

WSR 08-16-025
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 28, 2008, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-18-072.

Title of Rule and Other Identifying Information: Chapter 392-162 WAC, Special service program—Learning assistance.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Old Capitol Building, 600 Washington Street, Olympia, WA 98504, on September 16, 2008, at 9:00 a.m.

Date of Intended Adoption: September 17, 2008.

Submit Written Comments to: Gayle Pauley, P.O. Box 47200, Olympia, WA 98504-7200, e-mail gayle.pauley@k12.wa.us, fax (360) 725-6100, by September 15, 2008.

Assistance for Persons with Disabilities: Contact Penny Coker by September 15, 2008, TTY (360) 664-3631 or (360) 725-6142.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend the WAC for revisions made by the 2007-08 legislative session to authorizing chapter 28A.165 RCW and provide clarifying language.

Reasons Supporting Proposal: Conform to changes in authorizing legislation and provide clarification.

Statutory Authority for Adoption: RCW 28A.165.075.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gayle Pauley, OSPI, (360) 725-6100.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

July 28, 2008

Dr. Terry Bergeson
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-005 Authority. The authority for this chapter is RCW 28A.165.075 which authorizes the superintendent of public instruction to adopt rules and regulations for the administration of a program designed to provide learning assistance to public school students in grades kindergarten through ~~((eleven (grade)) twelve ((beginning with the 2007-08 school year)))~~ who are deficient in basic skills achievement.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-010 Purpose. The purpose of this chapter is to set forth policies and procedures for the administration of and to ensure district compliance with state requirements for a program designed to provide extended learning ((assistance)) opportunities to public school students in grades kindergarten through ~~((eleven (grade)) twelve ((beginning with the 2007-08 school year) who are deficient in basic skills achievement))~~ who score below standard for his or her grade level on the statewide assessments and assessments in the basic skills administered by local school districts.

The learning assistance program requirements in this chapter are designed to:

(1) Provide the means by which a school district becomes eligible for learning assistance program funds and the distribution of those funds;

(2) Promote the use of assessment data when developing programs to assist underachieving students; and

(3) Guide school districts in providing ~~((the most effective and efficient practices when implementing programs))~~ extended learning opportunities to assist underachieving students and students in grades eleven and twelve who are at risk of not meeting state and local graduation requirements.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-020 Definition—Learning assistance program (LAP). As used in this chapter, the term "learning assistance program" means a statewide program designed to enhance educational opportunities for public school students in grades kindergarten through ~~((eleven (grade)) twelve ((beginning with the 2007-08 school year)))~~ who do not meet state standards.

~~(("Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.))~~

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-025 Definition—Statewide assessments. As used in this chapter, the term "statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-032 Definition—Participating student. As used in this chapter, the term "participating student" means a student in kindergarten through grade ~~((eleven (grade)) twelve ((beginning with the 2007-08 school year)))~~ who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved

plan to receive services and students in grades eleven and twelve who are at risk of not meeting state or local graduation requirements.

~~((Beginning with the 2007-08 school year, "participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.))~~

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-033 Definition—Underachieving students. As used in this chapter, the term "underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments and assessments in the basic skills areas administered by the local school district.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-034 Accelerated learning plans. Accelerated learning plans are to be developed and implemented for participating students. Accelerated learning plans may be developed as part of an existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

- (1) Achievement goals for students in the content area(s) served;
- (2) Roles for the student(s), parents, or guardians and teachers in the plan;
- (3) Communication procedures ~~((regarding student(s) accomplishment; and))~~ used to inform parents or guardians, and teachers of a student's accomplishments and progress toward achieving goals. These may include, but are not limited to:
 - (a) When conferences will occur;
 - (b) When grade and progress reports will be sent;
 - (c) How the parents may be contacted;
 - (d) How teachers and administrators may be contacted;
 - (e) Access to the web site and its contents;
 - (f) How to access grade reports on-line; and
 - (g) Other ongoing progress monitoring.
- (4) Evidence of the accelerated student learning plan review and adjustment processes.

NEW SECTION

WAC 392-162-036 Definition—Extended learning opportunities. As used in this chapter the term "extended learning opportunities" means a program of learning assistance in addition to the required basic education instruction designed to improve the educational performance of students selected under WAC 392-162-080.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-054 Definition—District eligibility and distribution of funds. Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with the Biennial Appropriations Act. The distribution formula is for school district allocation purposes only. The distribution formula shall be based on one or more family income factors measuring economic need. ~~((In addition, increases in a school district's allocation above the 2004-05 school year level shall be directed as prescribed by the legislature (to grades nine and ten for the 2006-07 school year).))~~

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-060 District application. Each district that seeks an allocation from the state for a learning assistance program shall submit an ~~((annual))~~ application by July 1st of each year, including the district program plan outlined in WAC 392-162-070, and an annual expenditure plan for approval on electronic forms provided by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-068 Program plan. By July 1st of each year, a participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval. Applications must be approved before funds are expended.

A school district must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in subsections (1) through (8) of this section. The school district plan shall include the following:

- (1) District and school-level data ~~((on))~~ trends in reading, writing, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;
- (2) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;
- (3) Assurance that accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of an existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students;
- (4) How state level and classroom assessments are used to inform LAP instruction;
- (5) How focused and intentional instructional strategies have been identified and implemented in the LAP program;
- (6) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(7) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; ~~((and))~~

(8) How a program evaluation will be conducted annually to determine direction for the following school year;

(9) A description of the extended learning opportunities for eligible eleventh and twelfth grade students who are at risk of not meeting local or state graduation requirements; and

(10) A description of the extended learning opportunities for eligible eighth grade students who have not met standard on the WASL or need additional assistance to successfully enter high school.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-072 Program plan—Approved activities. Through the identification of best practices, which maximize the opportunities for student success, services and activities which support the learning assistance program include:

(1) Extended learning time through extended day, week or year activities;

(2) Instructional services to provide extended learning opportunities for eligible eleventh and twelfth grade students who are at risk of not meeting local or state graduation requirements as well as eighth grade students not meeting standard on the Washington assessment of student learning (WASL) or need additional assistance for a successful entry into high school. The instruction services may include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the Washington assessment of student learning;

(c) Inclusion in remediation programs, including summer school;

(d) Language development instruction for English language learners;

(e) On-line curriculum and instructional support, including programs for credit retrieval;

(3) Professional development for certificated and classified staff that focuses on the needs of diverse student populations, specific literacy and mathematics content and instructional strategies, and the use of student work to guide effective instruction;

~~((3))~~ (4) Consultant teacher to assist in implementing effective instructional practices by teachers serving participating students;

~~((4))~~ (5) Tutoring support for participating students; and

~~((5))~~ (6) Outreach activities and support for parents of participating students.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-080 Program requirement—Selection of students. Students selected to participate in the learning assistance program shall be limited to those who:

(1) Are enrolled in grades kindergarten through ~~((eleven (grade)))~~ twelve ~~((beginning with the 2007-08 school year));~~

(2) Are performing below the state standard for his or her grade level;

(3) Have been identified in the approved district plan to receive services; ~~((and))~~

(4) Have been determined to have the greatest risk of not meeting the state's challenging content and performance standards; and

(5) Are in grades eleven or twelve and are at risk of not meeting state or local graduation requirements.

AMENDATORY SECTION (Amending WSR 07-02-015, filed 12/21/06, effective 1/21/07)

WAC 392-162-105 Program requirement—Program evaluation. Evaluation procedures as outlined in WAC 392-162-110 shall be used annually by districts to evaluate the educational achievement of students receiving recommended services in the learning assistance program. Such evaluation for school districts in district improvement, or with one or more schools in school improvement status, shall annually review and evaluate program success in alignment with state and federal program school improvement program requirements.

WSR 08-16-049

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket TN-080875—Filed July 30, 2008, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-12-085.

Title of Rule and Other Identifying Information: WAC 480-31-080 Private, nonprofit transportation providers—Fees and annual report.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on October 1, 2008, at 1:30 p.m.

Date of Intended Adoption: October 1, 2008.

Submit Written Comments to: Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by September 8, 2008. Please include "Docket TN-080875" in your comments.

Assistance for Persons with Disabilities: Contact Mary De Young by September 29, 2008, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington utilities and transportation commission (commission) proposes to remove the annual vehicle fee for nonprofit transportation providers from rule and to set the fee by order each year. This allows the commission more flexibility in adjusting the fee, either up or down, to meet the intent of RCW 81.66.030, which requires the commission to charge fees that approximate the cost of regulation.

Reasons Supporting Proposal: The proposed rule eliminates prescriptive language to allow more flexibility.

Statutory Authority for Adoption: RCW 80.01.040, 81.04.160, 81.66.030.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Betty Young, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1202; Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not result in or impose more than minor costs as defined in RCW 19.85.020(2). Because there will not be more than minor increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

July 30, 2008

David W. Danner
Executive Director
and Secretary

AMENDATORY SECTION (Amending Docket No. T-051359, General Order No. R-529, filed 3/15/06, effective 4/15/06)

WAC 480-31-080 Fees and annual report. (1) A private, nonprofit transportation provider must pay to the commission (~~the sum of ten dollars annually~~) an annual fee for each vehicle operated. The fee is established by commission order. The provider must pay the annual fee with the filing of the annual report.

(2) At the close of each calendar year, every provider must secure from the commission the proper forms and file with the commission its annual report as soon as possible after the close of the calendar year, but no later than May 1st of the succeeding year.

WSR 08-16-082
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed August 1, 2008, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-12-026.

Title of Rule and Other Identifying Information: WAC 392-127-015 FTE enrollment—Definition.

Hearing Location(s): Old Capitol Building, 600 South Washington Street, P.O. Box 47200, Olympia, WA 98504-7200, on September 12, 2008, at 9:00.

Date of Intended Adoption: September 15, 2008.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, by September 11, 2008.

Assistance for Persons with Disabilities: Contact Clarice Nnanubu by September 11, 2008, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rule revisions will update the calculation of the K-12 staff ratio compliance for state funding purposes.

Reasons Supporting Proposal: These revisions will provide a more fair and appropriate methodology to calculate the K-12 staff-per-student ratio compliance for school districts that provide students instruction pursuant to a contract with a college or university.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Charlie Schreck, Office of Superintendent of Public Instruction, (360) 725-6136; Implementation: Ross Bunda, Office of Superintendent of Public Instruction, (360) 725-6308; and Enforcement: Jennifer Priddy, Office of Superintendent of Public Instruction, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable - no small business impact.

A cost-benefit analysis is not required under RCW 34.05.328. The superintendent of public instruction is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

June 23, 2008
Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 00-02-064, filed 1/3/00, effective 2/3/00)

WAC 392-127-015 FTE enrollment—Definition. As used in this chapter, "full-time equivalent enrollment" means

for the period selected by a school district, the total full-time equivalent students reported by a school district pursuant to WAC 392-121-122 excluding:

(1) Running start and University of Washington transition school students reported ((pursuant to subsections) under WAC 392-121-122 (3) and (4) ((of that section)); and

(2) Students that are being served pursuant to a contract under WAC 392-121-188 with a higher education institution when the staff serving the students are not reported on the school district's S-275 report for the time of instruction.

WSR 08-16-089

PROPOSED RULES

GROWTH MANAGEMENT HEARINGS BOARDS

[Filed August 4, 2008, 1:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-04-016.

Title of Rule and Other Identifying Information: Chapter 242-02 WAC, Practice and procedure before the growth management hearings boards; addition of new section WAC 242-02-075 Special meeting.

Hearing Location(s): Eastern Washington Growth Management Hearings Board, 15 West Yakima, Suite 102, Yakima, WA 98902, on October 2, 2008, at 12:00 p.m.

Date of Intended Adoption: October 2, 2008.

Submit Written Comments to: Julie K. Ainsworth-Taylor, Growth Management Hearings Board, 800 Fifth Avenue, Suite 2356, Seattle, WA 98104, e-mail Juliet@cps.gmhb.wa.gov, fax (206) 389-2588, by September 15, 2008.

Assistance for Persons with Disabilities: Contact Angie Andreas by September 26, 2008, e-mail AAndreas@EW.GMHB.WA.GOV, or (509) 574-6960.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 36.70A.-270(9) provides for an annual meeting of the three hearings boards. WAC 242-02-076 provides that this annual meeting shall occur in October and additionally provides for a semi-annual meeting in April. The boards have determined that matters may arise which require a joint meeting of the boards in addition to meetings currently addressed in the RCW and WAC to address special matters.

Reasons Supporting Proposal: The adoption of a special meetings rule would address the growth management hearings boards need to be able to conduct business, as necessary, by the joint boards at other times in the year beside those times set forth in RCW 36.70A.270(9) and WAC 242-02-076.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Statute Being Implemented: Chapter 36.70A RCW.

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

Name of Proponent: Rules committee, joint growth management hearings boards, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Julie K. Ainsworth-Tay-

lor, Rules Coordinator, Growth Management Hearings Boards, 800 Fifth Avenue, Suite 2356, Seattle, WA 98014, (206) 389-2625, (425) 441-8250.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule changes only apply to practice and procedure before quasi-judicial boards, the growth management hearings boards.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule changes only apply to practice and procedure before quasi-judicial boards, the growth management hearings boards.

James J. McNamara

Chair - Rules Committee

NEW SECTION

WAC 242-02-075 Special meeting. (1) A special meeting of the joint boards may be called at the request of any three of the nine board members. To call a special meeting, a written notice of the meeting shall be posted on the boards' web site and personally e-mailed to:

(a) Each member of the boards; and

(b) Each general circulation newspaper, television or radio station which has on file with the boards a written request to be notified of special meetings.

(2) The written notice shall state the date and time of the meeting, and shall specify the business to be transacted by the boards. The boards will not take final action on any matter that is not specified in the written notice.

(3) Notices of special meetings shall be sent by e-mail:

(a) Ten days before the scheduled meeting; except

(b) When a special meeting is called to consider rule changes pursuant to chapter 34.05 RCW, the notice shall be sent at least twenty days prior to the meeting; and except

(c) In the event of an emergency requiring board action, the notice and timing requirements may be waived as provided in RCW 42.30.080.

(4) The special meeting shall be chaired by one of the board members who called the meeting.

(5) A special meeting may be held by telephone conference call.

(6) Two members of each board will constitute a quorum for a special meeting.

(7) Members of the public may attend a special meeting by appearing at any of the three board offices, or the location of the special meeting, at the date and time set for the meeting.

WSR 08-16-093

PROPOSED RULES

ENERGY FACILITY SITE EVALUATION COUNCIL

[Filed August 5, 2008, 8:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-19-033.

Title of Rule and Other Identifying Information: Chapter 463-61 WAC, Electrical transmission facilities, this new chapter describes a mandatory preapplication process required prior to filing an application with the energy facility site evaluation council (EFSEC) to site electrical transmission lines that are 115 kilovolts or greater.

Hearing Location(s): Energy Facility Site Evaluation Office, 3rd Floor, 905 Plum Street S.E., Olympia, WA 98504-3172, on September 9, 2008, at 2:00 p.m.

Date of Intended Adoption: October 14, 2008.

Submit Written Comments to: Allen Fiksdal, P.O. Box 43172, Olympia, WA 98504-3172, e-mail allenf@cted.wa.gov, fax (360) 956-2158, received by 5:00 p.m., September 9, 2008.

Assistance for Persons with Disabilities: Contact Tammy Talburt by September 2, 2008, or (360) 956-2121.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to implement a preapplication process for the siting of electrical transmission lines as provided in RCW 80.50.330. The preapplication process requires a preapplicant to file with EFSEC information regarding a proposed electrical transmission line and transmission line corridor, a negotiation process with the cities, towns, and/or counties where the transmission corridor will be located if no corridor has been identified through local land use plans. The draft rule also requires notification of the proposal to governmental organizations and local residents. The draft rule requires EFSEC to hold at least one informational meeting in the area of the proposed corridor. Applications for siting electrical transmission lines under RCW 80.50.045 and [80.50.]060 shall be the same as for other energy facilities.

Reasons Supporting Proposal: In 2007 the legislature authorized developers of electrical transmission lines that are 115 kilovolts or greater to opt-in [opt-in] to the EFSEC siting process as well as required [requiring] a preapplication process to ensure cities, towns and counties participated in the initial stages of electrical transmission line siting.

EFSEC was designated by the Federal Regulatory Commission as the state authority for the purposes of siting transmission facilities under Section 1221 of the National Energy Policy Act of 2005. This rule is applicable to those facilities.

Statutory Authority for Adoption: RCW 80.50.040(1).

Statute Being Implemented: Chapter 80.50 RCW.

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

Name of Proponent: Energy facility site evaluation council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Allen Fiksdal, 905 Plum Street, Olympia, WA 98504-3172, (360) 956-2152.

No small business economic impact statement has been prepared under chapter 19.85 RCW. It is expected that only electrical utilities or large corporations like Puget Sound Energy, Avista, or PacifiCorp that operate in Washington state and have hundreds or thousands of employees will be proposing to build electrical transmission lines. These businesses are not "small business" as defined in chapter 19.85 RCW, therefore, a small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328. EFSEC is not listed as an agency required to prepare a cost-benefit analysis and this proposed rule does not meet the definition of a "significant legislative rule" under RCW 34.05.328.

August 5, 2008

Allen J. Fiksdal

EFSEC Manager

Chapter 463-61 WAC

ELECTRICAL TRANSMISSION FACILITIES

NEW SECTION

WAC 463-61-010 Purpose. This chapter describes the preapplication process that is mandatory prior to filing an application and the requirements for applications to site electrical transmission facilities.

NEW SECTION

WAC 463-61-020 Definitions. The following definitions apply when these terms are used in the provisions of this chapter:

"EFSEC" means the energy facility site evaluation council and where appropriate the EFSEC staff.

"Facilities" means those energy transmission facilities described in RCW 80.50.060 and WAC 463-61-030.

"Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapter 35.63, 35A.06, 36.70, or 36.70A RCW, or as otherwise designated by chapter 325, Laws of 2007.

"Modification" means a significant change to an electrical transmission facility which does not include any of the following:

(a) Minor improvements such as the replacement of existing transmission line facilities or supporting structures with equivalent facilities or structures;

(b) The relocation of existing electrical transmission line facilities within the existing corridor;

(c) The conversion of existing overhead lines to underground; or

(d) The placement of new or additional conductors, supporting structures, insulators, or their accessories on or replacement of supporting structures already built.

"National interest electric transmission corridor" means a transmission corridor identified by the U.S. Department of Energy pursuant to section 1221 of the 2005 Energy Policy Act.

"Preapplicant" means a person considering applying for a site certificate agreement for an electrical transmission facility.

"Preapplication process" means the process which is initiated by written request by a preapplicant to EFSEC, a preapplicant's initial consultation with EFSEC, and the activities conducted under WAC 463-61-050.

"Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or Article

XI of the state Constitution, or as otherwise designated by chapter 325, Laws of 2007.

NEW SECTION

WAC 463-61-030 Applicability. (1) The provisions of this chapter apply to the construction, reconstruction, or modification of electrical transmission facilities in each of the following circumstances:

(a) The facility is located in a national interest electric transmission corridor as specified in RCW 80.50.045.

(b) The applicants or preapplicants choose to seek certification under RCW 80.50.060 and the facility:

(i) Has a nominal voltage of at least one hundred fifteen thousand volts; and

(ii) Is proposed to be located in a completely new corridor which is located in more than one jurisdiction where at least one such jurisdiction has promulgated land use plans or zoning ordinances. The location of the terminus of the facility or the location of an interconnection between the facility and the existing electrical transmission grid in an existing corridor does not disqualify a facility from consideration under this subsection.

(c) The applicants or preapplicants choose to seek certification under RCW 80.50.060 and the facility:

(i) Has a nominal voltage in excess of one hundred fifteen thousand volts; and

(ii) Is proposed to be located outside an existing or designated electrical transmission corridor identified in (a) or (b) of this subsection.

(2) This section does not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those specified in this section.

NEW SECTION

WAC 463-61-040 Initial consultation. Prior to filing a preapplication request under WAC 463-61-050, the preapplicant shall meet and consult with the EFSEC staff concerning the proposed project. Topics for discussion shall include but not be limited to:

(1) The nature of the project, the contents of the preapplication request and the status of the preapplicant's progress toward obtaining information and data regarding the project.

(2) A discussion of whether a third-party contractor is likely to be needed to prepare an environmental documentation for the project.

(3) Development of a preapplication plan to be filed with a preapplication request.

(4) The coordination of the public informational meeting.

NEW SECTION

WAC 463-61-050 Preapplication process. The preapplication request shall be filed with EFSEC at the EFSEC's office and contain the following information:

(1) The name and mailing address of the preapplicant, including a contact name, address, telephone number, and e-mail address of the contact person.

(2) A description of the proposed transmission route and corridor, including location maps and plot plans to scale, showing all major components, including a description of zoning and site availability for any permanent facility, and including whether and to what extent the proposed project is located within a national interest electric transmission corridor.

(3) A description of the proposed right of way width for the transmission line, including the extent a new right of way will be required or an existing right of way will be widened.

(4) A description of the proposed transmission line structures and their dimensions.

(5) A description of the schedule desired for the project, including the expected application filing date, the expected beginning date for construction, and the expected project operational date.

(6) A list of the federal, state, tribal and local government entities, including mailing addresses, contact names, telephone numbers and e-mail addresses that have possible permitting responsibilities for the project (if the project proponents were not to choose the EFSEC review) or ownership of land on which the project will be located. The list shall also identify governmental entities that have requested the preapplicant to notify them of an applicant or preapplicant for site certification.

(7) Information or data that may be available at a later date.

(8) A summary and timeline of any initial consultation to explain the proposal and/or request input from the EFSEC staff, federal, state and local agencies, tribal governments, property owners, and interested persons.

(9) A public participation plan that:

(a) Identifies specific tools and actions to facilitate stakeholder communications and public information, including an up-to-date project web site and a readily accessible, single point of contact within the company;

(b) Lists all central locations in each local government throughout the project area where the preapplicant shall provide copies of all their filings related to the proposed project; and

(c) Includes a description and schedule explaining how the preapplicant intends to respond to requests for information from the public as well as federal, state, local, and tribal agencies or any other legal entities that could have permitting requirements if the project proponents were not to choose the EFSEC review.

(10) A structured negotiation process acceptable to EFSEC between the preapplicant and the cities, towns, and/or counties through which the proposed transmission line corridor will be located except where the cities, towns, and/or counties have designated transmission corridors through their land use plans or zoning ordinances.

