation.

(4) If the department has already established eligibility and authorized services for one spouse, and the community spouse needs LTC services in the same month, (but after eligibility has been established and services authorized for the institutional spouse), then the department applies the standard described in subsection (1)(a) of this section to each spouse. If doing this would make one of the spouses ineligible, then the department applies (1)(b) of this section for a couple.

(5) When a single institutionalized individual marries, the department will redetermine eligibility applying the rules for a legally married couple.

(6) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-475-0300, Resource eligibility;

(b) WAC 388-475-0250, How to determine who owns a resource; and

(c) WAC 388-470-0060(6), Resources of an alien's sponsor.

(7) For LTC services the department determines a client's countable resources as follows:

(a) The department determines countable resources for SSI-related clients as described in WAC 388-475-0350

through 388-475-0550 and resources excluded by federal law with the exception of:

(i) WAC 388-475-0550(16);

(ii) WAC 388-475-0350 (1)(b) clients who have submitted an application for LTC services on or after May 1, 2006 and have an equity interest greater than five hundred thousand dollars in their primary residence are ineligible for LTC services. This exception does not apply if a spouse or blind, disabled or dependent child under age twenty-one is lawfully residing in the primary residence. Clients denied or terminated LTC services due to excess home equity may apply for an undue hardship waiver.

(b) For an SSI-related client one automobile per household is excluded regardless of value if it is used for transportation of the eligible individual/couple.

(i) For an SSI-related client with a community spouse, the value of one automobile is excluded regardless of its use or value.

(ii) A vehicle((~~s~~)) not meeting the definition of automobile is a vehicle that has been junked or a vehicle that is used only as a recreational vehicle.

(c) For an SSI-related client, the department adds together the countable resources of both spouses if subsections (2), (5) and (8)(a) or (b) apply, but not if subsection (3) or (4) apply.

(d) For an SSI-related client, excess resources are reduced:

(i) In an amount equal to incurred medical expenses such as:

(A) Premiums, deductibles, and coinsurance/copayment charges for health insurance and medicare;

(B) Necessary medical care recognized under state law, but not covered under the state's medicaid plan;

(C) Necessary medical care covered under the state's medicaid plan incurred prior to medicaid eligibility.

(ii) As long as the incurred medical expenses:

(A) Are not subject to third-party payment or reimbursement;

(B) Have not been used to satisfy a previous spend down liability;

(C) Have not previously been used to reduce excess resources;

(D) Have not been used to reduce client responsibility toward cost of care;

(E) Were not incurred during a transfer of asset penalty described in WAC 388-513-1363, 388-513-1364, 388-513-1365 and 388-513-1366; and

(F) Are amounts for which the client remains liable.

(e) Expenses not allowed to reduce excess resources or participation in personal care:

(i) Unpaid expense(s) prior to waiver eligibility to an adult family home (AFH) or boarding home is not a medical expense.

(ii) Personal care cost in excess of approved hours determined by the CARE assessment described in chapter 388-106 WAC is not a medical expense.

(f) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program:

(A) Gross income must be at or below the special income level (SIL), 300% of the federal benefit rate (FBR).

(B) In a medical institution, excess resources and income must be under the state medicaid rate.

(C) For CN waiver eligibility, incurred medical expenses must reduce resources within allowable resource limits for CN-waiver eligibility. The cost of care for the waiver services cannot be allowed as a projected expense.

(ii) For LTC services provided under the medically needy (MN) program when excess resources are added to nonexcluded income, the combined total is less than the:

(A) Private medical institution rate plus the amount of recurring medical expenses for institutional services; or

(B) Private hospice rate plus the amount of recurring medical expenses, for hospice services in a medical institution.

(C) For MN waiver eligibility, incurred medical expenses must reduce resources within allowable resource limits for MN-waiver eligibility. The cost of care for the waiver services cannot be allowed as a projected expense.

(g) For a client not related to SSI, the department applies the resource rules of the program used to relate the client to medical eligibility.

(8) For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of countable resources held in the name of:

(i) The institutionalized spouse; or

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

(i) Either spouse; or

(ii) Both spouses.