NEW SECTION

WAC 463-61-060 Commencement of preapplication process and public informational meeting. (1) Within three days of filing a preapplication request with EFSEC the preapplicant shall send notice to:

(a) All the towns, cities, and counties in which the proposed electric transmission line route is located;

(b) Persons or governmental agencies owning land that may be acquired for the project or in which an easement may be sought;

(c) Land owners within three hundred feet of the proposed corridor; and

(d) Tribal, federal and state permitting entities if the project proponents were not to choose the EFSEC review.

(2) The notice shall contain a brief summary of the proposed project, the preapplication and application process and tentative schedules, the locations where copies of the notice of intent are located in each town, city and county traversed by the proposed transmission route and the address of a web site containing the proposed project information.

(3) The notice to each affected landowner shall be mailed to the address of record on file with the applicable county auditor and have an explanation of the rights an affected landowner has during an EFSEC application review and under applicable Washington eminent domain laws.

(4) Within sixty days after receipt of the preapplication fee, EFSEC shall conduct at least one public informational meeting. The public informational meeting shall be for the purpose of informing the public and interested entities of relevant information regarding the proposed electrical transmission facility.

(a) The public meeting, at a minimum, shall provide the details of the preapplication request and the preapplication plan including the use of exhibits and hand-outs.

(b) The preapplicant and EFSEC staff shall be available and prepared to answer questions.

(c) The meeting shall be scheduled to maximize the opportunity for attendance by the public and held at a location near the proposed transmission corridor. If the proposed transmission corridor crosses multiple counties EFSEC may hold additional preapplication public meetings along the proposed corridor.

(d) At least two weeks prior to the date of the public meeting, notice of the preapplication public meeting shall be published in newspapers of general circulation for each town, city and/or county where the site is proposed.

NEW SECTION

WAC 463-61-070 Corridors and transmission facilities considerations. (1) EFSEC shall consider and may recommend certification of electrical transmission facilities in corridors designated for this purpose by affected cities, towns, or counties where:

(a) Jurisdictions have identified electrical transmission facility corridors as part of their land use plans and zoning maps based on policies adopted in their plans.

(b) The proposed electrical transmission facility is consistent with any adopted development regulations that govern the siting of electrical transmission facilities in such corridors.

(c) Contiguous jurisdictions and jurisdictions in which related regional electrical transmission facilities are located have either prior to or during the preapplication process

undertaken good faith efforts to coordinate the locations of their corridors consistent with RCW 36.70A.100.

(2) If EFSEC determines that negotiations as required in WAC 463-61-080 have failed and no corridor plan can be agreed to by the preapplicant and affected cities, towns, and counties, EFSEC shall consider the applicant's proposed corridor and transmission facilities consistent with RCW 80.50.090 and 80.50.100 taking into consideration the positions of the preapplicant and the affected cities, towns or counties.

NEW SECTION

WAC 463-61-080 Negotiations between preapplicants, cities, towns and counties. (1) As required by RCW 80.50.330(2) if no corridor has been designated by a local government the preapplicant and affected cities, towns, and/or counties shall negotiate to designate a corridor for the electrical transmission facility.

(2) If after sixty days of negotiations between the preapplicant and affected cities, towns, and/or counties, no corridor has been agreed upon, the preapplicant together with an affected city, town, or county may request EFSEC extend the time of negotiations by a period of time that the preapplicant and city, town, and/or county have agreed upon.

NEW SECTION

WAC 463-61-090 Preapplication costs. (1) A preapplicant shall deposit with the state treasurer ten thousand dollars to be applied to the cost of the preapplication process as a condition for proceeding by EFSEC.

(2) EFSEC shall manage the preapplication costs using the structure outlined in RCW 80.50.071 as follows:

(a) The preapplicant shall pay all reasonable and necessary costs incurred by EFSEC and its members;

(b) EFSEC shall charge against deposits made by the preapplicant;

(c) EFSEC shall provide the preapplicant with estimates of expected costs;

(d) Any EFSEC costs in excess of the initial ten thousand dollars shall be agreed to by the preapplicant and deposited prior to EFSEC expenditure; and

(e) Any unexpended portions of funds deposited for the preapplication process shall be returned to the preapplicant or, if requested by the preapplicant, applied to the cost of EFSEC's review of an application for site certification.

NEW SECTION

WAC 463-61-100 Applications for site certification. (1) An application for site certification may be submitted when the preapplication process is completed. The preapplication process shall be complete when:

(a) EFSEC has held one or more public meetings under WAC 463-61-060(3); and

(b) Negotiations between affected cities, towns, and/or counties have been conducted and a corridor has been agreed on; or

(c) Negotiations under WAC 463-61-080 have been conducted but the preapplicant, cities, towns, and/or counties

have not agreed on a corridor and EFSEC has determined that additional negotiations are not necessary.

(2) Applications for site certification of electrical transmission lines under RCW 80.50.045 and 80.50.060 shall follow the guidelines for applications for site certification found in chapter 463-60 WAC.

NEW SECTION

WAC 463-61-110 EFSEC review. (1) EFSEC shall review the application for site certification of the proposed corridor and electrical transmission facilities consistent with the provisions of chapter 80.50 RCW.

(2) EFSEC shall consider the applicant's application for site certification and proposed corridor and electrical transmission facilities and shall make a recommendation consistent with RCW 80.50.100 and 80.50.110.

WSR 08-16-096

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed August 5, 2008, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-11-054.

Title of Rule and Other Identifying Information: Senior driver accident prevent program, establishes rules to ensure that insured drivers who seek certification for taking a course offered via an alternative delivery method have completed the course.

Hearing Location(s): Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA (check in at counter on the first floor), on September 10, 2008, at 3:00 p.m.

Date of Intended Adoption: September 11, 2008.

Submit Written Comments to: Patricia Hardy, 5313 Evergreen Way, Everett, WA 98203, e-mail phardy@dol.wa.gov, fax (425) 356-2978, by September 9, 2008.

Assistance for Persons with Disabilities: Contact Clark Holloway by September 9, 2008, TTY (360) 664-0116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Creates a new section in chapter 308-106 WAC, pertaining to mandatory insurance, setting guidelines for verifying participation in senior driver accident prevent courses offered in an alternative method of delivery.

Reasons Supporting Proposal: Rules necessary to implement section 1, chapter 258, Laws of 2007.

Statutory Authority for Adoption: RCW 46.01.110 and 48.19.460.

Statute Being Implemented: RCW 48.19.460.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Patricia Hardy, 5313 Evergreen Way, Everett, WA, (425) 356-2977; Implementation and Enforcement: Becky Loo-

mis, Highways-Licenses Building, Olympia, WA, (360) 902-4088.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

August 4, 2008

Becky Loomis

Assistant Director

Chapter 308-106 WAC

MANDATORY INSURANCE

NEW SECTION

WAC 308-106-050 Verifying participation in senior driver accident prevention course offered in an alternative method of delivery. (1) An older insured driver is eligible for insurance premium reduction upon completion of a Senior Driver Accident Prevention course, as provided by RCW 48.19.460.

(2) This premium reduction is allowed for courses given in a classroom setting and courses given by an alternative delivery method, including but not limited to, internet, video, or other technology based methods.

(3) Courses provided by an alternative method of delivery must be approved by the department of licensing.

(4) Providers of Senior Driver Accident Prevention Courses given by an alternative delivery method will include a process to determine that participants seeking certification for the course have completed the course. The process could include, but is not limited to:

- (a) Timers that limit how fast the course can be viewed;
- (b) Quizzes to determine if the participant understands the course content; or

(c) Asking the participant to provide information at the beginning of the course, and then asking questions during the course to verify that information. The information requested will not be of a nature that would compromise the participant's identity or security. These questions will be used to ensure that the participant who is taking the course is actually the person receiving the course material.

(5) Providers of Senior Driver Accident Prevention Courses given by an alternative delivery method will maintain records of participants who complete the course and are issued certificates. These records will be made available to the department of licensing upon written request.

WSR 08-16-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Juvenile Rehabilitation Services)

[Filed August 5, 2008, 9:34 a.m.]

Supplemental Notice to WSR 07-23-092.

Exempt from preproposal statement of inquiry under WSR 07-16-089.

Title of Rule and Other Identifying Information: The department is amending chapter 388-740 WAC, Juvenile parole revocation, WAC 388-740-0010 Definitions, 388-740-0040 Parole revocation petition, and 388-740-0070 Confinement.

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 September 9, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 10, 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 DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on September 9, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 2, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to implement RCW 13.40.210 (4)(b), effective October 1, 2007, incorporating statutory language and defining behavior which may be cause for the secretary to modify parole and return a juvenile sex offender to confinement for up to twenty-four weeks.

The department is also incorporating into rule provisions of RCW 13.40.210 (4)(a)(v) and (vi). This law authorizes the secretary to return certain juvenile sex offenders and basic training camp program graduates to confinement for the remainder of his or her sentence. Incorporated into rule also are related guidelines and juvenile rehabilitation administration (JRA) parole standards.

Additions were made to WAC 388-740-0010 Definitions. WAC 388-740-0040 was amended to reference changes in WAC 388-740-0070 and to include privacy protections. WAC 388-740-0070 Confinement was reorganized and expanded to include all types of parole revocation authorized in statute, and for ease of reference.

Statutory Authority for Adoption: RCW 13.40.210 (4)(b).

Statute Being Implemented: RCW 13.40.210 (4)(a)(iv), (v), and (vi), (4)(b).

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

Name of Proponent: Department of social and health services, Cheryl Sullivan-Colglazier, director, division of

treatment and intergovernmental programs, JRA, governmental.

Name of Agency Personnel Responsible for Drafting: Kecia Rongen, Administrator, Sex Offender Treatment Program, Juvenile Rehabilitation, Office Building 2, Olympia, Washington, (360) 902-7952; Implementation: Bob Salsbury, Administrator, Parole Services, Juvenile Rehabilitation, Office Building 2, Olympia, Washington, (360) 902-8086; and Enforcement: Woody Hodge, Director Community Programs, Juvenile Rehabilitation, Office Building 2, Olympia, Washington, (360) 902-8100.

No small business economic impact statement has been prepared under chapter 19.85 RCW. JRA has analyzed the proposed rule amendments and has concluded that they will impose no new costs on small businesses. A comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lee Mosley, Administrator, Policy and Quality Assurance Program, Office Building 2, 1115 Washington Street, phone (360) 902-8092, fax (360) 902-8108, e-mail moslele@dshs.wa.gov.

August 1, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-17-046, filed 8/7/00, effective 8/27/00)

WAC 388-740-0010 Definitions. "Department" means the department of social and health services.

"Active parole" means all time served by a JRA youth under JRA parole supervision except that time during which the offender is:

- (1) Under a JRA warrant;
- (2) Held in detention within or outside the state of Washington pending a parole revocation hearing, pending charges or pending a civil commitment hearing under chapter 71.09 RCW;
- (3) Serving a term of confinement for a parole revocation;
- (4) Placed on seventy-two hour hold status pursuant to RCW 13.40.050;
- (5) Placed on unauthorized leave status;
- (6) Committed involuntarily for mental health or chemical dependency treatment; or
- (7) On temporary assignment status to a county juvenile detention center, a county jail, or to a department of corrections facility.

If no other time is concurrently tolled against active parole per (1) through (7) above, one additional day is tolled against active parole when the offender is subject to:

- A parole revocation initiated by the JRA.
- A seventy-two hour hold in a JRA facility pending a parole revocation hearing.

"Confinement" means electronic monitoring of a juvenile or physical custody of a juvenile:

- By the department of social and health services in a facility operated by or pursuant to a contract with the state of Washington;

• In a group home or inpatient substance abuse program, or juvenile basic training camp, operated by or pursuant to a contract with the state of Washington;

• In a county detention facility as defined in RCW 13.40.020;

• In a facility operated by the department of corrections under provisions of RCW 13.40.280 or 13.40.285; or

• In a similar facility in another state under terms of chapter 13.24 RCW and of the interstate compact to which the state of Washington is a party.

"Detention" means ~~((physical custody in Washington state by the department of social and health services in a juvenile rehabilitation administration operated or contracted facility or a Washington state detention facility as defined in RCW 13.40.020(9)))~~, for purposes of this rule, temporary confinement of a juvenile pending charges, court disposition or administrative hearing.

"Juvenile parole officer" means a state employee, or person under contract to the state, whose responsibilities include supervising juvenile parolees.

"Juvenile parolee" means a person under age twenty-one released from a juvenile rehabilitation administration residential facility and placed under the supervision of a juvenile parole officer.

"Modification of parole conditions" means a change in the "order of parole conditions" provided by the juvenile parole officer with full knowledge of the change by the juvenile parolee.

"Parole" means a period of supervision following release from a juvenile rehabilitation administration residential facility, during which time certain parole conditions are to be followed.

"Parole conditions" mean interventions or expectations that include, but are not limited to, those listed in RCW 13.40.210, intended to facilitate the juvenile parolee's reintegration into the community and/or to reduce the likelihood of reoffending.

"Secretary" means secretary of the department of social and health services or his/her designee.

"Violation" means behavior by a juvenile parolee contrary to written parole conditions which may result in sanctions that include, but are not limited to, modification of parole conditions and/or confinement.

"Target victim population" means persons who, by age, sex, race, ethnicity, body conformation or coloration or other personal characteristics are consistent with those of a JRA youth's known victim(s).

AMENDATORY SECTION (Amending WSR 00-17-046, filed 8/7/00, effective 8/27/00)

WAC 388-740-0040 Parole revocation petition. (1) The juvenile parole officer:

(a) Must initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee possessed a firearm or used a deadly weapon during the parole period; or

(b) May initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee has violated a condition of parole, other than possession of a

firearm or use of a deadly weapon. Criteria in WAC 388-740-0070 (2), (3), (4) and (5) are assessed by the juvenile parole officer to determine the type of revocation and duration of confinement for which to petition.

(2) The petition, on department forms, must include:

(a) A statement of the nature of the violation and the date it occurred;

(b) The relief requested by the juvenile parole officer as a result of the violation;

(c) Notice of the juvenile parolee's right to be represented by an attorney, either one of his/her own choosing or one appointed at public expense;

(d) A parole revocation hearing waiver agreement;

(e) The dated signature of the regional administrator or designee; and

(f) If the parole revocation hearing is not waived, notice of the time, date, and location of the parole revocation hearing and notice that failure to appear may result in default.

(3) An initial copy of the petition that includes the information described in subsection (2)(a) through (e) must:

(a) Be provided to the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible, and in accordance with laws and rules governing the release of confidential information. The juvenile parole officer must document the date and time he/she provided the initial copy of the petition to the juvenile parolee or the juvenile parolee's attorney.

(4) A juvenile parolee, only through an attorney, may waive the right to a parole revocation hearing and agree to the parole revocation and agreed upon relief. The decision to waive must be documented with dated signatures on the original petition.

(5) If the juvenile parolee through his/her attorney does not waive the right to a hearing, the parole revocation petition must be filed with the local office of the state office of administrative hearings within seventy-two hours (excluding Saturdays, Sundays, and holidays) of:

(a) The juvenile parolee being placed in detention for an alleged violation of parole conditions; or

(b) The juvenile parolee or his/her attorney being provided with a copy of the petition under subsection (3) of this section if the juvenile parolee is not detained.

(6) The filed petition must include notice that failure to appear may result in default, and the time, date, and location of the parole revocation hearing, as determined by the state office of administrative hearings. A copy of the filed petition must:

(a) Be served either personally or by certified mail, return receipt requested, on the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible, and in accordance with laws and rules governing the release of confidential information.

AMENDATORY SECTION (Amending WSR 00-17-046, filed 8/7/00, effective 8/27/00)

WAC 388-740-0070 Confinement. (1) ~~((A juvenile's confinement for violating one or more conditions of parole,~~

as alleged in a parole revocation petition, may not exceed thirty days. Confinement may be continuous, or for a portion of each day, or for certain days each week with the balance of time under supervision. The department must give the juvenile credit against any period of confinement for days served in detention pending a parole revocation hearing. The juvenile must serve his or her confinement in a county detention facility as defined in RCW 13.40.020, a juvenile rehabilitation administration facility, or, if the juvenile parolee is eighteen years old or older, the juvenile may serve his or her confinement in a county jail.

(2) If a juvenile's parole is revoked two or more times during one parole period, the secretary or designee must approve any period of confinement exceeding a combined total of thirty days.

(3) Instead of confinement under subsection (1) of this section, the secretary or designee may return the offender to confinement in an institution for the remainder of the sentence range if:

(a) The offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined under RCW 9.94A.030; or

(b) As otherwise authorized in RCW 13.40.210.

(4)) Mandatory confinement.

A JRA youth must be confined for a minimum of thirty days for possession of a firearm or use of a deadly weapon while on parole, per RCW 13.40.210 (4)(c).

(2) Confinement for up to thirty days.

(a) A JRA youth may be confined for a period not to exceed thirty days for violating one or more conditions of parole, per RCW 13.40.210 (4)(a)(i) through (iv).

(b) Confinement may be continuous, or for a portion of each day, or for certain days each week with the balance of time under supervision.

(3) Confinement for remainder of sentence.

As provided for in RCW 13.40.210 (4)(a)(v) and (vi), certain JRA youth who are placed on parole before completing their maximum sentence may be returned to confinement for the remainder of their sentence if they violate conditions of parole.

(a) Sex Offenders: A JRA youth may be returned to confinement for the remainder of the sentence range if the offense for which the youth was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined under RCW 9.94A.030.

(i) The remainder of sentence is calculated as the maximum aggregated term of qualifying sex offenses, minus the number of days served on the aggregated sentence for the qualifying sex offense or offenses.

(ii) Previous days in confinement for a parole violation are not deducted in this calculation.

(iii) Aggregated terms are served such that any term or terms for qualifying sex offenses are considered the last served.

(b) Graduates of basic training camp: A JRA youth who has successfully completed the juvenile offender basic training camp program under RCW 13.40.320 may be returned to confinement for the remainder of their sentence range.

(i) The remainder of sentence is calculated as the maximum aggregated term or four hundred fifty-five days, whichever is shorter, minus the number of days served on their aggregated sentence and on active parole.

(ii) Previous days in confinement for a parole violation are not deducted in this calculation.

(4) Juvenile sex offender confinement for up to twenty-four weeks.

(a) As provided for in RCW 13.40.210 (4)(b), a JRA youth may be returned to confinement for up to twenty-four weeks if:

(i) The JRA youth was sentenced for a sex offense as defined in RCW 9A.44.130;

(ii) The JRA youth is known to have violated the terms of parole; and

(iii) In the determination of the secretary, other graduated sanctions or interventions have not been effective in controlling the youth's parole violations; or

(iv) The behavior is so egregious it warrants the use of the higher level intervention and the violation:

(A) Is a known pattern of behavior consistent with a previous sex offense that puts the JRA youth at high risk for reoffending sexually;

(B) Consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or

(C) Requires a review under chapter 71.09 RCW, due to a recent overt act.

(b) The total number of days of confinement under subsection (4) shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying sex offense or offenses pursuant to RCW 13.40.0357.

(c) The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation under subsection (4).

(5) Criteria for juvenile sex offender confinement.

A parole revocation petition to confine a juvenile sex offender for the remainder of sentence under subsection (3) or for up to twenty-four weeks under subsection (4) will be based on, but not limited to, the following behavioral and sentence considerations:

(a) Behavioral criteria:

(i) Behavior that appears to constitute a new sex offense or a statement by the JRA youth reporting a new sex offense;

(ii) Statements by the JRA youth that he/she is at imminent risk to re-offend sexually unless confined;

(iii) Accessing, making or possessing child pornography;

(iv) Accessing, making or possessing pornography that depicts excessive physical violence, death or threats of death, torture or infliction of pain, use of a weapon, humiliation or bondage;

(v) Possession of materials which, in total, constitute a "rape kit".

(vi) Unsupervised contact with previous victim(s) or target victim populations, except for approved peer age contact (attending school, etc.):

(vii) Use, possession or providing of drugs and/or alcohol associated with the JRA youth's illegal sexualized behaviors.

(b) Available remainder of sentence range.

If the JRA youth has not served the maximum sentence imposed for the underlying offense or offenses, and confinement under WAC 388-740-0070 (3) or (4) are both available, the petition for relief will take into account whether the remainder of sentence is sufficient to accomplish the purposes of the revocation. If so, the petition will be for confinement for the remainder of the sentence range; if not, the petition will be for up to twenty-four weeks of confinement.

(6) If the JRA youth's parole is revoked, the department must give the youth credit against any period of confinement for days served in detention pending the parole revocation hearing.

(7) Serving confinement. The JRA youth must serve his or her confinement in a facility or detention facility as described in WAC 388-740-0010.

(8) If a juvenile's parole is revoked two or more times during one parole period, the secretary must approve any period of confinement exceeding a combined total of thirty days.

(9) Unless conditions of parole are otherwise amended, the order of parole conditions in effect at the time the parole was revoked shall be deemed reinstated immediately following any period of confinement.

WSR 08-16-108

PROPOSED RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed August 5, 2008, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-23-114.

Title of Rule and Other Identifying Information: WAC 181-78A-151 Preparation of superintendents, 181-78A-270 Approval standards—Knowledge and skills, 181-78A-505 Overview—Teacher professional certificate program, and 181-78A-509 Overview—Educational Staff Associates—School counselor/school psychologist/school social worker professional certificate program.

Hearing Location(s): Red Lion Hotel, 2525 North 20th Avenue, Pasco, WA 99301, on September 17, 2008, at 8:30 a.m.

Date of Intended Adoption: September 17, 2008.

Submit Written Comments to: Nasue Nishida, P.O. Box 47236, Olympia, 98504, e-mail nasue.nishida@k12.wa.us, fax (360) 586-4548, by September 10, 2008.

Assistance for Persons with Disabilities: Contact Nasue Nishida by September 10, 2008, TTY (360) 664-3631, or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed language provides a timeline for candidates under the previous and new knowledge and skill standards for teachers, as well as requires a performance assessment determined by programs prior to internship. Other proposed language updates outdated rule language.

Statutory Authority for Adoption: RCW 28A.410.210 and 28A.410.010.

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

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nasue Nishida, P.O. Box 47236, Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirement for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Nasue Nishida, P.O. Box 47236, phone (360) 725-6238, fax (360) 586-4548, e-mail nasue.nishida@k12.wa.us.

August 1, 2008

Nasue Nishida

Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-78A-151 Preparation of superintendents. See RCW ((~~28B.10.410~~)) 28B.10.140 and 28A.400.010.

AMENDATORY SECTION (Amending WSR 07-23-046, filed 11/14/07, effective 12/15/07)

WAC 181-78A-270 Approval standard—Knowledge and skills. Building on the mission to prepare educators who demonstrate a positive impact on student learning based on the Improvement of Student Achievement Act of 1993 (1209), the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 181-78A-220(5):

(1) **TEACHER.** Colleges and universities may permit individuals accepted into teacher preparation programs before August 31, 2009, to obtain certification by meeting requirements under the previous knowledge and skills standards if the individuals complete the program on or before August 31, 2011, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2011.

Knowledge of subject matter and curriculum goals

(a) Teacher candidates positively impact student learning that is:

(i) **Content driven.** All students develop understanding and problem-solving expertise in the content area(s) using reading, written and oral communication, and technology.

(ii) **Aligned with curriculum standards and outcomes.** All students know the learning targets and their progress toward meeting them.

(iii) **Integrated across content areas.** All students learn subject matter content that integrates mathematical, scientific, and aesthetic reasoning.

Knowledge of teaching

(b) Teacher candidates positively impact student learning that is:

(i) **Informed by standards-based assessment.** All students benefit from learning that is systematically analyzed using multiple formative, summative, and self-assessment strategies.

(ii) **Intentionally planned.** All students benefit from standards-based planning that is personalized.

(iii) **Influenced by multiple instructional strategies.** All students benefit from personalized instruction that addresses their ability levels and cultural and linguistic backgrounds.

(iv) **Informed by technology.** All students benefit from instruction that utilizes effective technologies and is designed to create technologically proficient learners.

Knowledge of learners and their development in social contexts

(c) Evidence of teacher candidate practice reflects planning, instruction and communication that is:

(i) **Learner centered.** All students engage in a variety of culturally responsive, developmentally, and age appropriate strategies.

(ii) **Classroom/school centered.** Student learning is connected to communities within the classroom and the school, including knowledge and skills for working with others.

(iii) **Family/neighborhood centered.** Student learning is informed by collaboration with families and neighborhoods.

(iv) **Contextual community centered.** All students are prepared to be responsible citizens for an environmentally sustainable, globally interconnected, and diverse society.

Understanding teaching as a profession

(d) Teacher candidates positively impact student learning that is:

(i) **Informed by professional responsibilities and policies.** All students benefit from a collegial and professional school setting.

(ii) **Enhanced by a reflective, collaborative, professional growth-centered practice.** All students benefit from the professional growth of their teachers.

(iii) **Informed by legal and ethical responsibilities.** All students benefit from a safe and respectful learning environment.

(2) PRINCIPAL AND PROGRAM ADMINISTRATOR.

~~((a) Effective August 31, 1997, through August 31, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experi-~~

~~ences in an approved preparation program which shall include:~~

~~(i) Specific performance domains. An approved preparation program shall require the candidate to demonstrate in course work and the internship the following:~~

~~(A) **Leadership:** Formulating goals with individuals or groups; initiating and maintaining direction with groups and guiding them to the accomplishment of tasks; setting priorities for one's school in the context of community and district priorities and student and staff needs; integrating own and others' ideas for task accomplishment; initiating and planning organizational change.~~

~~(B) **Information collection:** Gathering data, facts, and impressions from a variety of sources about students, parents, staff members, administrators, and community members; seeking knowledge about policies, rules, laws, precedents, or practices; managing the data flow; classifying and organizing information for use in decision making and monitoring.~~

~~(C) **Problem analysis:** Identifying the important elements of a problem situation by analyzing relevant information; framing problems; identifying possible causes; identifying additional needed information; framing and reframing possible solutions; exhibiting conceptual flexibility; assisting others to form reasoned opinions about problems and issues.~~

~~(D) **Judgment:** Reaching logical conclusions and making high quality, timely decisions given the best available information.~~

~~(E) **Organizational oversight:** Planning and scheduling one's own and others' work so that resources are used appropriately, and short-term and long-term priorities and goals are met; monitoring projects to meet deadlines.~~

~~(F) **Implementation:** Making things happen; putting programs and plans into action; applying management technologies; applying methods of organizational change including collaborative processes; facilitating tasks; establishing progress checkpoints; considering alternative approaches; providing "mid-course" corrections when actual outcomes start to diverge from intended outcomes; adapting to new conditions.~~

~~(G) **Delegation:** Assigning projects or tasks together with clear authority to accomplish them and responsibility for their timely and acceptable completion.~~

~~(H) **Instructional program:** Envisioning and enabling instructional and auxiliary programs for the improvement of teaching and learning; recognizing the developmental needs of students; insuring appropriate instructional methods that address students' gender and cultural differences; designing positive learning experiences; accommodating differences in cognition and achievement; mobilizing the participation of appropriate people or groups to develop these programs and to establish a positive learning environment.~~

~~(I) **Curriculum design:** Interpreting school district curricula; planning and implementing with staff a framework for instruction that shall include the implementation of the state learning goals and essential academic learning requirements; initiating needs analyses and monitoring social and technological developments as they affect curriculum; responding to international content levels; adjusting content as needs and conditions change.~~

(J) Student guidance and development: Providing for student guidance, counseling, and auxiliary services; utilizing community organizations; responding to family needs; enlisting the participation of appropriate people and groups to design and conduct these programs and to connect schooling with plans for adult life; planning for a comprehensive program of student activities.

(K) Staff development: Identifying with participants the professional needs of individuals and groups; planning and organizing programs to improve staff effectiveness; supervising individuals and groups; engaging staff and others to plan and participate in recruitment and development; initiating self-development.

(L) Measurement and evaluation: Determining what diagnostic information is needed about students, staff, and the school environment; examining the extent to which outcomes meet or exceed previously defined standards, goals, or priorities for individuals or groups; drawing inferences for program revisions; interpreting measurements or evaluations for others; relating programs to desired outcomes; developing equivalent measures of competence.

(M) Resource allocation: Planning and developing the budget with appropriate staff; seeking, allocating, and adjusting fiscal, human, and material resources; utilizing the physical plant; monitoring resource use and reporting results.

(N) Motivating others: Building commitment to a course of action; creating and channeling the energy of self and others; planning and encouraging participation; supporting innovation; recognizing and rewarding effective performance; providing coaching, guidance, or correction for performance that needs improvement; serving as a role model.

(O) Sensitivity: Perceiving the needs and concerns of others; dealing with others tactfully; working with others in emotionally stressful situations or in conflict; managing conflict; obtaining feedback; recognizing multicultural sensitivities.

(P) Oral expression: Making oral presentations that are clear and easy to understand; clarifying and restating questions; responding, reviewing, and summarizing for groups; utilizing appropriate communicative aids; adapting for audiences.

(Q) Written expression: Expressing ideas clearly in writing; writing appropriately for different audiences such as students, teachers, and parents; preparing brief memoranda.

(R) Philosophical and cultural values: Acting with a reasoned understanding of the role of education in a democratic society and in accord with accepted ethical standards; recognizing philosophical and historical influences in education; reflecting an understanding of American culture, including current social and economic issues related to education; recognizing global influences on students and society.

(S) Legal and regulatory applications: Acting in accordance with relevant federal and Washington state laws, rules, and policies; recognizing governmental influences on education; working within local rules, procedures, and directives; administering contracts.

(T) Policy and political influences: Identifying relationships between public policy and education; recognizing policy issues; examining and affecting policies individually and through professional and public groups; relating policy

initiatives to the welfare of students; addressing ethical issues.

(U) Public and media relationships: Developing common perceptions about school issues; interacting with parental and community opinion leaders; understanding and responding skillfully to the electronic and printed news media; initiating and reporting news through appropriate channels; enlisting public participation; recognizing and providing for market segments.

(ii) Performance assessment. An approved preparation program for principals shall require that prior to the internship each candidate shall engage in a performance assessment through a process determined by each preparation program. The results of this assessment shall be utilized by the college/university supervisor, the cooperating principal, and the principal candidate to cooperatively design the internship plan.

(b) Effective September 1, 2004,) Principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

((+)) (a) Successful demonstration of standards. A school administrator is an educational leader who promotes the success of all students by:

((A)) (i) Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

((B)) (ii) Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

((C)) (iii) Ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

((D)) (iv) Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

((E)) (v) Acting with integrity, fairness, and in an ethical manner; and

((F)) (vi) Understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

((+)) (b) Performance assessment.

(i) An approved preparation program for principals and program administrators shall require that prior to the internship each candidate shall engage in a performance assessment through a process determined by each preparation program. The results of this assessment shall be utilized by the college/university supervisor, the cooperating principal, and the principal or program administrator candidate to cooperatively design the internship plan.

(ii) An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the res-

idency certificate program with a draft professional growth plan.

(3) **SUPERINTENDENT.** Superintendent candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in an approved preparation program for superintendents which shall include specific performance domains for superintendents. An approved preparation program for superintendents shall require the candidate to demonstrate in course work and the internship the following:

(a) **Strategic leadership:** The knowledge, skills and attributes to identify contexts, develop with others vision and purpose, utilize information, frame problems, exercise leadership processes to achieve common goals, and act ethically for educational communities. This includes:

- (i) Professional and ethical leadership.
- (ii) Information management and evaluation.

(b) **Instructional leadership:** The knowledge, skills and attributes to design with others appropriate curricula and instructional programs which implement the state learning goals and essential academic learning requirements, to develop learner centered school cultures, to assess outcomes, to provide student personnel services, and to plan with faculty professional development activities aimed at improving instruction. This includes:

- (i) Curriculum, instruction, supervision, and learning environment.
- (ii) Professional development and human resources.
- (iii) Student personnel services.

(c) **Organizational leadership:** The knowledge, skills and attributes to understand and improve the organization, implement operational plans, manage financial resources, and apply decentralized management processes and procedures. This includes:

- (i) Organizational management.
- (ii) Interpersonal relationships.
- (iii) Financial management and resource allocation.
- (iv) Technology and information system.

(d) **Political and community leadership:** The knowledge, skills and attributes to act in accordance with legal provisions and statutory requirements, to apply regulatory standards, to develop and apply appropriate policies, to be conscious of ethical implications of policy initiatives and political actions, to relate public policy initiatives to student welfare, to understand schools as political systems, to involve citizens and service agencies, and to develop effective staff communications and public relations programs. This includes:

- (i) Community and media relations.
- (ii) Federal and Washington state educational law, public policy and political systems.

(4) **SCHOOL COUNSELOR.** ((Effective August 31, 1997 through August 31, 2005, school counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) ~~Human growth and development (studies that provide an understanding of the nature and needs of individuals at all developmental levels);~~

(b) ~~Social and cultural foundations (studies that provide an understanding of issues and trends in a multicultural and diverse society);~~

(c) ~~Helping relationships (studies that provide an understanding of counseling and consultation processes);~~

(d) ~~Group work (studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills, and other group work approaches);~~

(e) ~~Career and lifestyle development (studies that provide an understanding of career development and related life factors);~~

(f) ~~Appraisal (studies that provide an understanding of individual and group approaches to assessment and evaluation), including assessment of the state learning goals and essential academic learning requirements;~~

(g) ~~Research and program evaluation (studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research);~~

(h) ~~Professional orientation (studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards, and credentialing);~~

(i) ~~Foundations of school counseling including:~~

(i) ~~History, philosophy, and trends in school counseling;~~

(ii) ~~Role and function of the school counselor in conjunction with the roles of the professional and support personnel in the school;~~

(iii) ~~Knowledge of the school setting and curriculum including the state learning goals and essential academic learning requirements;~~

(iv) ~~Ethical standards and guidelines of the American School Counselor Association (ASCA);~~

(v) ~~State and federal policies, laws, and legislation relevant to school counseling; and~~

(vi) ~~Implications of socio-cultural, demographic, and lifestyle diversity relevant to school counseling;~~

(j) ~~Studies that provide an understanding of the coordination of counseling program components as they relate to the total school community including:~~

(i) ~~Referral of children and adolescents for specialized help;~~

(ii) ~~Coordination efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives;~~

(iii) ~~Methods of integration of guidance curriculum in the total school curriculum;~~

(iv) ~~Promotion of the use of counseling and guidance activities and programs by the total school community to enhance a positive school climate; and~~

(v) ~~Methods of planning and presenting guidance-related educational programs for school personnel and parents;~~

(k) ~~Theory, knowledge and skills for the practice of school counseling including:~~

(i) ~~Program development, implementation and evaluation. Studies in this area include:~~

(A) ~~Use of surveys, interviews, and needs assessments;~~

~~(B) Design, implementation and evaluation of a comprehensive, developmental school program;~~

~~(C) Implementation and evaluation of specific strategies designed to meet program goals and objectives;~~

~~(D) Preparation of a counseling schedule reflecting appropriate time commitments and priorities in a developmental school counseling program; and~~

~~(E) Use of appropriate technology and information systems:~~

~~(ii) Counseling and guidance. Studies in this area include:~~

~~(A) Individual and group counseling and guidance approaches appropriate for the developmental stage and needs of children and adolescents;~~

~~(B) Group guidance approaches that are systematically designed to assist children and adolescents with developmental tasks;~~

~~(C) Approaches to peer helper programs;~~

~~(D) Issues which may affect the development and function of children and adolescents (e.g., abuse, eating disorders, attention deficit hyperactivity disorder, exceptionalities, substance abuse, violence, suicide, dropout);~~

~~(E) Developmental approaches to assist students and parents at points of educational transition (e.g., postsecondary education, career and technical education, and career options);~~

~~(F) Crisis intervention and referral; and~~

~~(G) System dynamics, including family, school, community, etc.~~

~~(iii) Consultation. Studies in this area shall include:~~

~~(A) Methods of enhancing teamwork within the school community; and~~

~~(B) Methods of involving parents, teachers, administrators, support staff and community agency personnel.~~

~~(5) SCHOOL COUNSELOR. Effective September 1, 2005,)~~ School counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

~~(a) Successful demonstration of standards:~~

~~(i) Foundations of the school counseling profession:~~

Certified school counselors design, deliver, and evaluate student-centered, data-driven school counseling programs that advance the mission of the school in light of recognized theory, research, exemplary models, community context, and professional standards.

~~(ii) School counseling and student competencies:~~ Certified school counselors integrate academic, career, and personal/social student competencies, including Washington state learning goals and essential academic learning requirements, into the school counseling program; teach counseling and guidance related material by using effective curriculum, instructional strategies, and instructional management; support teachers and parents in helping students develop knowledge and skill for learning, living, and working; and provide information about best practices to a school community.

~~(iii) Human growth and development:~~ Certified school counselors apply comprehensive, in-depth knowledge of human growth and development to improve student learn-

ing, well-being, and to enhance resiliency; provide guidance to parents and teachers about developmentally appropriate practices that support students throughout their schooling experience.

~~(iv) Counseling theories and technique:~~ Certified school counselors demonstrate an understanding of established and emerging counseling theories through effective use of individual and group techniques for working with a diverse population.

~~(v) Equity, fairness, and diversity:~~ Certified school counselors value and show respect for all members of the community; demonstrate fairness, equity, and sensitivity to every student, and advocate for equitable access to instructional programs and activities; use data for designing and implementing plans that remove barriers to learning; and help to close achievement gaps among subgroups of students.

~~(vi) School climate:~~ Certified school counselors establish and foster a safe, inclusive, and nurturing learning environment for students, staff, and families and use strategies designed to prevent or resolve problems that could limit or diminish the capacity of students to learn and achieve at their highest levels.

~~(vii) Collaboration with school staff, family, and community:~~ Certified school counselors work collaboratively with school staff, families and community members to achieve common goals for the education of students, improvement of schools, and advancement of the larger community; know appropriate behavior management strategies and can team with staff and families to improve student achievement; and use their knowledge of community resources to make appropriate referrals based on the needs of students.

~~(viii) Information resources and technology:~~ Certified school counselors select and use informational resources and technology to facilitate delivery of a comprehensive school counseling program that meets student needs; and skillfully use technology to enhance communication.

~~(ix) Student assessment and program evaluation:~~ Certified school counselors understand the basic principles and purposes of assessment; collection and use of data; regularly monitor student progress and are able to communicate the purposes, design, and results of assessments to various audiences; know basic principles of research design, action research, and program evaluation for purposes of program improvement and accountability.

~~(x) Leadership and advocacy:~~ Certified school counselors support practices and policies that promote academic rigor-skills for learning, living, and working; provide leadership that enhances student academic, career, and personal/social development and advocate for guidance as an integral part of a school's educational system; model practices that help students, parents, teachers, and policy makers understand how curriculum, instruction and assessment can help students see the relationship between effort, performance, and success beyond high school. Certified school counselors help promote understanding of graduation requirements, WASL scores, and development of the high school and beyond plan.

~~(xi) Professionalism, ethics, and legal mandates:~~ Certified school counselors develop a professional identity con-

gruent with knowledge of all aspects of professional functions, professional development, and state and national school counselor organizations. They adhere strictly to the profession's codes of ethics, especially those that have been established by the American Counseling Association (ACA), the American School Counselor Association (ASCA), the National Board for Certified Counselors (NBCC), and other relevant codes of ethics. They are familiar with state and federal policies, laws, and legislation relevant to school counseling.

(xii) **Reflective practice:** Certified school counselors integrate knowledge, skills, and life experiences to respond effectively to new or unexpected critical events and situations; serve as change agents by using their understanding of schools as social, cultural and political systems within a larger organizational context; monitor practice with continuous, in-depth reflection; and make adjustments as needed.

(b) **Performance assessment.** An approved preparation program for school counselors shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

~~((6))~~ (5) **SCHOOL PSYCHOLOGIST.** ~~((Effective August 31, 1997, through August 31, 2005, school psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:~~

~~(a) Knowledge of the field. The candidate has knowledge and skill in relevant fields of study, including:~~

- ~~(i) Learning theory.~~
- ~~(ii) Personality theory and development.~~
- ~~(iii) Individual and group testing and assessment.~~
- ~~(iv) Individual and group counseling and interviewing theory and techniques.~~
- ~~(v) Basic statistics.~~
- ~~(vi) Child development.~~
- ~~(vii) Exceptional children.~~
- ~~(viii) Social and cultural factors.~~
- ~~(ix) Deviant personality.~~
- ~~(x) Curriculum, including the state learning goals and essential academic learning requirements.~~
- ~~(xi) Research design.~~
- ~~(xii) Physiological and biological factors.~~

~~(b) Assessment and diagnosis. The candidate has knowledge and skill necessary to select, administer, score, and interpret instruments and techniques in the following areas:~~

- ~~(i) Intellectual and cognitive assessment.~~
- ~~(ii) Individual and group academic skills: Standardized norm-referenced and criteria-referenced measurements and curriculum-based measurements.~~
- ~~(iii) Personality assessment.~~
- ~~(iv) Assessment of perceptual skills.~~
- ~~(v) Assessment of adaptive behavior; assessment of language skills.~~

~~(c) Behavioral observation and analysis. The candidate has knowledge and skill in behavior observation, including:~~

- ~~(i) Data taking.~~
- ~~(ii) Frequency measures.~~
- ~~(iii) Qualitative and quantitative analysis of classroom behavior.~~

~~(iv) Developmental and personality analysis, including perceptual, cognitive, social, and affective and language development in children.~~

~~(d) Counseling and interviewing. The candidate has the knowledge and skill necessary to:~~

- ~~(i) Provide individual and group counseling to students and parents.~~
- ~~(ii) Conduct interviews essential to information collecting from parents, teachers, and other professionals.~~

~~(e) Program development. The candidate has the knowledge and skill to make educational prescriptions, including specification of remedial environmental changes, both curricular and behavioral, for a particular student.~~

~~(f) Consultation. The candidate has the knowledge and skill to:~~

- ~~(i) Function on multidisciplinary teams in evaluating and placing students.~~
- ~~(ii) Confer with and make recommendations to parents, specialists, teachers, referral personnel, and others relative to student's characteristics and needs in the educational and home environments.~~

~~(g) Program evaluation and recordkeeping. The candidate has the knowledge and skill necessary to develop and implement program evaluation and maintain required records.~~

~~(h) Professionalism. The candidate has knowledge of professional standards regarding ethical and legal practices relevant to the practice of school psychology. The candidate demonstrates knowledge and skill in written and oral reporting of assessment and remedial recommendations which will meet ethical and legal standards.~~

~~(i) Research. The candidate has knowledge and skill to:~~

- ~~(i) Evaluate and perform research.~~
- ~~(ii) Apply school-oriented research.~~
- ~~(iii) Construct criterion-referenced instruments with reference to such educational decisions as:~~

- ~~(A) Retention in grade.~~
- ~~(B) Acceleration and early entrance.~~
- ~~(C) Early entrance.~~

~~(7) **School psychologist.** Effective September 1, 2005,)~~

~~School psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:~~

- ~~(a) **Successful demonstration of standards:**~~
- ~~(i) **Data-based decision making and accountability:** Certified school psychologists have knowledge of varied models and methods of assessment that yield information useful in identifying strengths and needs, in understanding problems, and in measuring progress and accomplishments; use such models and methods as part of a systematic process to collect data and other information, translate assessment results into empirically based decisions about service deliv-~~

ery, evaluate the outcomes of services; and data-based decision making permeates every aspect of professional practice.

(ii) **Consultation and collaboration:** Certified school psychologists have knowledge of behavioral, mental health, collaborative, and/or other consultation models and methods and of their application to particular situations; collaborate effectively with others in planning and decision-making processes at the individual, group, and system levels.

(iii) **Effective instruction and development of cognitive/academic skills:** Certified school psychologists have knowledge of human learning processes, techniques to assess these processes, and direct and indirect services applicable to the development of cognitive and academic skills; collaborate with others, develop appropriate cognitive and academic goals for students with different abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions, including, but not limited to, instructional interventions and consultation.

(iv) **Socialization and development of life skills:** Certified school psychologists have knowledge of human developmental processes, techniques to assess these processes, and direct and indirect services applicable to the development of behavioral, affective, adaptive, and social skills; collaborate with others, develop appropriate behavioral, affective, adaptive, and social goals for students of varying abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions, including, but not limited to, consultation, behavioral assessment/intervention, and counseling.