(9) If subsection (8)(b) of this section applies, the department determines the amount of resources that are allocated to the community spouse before determining countable resources used to establish eligibility for the institutionalized spouse, as follows:

(a) If the client's current period of institutional status began on or after October 1, 1989 and before August 1, 2003, the department allocates the maximum amount of resources ordinarily allowed by law. ((~~The maximum allocation amount is ninety-nine thousand five hundred forty dollars effective January 1, 2006.~~)) Effective January 1, ((~~2007~~)) 2008, the maximum allocation is one hundred and ((~~one~~)) four thousand ((~~six~~)) four hundred ((~~and forty~~)) dollars. ((~~(~~))This standard increases annually on January 1st based on the consumer price index. (For the current standard starting January 2008 and each year thereafter, see long-term care standards at http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml); or

(b) If the client's current period of institutional status began on or after August 1, 2003, the department allocates the greater of:

(i) A spousal share equal to one-half of the couple's combined countable resources as of the beginning of the current

period of institutional status, up to the amount described in subsection (9)(a) of this section; or

(ii) The state spousal resource standard of forty-five thousand one hundred four dollars effective July 1, 2007 (this standard increases every odd year on July 1st). This increase is based on the consumer price index published by the federal bureau of labor statistics. For the current standard starting July 2007 and each year thereafter, see long-term care standards at http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml.

(10) The amount of the spousal share described in (9)(b)(i) can be determined anytime between the date that the current period of institutional status began and the date that eligibility for LTC services is determined. The following rules apply to the determination of the spousal share:

(a) Prior to an application for LTC services, the couple's combined countable resources are evaluated from the date of the current period of institutional status at the request of either member of the couple. The determination of the spousal share is completed when necessary documentation and/or verification is provided; or

(b) The determination of the spousal share is completed as part of the application for LTC services if the client was institutionalized prior to the month of application, and declares the spousal share exceeds the state spousal resource standard. The client is required to provide verification of the couple's combined countable resources held at the beginning of the current period of institutional status.

(11) The amount of allocated resources described in subsection (9) of this section can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

(12) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection (5) or (13)(a), (b), or (c) of this section applies.

(13) A redetermination of the couple's resources as described in subsection (7) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's countable resources exceed the standard described in subsection (1)(a), if subsection (8)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (9) or (11) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

(i) The first regularly scheduled eligibility review; or

(ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

AMENDATORY SECTION (Amending WSR 07-19-126, filed 9/19/07, effective 10/20/07)

WAC 388-513-1380 Determining a client's financial participation in the cost of care for long-term care (LTC) services. This rule describes how the department allocates income and excess resources when determining participation in the cost of care (the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical institution, the department applies all subsections of this rule.

(2) For a client receiving waiver services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, or in an alternate living facility, the department applies rules used for the community options program entry system (COPES) for hospice applicants with income under the Medicaid special income level (SIL) (300% of the federal benefit rate (FBR)), if the client is not otherwise eligible for another non-institutional categorically needy Medicaid program. (Note: For hospice applicants with income over the Medicaid SIL, medically needy Medicaid rules apply.)

(4) The department allocates nonexcluded income in the following order and the combined total of (4)(a), (b), (c), and (d) cannot exceed the medically needy income level (MNIL):

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives the ninety dollar VA improved pension and does not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all clients in a medical institution receiving general assistance.

(iv) Effective July 1, 2007, fifty-five dollars and forty-five cents for all other clients in a medical institution.

(v) Current PNA and long-term care standards can be found at http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml.

(b) Mandatory federal, state, or local income taxes owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC ((~~388-503-0510(1)~~)) 388-475-0050(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(5) The department allocates nonexcluded income after deducting amounts described in subsection (4) in the following order:

(a) Income garnished for child support or withheld according to a child support order in the month of garnishment (for current and back support):

(i) For the time period covered by the PNA; and

(ii) Is not counted as the dependent member's income when determining the family allocation amount.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ((~~2007~~)) 2008, two thousand ((~~five~~)) six hundred ((~~forty-one~~)) ten dollars, unless a greater amount is allocated as described in subsection (7) of this section. The community spouse maintenance allowance is increased each January based on the consumer price index increase (from September to September, http://www.bls.gov/cpi/). Starting January 1, 2008 and each year thereafter the community spouse maintenance allocation can be found in the long-term care standards chart at http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml. The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (http://aspe.os.dhhs.gov/poverty/); and

(B) Excess shelter expenses as described under subsection (6) of this section.