(v) **Student diversity in development and learning:** Certified school psychologists have knowledge of individual differences, abilities, and disabilities and of the potential influence of biological, social, cultural, ethnic, experiential, socioeconomic, gender-related, and linguistic factors in development and learning; demonstrate the sensitivity and skills needed to work with individuals of diverse characteristics and to implement strategies selected and/or adapted based on individual characteristics, strengths, and needs.

(vi) **School and systems organization, policy development, and climate:** Certified school psychologists have knowledge of general education, special education, and other educational and related services; understanding of schools and other settings as systems; work with individuals and groups to facilitate policies and practices that create and maintain safe, supportive, and effective learning environments for children and others.

(vii) **Prevention, crisis intervention, and mental health:** Certified school psychologists have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior; provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students.

(viii) **Home/school/community collaboration:** Certified school psychologists have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery; work effectively with

families, educators, and others in the community to promote and provide comprehensive services to children and families.

(ix) **Research and program evaluation:** Certified school psychologists have knowledge of research, statistics, and evaluation methods; evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct investigations and program evaluations for improvement of services.

(x) **School psychology practice and development:** Certified school psychologists have knowledge of the history and foundations of their profession; of various service models and methods; of public policy development applicable to services to children and families; and of ethical, professional, and legal standards, including the Washington Administrative Code; practice in ways that are consistent with applicable standards, are involved in their profession, and have the knowledge and skills needed to acquire career-long professional development.

(xi) **Information technology:** Certified school psychologists have knowledge of information sources and technology relevant to their work; access, evaluate, and utilize information sources and technology in ways that safeguard or enhance the quality of services.

(b) **Performance assessment.** An approved preparation program for school psychologists shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

~~((8) SCHOOL SOCIAL WORKER. Effective August 31, 1997, through August 31, 2005, school social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:~~

~~(a) Knowledge for social work practice. The candidate has knowledge and skills in relevant fields of study including:~~

~~(i) Values:~~

~~(A) Knowledge of profession including values, skills, and ethics; and~~

~~(B) National Association of Social Workers (NASW) Code of Ethics and school social work guidelines for practice.~~

~~(ii) Human behavior and the social environment.~~

~~(A) Community theory and community change (e.g., community organization and development, social planning, networking, and case management);~~

~~(B) Systems and organizational theory (e.g., school as a bureaucracy);~~

~~(C) Social disorganization (e.g., poverty, family and community violence, unemployment, addictions, multiple losses), and context of family in a changing society;~~

~~(D) Family dynamics and theories of family therapy;~~

~~(E) Human/child growth and development;~~

(F) Diverse populations of: Race, culture, social class, life style, age, gender and the disabled;
 (G) Theories of personality; and
 (H) Use of computer technology for social work practice.

(b) Service delivery and program development. The candidate will have knowledge and skills in the following activities:

(i) Direct practice:

(A) Referring, developing, and coordinating resources and services in the local education agency and community;

(B) Knowledge and skills related to families;

(C) Case management;

(D) Working with vulnerable and "hard to reach" individuals and families, including those from diverse populations;

(E) Crisis intervention, conflict resolution, stress management and decision-making skills;

(F) Individual and group counseling to improve students' self knowledge and interactional skills for personal empowerment;

(G) Interviewing and counseling students in relation to social personal problems adjudged to be impairing student's ability to learn;

(H) Family interventions including parent education; referral to resources; family counseling;

(I) Teaching children communication and interpersonal relationship skills through individual/group/classroom interventions;

(J) Collaborating and consulting with parents and community to assure readiness to learn for all students;

(K) Multidimensional assessment of student's social-emotional adjustment, adaptive behaviors, individual strengths, and environmental assets;

(L) Intervention case planning processes; and

(M) Career and academic guidance to students in their school to work transitions.

(ii) Indirect practice:

(A) Liaison and facilitator between and among home, school and community;

(B) Collaborate and consult with other educational staff to assure student progress;

(C) Use computer technology for practice and efficiency;

(D) Develop strategies for increased parental and community involvement with the school;

(E) Develop programs of remediation for students and their families;

(F) Design, coordinate and facilitate programs such as suicide prevention, truancy and drop-out prevention, and prevention of teenage pregnancy;

(G) Provide staff development programs;

(H) Work collaboratively with educational staff to develop programs to address school community identified needs; and

(I) Function as change agents.

(c) Research and evaluation. The candidate will have necessary skills and knowledge to:

(i) Collect and interpret data in order to evaluate student,

school, and community needs;

(ii) Evaluate own practice;

(iii) Become consumer of research findings;

(iv) Understand use of program evaluation methods; and

(v) Utilize computer technology for research and evaluation.

(d) Context for educational system. The candidate will have necessary knowledge and skills to apply the following:

(i) State learning goals and essential academic learning requirements;

(ii) Theories of learning;

(iii) School law and professional ethics;

(iv) Computer technology in the workplace; and

(v) Understanding of policies, laws, and procedures.

~~(9))~~ **(6) SCHOOL SOCIAL WORKERS.** ((Effective September 1, 2005,)) School social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Core concepts and professional practice foundations:** The certified school social worker understands and applies the core concepts, tools of inquiry, theories, and skills and values of the general field of social work to the educational system; relates these core concepts to the Washington state learning goals, essential academic learning requirement (EALRS), Revised Code of Washington (RCW), Washington Administrative Code (WAC) and the Individuals With Disabilities Education Act (IDEA); and utilizes these constructs to facilitate the educational, social and emotional development of students by working towards reducing the impact of nonacademic barriers to academic success.

(ii) **Planning, ecological assessment and evaluation:** The certified school social worker understands and knows how to apply various formal and informal assessment tools to identify student, family, school and community needs using a strengths and systems perspective; engage students (individually or in groups), families, school staff and/or the larger community in designing interventions and developing programs, which bolsters the strengths and meets the needs identified; uses best practices in evaluation criteria to monitor the success of the intervention; revisions to the intervention plan are based on systematic data collection; and to utilize the principles of research design and program evaluation to improve student learning outcomes.

(iii) **Prevention/intervention services:** The certified school social worker has knowledge of and ability to provide prevention education and skill building in such areas as violence, mediation, bullying, substance misuse and abuse, conflict resolution/management, and stress management; provide direct intervention services to students through crisis management, case management, counseling, skill building, behavior management, teaching of psycho-educational curriculums, personal development skills and classroom presentations; and provide both prevention and intervention services to students individually, in small group or classroom settings as well as with students' families.

(iv) **Home, school and community consultation and collaboration:** The certified school social worker understands and has the ability to develop consultative and collab-

orative relationships both individually and on a systemic level with students, colleagues, families and the community to support students' learning and social/emotional development; assist students and their families in networking with various social support systems in order to benefit student learning; and use their extensive knowledge of community resources to appropriately refer students and families to various community services.

(v) **Advocacy and facilitation:** The certified school social worker understands and has the ability to advocate and facilitate changes that empower students, families, educators and others to gain access to and effectively use school and community resources.

(vi) **Diversity and school climate:** The certified school social worker understands how a student's learning is influenced and impacted by culture, family dynamics, community values, individual learning styles, talents, gender, sexual orientation, language, prior learning, economics and disabilities; utilize this knowledge to design, implement and evaluate programs that enhance student learning and social interaction in school, family and community settings; and how to create and support a safe, nurturing and secure learning environment by designing and using strategies to prevent or resolve ecological barriers that could limit or diminish the capacity of students to learn and achieve at their highest levels.

(vii) **Professional development:** The certified school social worker understands and values the need for professional development and is able to use supervision, consultation, collaboration, continuing education and professional research to evaluate and enhance their practice.

(viii) **Information resources and technology:** The certified school social worker uses informational resources and technology to communicate, monitor student progress and evaluate programs; and access, appraise and utilize information sources and technology in ways that safeguard and enhance their quality of services.

(ix) **Professional code of conduct and ethics:** The certified school social worker understands, maintains and applies the professional codes of conduct and ethical practice guidelines embodied in the National Association of Social Work (NASW) code of ethics and School Social Work standards developed for the field of education; and are familiar with district, state and federal laws and policies relevant to the educational setting.

(b) **Performance assessment.** An approved preparation program for school social workers shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

AMENDATORY SECTION (Amending WSR 07-04-004, filed 1/24/07, effective 2/24/07)

WAC 181-78A-505 Overview—Teacher professional certificate program. (1) By September 1, 2001, all colleges, universities or educational service districts offering a profes-

sional certificate program must be in compliance with the new program standards.

(2) To obtain a professional certificate, the residency teacher will need to complete a professional educator standards board-approved professional certificate program collaboratively developed by a college, university or educational service district and the professional educational advisory board (PEAB).

(3)(a) Prior to full admission to a professional certificate program, excluding the preassessment seminar, the candidate shall complete provisional status with a school district under RCW 28A.405.220, or the equivalent with a (~~professional educator standards board-approved~~) state board of education-approved private school or state agency providing educational services for students.

(b) The candidate may be fully admitted to the professional certificate program, prior to completion of provisional status, if the candidate provides to the program a letter from the candidate's employing school district, private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program.

(4) The professional certificate requires successful demonstration of three standards (effective teaching, professional development, and professional contributions) and 12 criteria, pursuant to WAC 181-78A-540, related to these standards. Wherever appropriate, the residency teacher will need to provide evidence that his/her teaching has had a positive impact on student learning as defined in WAC 181-78A-010(8).

(5)(a) The candidate and college, university or educational service district shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration (WAC 181-78A-010(9)) with his/her professional growth team.

(b) The individual professional growth plan will be based on an analysis of the student/learning context in that teacher's assignment and a preassessment of that teacher's ability to demonstrate the standards and criteria set forth in WAC 181-78A-540.

(c) The individual professional growth plan shall include instruction and assistance components for each residency teacher. The instruction and assistance components will be designed to give the residency teacher the necessary knowledge and skills needed to demonstrate successfully the standards and criteria set forth in WAC 181-78A-540.

(6) The final component of the program will be a culminating assessment seminar in which the residency teacher's ability to demonstrate the standards and criteria cited above will be evaluated. These assessments shall include multiple forms of data collected over time, including evidence of positive impact on student learning, where appropriate.

(7) As part of the program development, the college, university or educational service district and the PEAB shall establish criteria and procedures for determining when the residency teacher has successfully completed the program. When the program administrator has verified to the superintendent of public instruction that the candidate has completed the approved program, the state will issue the residency teacher a professional certificate.

AMENDATORY SECTION (Amending WSR 07-19-056, filed 9/14/07, effective 10/15/07)

WAC 181-78A-509 Overview—Educational staff associate—School counselor/school psychologist/school social worker professional certificate programs. By September 1, 2008, all colleges and universities offering ESA professional certificate programs must be in compliance with the new program standards. To obtain a professional ESA certificate, individuals will need to hold a valid ESA residency certificate, be employed in his/her ESA role in a public school district, (~~(professional educator standards board approved)~~) state board of education-approved private school or state agency providing educational services for students, and complete a professional educator standards board-approved professional ESA certificate program in his/her ESA role.

(1) The professional certificate requires successful demonstration of the ESA role standards at the professional certificate benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

(2) The candidate shall develop an individual professional growth plan to be approved by the professional education advisory board (PEAB) or the professional growth team (PGT). The individual growth plan shall be based on an assessment of the candidate's ability to demonstrate standards at the professional benchmark level and evidence of a positive impact on student learning.

WSR 08-16-110
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 5, 2008, 10:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-11-020.

Title of Rule and Other Identifying Information: The department of labor and industries is proposing this rule making as a result of chapter 88, Laws of 2008 (SB 6839) to clarify premium liability and provide information regarding workers' compensation coverage requirements when Washington employers hire Washington workers to work out-of-state.

Hearing Location(s): Red Lion Inn at the Quay, 100 Columbia Street, Vancouver WA, on September 10, 2008, at 10:00 a.m.; at the Spokane Airport Ramada, 8909 West Airport Drive, Spokane, WA, on September 11, 2008, at 10:00 a.m.; and at the Department of Labor and Industries Building, 7273 Linderson Way S.W., Tumwater, WA, on September 15, 2008, at 2:00 p.m.

Date of Intended Adoption: September 25, 2008.

Submit Written Comments to: Ronald Moore, P.O. Box 44140, Olympia, WA 98504-4140, e-mail MOOA235@lni.wa.gov, fax (360) 902-4729, by September 15, 2008, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bill Moomau, call (360) 902-4774 or e-mail MOOA235@lni.wa.gov, TTY at (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making will amend WAC 296-17-35203 to add a new section addressing extraterritorial rules for Washington employers performing work out-of-state.

The proposed rule making will also create fifty-one new risk classifications to enable the department to track out-of-state work being performed.

WAC 296-17A-7500 Classification 7500.

Out-of-state employment (extraterritorial). (To be assigned by extraterritorial underwriter).

7500-00 Out of state employment - Alabama
7500-01 Out of state employment - Alaska
7500-02 Out of state employment - Arkansas
7500-03 Out of state employment - Arizona
7500-04 Out of state employment - California
7500-05 Out of state employment - Colorado
7500-06 Out of state employment - Connecticut
7500-07 Out of state employment - Delaware
7500-08 Out of state employment - District of Columbia
7500-09 Out of state employment - Florida
7500-10 Out of state employment - Georgia
7500-11 Out of state employment - Hawaii
7500-12 Out of state employment - Idaho
7500-13 Out of state employment - Illinois
7500-14 Out of state employment - Indiana
7500-15 Out of state employment - Iowa
7500-16 Out of state employment - Kansas
7500-17 Out of state employment - Kentucky
7500-18 Out of state employment - Louisiana
7500-19 Out of state employment - Maine
7500-20 Out of state employment - Maryland
7500-21 Out of state employment - Massachusetts
7500-22 Out of state employment - Michigan
7500-23 Out of state employment - Minnesota
7500-24 Out of state employment - Mississippi
7500-25 Out of state employment - Missouri
7500-26 Out of state employment - Montana
7500-27 Out of state employment - Nebraska
7500-28 Out of state employment - Nevada
7500-29 Out of state employment - New Hampshire
7500-30 Out of state employment - New Jersey
7500-31 Out of state employment - New Mexico
7500-32 Out of state employment - New York
7500-33 Out of state employment - North Carolina
7500-34 Out of state employment - North Dakota
7500-35 Out of state employment - Ohio
7500-36 Out of state employment - Oklahoma
7500-37 Out of state employment - Oregon
7500-38 Out of state employment - Pennsylvania
7500-39 Out of state employment - Rhode Island
7500-40 Out of state employment - South Carolina
7500-41 Out of state employment - South Dakota
7500-42 Out of state employment - Tennessee
7500-43 Out of state employment - Texas
7500-44 Out of state employment - Utah
7500-45 Out of state employment - Vermont

- 7500-46 Out of state employment - Virginia
- 7500-47 Out of state employment - West Virginia
- 7500-48 Out of state employment - Wisconsin
- 7500-49 Out of state employment - Wyoming
- 7500-50 Out of state employment - Canada
- 7500-51 Out of state employment - Foreign countries

Reasons Supporting Proposal: Employers will benefit from these proposed changes as it will no longer be necessary to pay dual coverage for work being performed out of the state of Washington beyond the temporary and incidental period.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100 and chapter 88, Laws of 2008.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau, Tumwater, (360) 902-4774; Implementation: Ronald C. Moore, Tumwater, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case, the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.328 (5)(b)(vi) and because the content of the rules is specifically dictated by statute described in RCW 34.05.328 (5)(b)(v).

A cost-benefit analysis is not required under RCW 34.05.328. In this case, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi) and because the content of the rules is specifically dictated by statute described in RCW 34.05.328 (5)(b)(v).

August 5, 2008
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance: Provided, That a professional athlete who is under contract with a parent team domiciled outside of the state of Washington while assigned to a team domiciled within Washington is subject to mandatory coverage by Washington industrial insurance unless the player and employer (parent team) have agreed in writing as to which state shall provide coverage in accordance with RCW 51.12.120(6).

The following rules shall apply to the written agreement:

- (a) Agreement must be in writing and signed by the employer and the individual athlete.
- (b) Agreement must specify the state that is to provide coverage. The state agreed upon to provide coverage must be

a state in which the player's team, during the course of the season, will engage in an athletic event. For example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they could not agree to have California provide the coverage as this would not qualify as a state in which the player regularly performs assigned duties.

(c) The state agreed upon accepts responsibility for providing coverage and acknowledges such to the department by certified mail.

(d) Agreement and certification by the other state must be received by this department's underwriting section prior to any injury incurred by the athlete.

(e) Agreement will be for one season only commencing with the assigning of the player to a particular team. A separate agreement and certification must be on file for each additional season.

Failure to meet all of these requirements will result in the athlete being considered a Washington worker for premium and benefit purposes until such time as all requirements have been met.

Professional sports teams who are domiciled outside the state of Washington and who participate in sporting events with Washington-domiciled teams are not subject to Washington industrial insurance for their team members while in this state. These out-of-state teams are not considered employers subject to Title 51 on the basis that they are not conducting a business within this state.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.-095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of

Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

- (i) The name of each worker;
- (ii) The Social Security number of each worker;
- (iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;

(iv) The basis upon which wages are paid to each worker;

(v) The number of units earned or produced for each worker paid on a piece-work basis;

(vi) The risk classification(s) applicable to each worker;

(vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

(x) The workers' total gross pay period earnings;

(xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and canceled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at

"total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(I) The employers' unified business identification account number (UBI).

(II) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(III) The total contract award.

(IV) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(V) Physical location/site where the work will be performed including legal description.

(VI) Number of acres covered by the contract.

(VII) Dates during which the work will be performed.

(VIII) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Wash-

ington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The entity that awarded the contract can verify the status of the contractors' account online at the department's web site (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

- (I) The name of the contractor who has been engaged to perform the work;
- (II) The contractor's UBI number;
- (III) The contractor's farm labor contractor number;
- (IV) The total contract award;
- (V) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
- (VI) Location where the work is to be performed;

(VII) A contact name and phone number of the person, firm, or corporation who let the contract;

(VIII) The total estimated wages to be paid by the contractor and any subcontractors;

(IX) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;

(X) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;

(j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
Reforestation Team 8
P.O. Box 44168
Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17A-5005.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

(a) What is the unit of exposure for drywall reporting? Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing

firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) Can I deduct material installed or finished by subcontractors? You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them? To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) Can I be disqualified from using the discounted rates? Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) If I discover I have made an error in reporting or paying premium, what should I do? If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

(7) Safe patient handling rule. The following subsection will apply to all hospital industry employers as applicable.

(a) Definitions. For the purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Hospital" means an "acute care hospital" as defined in (a)(ii) of this subsection, a "mental health hospital" as defined in (a)(iii) of this subsection, or a "hospital, N.O.C. (not otherwise classified)" as defined in (a)(iv) of this subsection.

(ii) "Acute care 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 indi-

viduals 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 rule does not include:

Hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include

Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include

Nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include

Birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include

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

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.

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.

(iii) "Mental health hospital" means any hospital operated and maintained by the state of Washington for the care of the mentally ill.

(iv) "Hospitals, N.O.C." means health care facilities that do not qualify as acute care or mental health hospitals and may be privately owned facilities established for purposes such as, but not limited to, treating psychiatric disorders and chemical dependencies or providing physical rehabilitation.

(v) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistance devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring and repositioning health care patients.

(vi) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(vii) "Department" means the department of labor and industries.

(b) Hospitals will report worker hours in the risk classification that describes the nature of their operations and either their level of implementation of, or need for, the safe patient handling program.

(c) A fully implemented safe patient handling program must include:

(i) Acquisition of at least the minimum number of lifts and/or appropriate equipment for use by lift teams as specified in chapters 70.41 and 72.23 RCW.

(ii) An established safe patient handling committee with at least one-half of its membership being front line, nonmanagerial direct care staff to design and recommend the process for implementing a safe patient handling program.

(iii) Implementation of a safe patient handling policy for all shifts and units.

(iv) Conducting patient handling hazard assessments to include such variables as patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas.

(v) Developing a process to identify appropriate use of safe patient handling policy based on a patient's condition and availability of lifting equipment or lift teams.

(vi) Conducting an annual performance evaluation of the program to determine its effectiveness with results reported to the safe patient handling committee.

(vii) Consideration, when appropriate, to incorporate patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date during new construction or remodeling.

(viii) Development of procedures that allow employees to choose not to perform or participate in patient handling activities that the employee believes will pose a risk to him/herself or to the patient.

(d) Department staff will conduct an on-site survey of each acute care and mental health hospital before assigning a risk classification. Subsequent surveys may be conducted to confirm whether the assigned risk classification is still appropriate.

(e) To remain in classification 6120-00 or 7200-00, a hospital must submit a copy of the annual performance evaluation of their safe patient handling program, as required by chapters 70.41 and 72.23 RCW, to the Employer Services Program, Department of Labor and Industries, P.O. Box 44140, Olympia, Washington, 98504.

(8) Rules concerning work by Washington employers outside the state of Washington (extraterritorial coverage).

(a) General definitions. For purposes of this section, the following terms mean:

(i) "Actual hours worked" means the total hours of each Washington worker's composite work period during which work was performed by the worker beginning with the time the worker's work day commenced, and ending with the quitting time each day excluding any nonpaid lunch period.

(ii) "Work day" means any consecutive twenty-four-hour period.

(iii) "Temporary and incidental" means work performed by Washington employers on jobs or at job sites in another state for thirty or fewer consecutive or nonconsecutive full or partial work days within a calendar year. Temporary and incidental work days are calculated on a per state basis. The thirty-day temporary and incidental period begins on January 1 of each year.

(iv) "Proof of out-of-state coverage" means a copy of a valid certificate of liability insurance for workers' compensation issued by:

(A) An insurer licensed to write workers compensation insurance coverage in that state; or

(B) A state workers' compensation fund in the state in which the employer will be working.

Note: Most certificates are written for a one-year period. The employer must provide the department with a current certificate of liability insurance for workers' compensation covering all periods the employer works in another state. If the policy is canceled, the employer must provide the department with a current in-force policy.

(v) "Worker" means every person in this state who is engaged in the employment of an employer under Title 51 RCW whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer whether by way of manual labor or otherwise.

(vi) "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of Title 51 RCW, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers.

(b) Does a Washington employer have to pay premiums in both states while Washington workers are temporarily working in another state? A Washington employer must continue to pay Washington premiums for Washington workers performing temporary and incidental work in another state. If the Washington employer has Washington workers who work for more than thirty days in another state, it will not need to pay premiums in Washington for work in the other state during the calendar year, as long as it fulfills the following requirements:

(i) Provides the department with proof of out-of-state coverage for the Washington workers working out-of-state.

(ii) Keeps the policy continuously in force from the date the Washington employer's work exceeds the temporary and incidental period until the date the Washington employer no longer has Washington workers working in the other state. Failure to maintain a policy at the required level of workers' compensation coverage for the number of Washington workers working out-of-state may subject the Washington employer to payment of all premiums, penalties, and interest dues in the state of Washington.

(iii) For the first quarterly reporting period and all subsequent quarters during the same calendar year following the date the Washington employer's work exceeds the temporary and incidental period in the other state, the Washington employer must file a supplemental report of out-of-state work with their workers' compensation employer's quarterly report with the department. This supplemental report is available at: <http://www.LNI.wa.gov/ClaimsIns/Insurance/File/ExtraTerritorial/Default.asp>

(iv) Subitems (b)(i), (ii), and (iii) of this subsection must be met in each state in which the Washington employer has Washington workers working in excess of the temporary and incidental period.

Note: Workers' compensation coverage requirements vary widely among states. Washington employers should contact the regulatory agency in other states to determine the appropriate premium and coverage obligations in those states.

(c) What if a Washington employer knows the Washington workers work in another state will exceed the temporary and incidental period? If the Washington employer knows their Washington workers will be working in another state in excess of the temporary and incidental period, it must immediately provide the department with proof of out-of-state coverage in order to avoid Washington premium liability

for hours worked during the temporary and incidental period.

Reminder: The temporary and incidental period applies separately to each state in which the Washington employer worked.

(d) What if a Washington employer anticipates its out-of-state work will exceed the temporary and incidental period, but it does not occur? If a Washington employer did not pay workers compensation premium to Washington during the temporary and incidental period, and at the end of the calendar year Washington workers of the Washington employer had worked fewer than thirty consecutive or non-consecutive days in another state, by the filing of the fourth quarter report, the Washington employer must file amended reports for the calendar year. The employer may be required to pay Washington premiums, penalties, and interest. The fourth quarter report is due by January 31 of the following year.

(e) What records must the employer keep while employing Washington workers in another state? In addition to filing the supplemental report of out-of-state work, the Washington employer is required to keep the same records that are kept for Washington workers working in Washington. The records are listed in WAC 296-17-35201 and must be provided at the time of audit to any authorized representative of the department who has requested them.

(f) What reports does a Washington employer file to avoid paying Washington workers' compensation premiums when employing Washington workers in another state for work that exceeds temporary and incidental? A Washington employer must submit the workers' compensation employer's quarterly report and a supplemental report of out-of-state work to the department for each state in which it has Washington workers performing work. The supplemental report must include the following information:

(i) The Washington employer's unified business identification number (UBI).

(ii) The Washington employer's department account identification number.

(iii) The Social Security numbers for those Washington worker(s) performing work out-of-state.

(iv) The last name, first name, and middle initial of those Washington worker(s) performing work out-of-state.

(v) The gross payroll paid during the quarter for those Washington worker(s) performing work out-of-state.

(vi) The Washington workers' compensation risk classification(s) that would have applied for each Washington worker performing work out-of-state.

(vii) The total number of hours that each Washington worker performed work out-of-state during the quarter.

(viii) In addition to completing the supplemental report of out-of-state work, the Washington employer must keep a record of all contracts awarded and worked under each state. Copies of pertinent records must be made available to auditors in the event of an audit.

(g) Where do Washington workers file their workers' compensation claims if injured in the course of employment outside of Washington state? Washington workers may file their claim in the state where they were injured or in Washington state.

Washington employers must inform their Washington workers of their right to file for workers' compensation benefits in Washington or the state of injury.

The cost of these claims, if accepted by the department and assigned to the Washington employer's account, will be used in the calculations that determine the employer's experience factor and the appropriate risk classification base rate.

(h) If the Washington employer's work in another state exceeds the temporary and incidental period, may the Washington employer obtain a credit or refund for the temporary and incidental period that workers' compensation premiums were paid to Washington? Yes, but only if the Washington employer:

(i) Obtained workers' compensation insurance for all hours worked in the other state during the calendar year;

(ii) Provides proof of out-of-state coverage;

(iii) Filed the appropriate quarterly reports with the department when due; and

(iv) Otherwise complied with all statutory and regulatory requirements of Washington state.

NEW SECTION

WAC 296-17A-7500 Classification 7500. Out-of-state employment (extraterritorial). (To be assigned by extraterritorial underwriter.)

- 7500-00 Out-of-state employment - Alabama
- 7500-01 Out-of-state employment - Alaska
- 7500-02 Out-of-state employment - Arkansas
- 7500-03 Out-of-state employment - Arizona
- 7500-04 Out-of-state employment - California
- 7500-05 Out-of-state employment - Colorado
- 7500-06 Out-of-state employment - Connecticut
- 7500-07 Out-of-state employment - Delaware
- 7500-08 Out-of-state employment - District of Columbia
- 7500-09 Out-of-state employment - Florida
- 7500-10 Out-of-state employment - Georgia
- 7500-11 Out-of-state employment - Hawaii
- 7500-12 Out-of-state employment - Idaho
- 7500-13 Out-of-state employment - Illinois
- 7500-14 Out-of-state employment - Indiana
- 7500-15 Out-of-state employment - Iowa
- 7500-16 Out-of-state employment - Kansas
- 7500-17 Out-of-state employment - Kentucky
- 7500-18 Out-of-state employment - Louisiana
- 7500-19 Out-of-state employment - Maine
- 7500-20 Out-of-state employment - Maryland
- 7500-21 Out-of-state employment - Massachusetts
- 7500-22 Out-of-state employment - Michigan
- 7500-23 Out-of-state employment - Minnesota
- 7500-24 Out-of-state employment - Mississippi
- 7500-25 Out-of-state employment - Missouri
- 7500-26 Out-of-state employment - Montana
- 7500-27 Out-of-state employment - Nebraska
- 7500-28 Out-of-state employment - Nevada
- 7500-29 Out-of-state employment - New Hampshire
- 7500-30 Out-of-state employment - New Jersey
- 7500-31 Out-of-state employment - New Mexico
- 7500-32 Out-of-state employment - New York
- 7500-33 Out-of-state employment - North Carolina

- 7500-34 Out-of-state employment - North Dakota
- 7500-35 Out-of-state employment - Ohio
- 7500-36 Out-of-state employment - Oklahoma
- 7500-37 Out-of-state employment - Oregon
- 7500-38 Out-of-state employment - Pennsylvania
- 7500-39 Out-of-state employment - Rhode Island
- 7500-40 Out-of-state employment - South Carolina
- 7500-41 Out-of-state employment - South Dakota
- 7500-42 Out-of-state employment - Tennessee
- 7500-43 Out-of-state employment - Texas
- 7500-44 Out-of-state employment - Utah
- 7500-45 Out-of-state employment - Vermont
- 7500-46 Out-of-state employment - Virginia
- 7500-47 Out-of-state employment - West Virginia
- 7500-48 Out-of-state employment - Wisconsin
- 7500-49 Out-of-state employment - Wyoming
- 7500-50 Out-of-state employment - Canada
- 7500-51 Out-of-state employment - Foreign countries

WSR 08-16-114

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 5, 2008, 1:55 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-14-020 Definitions, related to uniform procedures for complaint resolution - eliminating definition of "good cause."

Hearing Location(s): Department of Health, Point Plaza East, Room 153, 310 Israel Road S.E., Tumwater, WA 98501, on September 8, 2008, at 1:00 p.m.

Date of Intended Adoption: September 10, 2008.

Submit Written Comments to: Margaret Gilbert, Department of Health, P.O. Box 47873, Olympia, WA 98504-7873, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4930, by August 29, 2008.

Assistance for Persons with Disabilities: Contact Margaret Gilbert by August 22, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would eliminate a definition that is no longer needed. Prior to 2007 rule amendments, a definition of "good cause" was needed to provide consistency for investigations, legal and program managers approving extensions of basic time periods. After the 2007 rule amendments, managers no longer grant extensions. Instead they monitor progress continually and can make resource allocations as needed. The definition of "good cause" is no longer needed because extensions are no longer the enforcement mechanism for timelines.

Reasons Supporting Proposal: Prior to 2007, timelines were managed by granting extensions to basic time periods for complaint processing. The definition of "good cause" provided consistency for extensions. The rules were changed in 2007 and management oversight of timelines under this chapter was changed from approval of extensions to continuous management oversight. Since extensions are no longer

necessary, the definition of good cause is no longer needed. This proposal would eliminate the definition.

Statutory Authority for Adoption: RCW 18.130.095.

Statute Being Implemented: RCW 18.130.095.

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: Margaret Gilbert, Department of Health, (360) 236-4913; Implementation: Bill Kellington, Department of Health, (360) 236-4610; and Enforcement: Karen Jensen, Department of Health, (360) 236-4600.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310 (4)(b), a SBEIS is not required for proposed rules that relate only to internal governmental operations and that are not subject to violation by a nongovernmental party.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(ii) exempts rules that relate only to internal governmental operations that are not subject to violation by a nongovernment party.

August 5, 2008
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 07-24-073, filed 12/4/07, effective 1/4/08)

WAC 246-14-020 Definitions. (1) A "report" is information received by the department of health which raises concern about conduct, acts or conditions related to a credential holder or applicant or about the credential holder or applicant's ability to practice with reasonable skill and safety. If the disciplining authority determines a report warrants an investigation, the report becomes a "complaint."

~~(2) ((Basic time periods may be exceeded for "good cause." Good cause is determined on a case-by-case basis, balancing all relevant factors including risk of harm to the public. Some examples of relevant factors may be circumstances not within the control of the department or the disciplining authority, need for expert review not available within the department or the disciplining authority, and activities which cannot be completed within the time period despite effort to do so.~~

~~(3))~~ "Days" are calendar days unless otherwise indicated. If a time period would end on a Saturday, Sunday, or state holiday, that time period will end on the next business day.

~~((4))~~ (3) "Enhanced management oversight" is enhanced direction of a case imposed by department management as an enforcement mechanism when a basic time period is exceeded. Management will ensure the case moves through the stage promptly. Some examples of enhanced direction may be staffing changes, resource reallocation, and work planning.

WSR 08-16-115
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed August 5, 2008, 2:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-11-026.

Title of Rule and Other Identifying Information: WAC 415-112-401 What types of payments are considered earnable compensation? and 415-112-4602 Are bonuses for National Board for Professional Teaching Standards certification earnable compensation?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on September 9, 2008, at 9:00 a.m.

Date of Intended Adoption: September 10, 2008.

Submit Written Comments to: Sarah Monaly, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on September 9, 2008.

Assistance for Persons with Disabilities: Contact Sarah Monaly, rules coordinator, by September 2, 2008, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to implement SB 6657, passed by the 2008 legislature, which made bonuses for attaining certification by the National Board for Professional Teaching Standards includable as earnable compensation for members of the teachers' retirement system (TRS).

Reasons Supporting Proposal: SB 6657 took effect on June 12, 2008. The department needs to update its rules to assist plan members, employers, and department staff.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: For WAC 415-112-401 is chapter 41.32 RCW; and for WAC 415-112-4601 is RCW 41.32.010(10).

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Sarah Monaly, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Michelle Hardesty, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7193.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

August 5, 2008
Sarah Monaly
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-12-042, filed 5/25/05, effective 6/25/05)

WAC 415-112-401 What types of payments are considered earnable compensation? The following table indicates whether certain types of payments are earnable compensation under TRS Plan 1, 2 or 3 and provides a cross-reference to the specific WAC.

Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-415	No - WAC 415-112-415
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 ¹	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482
Employer Provided Vehicle	No - WAC 415-112-413 ²	No - WAC 415-112-413
Employer Taxes/Contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Fringe Benefits, including insurance	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
National Board of Professional Teaching Standards Certification Bonus	((No)) Yes - WAC 415-112-4602	((No)) Yes - WAC 415-112-4602
Nonmoney Maintenance	Yes - WAC 415-112-412 ³	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-4608	No - WAC 415-112-4608
Sick Leave Cash Outs	No - WAC 415-112-417	No - WAC 415-112-417

Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Time Off with Pay	Yes - WAC 415-112-473	Yes - WAC 415-112-473
Union Leave ⁴	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Workers' Compensation	No - WAC 415-112-482	No - WAC 415-112-482

¹A portion of the value of an employer car allowance may be reportable in Plan 1 only. See WAC 415-112-41301.

²A portion of the value of an employer provided vehicle may be reportable in Plan 1 only. See WAC 415-112-413.

³A portion of the value of nonmoney maintenance provided may be reportable in Plan 1 only. See WAC 415-112-412.

⁴Only specific types of union leave are reportable. See WAC 415-112-475.

AMENDATORY SECTION (Amending WSR 05-12-108, filed 5/27/05, effective 6/27/05)

WAC 415-112-4602 Are bonuses for National Board for Professional Teaching Standards certification earnable compensation? Bonuses you receive for attaining National Board for Professional Teaching Standards certification are ~~((not))~~ earnable compensation.

WSR 08-16-118

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed August 5, 2008, 3:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-12-078.

Title of Rule and Other Identifying Information: WAC 16-390-230 What is the fee for an apple pest certification?, the department is proposing to remove a sunset provision in the rule establishing the current apple pest certification fee, so that the fee would remain at its current level. During the 2008 legislative session, the Washington state legislature authorized the Washington state department of agriculture (WSDA) to increase the apple pest certification fee (see chapter 329, Laws of 2008).

Hearing Location(s): Washington State Department of Agriculture, 21 North 1st Avenue, Conference Room 238, Yakima, WA 98902, on September 10, 2008, at 11:00 a.m.

Date of Intended Adoption: September 17, 2008.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by September 10, 2008.

Assistance for Persons with Disabilities: Contact Henri Gonzales by September 3, 2008, TTY (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The apple maggot is an invasive insect pest native to eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its

larval development stage it can cause extensive damage to fruit. It is economically significant to the Washington apple crop not only due to its ability to cause physical crop damage, but also because fruit from apple-maggot free areas or locations has greater market access for international shipments.

The apple pest certification fee is used to fund annual surveys for apple maggot. The certification fee was increased to \$.015 per cwt. in the fall of 2006 in order to conduct expanded apple maggot surveys to comply with international standards. This increase has a sunset date – on January 1, 2009, the fee reverts back to \$.0075 per cwt. During the 2008 legislative session, the agency received the authority to "...increase the apple pest certification assessment by up to \$.015 per hundredweight of fruit" (see chapter 329, Laws of 2008). This proposal would allow the fee to remain at the current level of \$.015 per cwt.

Reverting back to the \$.0075 certification fee would not enable WSDA to conduct the level of survey needed to help manage and prevent the possible movement of apple maggot from infested areas into uninfested areas, secure continued access to international and interstate markets for Washington grown fruit, and protect the commercial tree fruit industry from an economically significant pest.

Statutory Authority for Adoption: Chapters 15.17, 17.24, and 34.05 RCW.

Statute Being Implemented: Chapters 15.17 and 17.24 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brad White, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2071.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed revisions and has concluded that there are negligible additional costs on the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

August 5, 2008

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 06-19-008, filed 9/8/06, effective 10/9/06)

WAC 16-390-230 What is the fee for an apple pest certification? ~~((Through December 31, 2008,))~~ The fee for apple pest certification, using the survey method, on all fresh apples produced in Washington state or marketed under Washington state grades and standards, is \$.015 per cwt. or fraction thereof. ~~((Beginning January 1, 2009, the fee shall be \$.0075 per cwt. or fraction thereof.))~~

WSR 08-16-119
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 5, 2008, 3:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-23-078.

Title of Rule and Other Identifying Information: The department is amending the following sections from the boarding home licensing chapter: WAC 388-78A-2470 Criminal history disclosure and background, 388-78A-2680 Boarding home use of audio and video monitoring, 388-78A-2690 Resident use of electronic monitoring, 388-78A-2950 Water supply, 388-78A-2980 Lighting, 388-78A-3030 Toilet rooms and bathrooms, 388-78A-3450 Finalizing a preliminary finding, and 388-78A-3460 Appeal of administrative law judge's initial order or finding.

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 September 23, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 24, 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 DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on September 23, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 16, 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: **Criminal History Disclosure:** To correct typographical error in section heading.

Electronic Monitoring: To clarify, enhance readability and usability of electronic monitoring requirements; to ensure boarding home compliance with resident rights when electronic monitoring is used.

Building: To clarify, enhance readability and usability of construction requirements regarding lighting, water supply and showers; to create flexibility in construction requirements for boarding home providers to meet resident needs.

Resident Protection Program: To clarify, enhance readability and usability of the rules; to provide guidance to administrative law judges that a department denial of a petition to remove a finding of neglect under WAC 388-78A-3460 from a department list may not be appealed.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 18.20.090.

Statute Being Implemented: Chapter 18.20 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: Todd Henry, P.O. Box 45600, Olympia, WA 98513, (360) 725-2580; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined that the amendments result in no more than "minor costs" as defined in RCW 19.85.030. In some cases, the amendments may result in a cost savings.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Todd Henry, Boarding Home Program, P.O. Box 45600, Olympia, WA 98513, phone (360) 725-2580, fax (360) 438-7903, e-mail henryte@dshs.wa.gov.

July 31, 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 08-17 issue of the Register.

WSR 08-16-120
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed August 5, 2008, 3:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-10-061.

Title of Rule and Other Identifying Information: Chapter 388-78A WAC, Boarding home licensing rules.

Respite: The department is adding new sections to implement E2SHB 2668 (chapter 146, Laws of 2008): WAC 388-78A-2202 Respite—In general, 388-78A-2204 Respite—Respite information, 388-78A-2206 Respite—Respite assessment and 388-78A-2208 Respite—Respite service plan, and WAC 388-78A-2600 Policies and procedures, is being amended to implement E2SHB 2668.

Plan of correction (POC): The department is amending WAC 388-78A-2730 Licensee's responsibilities and 388-78A-3150 Statements of deficiency regarding plans of correction, to clarify POC requirements. A new section is being added to clarify POC requirements: WAC 388-78A-3152 Plan of correction—Required.

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 September 23, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 24, 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 DSHS

RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on September 23, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 16, 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:

Respite:

- To implement E2SHB 2668.
- To make rules consistent with statutory changes created by E2SHB 2668.
- To clarify respite requirements for boarding homes that decide to provide respite care.

Plans of Correction:

- To clarify plan of correction requirements for boarding home providers and department staff.
- To enhance readability and usability of plan of correction rule language.
- To improve boarding home compliance with boarding home rules.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 18.20.090.

Statute Being Implemented: Chapter 18.20 RCW, RCW 18.20.350, 74.41.040.

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: Todd Henry, P.O. Box 45600, Olympia, WA 98513, (360) 725-2580; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined that the amendments were no more than "minor costs" as defined in RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Todd Henry, Boarding Home Program, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2580, fax (360) 438-7903, e-mail henryte@dshs.wa.gov.

August 1, 2008

Stephanie E. Schiller
Rules Coordinator

Respite

NEW SECTION

WAC 388-78A-2202 Respite—General. A boarding home:

- (1) May provide short term respite care;
- (2) Must limit the length of stay for an individual on respite to thirty days or less; and
- (3) Must not use respite as a placement pending the resident's admission to the boarding home.

NEW SECTION

WAC 388-78A-2204 Respite—Information. When a boarding home provides respite care, before or at the time of admission, the boarding home must obtain sufficient information about the individual to meet the individual's anticipated needs. That information must include at a minimum:

- (1) The resident's legal name;
- (2) The name, phone number and address of the resident's representative, if applicable;
- (3) The name and address of the adult family home, boarding home, or other location where the resident normally lives, with the name of a contact person and the contact person's phone number;
- (4) The name, address, and telephone number of the resident's attending physician, and alternate physician if any;
- (5) Medical and social history, which may be obtained from a respite care assessment and respite service plan performed by a case manager designated by an area agency on aging under contract with the department, and mental and physical assessment data; and
- (6) Physician's orders for diet, medication, and routine care consistent with the resident's status on admission.

NEW SECTION

WAC 388-78A-2206 Respite—Assessment. The boarding home must ensure that any individual on respite has assessments performed, where needed, and if the assessment of the individual shows symptoms of:

- (1) Tuberculosis, follow required tuberculosis testing requirements; and
- (2) Other infectious conditions or diseases, follow the appropriate infection control processes.

NEW SECTION

WAC 388-78A-2208 Respite—Negotiated service agreement. With the participation of the individual, and where appropriate their representative, the boarding home must develop a negotiated service agreement, to maintain or improve the individual's health and functional status during their stay in the boarding home.

AMENDATORY SECTION (Amending WSR 08-05-099, filed 2/15/08, effective 3/17/08)

WAC 388-78A-2600 Policies and procedures. (1) The boarding home must develop and implement policies and procedures in support of services that are provided and are necessary to:

- (a) Maintain or enhance the quality of life for residents including resident decision-making rights;
- (b) Provide the necessary care and services for residents, including those with special needs;
- (c) Safely operate the boarding home; and
- (d) Operate in compliance with state and federal law, including, but not limited to, chapters 7.70, 11.88, 11.92, 11.94, 69.41, 70.122, 70.129, and 74.34 RCW, and any rules promulgated under these statutes.

(2) The boarding home must develop, implement and train staff persons on policies and procedures to address what staff persons must do:

- (a) Related to suspected abandonment, abuse, neglect, exploitation, or financial exploitation of any resident;
- (b) When there is reason to believe a resident is not capable of making necessary decisions and no substitute decision maker is available;
- (c) When a substitute decision maker is no longer appropriate;
- (d) When a resident stops breathing or a resident's heart appears to stop beating, including, but not limited to, any action staff persons must take related to advance directives and emergency care;
- (e) When a resident does not have a personal physician or health care provider;
- (f) In response to medical emergencies;
- (g) When there are urgent situations in the boarding home requiring additional staff support;
- (h) In the event of an internal or external disaster, consistent with WAC 388-78A-2700;
- (i) To supervise and monitor residents, including accounting for residents who leave the premises;
- (j) To appropriately respond to aggressive or assaultive residents, including, but not limited to:
 - (i) Actions to take if a resident becomes violent;
 - (ii) Actions to take to protect other residents; and
 - (iii) When and how to seek outside intervention.
- (k) To prevent and limit the spread of infections consistent with WAC 388-78A-2610;
- (l) To manage residents' medications, consistent with WAC 388-78A-2210 through 388-78A-2290; sending medications with a resident when the resident leaves the premises;
- (m) When services related to medications and treatments are provided under the delegation of a registered nurse consistent with chapter 246-840 WAC;
- (n) Related to food services consistent with chapter 246-215 WAC and WAC 388-78A-2300;
- (o) Regarding the safe operation of any boarding home vehicles used to transport residents, and the qualifications of the drivers;
- (p) To coordinate services and share resident information with outside resources, consistent with WAC 388-78A-2350;
- (q) Regarding the management of pets in the boarding home, if permitted, consistent with WAC 388-78A-2620; ~~(and)~~
- (r) When receiving and responding to resident grievances consistent with RCW 70.129.060; and
- (s) Related to providing respite care services consistent with RCW 18.20.350, if respite care is offered.