(ii) Is reduced by the community spouse's gross countable income; and

(iii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community spouse or institutionalized person who:

(i) Resides with the community spouse:

(A) In an amount equal to one-third of one hundred fifty percent of the two person federal poverty level less the dependent family member's income. This standard increases annually on July 1st (http://aspe.os.dhhs.gov/poverty/).

(ii) Does not reside with the community spouse or institutionalized person, in an amount equal to the MNIL for the number of dependent family members in the home less the dependent family member's income.

(iii) Child support received from a noncustodial parent is the child's income.

(d) Medical expenses incurred by the institutional client and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 388-513-1350.

(e) Maintenance of the home of a single institutionalized client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents the need for the income exemption.

(6) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (6)(b) less the standard shelter allocation under subsection (6)(a). For the purposes of this rule:

(a) The standard shelter allocation is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (http://aspe.os.dhhs.gov/poverty/); and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(7) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(8) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

(9) Standards described in this section for long-term care can be found at: http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml.

WSR 08-05-040
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 13, 2008, 2:57 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Alfalfa seed, chapter 16-529 WAC, the Washington state alfalfa seed commission.

Hearing Location(s): Benton PUD, 2721 West 10th Avenue, Kennewick, WA 99337, on April 3, 2008, at 2:00 p.m.

Date of Intended Adoption: July 25, 2008.

Submit Written Comments to: Kelly Frost, Commodity Commission Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, e-mail kfrost@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., April 8, 2008.

Assistance for Persons with Disabilities: Contact WSDA receptionist by March 14, 2008, TTY 1-800-833-6388 or (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington alfalfa seed commission has petitioned the director to amend its marketing order.

- Amend WAC 16-529-030 Board membership. Nomination, appointment and election of affected producer members of the board are determined by district. The proposed amendment would expand the nomination/

election process statewide when no nominations are received from a specific district or when there are fewer than three affected producers within a district.

- Amend WAC 16-529-060 Nomination of elected or director-appointed board members. Reduces from five to three the number of producers and handlers required to nominate a candidate.
- Amend WAC 16-529-070 Election or advisory vote of board members. Removes the requirement that elections occur during the month of June as the timing will depend on whether nominations are received from the district only or nominations are expanded statewide. Language is also incorporated to clarify how voting will be conducted in an "at large" election.
- Amend WAC 16-529-110 Powers and duties of the board. The proposed amendment would change the requirement for annual audits to a rate prescribed by the state auditor's office. Also corrects a typographical error and makes a technical correction to an RCW reference.

Reasons Supporting Proposal: WAC 16-529-030, nominations and elections for board membership are conducted by district and only those producers residing in the affected district may nominate and elect their representative board members. The number of producers residing in each district varies. For example, within District 2 there are currently only three producers. Low numbers of producers has resulted in receiving no nominations. Expanding the nomination and election process to include all districts when no nominations are received provides producers with more opportunities to participate in the process and works to ensure positions on the board are filled.

WAC 16-529-060, the current WAC requires at least five producers sign a petition to nominate a candidate. In some cases there are not five producers within a district. By reducing from five to three the number of producers required to nominate a candidate enables producers from smaller districts to participate in the nomination/election of their board representatives.

WAC 16-529-070, current WAC requires that elections be conducted in June. This is practical when nominations are received from the districts only. With the proposed change allowing for an at-large nomination/election process, more flexibility in timing of elections is needed. Language is also added to identify how voting will be conducted in an at-large election; this process is consistent with the current voting process within a district.

WAC 16-529-110, an annual audit of the commission's records, books and accounts is overly burdensome and costly to the commission and not required by the state auditor. Revising the requirement would allow the commission to participate in the state auditor's normal audit cycle schedule and provide consistency between RCW 15.65.490 and the alfalfa seed marketing order.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Any rule proposal that results from this rule-making process will not be adopted unless the proposed rules are also approved in a referendum of affected alfalfa seed producers conducted pursuant to chapter 15.65 RCW.