(3) The boarding home must make the policies and procedures specified in subsection (2) of this section available to staff persons at all times and must inform residents and residents' representatives of their availability and make them available upon request.

AMENDATORY SECTION (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

WAC 388-78A-2730 Licensee's responsibilities. (1)

The boarding home licensee is responsible for:

- (a) The operation of the boarding home;
- (b) Complying at all times with the requirements of this chapter, chapter 18.20 RCW, and other applicable laws and rules; and
- (c) The care and services provided to the boarding home residents.
 - (2) The licensee must:
 - (a) Maintain the occupancy level at or below the licensed resident bed capacity of the boarding home;
 - (b) Maintain and post in a size and format that is easily read, in a conspicuous place on the boarding home premises:
 - (i) A current boarding home license, including any related conditions on the license;
 - (ii) The name, address and telephone number of:
 - (A) The department;
 - (B) Appropriate resident advocacy groups; and
 - (C) The state and local long-term care ombudsman with a brief description of ombudsman services.
 - (iii) A copy of the report, including the cover letter, and plan of correction of the most recent full inspection conducted by the department.
 - (c) Ensure any party responsible for holding or managing residents' personal funds is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident funds; and provides proof of bond or insurance to the department.
 - (3) The licensee must not delegate to any person responsibilities that are so extensive that the licensee is relieved of responsibility for the daily operations and provisions of services in the boarding home.
 - (4) The licensee must act in accord with any department-approved management agreement, if the licensee has entered into a management agreement.
 - (5) The licensee must appoint the boarding home administrator consistent with WAC 388-78A-2520.

AMENDATORY SECTION (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

WAC 388-78A-3150 Statements of deficiencies ~~((and plans of correction))~~. ~~((+))~~ The department must give the administrator or the administrator's designee a written ~~((statement of deficiencies))~~ report specifying any violations of chapters 18.20, ~~((or))~~ 70.129, or 74.34 RCW ~~((or))~~, this chapter, or any other applicable laws or rules that the department found during ~~((on-site))~~ any inspection~~((s))~~ and complaint investigation~~((s))~~.

~~((2))~~ The licensee must respond to a statement of deficiencies by submitting to the department within a time acceptable to the department, a signed written plan of correction for each deficiency stated in the report. The licensee must include in the plan of correction, for each cited deficiency:

- ~~((a))~~ A specific plan of what will be or was done to correct the problem;

~~((b))~~ A description of what will be done to prevent future problems of this type;

~~((c))~~ Who will be responsible for monitoring the corrections to ensure the problems do not recur; and

~~((d))~~ The date by which lasting correction will be achieved.)

NEW SECTION

WAC 388-78A-3152 Plan of correction—Required.

(1) The boarding home is required to be in compliance with all of the licensing laws and regulations at all times.

(2) When the department finds the boarding home out of compliance:

(a) The department will send the home an inspection report which includes an attestation statement after each cited deficiency stating:

(i) That all of the deficiencies are or will be corrected; and

(ii) The home will stay in compliance with the licensing requirements.

(b) The home must:

(i) Develop a plan on how the home will correct each deficiency and maintain correction;

(ii) Correct each cited deficiency;

(iii) Provide a date on the attestation statement, acceptable with the department, by which cited deficiency has been or will be corrected;

(iv) Sign and date each attestation statement certifying that the home has or will correct each deficiency; and

(v) Return the inspection report to the department within ten days of receiving the report from the department.

WSR 08-16-123

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 5, 2008, 4:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-08-034.

Title of Rule and Other Identifying Information: Chapter 388-831 WAC, Community protection program. See Reviser's note below.

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 September 23, 2008, at 10:00 a.m.

Date of Intended Adoption: September 24, 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 DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on September 23, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 16, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The division of developmental disabilities (DDD) is creating a new chapter 388-831 WAC, Community protection program, to implement chapter 303, Laws of 2006 (ESSB 6630).

Reasons Supporting Proposal: This chapter codifies the rules relating to the administration of the community protection program as directed by the legislature.

Statutory Authority for Adoption: RCW 71A.12.030, ESSB 6630, Laws of 2006.

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: Steve Brink, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail brinksc@dshs.wa.gov, (360) 725-3416, fax (360) 404-0955; Implementation: Shirley Everard, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail EveraSH@dshs.wa.gov, (360) 725-3444, fax (360) 404-0955; and Enforcement: Doug Washburn, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail washbdc@dshs.wa.gov, (360) 725-3452, fax (360) 404-0955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The DDD has analyzed the rules and determined that they do not affect small businesses and nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt from a cost-benefit analysis pursuant to RCW 34.05.[328] (5)(b)(iii) and (vii) as they adopt Washington state statutes and relate to client medical or financial eligibility.

August 1, 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 08-17 issue of the Register.

WSR 08-16-126
PROPOSED RULES
DEPARTMENT OF HEALTH
(Dental Quality Assurance Commission)
[Filed August 6, 2008, 8:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-15-160 and 07-13-074.

Title of Rule and Other Identifying Information: WAC 246-817-010 Definitions, 246-817-110 Dental licensure—Initial eligibility and application requirements, and 246-817-

120 Examination content. Proposed rule amendments update licensing requirements to clarify definitions, approved examinations, approved dental schools, exception for dentists licensed in another state, exception for an approved postgraduate residency program, and clarifies background inquiries [inquiries].

Hearing Location(s): Department of Health, Point Plaza East 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on September 11, 2008, at 5:45 p.m.

Date of Intended Adoption: September 11, 2008.

Submit Written Comments to: Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504-7867, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 1, 2008.

Assistance for Persons with Disabilities: Contact Jennifer Bressi by September 1, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendments add regional exam agency definitions, approved examinations, approved dental schools, licensure for dentists licensed in another state, approval of postgraduate residency programs, and clarifies background inquiries. The proposed rule amendments clarify existing rules and incorporate alternative licensure standards for dental students.

Reasons Supporting Proposal: The proposed rules provide alternatives to dental licensing standards which reduce barriers to licensure.

Statutory Authority for Adoption: RCW 18.32.0365.

Statute Being Implemented: RCW 18.32.040.

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

Name of Proponent: Washington state department of health, dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Bressi, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4893.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310 (4)(g)(ii), an SBEIS is not required for proposed rules that adopt, amend, or repeal a filing or related process requirement for applying to an agency for a license or permit.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

August 4, 2008
Jennifer Bressi
Health Services
Consultant 3

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-010 Definitions. The following general terms are defined within the context used in this chapter.

"**Acquired immunodeficiency syndrome**" or "**AIDS**" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

"**Clinics**" are locations situated away from the School of Dentistry on the University of Washington campus, as recommended by the dean in writing and approved by the DQAC.

"**CITA**" means council of interstate testing agencies, a regional dental testing agency that provides clinical dental testing services.

"**CRDTS**" means central regional dental testing services, a regional testing agency that provides clinical dental testing services.

"**Department**" means the department of health.

"**DQAC**" means the dental quality assurance commission as established by RCW 18.32.0351.

"**Facility**" is defined as the building housing the School of Dentistry on the University of Washington campus, and other buildings, designated by the dean of the dental school and approved by the DQAC.

~~("HPQAD" means the health professions quality assurance division of the department of health.)~~

"**NERB**" means the northeast regional board, a regional testing agency that provides clinical dental testing services.

"**Office on AIDS**" means that section within the department of health or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

"**Secretary**" means the secretary of the department of health or the secretary's designee.

"**SRTA**" means the southern regional testing agency, a regional testing agency that provides clinical dental testing services.

"**WREB**" means the Western Regional Examining Board, a ((regional)) national testing agency that provides clinical dental testing services.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-817-110 Dental licensure—Initial eligibility and application requirements. To be eligible for Washington state dental licensure, the applicant ~~((shall complete an application provided by the dental HPQAD of the department of health, and shall include written documentation to meet the eligibility criteria for the license for which he/she is applying. Each applicant shall))~~ must provide:

(1) A completed application and fee. The applicant ((shall)) must submit a signed, notarized application and required fee((Refer to WAC 246-817-990 for fee schedule.)) as defined in WAC 246-817-990.

(2) Proof of graduation from a dental school approved by the DQAC((The DQAC adopts those standards of the American Dental Association's Commission on Accreditation which were relevant to accreditation of dental schools and current in May 1993 and has approved all and only those dental schools which were accredited by the commission as of May 1993.))

(a) DQAC recognizes only those applicants who are students or graduates of dental schools in the United States or Canada, approved, conditionally or provisionally, by the

Commission on Dental Accreditation of the American Dental Association. The applicant must have received, or will receive, a Doctor of Dental Surgery (DDS) or Doctor of Dental Medicine (DMD) degree from that school;

(b) Other dental schools which apply for DQAC approval and which meet these adopted standards to the DQAC's satisfaction may be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved((-);

(3) ((Certification)) Proof of successful completion of the National Board Dental Examination Parts I and II, or the Canadian National Dental Examining Board Examination. An original scorecard or a certified copy of the scorecard shall be accepted. Exception: Dentists who obtained initial licensure in a state prior to that state's requirement for successful completion of the national boards, may be licensed in Washington, provided that the applicant provide proof that their original state of licensure did not require passage of the national boards at the time they were initially licensed. Applicants need to meet all other requirements for licensure;

(4) Proof of graduation from an approved dental school. The only acceptable proof is an official, posted transcript sent directly from such school, or in the case of recent graduates, a verified list of graduating students submitted directly from the dean of the dental school. Graduates of nonaccredited dental schools must also meet the requirements outlined in WAC 246-817-160((-);

(5) A complete listing of professional education and experience including college or university (predental), and a complete chronology of practice history from the date of dental school graduation to present, whether or not engaged in activities related to dentistry((-);

(6) ((Applicants must complete)) Proof of completion of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8((-);

(7) ((Certification)) Proof of malpractice insurance if available, including dates of coverage and any claims history((-);

(8) Written certification of any licenses held, submitted directly from another licensing entity, and including license number, issue date, expiration date and whether applicant has been the subject of final or pending disciplinary action((-);

(9) Proof of successful completion of an approved;

(a) Practical/clinical examination ((and a written jurisprudence examination or any other examination)); or

(b) A qualifying postgraduate residency program, approved by ((and)) or administered under the direction of the DQAC((-);

(10) ((Photograph)) Proof of successful completion of an approved written jurisprudence examination;

(11) A recent 2" x 2" photograph, signed ((and)), dated, ((shall be)) and attached to the application((-);

((H)) (12) Authorization for background inquiries ((from)) to other sources may be conducted as determined by the DQAC, including but not limited to the national practitioner data bank and drug enforcement agency. Applicants are responsible for any fees incurred in obtaining verification of requirements((-);

~~((12) Additional requirements))~~ (13) Any other information for each license type as ((further defined)) determined by the DQAC.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-120 Examination content. An applicant seeking licensure in Washington by examination, must successfully complete a written and practical examination approved by the DQAC.

(1) The examination will consist of:

(a) A written(=) examination. Only the national board exam will be accepted, except as provided in (c) of this subsection.

(b) A practical/practice(=) examination.

(i) The DQAC will accept(=) the Western Regional Examining Board's (WREB) clinical examination as meeting its examination standard after January 1, 1995. The results of the WREB examination ((shall)) will be accepted for five years immediately preceding application for state licensure; or

(ii) The DQAC accepts the central regional dental testing services (CRDTS) clinical examination as meeting its examination standard as of November 2001. The results of the CRDTS examination will be accepted for five years immediately preceding application for state licensure; or

(iii) The DQAC accepts the results of the northeast regional board (NERB) and the southern regional testing agency (SRTA) clinical examinations as meeting its examination standard as of January 2006. The results of the NERB and SRTA examinations will be accepted for five years immediately preceding application for state licensure; or

(iv) The DQAC will consider acceptance of the examination results from candidates who pass the final portions of the Council of Interstate Testing Agency's (CITA) clinical examination after January 1, 2006; or

(v) The DQAC will consider acceptance of the examination results of those states with individual state board examinations after September 30, 2006.

(c) The DQAC may, at its discretion, give or require an examination in any other subject under (a) ~~((or))~~ and (b) of this subsection, whether in written ~~((and/))~~ or practical form or both written and practical. ~~((The applicant shall receive information concerning such examination.))~~

(2) An applicant for the ~~((clinical))~~ practical/practice examination may obtain an application directly from the ~~((Western Regional Examining Board))~~ relevant regional testing agency, or individual state board.

Title of Rule and Other Identifying Information: WAC 246-817-155 Dental resident license to full dental license— Conditions, the proposed rule is adding a new section establishing requirements dental residents to obtain full dental license. The proposed rule establishes criteria for the full licensure of dental residents in accordance with SHB 1689 passed in the 2005 legislative session and amended RCW 18.32.040 and 18.32.195.

Hearing Location(s): Department of Health, Point Plaza East, Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on September 11, 2008, at 5:40 p.m.

Date of Intended Adoption: September 11, 2008.

Submit Written Comments to: Jennifer Bressi, Program Manager, Dental Quality Assurance Commission, P.O. Box 47867, Tumwater, WA 98501-7867, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 1, 2008.

Assistance for Persons with Disabilities: Contact Jennifer Bressi by September 1, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule establishes licensure qualifications, in lieu of a practical exam, for dental residents who successfully complete a dental residency training program, as approved by the Commission on Dental Accreditation, located in a community health clinic that serves predominantly low-income patients or in a dental health care shortage area in Washington. The dental residency program is an alternative to passing a practical examination to qualify for licensure.

Reasons Supporting Proposal: The proposed rule is needed to implement SHB 1689 which amended RCW 18.32.040 and 18.32.195. The proposed rule creates an alternative to existing licensing requirements by establishing licensing standards for obtaining a full dental license when dental students successfully complete a postdoctoral residency program accredited by the Commission on Dental Accreditation, which reduces licensing barriers.

Statutory Authority for Adoption: RCW 18.32.0365 and 18.32.040.

Statute Being Implemented: RCW 18.32.040.

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

Name of Proponent: Department of health, dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Bressi, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4893.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Bressi, Dental Quality Assurance Commission, P.O. Box 47867, Tumwater, WA 98501-7867, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.-

WSR 08-16-127

PROPOSED RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed August 6, 2008, 8:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-13-073.

328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

August 4, 2008
 Jennifer Bressi
 Health Services
 Consultant 3

NEW SECTION

WAC 246-817-155 Dental resident license to full dental license—Conditions. To be eligible for full Washington state dental licensure, a postdoctoral dental resident must:

- (1) Meet the initial application and eligibility requirements in WAC 246-817-110;
- (2) Provide a completed application on forms provided by the secretary;
- (3) Provide evidence of successful completion of a full-time postdoctoral dental residency program. The residency program must:
 - (a) Be one to three years in duration;
 - (b) Be located in Washington state;
 - (c) Be located in a community health clinic that serves predominantly low-income patients or located in a dental care health professional shortage area in this state;
 - (d) Include an outcome assessment evaluation, other than the Western Regional Examining Board's (WREB) clinical examination, assessing the resident's competence to practice dentistry;
 - (e) Provide a certificate of completion, signed and submitted directly to the department of health by the director of the dental residency program;
 - (f) Use standards of the ADA/CODA, for community clinics to use when sponsoring students in a residency program under RCW 18.32.040 (3)(c), including the ADA/CODA guidelines for proper supervision of residents and measurement of the resident's competency to practice dentistry;
 - (g) Be accredited by the American Dental Association's Commission on Dental Accreditation (ADA/CODA) in the following programs:
 - (i) For advanced education programs general dentistry (AEGD); or
 - (ii) For advanced education programs general practice residency (GPR); or
 - (iii) For advanced specialty education programs.
- (4) Provide evidence of successful completion of the jurisprudence examination;
- (5) Pay applicable fees as defined in WAC 246-817-990;
- (6) Provide any other information determined by the DQAC.

WSR 08-16-128
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed August 6, 2008, 8:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-037.

Title of Rule and Other Identifying Information: Chapter 246-840 WAC, Advanced registered nurse practitioners.

Amending:	Adding:	Repealing:
WAC 246-840-300 Advanced registered nurse practitioner.	WAC 246-840-302 ARNP designations, certification and approved certification examinations.	WAC 246-840-305 Criteria for formal advanced nursing education meeting the requirements for ARNP licensure.
WAC 246-840-310 Use of nomenclature.	WAC 246-840-304 Certification and certification program requirements.	WAC 246-840-320 Certification and certification program.
WAC 246-840-311 ARNP previously adopted specialties.	WAC 246-840-342 ARNP application requirements for applicants licensed as advanced practice nurses from other states or jurisdictions.	WAC 246-840-330 Commission approval of certification programs and commission recognition of new specialties.
WAC 246-840-340 Application requirements for ARNP.	WAC 246-840-344 ARNP application requirements for advanced practice nurse applicants educated and licensed outside the United States.	WAC 246-840-345 ARNP designation in more than one area of specialty.
WAC 246-840-350 Application requirements for ARNP interim permit.	WAC 246-840-361 Continuing education requirements for ARNP license renewal.	WAC 246-840-370 Termination of ARNP designation by the commission.
WAC 246-840-360 Renewal of ARNP designation.	WAC 246-840-367 Expired license.	WAC 246-840-425 Seventy-two hour limit.
WAC 246-840-365 Return to active ARNP status from inactive or expired status.	WAC 246-840-451 Continuing education requirements for ARNP prescriptive authority.	
WAC 246-840-370 Termination of ARNP designation by the commission.	WAC 246-840-455 Requirements for advanced registered nurse practice programs in Washington state.	
WAC 246-840-400 ARNP with prescriptive authorization.		
WAC 246-840-410 Application requirements for ARNP with prescriptive authority.		
WAC 246-840-420 Authorized prescriptions by the ARNP with prescriptive authority.		
WAC 246-840-450 Renewal.		

Hearing Location(s): Department of Transportation, 2714 North Mayfair, Spokane, WA 99207, on September 11, 2008, at 1:00 p.m.

Date of Intended Adoption: September 11, 2008.

Submit Written Comments to: Terry West, P.O. Box 47864, Olympia, WA 98504-7864, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4723, by September 4, 2008.

Assistance for Persons with Disabilities: Contact Terry West by August 28, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies advanced registered nurse practitioner (ARNP) scope of practice and licensing requirements. The rule identifies ARNP designations and approved certification examinations. This eliminates psychiatric-mental health clinical nurse specialists. The rules provide for continued licensure of these practitioners as ARNP as long as certification and licensure are renewed. Minimum standards for advanced registered nurse educational programs as required by RCW 18.79.110 are established. The proposed rule amends the two hundred fifty hours of advanced clinical practice for expired or inactive licenses to require two hundred fifty hours of advanced clinical practice for each two-year period of time that the license is inactive or expired (up to 1000 hours). WAC 246-840-425 Seventy-two-hour limit requirements is repealed due to a legislative change.

Reasons Supporting Proposal: This proposal adds clarifying language to reduce confusion of rules. It updates the rules to reflect new certification areas and allows more flexibility in areas of practice. The proposed rules incorporate nursing or nursing related accrediting organizations recognized by the United States Department of Education or Council of Higher Education Accreditation in a cost-effective manner for ensuring compliance with minimum educational requirements. RCW 18.79.255 is repealed allowing ARNPs to dispense Schedule II - IV drugs for more than seventy-two hours, or as needed in the treatment of individual patients. This change is made to implement SB 6267 which passed in the 2008 legislative session.

Statutory Authority for Adoption: RCW 18.79.010, [18.79.]050, [18.79.]110, [18.79.]210, and chapter 154, Laws of 2008.

Statute Being Implemented: RCW 18.79.010, [18.79.]050, [18.79.]110, [18.79.]210, and chapter 154, Laws of 2008.

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

Name of Proponent: Washington state department of health, nursing care quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Mindy Schaffner, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4988; Implementation and Enforcement: Terry West, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4712.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department of health has reviewed the proposal and determined that no small business economic impact statement is required

because the rules do not impose more than minor costs on businesses within the industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Terry West, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4712, fax (360) 236-4738, e-mail terry.west@doh.wa.gov.

August 5, 2008

Judith D. Personett, EdD, RN, Chair
Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 00-21-119, filed 10/18/00, effective 11/18/00)

WAC 246-840-300 Advanced registered nurse practitioner (ARNP) scope of practice. ~~((An advanced registered nurse practitioner is a registered nurse prepared in a formal educational program to assume primary responsibility for continuous and comprehensive management of a broad range of patient care, concerns and problems. Advanced registered nurse practitioners function within the specialty scopes of practice and/or description of practice and/or standards of care developed by national professional organizations and reviewed and approved by the commission. These statements form the basis for selection of test items or competency based evaluation processes and are derived from standard educational curricula for certain practice areas. ARNP members of the commission will review these statements on a biennial basis and will present substantive changes to the full commission for approval or disapproval. Advanced registered nurse practitioners are prepared and qualified to assume primary responsibility and accountability for the care of their patients. This practice is grounded in nursing and incorporates the use of independent judgment as well as collaborative interaction with other health care professionals when indicated in the assessment and management of wellness and conditions as appropriate to the ARNP's area of specialization.~~

~~Within the scope of the advanced registered nurse practitioner's knowledge, experience and specialty scope of practice statement(s), licensed advanced registered nurse practitioners may perform the following functions:~~

~~• Examine patients and establish medical diagnoses by client history, physical examination and other assessment criteria;~~

~~• Admit patients to health care facilities;~~

~~• Order, collect, perform and interpret laboratory tests;~~

~~• Initiate requests for radiographic and other testing measures;~~

~~• Identify, develop, implement and evaluate a plan of care and treatment for patients to promote, maintain and restore health;~~

~~• Prescribe medications when granted authority under this chapter;~~

~~• Refer clients to other health care practitioners or facilities.~~

~~An advanced registered nurse practitioner:~~

~~(1) Shall hold a current license to practice as a registered nurse in Washington;~~

~~(2) Shall have completed a formal advanced nursing education meeting the requirements of WAC 246-840-305;~~

~~(3) Shall present documentation of initial certification credential granted by a national certifying body recognized by the commission, approved ARNP specialty whose certification program is approved by the commission and subsequently maintain currency and competency as defined by the certifying body;~~

~~(4) Copies of statements of scope of practice or practice descriptions are maintained in the nursing commission's office. Specialty designations recognized by the commission and the date of the commission approved statement of scope of practice or practice description are:~~

~~(a) Family Nurse Practitioner (FNP) (American Nurses Association, 1998; American Academy of Nurse Practitioners, 1992);~~

~~(b) Women's Health Nurse Practitioner (WHNP) (American Association of Women's Health, Obstetric, and Neonatal Nurses, 1997);~~

~~(c) Pediatric Nurse Practitioner (PNP) (National Association of Pediatric Nurse Associates and Practitioners, 2000; American Nurses Association, 1998);~~

~~(d) Adult Nurse Practitioner (ANP) (American Nurses Association, 1998; American Academy of Nurse Practitioners, 1992);~~

~~(e) Geriatric Gerontological Nurse Practitioner (GNP) (American Nurses Association, 1998);~~

~~(f) Certified Nurse Midwife (CNM) (American College of Nurse Midwives, 1997);~~

~~(g) Certified Registered Nurse Anesthetist (CRNA) (American Association of Nurse Anesthetists, 1996);~~

~~(h) School Nurse Practitioner (American Nurses Association, 1998);~~

~~(i) Neonatal Nurse Practitioner (NNP) (American Association of Women's Health, Obstetric, and Neonatal Nurses, 1997);~~

~~(j) Psychiatric Nurse Practitioner or Clinical Specialist in Psychiatric Mental Health Nursing (American Nurses Association, 1998);~~

~~(k) Acute Care Nurse Practitioner (American Nurses Association, 1998);~~

~~(5) Shall be held individually accountable for practice based on and limited to the scope of his/her education, demonstrated competence, and advanced nursing experience;~~

~~(6) Shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or practices;~~

~~(7) Shall be responsible for maintaining current knowledge in his/her field of practice;~~

~~(8) Must be prepared to show documentation of any additional formal education, skills training, or supervised clinical practice beyond the basic ARNP preparation; and~~

~~(9) May choose to limit his or her area of practice within the recognized specialty or specialties;~~

~~(10) If recognized in more than one specialty area, must obtain and maintain certification in all areas and must obtain formal education and training for each area of specialization.)~~ (1) A licensed advanced registered nurse practitioner (ARNP) is a registered nurse prepared in a formal educational program to assume primary responsibility for continuous and

comprehensive management of a broad range of patient care, concerns and problems.

(2) The ARNP is prepared and qualified to assume primary responsibility and accountability for the care of patients.

(3) ARNP practice is grounded in nursing and incorporates the use of independent judgment as well as collaborative interaction with other health care professionals when indicated in the assessment and management of wellness and health conditions as appropriate to the ARNP's area of practice and certification.

(4) The ARNP functions within his or her scope of practice according to the commission approved certification program and standards of care developed by professional organizations.

(5) The ARNP shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or practices.

(6) Performing within the scope of the ARNP's knowledge, experience and practice, the licensed ARNP may perform the following:

(a) Examine patients and establish diagnoses by patient history, physical examination and other methods of assessment;

(b) Admit, manage and discharge patients to and from health care facilities;

(c) Order, collect, perform and interpret diagnostic tests;

(d) Manage health care by identifying, developing, implementing and evaluating a plan of care and treatment for patients;

(e) Prescribe therapies and medical equipment;

(f) Prescribe medications when granted authority under this chapter;

(g) Refer patients to other health care practitioners, services or facilities; and

(h) Perform procedures or provide care services that are within the scope of practice according to the commission approved certification program.

NEW SECTION

WAC 246-840-302 ARNP designations, certification and approved certification examinations. (1) ARNP designations recognized by the commission include:

(a) Nurse Practitioner (NP);

(b) Certified Nurse-midwife (CNM); and

(c) Certified Registered Nurse Anesthetist (CRNA).

(2) An ARNP must maintain current certification by an accredited certifying body as identified in subsection (3) of this section. An ARNP license becomes invalid when the certification expires.

(3) The commission approved certification examinations include those approved by the National Commission on Certifying Agencies or the American Boards of Nursing Specialties from the following programs:

(a) For NP designation, NP exams from:

(i) American Academy of Nurse Practitioners;

(ii) American Nurses Credentialing Center;

(iii) National Certification Corporation for Obstetric, Gynecological, and Neonatal Nursing; and

(iv) Pediatric Nursing Certification Board.

(b) For CNM designation, the CNM exam from American Midwifery Certification Board.

(c) For CRNA designation, the CRNA exam from Council on Certification of Nurse Anesthetists.

(4) An ARNP may choose to limit his or her area of practice within the commission approved certification program area of practice.

(5) If an ARNP is recognized in more than one certification area, he or she must obtain and maintain education, training and practice in each area.

NEW SECTION

WAC 246-840-304 Certification and certification program requirements. (1) Certification is a form of credentialing, under sponsorship of a commission approved certifying body that recognizes advanced nursing practice in one of the three ARNP designations identified in WAC 246-840-302(1). For example, nurse practitioner (NP); certified nurse midwife (CNM); or certified registered nurse anesthetist (CRNA).

(2) A certification program must:

(a) Ensure that examinations are based on a scope of practice statement that denotes the dimension and boundary, the focus, and the standards of advanced nursing practice in the area of certification. The examination must:

(i) Measure the theoretical and clinical content denoted in the scope of practice; and

(ii) Be developed in accordance with generally accepted standards of validity and reliability.

(b) Require completion of a graduate program of study in the area of certification. The graduate program must:

(i) Be based on measurable objectives that relate directly to the scope of practice;

(ii) Include theoretical and clinical content directed to the objectives; and

(iii) Be equivalent to at least one academic year and include at least five hundred hours of clinical practice under the supervision of preceptors.

(c) Meet the criteria of the National Commission on Certifying Agencies or the American Boards of Nursing Specialties.

AMENDATORY SECTION (Amending WSR 00-21-119, filed 10/18/00, effective 11/18/00)

WAC 246-840-310 Use and protection of ((nomenclature)) professional titles. (1) Any person who ((qualifies under WAC 246-840-300 and whose application for advanced registered nurse practitioner designation has been approved by the commission shall be designated as an advanced registered nurse practitioner and)) holds a license to practice as an ARNP shall have the right to use the title "advanced registered nurse practitioner" or "nurse practitioner" and the abbreviation following the nurse's name shall read "ARNP" ((and)) or "NP."

(2) The ARNP may also use the title or abbreviation designated by the approved ((national)) certifying body.

(3) No other person shall assume such titles or use such abbreviations. ((No other person shall use any other title,

words, letters, signs or figures to indicate that the person using same is recognized as an advanced registered nurse practitioner and:

(1) Family nurse practitioner, FNP; or

(2) Women's health care nurse practitioner, WHNP; or

(3) Pediatric nurse practitioner/associate, PNP/PNA; or

(4) Adult nurse practitioner, ANP; or

(5) Geriatric nurse practitioner, GNP; or

(6) Certified nurse midwife/nurse midwife, CNM; or

(7) Certified registered nurse anesthetist, CRNA; or

(8) School nurse practitioner, SNP; or

(9) Neonatal nurse practitioner, NNP; or

(10) Clinical nurse specialist in psychiatric/mental health nursing or psychiatric nurse practitioners; or

(11) Acute care nurse practitioner, ACNP-))

AMENDATORY SECTION (Amending WSR 02-20-077, filed 9/30/02, effective 10/31/02)

WAC 246-840-311 ARNP previously adopted specialties. (1) ((The nursing care quality assurance commission recognizes the need to provide for renewing the licenses of advanced registered nurse practitioners certified in:)) On the effective date of this rule, an ARNP holding a license under one or more of the following certification categories may continue to renew his or her license:

(a) Community health nurse;

(b) Maternal/GYN/neonatal nurse;

(c) Medical/surgical nursing;

(d) Occupational health nurse;

(e) Neurosurgical nursing; ((or))

(f) Enterostomal therapy; or

(g) Psychiatric mental health clinical nurse specialist.

(2) ((Failure to renew. If any current credential holder of one or more of the above six categories fails to renew his or her credential(s), then upon the expiration of the current credential listed above, the nursing care quality assurance commission will not renew or recognize the specialty certification(s) listed above for that individual according to the requirements of WAC 246-840-360.

(3) Existing licenses only. This rule applies only to existing licensees issued credentials in the above six categories by the Washington state nursing care quality assurance commission. No new applications will be accepted for certification in the above six categories.) Any lapse in certification identified in subsection (1)(a) through (g) of this section will result in an invalid ARNP license. The license will not be renewed.

(3) The commission will not accept initial ARNP licensure applications from individuals certified in the categories identified in subsection (1)(a) through (g) of this section.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-340 ARNP application requirements for ((ARNP)) new graduates of advanced registered nurse programs. ((A registered nurse applicant for licensure as an ARNP shall:

(1) Submit a completed application and fee as specified in WAC 246-840-990.

~~(2) Meet the requirements of WAC 246-840-300 and 246-840-305. The following documents must be submitted as evidence to these requirements:~~

~~(a) An official transcript received by the commission directly from the formal advanced nursing education program showing all courses, grades, degree or certificate granted, official seal and appropriate registrar or program director's signature.~~

~~(b) Program objectives and course descriptions.~~

~~(c) Documentation from program director or faculty specifying the area of specialty, unless such is clearly indicated on the official transcript.~~

~~(3) Have graduated from an advanced nursing education program, as defined in WAC 246-840-300, within five years of application; if longer than five years have practiced a minimum of one thousand five hundred hours in an expanded specialty role within five years immediately preceding application.~~

~~(4) Submit evidence of certification by a certification program approved by the commission.~~

~~(5) Persons not meeting the educational requirements in subsection (2) of this section may be licensed if:~~

~~(a) Certified prior to December 31, 1994, by a national certifying organization recognized by the commission at the time certification was granted; and~~

~~(b) Recognized as an advanced registered nurse practitioner by another jurisdiction prior to December 31, 1994; and~~

~~(c) Completed an advanced registered nurse practitioner program equivalent to one academic year.~~

~~(6) Persons not meeting the requirements in subsection (3) of this section may be licensed following successful completion of five hundred hours of clinical practice supervised by an advanced registered nurse practitioner or a physician (licensed under chapter 18.71 or 18.57 RCW) in the same specialty area. Following completion of the supervised practice, the supervisor must submit an evaluation to the commission and verify that the applicant's knowledge and skills are at a safe and appropriate level.)~~ (1) An applicant for licensure as an ARNP must meet the following requirements:

(a) Hold a registered nurse license in the state of Washington that is not subject to sanctions or restrictions by the commission;

(b) Have graduated from an advanced nursing education program within the past year;

(i) For new graduates of advanced nursing education programs in the United States, the program must be accredited by a nursing or nursing-related accrediting organization recognized by the United States Department of Education (USDE) or the Council of Higher Education Accreditation (CHEA);

(ii) For new graduates of advanced nursing education programs outside the United States, the program must be equivalent to the advanced registered nurse education in Washington; and

(c) Hold certification from a commission approved certification program as identified in WAC 246-840-302.

(2) An applicant for ARNP licensure must:

(a) Apply for Washington state registered nurse licensure if not a current holder of the RN license;

(b) Submit a completed application to the commission;

(c) Submit the license fee as specified in WAC 246-840-990;

(d) Request the commission approved certification program as identified in WAC 246-840-302(3) to send official documentation of certification directly to the commission;

(e) Request the advanced nursing educational program to send an official transcript directly to the commission showing all courses, grades, degree or certificate granted, official seal and appropriate registrar or program director's signature;

(f) Submit documentation from the graduate program director or faculty identifying the area of practice, unless the area of practice is clearly indicated on the official transcript;

(g) Submit program objectives and course descriptions when requested by the commission; and

(h) Request a certificate or credential from a commission approved credential evaluating service if the applicant is a new graduate educated outside the United States.

(3) The ARNP applicant may petition the commission for an exemption to the requirement that application for licensure occur within one year of graduation if the applicant has had undue hardship.

(a) Undue hardship includes difficulty scheduling for the approved certification examination through no fault of his or her own, natural disaster, or an unexpected health or family crisis which caused him or her to delay completing the certification examination.

(b) Undue hardship does not include failure of the examination.

(c) The ARNP applicant shall provide evidence as requested by the commission of any undue hardship.

NEW SECTION

WAC 246-840-342 ARNP application requirements for licensed advanced practice nurse applicants from other states or jurisdictions. (1) An applicant who is currently licensed as an advanced practice nurse in another state or jurisdiction and who is applying for ARNP licensure in Washington, must meet the following requirements:

(a) Hold current registered nurse and advanced practice nurse licenses that are not subject to sanctions or restrictions by another state or jurisdiction licensing agency;

(b) Have graduated from an advanced nursing educational program that:

(i) Requires a minimum of one academic year for completion if graduated on or before December 31, 1994; or

(ii) Requires a graduate degree with a concentration in advanced nursing practice if graduated on or after January 1, 1995; or

(iii) Is equivalent to that leading to a graduate degree in advanced nursing practice if the formal educational program is taken after completion of the graduate degree;

(c) Have been practicing in direct patient care as a licensed nurse practitioner, certified nurse-midwife or certified nurse anesthetist in his or her state for at least two hundred fifty hours of direct patient services within the two years prior to the date of application for ARNP licensure; and

(d) Be currently certified as a nurse practitioner, nurse midwife or registered nurse anesthetist by a commission

approved certification program as identified in WAC 246-840-302(3).

(2) An out-of-state applicant for ARNP licensure must:

(a) Apply for Washington state registered nurse licensure as identified in WAC 246-840-090;

(b) Submit a completed ARNP license application to the commission;

(c) Submit a license fee as specified in WAC 246-840-990;

(d) Request the commission approved certification program as identified in WAC 246-840-302(3) to send official documentation of certification directly to the commission;

(e) Request the advanced nursing educational program to send an official transcript directly to the commission showing all courses, grades, degree or certificate granted, official seal and appropriate registrar or program director's signature;

(f) Submit documentation from the graduate program director or faculty identifying the area of practice, unless the area of practice is clearly indicated on the official transcript;

(g) Submit educational program objectives and course descriptions when requested by the commission; and

(h) Submit evidence of at least two hundred fifty hours of direct patient care services as an advanced practice nurse within the two years prior to the date of application for ARNP licensure. The two hundred fifty hours may include teaching advanced nursing practice if the faculty member is providing patient care or serving as a preceptor.

NEW SECTION

WAC 246-840-344 ARNP application requirements for advanced practice nurse applicants educated and licensed outside the United States. (1) Persons educated outside the United States who are currently licensed in their country as advanced registered nurse practitioners, registered nurse midwives or registered nurse anesthetists and who are applying for ARNP licensure in Washington, must meet the following requirements:

(a) Hold current registered nurse and ARNP licenses that are not subject to sanctions or restrictions by a foreign nurse licensing agency;

(b) Have a certificate or credential from a commission approved credential evaluating service verifying that the educational program completed by the applicant is equivalent to the advanced registered nurse education identified in WAC 246-840-455;

(c) Have been practicing in direct patient care as a licensed nurse practitioner, certified nurse midwife or certified nurse anesthetist in his or her country for at least two hundred fifty hours of direct patient services within the two years prior to the date of application for ARNP licensure; and

(d) Be certified as a nurse practitioner, nurse midwife or registered nurse anesthetist by a commission approved certification program.

(2) The applicant must:

(a) Obtain registered nurse licensure as identified in WAC 246-840-045;

(b) Submit a completed ARNP application to the commission;

(c) Submit the application fee as specified in WAC 246-840-990;

(d) Submit a certificate or credential from a commission approved credential evaluating service;

(e) Request the commission approved certification program as identified in WAC 246-840-302(3) to send official documentation of certification directly to the commission; and

(f) Submit evidence of at least two hundred fifty hours of direct patient care services as an advanced practice nurse within the two years prior to the date of application for ARNP licensure. The two hundred fifty hours may include teaching advanced nursing practice if the faculty member is providing patient care or serving as a preceptor.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-350 Application requirements for ARNP interim permit. (1) A registered nurse licensed in the state of Washington who has completed advanced (~~(formal)~~) graduate education and (~~(registered)~~) is scheduled for a commission approved (~~(national)~~) certification examination may be issued an interim permit (~~(to practice specialized and)~~) for advanced nursing practice pending notification of the results of the first certification examination. The holder of an ARNP interim permit must use the title graduate advanced registered nurse practitioner (~~(GRNP)~~) GARNP.

~~((1))~~ (2) An applicant for ARNP interim permit must:

(a) Submit a completed application on a form provided by the commission (~~(accompanied by)~~);

~~((b))~~ (b) Submit a fee as specified in WAC 246-840-990; (~~and~~

~~((b))~~ ~~((c))~~ Submit (~~(documentation of completion of advanced formal education in the area of specialty)~~) an official transcript sent directly to the commission from the advanced nursing educational program showing all courses, grades, degree or certification granted, official seal and appropriate registrar or program director's signature;

~~((d))~~ (d) Submit educational program objectives and course descriptions when requested;

~~((e))~~ (e) Submit documentation from program director or faculty identifying the area of practice, unless the area of practice is clearly indicated on the official transcript; and

~~((f))~~ (f) Submit documentation of (~~(registration)~~) scheduled date for the first certification examination administered by (~~(an)~~) a commission approved certification program following completion of advanced (~~(formal)~~) graduate education(~~(-and~~

~~((d))~~ ~~Hold a current license to practice as a registered nurse in Washington).~~

~~((2))~~ (3) The interim GARNP permit expires when advanced registered nurse practitioner status is granted. If the applicant fails the examination, the interim permit will expire upon notification of failure either at the test site or by mail and is not renewable.

~~((3))~~ (4) An applicant who does not (~~(write)~~) complete the examination on the date scheduled must immediately return the permit to the (~~(department of health)~~) commission.

~~((4))~~ (5) The interim permit authorizes the holder to ~~((perform the functions of advanced and specialized nursing practice as described in this section))~~ practice as an ARNP, but does not include prescriptive authority.

AMENDATORY SECTION (Amending WSR 00-21-119, filed 10/18/00, effective 11/18/00)

WAC 246-840-360 Renewal of ARNP ((~~designation~~)) license. (1) For ARNP license renewal, the applicant must have:

~~((1) Maintain a current))~~ (a) An active registered nurse license in Washington((-);

~~((2))~~ (b) Maintained certification in area of practice from a commission approved certification program as identified in WAC 246-840-302;

(c) Obtained thirty contact hours of continuing education credit during the renewal period in each area of certification. ARNPs who have certification in more than one related area of practice may count the continuing education hours for more than one certification; and

(d) Practiced for at least two hundred fifty hours in independent clinical practice as an ARNP within the two-year licensing renewal cycle.

(i) Independent clinical practice includes the formulation, implementation and evaluation of plans of care for patients for whom the ARNP is responsible.

(ii) Independent clinical practice includes teaching advanced nursing practice if the faculty member is providing patient care or serving as a preceptor.

(2) The ARNP applicant must:

(a) Submit a renewal fee as specified in WAC 246-840-990;

(b) Submit evidence of current certification by ~~((her/his certifying body))~~ the commission approved certification program in all ~~((specialty))~~ areas((-

(3) Provide documentation)) of practice;

(c) Submit a written declaration, on forms provided by the commission, that he or she has completed thirty contact hours ~~((a contact hour is fifty minutes))~~ of continuing education during the renewal period in ~~((the))~~ each area of certification ~~((derived from any combination of the following approved by the commission:~~

(a) Formal academic study;

(b) Continuing education offerings;

(4) Attest;);

(d) Submit a written declaration on forms provided by the commission, to having within the last two years, a minimum of two hundred fifty hours of ~~((specialized and advanced nursing practice within the preceding biennium providing direct patient care services. The commission may perform random audits of licensee's attestations.~~

(5) Comply with the requirements of chapter 246-12 WAC, Part 2.)) independent clinical practice in the ARNP role;

(e) Submit evidence of completion of continuing education contact hours and independent clinical practice hours when requested by the commission; and

(f) Comply with the requirements of chapter 246-12 WAC, Part 2.

NEW SECTION

WAC 246-840-361 Continuing education for ARNP license renewal. The thirty contact hours of continuing education required for renewal of ARNP licensure must:

(1) Be acceptable to the commission approved certification program identified in WAC 246-840-302(3); and

(2) Be obtained from courses in which the contact hour is at least fifty minutes; and

(3) Not include the fifteen hours of continuing education required for ARNPs with prescriptive authority as identified in WAC 246-840-450 (1)(b); and

(4) Not include the same course taken more than once during the renewal cycle.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-365 ((Return to active ARNP status from)) Inactive ((or expired status)) credential. ((Persons on inactive or expired status who do not hold a current active license in any other United States jurisdiction and who wish to return to active status must apply for reinstatement of ARNP licensure. This requires:

(1) Current RN license in the state of Washington;

(2) Evidence of current certification by his/her certifying body.

(3) Documentation of thirty contact hours of continuing education in the area of specialty during the last two years.

(4) Two hundred fifty hours of precepted/supervised advanced clinical practice supervised by an ARNP or physician in the same specialty within the last year.

(5) If the license has been expired, meet the requirements of chapter 246-12 WAC, Part 2.

(6) If the licensee has been on inactive status, meet the requirements of chapter 246-12 WAC, Part 4.

During the time of the preceptorship, the nurse will be practicing under RN license and will not use the designation ARNP.

ARNP licensure must be reinstated before reapplying for prescriptive authority. At that time the CE requirement will be the same as if applying for prescriptive authority for the first time, as in WAC 246-840-410.)) (1) An ARNP may apply for and renew an inactive credential as identified in chapter 246-12 WAC, Part 4.

(2) An ARNP may apply for an inactive credential if he or she meets the following criteria:

(a) Holds an active Washington state ARNP credential;

(b) Does not have any sanctions or restrictions issued on the current ARNP license; and

(c) Will not practice in Washington.