Name of Proponent: Washington alfalfa seed commission, governmental.

Name of Agency Personnel Responsible for Drafting: Kelly Frost, Olympia, Washington, (360) 902-1802; Implementation and Enforcement: WA Alfalfa Seed Commission, Kennewick, Washington, (509) 585-5460.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Any adoption of amendments to chapter 16-529 WAC would ultimately be determined by a referendum vote of the affected parties. A formal small business [economic] impact statement under chapter 19.85 RCW is not required because of the exemption granted in RCW 15.65.570(2).

A cost-benefit analysis is not required under RCW 34.05.328. The department of agriculture and the Washington alfalfa seed commission are not named agencies in RCW 34.05.328 (5)(a)(i).

February 13, 2008
Kelly Frost
Commodity Commission Coordinator

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

WAC 16-529-030 Board membership. (1) The board shall consist of eight members. Six members shall be affected producers appointed or elected as provided in WAC 16-529-020 through 16-529-120. One member shall be an affected handler appointed as provided in WAC 16-529-020 through 16-529-120. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(a) Director-appointed positions on the board shall be designated as position 2, position 4, position 6, and position 7. The affected handler member of the board shall be position 7.

(b) Elected affected producer positions on the board shall be designated as position 1, position 3, and position 5.

(c) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(2) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into three representative districts as follows:

(a) District I shall have two board members, being Positions 1 and 2, and shall include the counties of Adams, Chelan, Douglas, Ferry, Franklin, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens.

(b) District II shall have one board member, being Position 3, and shall include the counties of Benton, Kittitas, Klickitat, and Yakima.

(c) District III shall have three board members, being Positions 4, 5, and 6, and shall include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.

(d) If no nominations are received or there are fewer than three affected producers within a district, the position(s) shall be deemed "at large" and shall be filled by a producer from any district in the state. Nominations may be made by producers from any district in the state pursuant to the provisions of WAC 16-529-060.

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

WAC 16-529-060 Nomination of elected or director-appointed board members. (1) For the purpose of nominating candidates for appointment or election to board membership, the director shall call a separate nomination meeting of affected producers and affected handlers.

(2) Each year the director shall call a nomination meeting for both elected and director-appointed affected producer and affected handler board members in those districts whose board members' terms are about to expire. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and, in addition, written notice of every such meeting shall be given to all affected producers within such affected district, and to all handlers, according to the list maintained by the board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer or affected handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the nomination meeting by written petition filed with the director, signed by not less than ((~~five~~)) three affected producers or affected handlers.

(d) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

WAC 16-529-070 Election or advisory vote of board members. (1) An election or advisory vote shall be conducted by secret ballot under the supervision of the director ((~~within the month of June~~)). Each affected producer and affected handler shall be entitled to one vote.

(2) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district or, in the case of an election for an "at large" position, by a majority of the votes cast by affected producers from any district.

If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(3) An advisory vote shall be conducted for affected producer or affected handler board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the election or advisory vote. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers as maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(5) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election or advisory vote of any board member.

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

WAC 16-529-110 Powers and duties of the board. The board shall have the following powers and duties:

(1) To administer, enforce, and control the provisions of this chapter as the designee of the director.

(2) To elect a chairman and such other officers as the board deems advisable.

(3) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of this chapter and effectuate the declared policies of the act.

(4) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of this chapter. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(5) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating this chapter.

(6) To establish an "alfalfa seed revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the days as advisable.

(7) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this ((~~chapter~~)) order. Such records, books, and accounts shall be audited ((~~at least annually~~)) subject to procedures and methods lawfully prescribed by the state auditor. Such books and

accounts shall be closed as of the last day((~~s~~)) of each fiscal year of the commission. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(9) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year. The board, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(11) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter ((~~34.04~~)) 34.05 RCW (Administrative Procedure Act).

(12) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this chapter and the act, along with the necessary authority and procedure for obtaining such information.

(13) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or this chapter.

(14) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(15) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(16) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(17) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(18) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of alfalfa seed.

(19) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(20) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(21) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of alfalfa seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(22) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(23) To maintain a list of the names and addresses of persons who handle alfalfa seed within the affected area and data on the amount and value of the alfalfa seed handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(24) To maintain a list of names and addresses of all affected persons who produce alfalfa seed and the amount, by unit, of alfalfa seed produced during the past three years pursuant to RCW 15.65.295.