(3) Prior to returning to active status, the applicant must complete two hundred fifty hours for each two-year period of inactive license status for a maximum of one thousand hours of advanced clinical practice supervised by an ARNP or physician in the same practice area that the applicant is seeking licensure.

(i) The applicant must submit a written notification to the commission thirty days prior to the supervision experience identifying the name of the ARNP or physician who will be supervising the applicant.

(ii) The supervising ARNP or physician must submit a written evaluation to the commission verifying that the applicant has successfully completed the required hours of supervised clinical practice and that the applicant's knowledge and skills are at a safe and appropriate level to practice as an ARNP.

(iii) During the time of the supervision, the nurse will be practicing under his or her RN license and will not use the designation ARNP.

(4) A person with an inactive credential and who does not hold a current active advanced practice nursing license in any other United States jurisdiction, may return to active status. The applicant must:

(a) Meet the requirement identified in chapter 246-12 WAC, Part 4;

(b) Hold a registered nurse license in the state of Washington that is not subject to sanctions or restrictions;

(c) Submit a fee as identified in WAC 246-840-990;

(d) Submit evidence of current certification by the commission approved certification program identified in WAC 246-840-302(3);

(e) Submit a written declaration, on forms provided by the commission, of completion within the past two years of thirty contact hours of continuing education related to area of certification and practice; and

(f) Submit evidence of supervised advanced clinical practice.

(5) A person with an inactive credential and who has been in active practice in another United States jurisdiction may return to active status and must:

(a) Meet the requirements identified in chapter 246-12 WAC, Part 4;

(b) Meet the requirements of WAC 246-840-342; and

(c) Submit a fee as identified in WAC 246-840-990.

(6) To obtain prescriptive authority an applicant must apply as identified in WAC 246-840-410 once the ARNP license has been returned to active status.

NEW SECTION

WAC 246-840-367 Expired license. (1) If an ARNP license has expired for two years or less, the practitioner must:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Meet ARNP renewal requirements identified in WAC 246-840-360; and

(c) Meet the prescriptive authority requirements identified in WAC 246-840-450 if renewing prescriptive authority.

(2) Prior to returning to active status, the applicant must complete two hundred fifty hours for each two-year period of expired license status for a maximum of one thousand hours of advanced clinical practice supervised by an ARNP or physician in the same practice area that the applicant is seeking licensure.

(i) The applicant must submit a written notification to the commission thirty days prior to the supervision experience identifying the name of the ARNP or physician who will be supervising the applicant.

(ii) The supervising ARNP or physician must submit a written evaluation to the commission verifying that the applicant has successfully completed the required hours of supervised clinical practice and that the applicant's knowledge and skills are at a safe and appropriate level to practice as an ARNP.

(iii) During the time of the supervision, the nurse will be practicing under his or her RN license and will not use the designation ARNP.

(3) If the ARNP license has expired for more than two years and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Submit evidence of current certification by the commission approved certification program identified in WAC 246-840-302(3);

(c) Submit a written declaration, on forms provided by the commission, of completion within the past two years of thirty hours of continuing education related to area of certification and practice; and

(d) Submit evidence of the supervised advanced clinical practice hours.

(4) If the ARNP license has expired for more than two years and the practitioner has been in active advanced nursing practice in another jurisdiction, the practitioner must:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Meet the requirements of WAC 246-840-342; and

(c) Submit verification of active practice from any other United States jurisdiction.

(5) If the license has expired for two or more years, applicants may apply for prescriptive authority as identified in WAC 246-840-410 once the ARNP license has been returned to active status.

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-400 ARNP ~~((with))~~ prescriptive ~~((authorization))~~ authority. (1) An ~~((advanced registered nurse practitioner))~~ ARNP licensed under chapter 18.79 RCW when authorized by the nursing commission may prescribe drugs, medical equipment and therapies pursuant to applicable state and federal laws.

(2) The ARNP when exercising prescriptive authority is accountable for competency in:

~~((+))~~ (a) Patient selection;

~~((+))~~ (b) Problem identification through appropriate assessment;

~~((+))~~ (c) Medication ~~((and/))~~ or device selection;

~~((+))~~ (d) Patient education for use of therapeutics;

~~((+))~~ (e) Knowledge of interactions of therapeutics, if any;

~~((+))~~ (f) Evaluation of outcome; and

~~((+))~~ (g) Recognition and management of complications and untoward reactions.

AMENDATORY SECTION (Amending WSR 00-21-119, filed 10/18/00, effective 11/18/00)

WAC 246-840-410 Application requirements for ARNP ~~((with))~~ prescriptive authority. (1) An ~~((advanced registered nurse practitioner))~~ ARNP who applies for ~~((authorization to prescribe drugs))~~ prescriptive authority must:

~~((1) Be currently designated))~~ (a) Have a current license as an ~~((advanced registered nurse practitioner))~~ ARNP in Washington ~~((-~~

~~(2) Provide evidence of completion of))~~ that is not subject to sanctions or restrictions issued by the commission; and

(b) Complete thirty contact hours of education in pharmacotherapeutics related to the applicant's scope of ~~((specialized and advanced))~~ practice ~~((and:~~

~~((a))~~ within a two-year time period immediately prior to the date of application for prescriptive authority, unless the applicant has graduated within the past two years from a graduate program which meets the requirements identified in WAC 246-840-455 (1)(e).

The pharmacotherapeutic educational content shall include pharmacokinetic principles and their clinical application and the use of pharmacological agents in the prevention of illness, restoration, and maintenance of health.

~~((b) Are obtained within a two year time period immediately prior to the date of application for prescriptive authority-~~

~~(e) Are))~~ (2) The ARNP applying for prescriptive authority must:

(a) Submit a completed application on a form provided by the commission;

(b) Submit a fee as specified in WAC 246-840-990; and

(c) Submit evidence of completion of thirty contact hours of education in pharmacotherapeutics related to the applicants scope of practice.

(3) If an ARNP does not apply for prescriptive authority within two years of graduation from the advanced practice program, an additional thirty contact hours of pharmacotherapeutics shall be required.

(4) An ARNP who applies for a new or additional ARNP designation must send proof of pharmacology content appropriate to each designation.

(5) The thirty contact hours of pharmacotherapeutic education shall be obtained from the following:

~~((i))~~ (a) Study within the advanced ~~((formal))~~ educational program; ~~((and))~~ or

~~((ii))~~ (b) Continuing education programs.

~~((Exceptions shall be justified to and approved by the commission-~~

~~(3) Submit a completed, notarized application on a form provided by the commission accompanied by a fee as specified in WAC 246-840-990-))~~ (6) Applicants who hold prescriptive authority from another state at the time of application may request an exemption to subsection (1)(b) and (2)(c) of this section if he or she provides evidence of at least two hundred fifty hours of independent advanced registered nurse practice with prescriptive authority in his or her scope of practice within the two years prior to application for prescriptive authority.

AMENDATORY SECTION (Amending WSR 06-01-102, filed 12/21/05, effective 1/21/06)

WAC 246-840-420 Authorized prescriptions by ~~((the))~~ ARNP with prescriptive authority. (1) Prescriptions for drugs, medical equipment and therapies must comply with all applicable state and federal laws and be within the ARNP's scope of practice.

(2) The ~~((prescriber))~~ advanced registered nurse practitioner must sign all prescriptions and include the initials ARNP or NP.

(3) An ARNP may not, under RCW 18.79.240(1) and chapter 69.50 RCW, prescribe controlled substances in Schedule I.

(4) Any ARNP with prescriptive ~~((authorization))~~ authority who prescribes controlled substances must ~~((register))~~ be registered with the drug enforcement administration.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-450 Renewal of ARNP prescriptive authority. (1) ARNP ~~((with))~~ prescriptive ~~((authorization))~~ authority must be renewed ~~((every two years))~~ at the time of renewal of the ARNP license. For renewal of ARNP ~~((with))~~ prescriptive ~~((authorization))~~ authority, the licensee must:

~~((1))~~ (a) Meet the requirements of WAC 246-840-360 ~~((1), (2), and (3).)); and~~

~~((2))~~ (b) Provide ~~((documentation of fifteen additional))~~ a written declaration on forms provided by the commission of fifteen contact hours of continuing education during the renewal period in pharmacotherapeutics related to the licensee's scope of practice ~~((-~~ This continuing education must meet the requirements of WAC 246-840-410(3)(a) and chapter 246-12 WAC, Part 7.

~~(3) Submit a completed and notarized renewal application with a nonrefundable fee as specified in WAC 246-840-990-))~~ that are in addition to the thirty contact hours of continuing education required for renewal of the ARNP license as identified in WAC 246-840-360 (1)(c) and (2)(c) and 246-840-361; and

(c) Submit evidence of completion of continuing education contact hours when requested by the commission.

(2) If the licensee fails to renew his or her prescriptive ~~((authorization))~~ authority prior to the expiration date, then the individual may not prescribe until the prescriptive authority is renewed and is subject to the late renewal fee specified in WAC 246-840-990 and chapter 246-12 WAC, Part 2.

NEW SECTION

WAC 246-840-451 Continuing education requirements for ARNP prescriptive authority. (1) The fifteen hours of pharmacotherapeutic continuing education must:

(a) Relate to the ARNP's scope of certification and scope of practice; and

(b) Be obtained from continuing education courses in which the contact hour time is not less than fifty minutes.

(2) The same course taken more than once during a reporting cycle shall be only counted once.

NEW SECTION

WAC 246-840-455 Requirements for advanced registered nurse practice educational programs in Washington state.

(1) Advanced nursing practice educational programs shall include content that culminates in a graduate degree with a concentration in advanced nursing practice as defined in WAC 246-840-010(2).

(2) Postmasters advanced nursing practice programs must meet all competencies designated for the ARNP role including clinical practicum of no less than five hundred hours.

(3) The college or university graduate educational program shall have as its primary purpose the preparation of advanced practice nurses for roles as defined in WAC 246-840-300 and 246-840-302.

(4) Advanced nursing practice educational programs shall be accredited by a nursing or nursing-related accrediting organization recognized by the United States Department of Education (USDE) or the Council of Higher Education Accreditation (CHEA).

(5) Within ninety days from the effective date of this rule, existing accredited advanced practice educational programs shall submit to the commission current accreditation documentation from all accrediting bodies.

(6) Newly created advanced practice educational programs shall submit to the commission for review the following:

(a) Copies of the curricula within thirty days of sending the information to the accrediting agency;

(b) Other accreditation materials as requested by the commission; and

(c) Accreditation documentation from all accrediting agencies within thirty days from receipt of the report from the accreditation body.

(7) Advanced practice educational programs must submit to the commission for review the following:

(a) Accreditation documentation from all accrediting agencies, within thirty days from receipt of the report from the accreditation body; and

(b) For programs that are not fully accredited, the program must submit copies of self-evaluation report(s) and any interim report(s) provided to all nursing or nursing-related national accrediting agencies, at the time of notification from the accrediting agency that the program has not been fully accredited.

(8) Failure to submit curricula, self-evaluation report(s), interim report(s) or notice of accreditation reports and results as specified in subsections (5), (6) and (7) of this section, may result in the denial of ARNP initial licensure for the school's graduates until such time as the documentation is submitted.

(9) Advanced nursing practice educational programs shall meet the standards established by the national nursing or nursing-related accrediting agency.

(10) Failure to maintain accreditation status may result in denial of application of initial ARNP licensure for the school's graduates effective at the time in which the school became unaccredited.

(11) Advanced nursing practice educational course requirements shall include:

(a) Clinical and didactic course work that prepares the graduate to practice in the role of the ARNP consistent with the designation being sought for licensure;

(b) Advanced physiology/pathophysiology;

(c) Advanced health assessment;

(d) Diagnostic theory and management of health care problems;

(e) Advanced pharmacology which includes pharmacodynamics, pharmacokinetics, pharmacotherapeutics and pharmacological management of individual patients; and

(f) At least five hundred hours in direct patient care in the ARNP role with clinical preceptor supervision and faculty oversight.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-840-305	Criteria for formal advanced nursing education meeting the requirement for ARNP licensure.
WAC 246-840-320	Certification and certification program.
WAC 246-840-330	Commission approval of certification programs and commission recognition of new specialties.
WAC 246-840-345	ARNP designation in more than one area of specialty.
WAC 246-840-370	Termination of ARNP designation by the commission.
WAC 246-840-425	Seventy-two-hour limit.

WSR 08-16-129

PROPOSED RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed August 6, 2008, 8:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-13-072 and 04-08-096.

Title of Rule and Other Identifying Information: WAC 246-817-130 Licensure without examination for dentists—Eligibility, 246-817-135 Licensure without examination for dentists—Application procedure, and 246-817-140 Licensure without examination for dentists—Licensing examination standards. SSB 5966 (chapter 57, Laws of 2003) amended RCW 18.32.215, allows for dentists licensed in other states to obtain licensure in Washington state without examination if a graduate of an approved dental school.

Hearing Location(s): Department of Health, Point Plaza East, Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on September 11, 2008, at 5:45 p.m.

Date of Intended Adoption: September 11, 2008.

Submit Written Comments to: Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504-7867, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 1, 2008.

Assistance for Persons with Disabilities: Contact Jennifer Bressi by September 1, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendments clarify licensing requirements for dentists that hold a license in another state. The proposed amendments clarify the acceptance of all state and regional examinations to be adequate to meet Washington state licensure without examination requirements.

Reasons Supporting Proposal: SSB 5966 (chapter 57, Laws of 2003) amended RCW 18.32.215 which declares that access to dental care severely hampered by a shortage of dental providers in Washington state. The proposed rule amendments reduce licensing barriers for dentists that hold a dental license in another state and want to become licensed in Washington state.

Statutory Authority for Adoption: RCW 18.32.0365.

Statute Being Implemented: RCW 18.32.215.

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

Name of Proponent: Washington state department of health, dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Bressi, 310 Israel Road S.E., Tumwater, WA 985001 [98501], (360) 236-4893.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310 (4)(g)(ii), an SBEIS is not required for proposed rules that adopt, amend, or repeal a filing or related process requirement for applying to an agency for a license or permit.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

August 4, 2008

Jennifer Bressi

Health Services

Consultant 3

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-130 Licensure without examination for dentists—Eligibility. The DQAC may grant licensure without an examination to dentists licensed in other states if they meet the requirements of RCW 18.32.215 and WAC 246-817-110 and:

(1) ~~((Hold an active license, registration or certificate to practice dentistry, without restrictions, in another state, obtained by successful completion of an examination, if the other state's current licensing standards are substantively~~

~~equivalent to the licensing standards of the state of Washington. The DQAC shall determine if the other state's current licensing standards are substantively equivalent to licensing standards in this state, pursuant to WAC 246-817-140.~~

~~(2) Are currently practicing clinical dentistry in another state pursuant to WAC 246-817-135(5).~~

~~(3)) Hold a valid license in another state;~~

~~(2) Are currently engaged in the practice of dentistry in another state;~~

~~(3) Are a graduate of a dental college, school, or dental department of an institution approved by the DQAC under RCW 18.32.040(1);~~

~~(4) Pay the applicable fees as defined in WAC 246-817-990;~~

~~(5) Agree to participate in a personal interview with the DQAC, if requested.~~

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-135 Licensure without examination for dentists—Application procedure. The applicant is responsible for obtaining and furnishing to the DQAC all materials required to establish eligibility for a license without examination. In addition to the requirements defined in WAC 246-817-110 the following documentation must be provided:

(1) A statement by the applicant as to whether ~~((he/she))~~ the applicant has been the subject of any disciplinary action in the state(s) of licensure and whether ~~((he/she))~~ the applicant has engaged in unprofessional conduct as defined in RCW 18.130.180.

(2) A statement by the applicant that ~~((he/she is))~~ they are not an impaired practitioner as defined in RCW 18.130-170.

(3) A certification by the state board(s) of dentistry (or equivalent authority) that ~~((, based on successful completion of an examination,))~~ the applicant was issued a license, registration, certificate or privilege to practice dentistry, without restrictions, and whether ~~((he/she))~~ the applicant has been the subject of final or pending disciplinary action.

(4) Documentation to substantiate that standards defined in WAC 246-817-140 have been met.

(5) Proof that the applicant is currently engaged in the practice of ~~((clinical, direct patient care))~~ dentistry, in another state ~~((, and has been practicing for a minimum of five years within the seven years immediately preceding application.))~~ as demonstrated by the following information:

(a) Address of practice location(s);

(b) Length of time at the location(s);

~~((Certification of a minimum of twenty hours per week in clinical dental practice;~~

~~((&))~~ A letter from all malpractice insurance carrier(s) defining years when insured and any claims history;

~~((&))~~ (d) Federal or state tax numbers;

~~((&))~~ (e) DEA numbers if any;

Dentists serving in the United States federal services as described in RCW 18.32.030(2), for the period of such service, need not provide (a) through ~~((&))~~ (e) of this subsection, but must provide documentation from their commanding officer regarding length of service, duties and responsibility.

ities including any adverse actions or restrictions. Such dental service, including service within the state of Washington, shall be credited toward the dental practice requirement.

Dentists employed by a dental school approved by the DQAC for the period of such dental practice, need not provide (a) through ~~((f))~~ (e) of this subsection, but must provide documentation from the dean or appropriate administrator of the institution regarding the length and terms of employment and their duties and responsibilities, and any adverse actions or restrictions. Such dental practice, including practice within the state of Washington, shall be credited toward the dental practice requirement. Dental practice within a residency program shall be credited toward the dental practice requirement. A license may be revoked upon evidence of misinformation or substantial omission.

All information must be completed and received within one hundred eighty days of receipt of the initial application. Only completed applications will be reviewed by the DQAC, or its designee(s) at the next scheduled DQAC meeting or at other intervals as determined by the DQAC.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-140 Licensure without examination for dentists—Licensing examination standards. (~~An applicant is deemed to have met Washington state examination standards if either subsection (1) or (2) of this section is met:~~

~~(1) The state in which the applicant received a license, following successful completion of an examination, currently administers or subscribes to an examination, which includes all components listed in subsection (2)(a) of this section and at least two of the components listed in subsection (2)(b) of this section.~~

~~(2) The applicant provides documentation that he/she has successfully completed an examination in another state which included all of the components listed in (a) of this subsection and at least two of the components listed in (b) of this subsection.~~

~~(a) The applicant must have successfully completed an examination which included/includes the following components:~~

~~(i) Oral diagnosis and treatment planning, written or clinical test.~~

~~(ii) Class II amalgam test on a live patient.~~

~~(iii) Cast gold test on a live patient restoring at least one proximal surface, from a Class II inlay up to and including a full cast crown.~~

~~(iv) Periodontal test on a live patient to include a documentation and patient evaluation as well as sealing and root planing of at least one quadrant.~~

~~(v) Use of a rubber dam during restorative procedures.~~

~~(vi) Removable prosthodontics written or clinical test.~~

~~(b) The examination included/includes at least two of the following characteristics or components:~~

~~(i) Standardization and calibration of examiners.~~

~~(ii) Anonymity between candidates and grading examiners.~~

~~(iii) Endodontic test which requires the obturation of at least one canal.~~

~~(iv) Other clinical procedures (i.e., composite, gold foil).~~

~~The DQAC shall publish a list of states or regional licensing examinations which on the date of publication of the list are considered to be substantively equivalent to the Washington state dental licensing standard. The list shall be updated periodically and available upon request.)~~ The DQAC has determined that the licensing and examination standards of all regional testing agencies, as defined in WAC 246-817-010, and all states with independent licensing examinations are adequate to meet the standards for licensure without examination in the state of Washington. The DQAC shall periodically review these standards.

WSR 08-16-137

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed August 6, 2008, 11:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-06-105.

Title of Rule and Other Identifying Information: Repeal WAC 314-76-010 Special order of liquor by customers; and new sections WAC 314-76-015 What is the purpose of this chapter?, 314-76-020 Who may special order liquor from the board?, 314-76-025 What liquor products may be special ordered?, 314-76-030 Are there special requirements for a special order?, and 314-76-035 How does an individual place a special order?

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on September 10, 2008, at 10:00 a.m.

Date of Intended Adoption: October 20, 2008.

Submit Written Comments to: Pam Madson, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by September 15, 2008.

Assistance for Persons with Disabilities: Contact Pam Madson by September 15, 2008, TTY (800) 885-2880 or (360) 664-1648.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As part of the liquor control board's on-going rules review process, chapter 314-76 WAC is being reviewed for relevance, clarity, and accuracy. The proposed rules reflect current agency practices and more clearly provide direction to individuals who order liquor from the board that is not currently available in the state's retail liquor stores.

Reasons Supporting Proposal: The existing rule included process requirements that are no longer relevant and need to be eliminated. Clarification of the existing process will benefit those requesting special orders.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.08.030, 66.08-050, and 66.16.010.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Pam Madson, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1648; Implementation and Enforcement: Debi Besser, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1688.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement was prepared. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required.

August 6, 2008

Lorraine Lee

Chairman

NEW SECTION

WAC 314-76-035 How does an individual place a special order? A special order must be placed through a state or contract liquor store or directly to the board's purchasing division. Products must be picked up at the designated state or contract liquor store.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-76-010

Special order of liquor by customers.

Chapter 314-76 WAC

PROCESSING SPECIAL ORDERS OF LIQUOR FROM THE BOARD

NEW SECTION

WAC 314-76-015 What is the purpose of this chapter? The purpose of this chapter is to describe the process for obtaining liquor from the board that is not regularly available through the board's retail stores. This process is known as a special order.

NEW SECTION

WAC 314-76-020 Who may special order liquor from the board? (1) An individual who is twenty-one years of age or older may request a special order for liquor from the board. The liquor must be for his or her personal use and not for resale.

(2) A person licensed to sell liquor by the drink at retail to customers at the person's licensed premises may request a special order for liquor from the board.

NEW SECTION

WAC 314-76-025 What liquor products may be special ordered? (1) Liquor products, except industrial alcohol, available for wholesale purchase in the United States may be available in the state of Washington through a special order at the discretion of the board.

(2) All liquor products must have federal label approval. Wine and beer products must have Washington state label approval.

(3) Special order requests will be subject to a supplier's minimum order quantity, typically one full case of product.

NEW SECTION

WAC 314-76-030 Are there special requirements for a special order? The board may require prepayment or a deposit from a customer for a special order. All sales of special ordered items are final and may not be returned to the board, unless the product is defective.