(25) To maintain a list of all persons who handle alfalfa seed and the amount of alfalfa seed handled by each person during the past three years pursuant to RCW 15.65.295.

(26) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(27) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

WSR 08-05-095
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)

[Filed February 15, 2008, 11:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-22-093.

Title of Rule and Other Identifying Information: The department is amending WAC 388-532-050, 388-532-100, 388-532-110, 388-532-120, 388-532-520, 388-532-530, 388-532-700, 388-532-710, 388-532-720, 388-532-730, 388-532-740, 388-532-745 (new section), 388-532-750, 388-532-760, 388-532-780, 388-532-790, reproductive health/family planning only/TAKE CHARGE.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6094), on April 8, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 9, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on April 8, 2008.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by April 1, 2008, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: See Reviser's note below.

Reasons Supporting Proposal: The department previously proposed these rules under WSR 07-07-102 and held a public hearing on May 9, 2007.

Revisions to this rule are necessary in order to bring the program into compliance with special terms and conditions of the new family planning/TAKE CHARGE waiver set forth by the Centers for Medicare and Medicaid Services (CMS) for the state of Washington. Adoption of the revisions is critical to prevent loss of 90% federal match funds for the family planning/TAKE CHARGE program.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.800.

Statute Being Implemented: RCW 74.08.090 and 74.09.800.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1306; Implementation and Enforcement: Maureen Considine, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1652.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule will not create more than minor costs for affected small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Maureen Considine, FP/TAKE CHARGE Program Manager, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 725-1652, e-mail consicm@dshs.wa.gov.

February 12, 2008
Stephanie E. Schiller
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-06 issue of the Register.

WSR 08-05-097
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed February 15, 2008, 2:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-15-081 and 07-14-081.

Title of Rule and Other Identifying Information: The department is amending chapter 388-828 WAC regarding the DDD assessment.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on April 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on April 22, 2008.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by April 15, 2008, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule making adds sections to chapter 388-828 WAC regarding the residential algorithm. The residential algorithm determines the residential service level of support for clients receiving supported living, group home, group training home, and companion home residential services.

The department is amending the following sections to include references to the residential algorithm and the individual and family services algorithm: WAC 388-828-1060, 388-828-5020, 388-828-5140, 388-828-5520, and 388-828-8020.

The department is amending the following sections to maintain consistency with the DDD computer based assessment, agency standards, and to correct references to other rule: WAC 388-828-1480, 388-828-1540, 388-828-1640, and 388-828-5940.

The proposed rules incorporate the following emergency rules:

- WAC 388-828-5080 filed as WSR 07-21-145 which amends the WAC to accurately reflect the protective supervision age-based score adjustment.
- WAC 388-828-1200 through 388-828-1300 filed as WSR 07-23-020 which amends and repeals the WAC to remove penalties for clients and their families that decline to provide income information when receiving the DDD assessment.
- WAC 388-828-5360 filed as WSR 07-24-029 which amends the back-up caregiver availability table. The department will propose the other emergency rules included in WSR 07-24-029 in the proposed rules for the individual and family services program.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: Title 71A RCW.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Debbie Roberts, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-3400; Implementation and Enforcement: Don Clintsman, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-3426.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD has analyzed the proposed rule amendments and has determined that small businesses will not be disproportionately impacted by these changes and any costs will not be considered "more than minor."

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Debbie Roberts, 640 Woodland Square Loop S.E., Lacey, WA 98504, phone (360) 725-3400, fax (360) 404-0955, e-mail roberdx@dshs.wa.gov.

February 11, 2008
Stephanie E. Schiller
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-07 issue of the Register.

WSR 08-05-103
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 19, 2008, 8:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-01-111.

Title of Rule and Other Identifying Information: Medical aid rules—Massage therapy maximum daily fees, WAC 296-23-250.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on March 26, 2008, at 1:00 p.m.

Date of Intended Adoption: April 22, 2008.

Submit Written Comments to: Tom Davis, P.O. Box 44322, Olympia, WA 98504-4322, e-mail dato235@LNI.wa.gov, fax (360) 902-4249, by April 2, 2008.

Assistance for Persons with Disabilities: Contact Tom Davis by March 19, 2008, TTY (360) 902-5797 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule is to update the department's payment rates for health care services by setting the maximum daily payment level for massage therapy services to 75% of the PT/OT cap.

Reasons Supporting Proposal: This rule will provide medical aid updates regarding rate setting for massage therapy services for injured workers.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed rate change is expected to reduce the department's liability by approximately $800,000 in fiscal year 2009.

Name of Proponent: Department of labor and industries.

Name of Agency Personnel Responsible for Drafting: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Robert Malooly, Assistant Director, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

February 19, 2008
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 05-18-030, filed 8/30/05, effective 10/1/05)

WAC 296-23-250 Massage therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers. See WAC 296-20-125 for billing instructions.

Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

Massage therapy treatment will be permitted when given by a licensed massage practitioner only upon written orders from the worker's attending doctor. In addition, physician assistants may order massage therapy under these rules for the attending doctor.

A progress report must be submitted to the attending doctor and the department or the self-insurer following six treatment visits or one month, whichever comes first. Massage therapy treatment beyond the initial six treatments will be authorized only upon substantiation of improvement in the worker's condition in terms of functional modalities, i.e., range of motion; sitting and standing tolerance; reduction in medication; etc. In addition, an outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Massage therapy in the home and/or places other than the practitioners usual and customary business facilities will be allowed only upon prior justification and authorization by the department or self-insurer.

No inpatient massage therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

Massage therapy treatments exceeding once per day must be justified by attending doctor.

Maximum daily reimbursement levels for massage therapy are seventy-five percent of the maximum daily reimbursement levels for physical and occupational therapy services.

Billing codes, reimbursement levels, and supporting policies for massage therapy services are listed in the fee schedules.

WSR 08-05-105
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)

[Filed February 19, 2008, 8:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-01-083.

Title of Rule and Other Identifying Information: The department is amending WAC 388-531-2000 Increased payments for physician-related services for qualified trauma cases.

Hearing Location(s): Blake Office Park East, Rose Room
4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6094), on March 25, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 26, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on March 25, 2008.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by March 18, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule does the following:

- Clearly states the department determines the appropriate payment enhancement percentage for physician trauma services.
- Ensures the deadline for adjusting qualified trauma claims submitted to the health and recovery services administration by physicians and other clinical providers consistent with the deadline for trauma claims submitted by hospitals.
- Adds cross-references to WAC 388-502-0150 (3) and (7) for clarification.

Reasons Supporting Proposal: This revision provides specified clarity, adds rule consistency, and appropriate cross-references about increased payments for physician-related services for qualified trauma cases.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500, chapter 43.20A RCW.

Statute Being Implemented: Chapter 43.20A RCW.

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

Name of Proponent: Department of social and health services, health and recovery services administration, division of rates and finance, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Ayuni Wimpee, 626 8th Avenue, Olympia, WA, (360) 725-1835; and Enforcement: Division of Rates and Finance, 626 8th Avenue, Olympia, WA, (360) 725-1866.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule change does not impose more than minor costs for small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jonell O. Blatt, Rules Manager, Office of Rules and Publications, Division of Legal Services, Health and Recovery Services Administration, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1571, fax (360) 586-9727, e-mail blattj@dshs.wa.gov.

February 12, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-20-050, filed 9/30/05, effective 10/31/05)

WAC 388-531-2000 Increased payments for physician-related services for qualified trauma cases. (1) The department's trauma care fund (TCF) is an amount that is legislatively appropriated to DSHS each biennium for the purpose of increasing the department's payment to eligible physicians and other clinical providers for providing qualified trauma services to Medicaid, general assistance-unemployable (GA-U), and Alcohol and Drug Addiction Treatment and Support Act (ADATSA) fee-for-service clients. Claims for trauma care provided to clients enrolled in the department's managed care programs are not eligible for increased payments from the TCF.

(2) Beginning with services provided after June 30, 2003, the department makes increased payments from the TCF to physicians and other clinical providers who provide trauma services to Medicaid, GA-U, and ADATSA clients, subject to the provisions in this section. A provider is eligible to receive increased payments from the TCF for trauma services provided to a GA-U or ADATSA client during the client's certification period only. See WAC 388-416-0010.

(3) The department makes increased payments from the TCF to physicians and other clinical providers who:

(a) Are on the designated trauma services response team of any department of health (DOH)-designated trauma service center;

(b) Meet the provider requirements in this section and other applicable WAC;

(c) Meet the billing requirements in this section and other applicable WAC; and

(d) Submit all information the department requires to ensure trauma services are being provided.

(4) Except as described in subsection (5) of this section and subject to the limitations listed, the department makes

increased payments from the TCF to physicians and other eligible clinical providers:

(a) For only those trauma services that are designated by the department as "qualified." These qualified services must be provided to eligible fee-for-service Medicaid, GA-U, and ADATSA clients. Qualified trauma services include care provided within six months of the date of injury for surgical procedures related to the injury if the surgical procedures were planned during the initial acute episode of injury.

(b) For hospital-based services only.

(c) Only for trauma cases that meet the injury severity score (ISS) (a summary rating system for traumatic anatomic injuries) of:

(i) Thirteen or greater for an adult trauma patient (a client age fifteen or older); or

(ii) Nine or greater for a pediatric trauma patient (a client younger than age fifteen).

(d) On a per-client basis in any DOH designated trauma service center.

(e) At a rate of two and one-half times the current department fee-for-service rate for qualified trauma services, ((~~subject to the following:~~)) or other payment enhancement percentage the department determines as appropriate.

(i) The department monitors the increased payments from the TCF during each state fiscal year (SFY) and makes necessary adjustments to the rate to ensure that total payments from the TCF for the biennium will not exceed the legislative appropriation for that biennium.

(ii) Laboratory and pathology charges are not eligible for increased payments from the TCF. (See subsection (6)(b) of this section.)

(5) When a trauma case is transferred from one hospital to another, the department makes increased payments from the TCF to physicians and other eligible clinical providers, according to the ISS score as follows:

(a) If the transferred case meets or exceeds the appropriate ISS threshold described in subsection (4)(c) of this section, eligible providers who furnish qualified trauma services in both the transferring and receiving hospitals are eligible for increased payments from the TCF.

(b) If the transferred case is below the ISS threshold described in subsection (4)(c) of this section, only the eligible providers who furnish qualified trauma services in the receiving hospital are eligible for increased payments from the TCF.

(6) The department distributes increased payments from the TCF only:

(a) When eligible trauma claims are submitted with the appropriate trauma indicator within the time frames specified by the department; and

(b) On a per-claim basis. Each qualifying trauma service and/or procedure on the physician's claim or other clinical provider's claim is paid at the department's current fee-for-service rate, multiplied by an increased TCF payment rate that is based on the appropriate rate described in subsection (4)(e) of this section. Charges for laboratory and pathology services and/or procedures are not eligible for increased payments from the TCF and are paid at the department's current fee-for-service rate.

(7) For purposes of the increased payments from the TCF to physicians and other eligible clinical providers, all of the following apply:

(a) The department may consider a request for a claim adjustment submitted by a provider only if the claim is received by the department within one year from the date of the initial trauma service;

(b) The department does not allow any carryover of liabilities for an increased payment from the TCF ((~~after a date specified by the department as the last date to make~~)) beyond three hundred sixty-five days from the date of service. The deadline for making adjustments to a trauma claim for an SFY is the same as the deadline for submitting the initial claim to the department as specified in WAC 388-502-0150(3). WAC 388-502-0150(7) does not apply ((~~in this case~~)) to TCF claims;

(c) All claims and claim adjustments are subject to federal and state audit and review requirements; and

(d) The total amount of increased payments from the TCF disbursed to providers by the department in a biennium cannot exceed the amount appropriated by the legislature for that biennium. The department has the authority to take whatever actions are needed to ensure the department stays within the current TCF appropriation (see subsection (4)(e)(i) of this section).

WSR 08-05-108
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 19, 2008, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-01-112.

Title of Rule and Other Identifying Information: Medical aid rules—Conversion factors and maximum daily fees, WAC 296-20-135, 296-23-220, and 296-23-230.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on March 26, 2008, at 1:00 p.m.

Date of Intended Adoption: April 22, 2008.

Submit Written Comments to: Tom Davis, P.O. Box 44322, Olympia, WA 98504-4322, e-mail dato235@LNI.wa.gov, fax (360) 902-4249, by April 2, 2008.

Assistance for Persons with Disabilities: Contact Tom Davis by March 19, 2008, TTY (360) 902-5797 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule is to update the department's payment rates for health care services by:

(1) Changing the conversion factor used to calculate payment levels for services payable through the resource based relative value scale (RBRVS) fee schedule; (2) changing the conversion factor used to calculate payment for anesthesia services; and (3) increasing the maximum daily payment for physical and occupational therapy.

WAC 296-20-135(2), increase the RBRVS conversion factor from $56.38 to $61.53.

WAC 296-20-135(3), increase the anesthesia conversion factor from $3.08 to $3.19.

WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from $113.84 to $118.07.

Reasons Supporting Proposal: This rule will provide medical aid updates regarding rate setting for most professional health care services for injured workers.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: (1) Increasing the conversion factors used to calculate maximum payment for services paid with the RBRVS fee schedule;

(2) Increasing the conversion factor used to calculate maximum payment for anesthesia services; and

(3) Increasing the maximum daily payment for physical and occupational therapy services.

The conversion factor updates are made in accordance with WAC 296-20-132 Determination of conversion factor adjustments. The anticipated effect of this rule change is to allow injured workers continued access to health care services.

Name of Proponent: Department of labor and industries.

Name of Agency Personnel Responsible for Drafting: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Robert Malooly, Assistant Director, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

February 19, 2008
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-10-082, filed 5/1/07, effective 7/1/07)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of $((~~56.38~~)) 61.53. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of $((~~3.08~~)) 3.19 per minute, which is equivalent to $((~~46.20~~)) 47.85 per 15 minutes. The base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 07-10-082, filed 5/1/07, effective 7/1/07)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. In addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or $((~~113.84~~)) 118.07 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 07-10-082, filed 5/1/07, effective 7/1/07)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or $((~~113.84~~)) 118.07 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

WSR 08-05-127
PROPOSED RULES
OLYMPIC REGION CLEAN AIR AGENCY

[Filed February 20, 2008, 10:28 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency Regulations, Rule 3.4 Outdoor Burning Permit Fees. This rule set the fee charged for land clearing burn permits issued by the agency.

Hearing Location(s): Olympic Region Clean Air Agency, 2940 B Limited Lane N.W., Olympia, WA 98502, on April 9, 2008, at 10:00 a.m.

Date of Intended Adoption: April 9, 2008.

Submit Written Comments to: Robert Moody, 2940 B Limited Lane N.W., Olympia, WA 98502, e-mail robert@orcaa.org, fax (360) 586-1044, by April 6, 2008.

Assistance for Persons with Disabilities: Contact Dan Nelson by April 2, 2008, (360) 586-1044.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The land clearing burn permit fee is being increased from $75.00 per acre cleared to $100.00 per acre cleared. The fee increase is necessary to better fund the permit program and complaint response.

Reasons Supporting Proposal: Revenue generated through fees has not covered the program expenses.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: Olympic Region Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Moody, 2940 B Limited Lane N.W., (360) 586-1044.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the Regulatory Fairness Act (chapter 19.85 RCW) because air pollution control authorities are not deemed state agencies (RCW 70.94.141).

A cost-benefit analysis is not required under RCW 34.05.328. Air pollution control authorities are not deemed to be state agencies (RCW 70.94.141).

February 20, 2008
Richard A. Stedman
Executive Director

AMENDATORY SECTION
RULE 3.4 OUTDOOR BURNING PERMIT FEES

Agricultural Burn permit: For 10 acres (or equivalent) or less the fee is twenty-five dollars ($25.00). For greater than 10 acres (or equivalent) the fee will be two dollars and fifty cents ($2.50) per acre.

Land Clearing Burn Permit: Land clearing burning permits issued by ORCAA will be charged ((~~$75.00~~)) $100.00 for one acre or less. For greater than one acre the fee will be ((~~$75.00~~)) $100.00 per acre cleared, rounded to the nearest full acre.