

WSR 08-18-027
PROPOSED RULES
SECRETARY OF STATE
 [Filed August 27, 2008, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-054.

Title of Rule and Other Identifying Information: Chapter 434-840 WAC, the address confidentiality program (ACP).

Hearing Location(s): Washington State Library, Conference Room 221, Point Plaza East, 6880 Capitol Boulevard, Tumwater, WA 98504-2460, on October 8, 2008, at 10:00 a.m.

Date of Intended Adoption: November 19, 2008.

Submit Written Comments to: Megan Moreno, P.O. Box 40220, Olympia, WA 98504-0220, e-mail mmoreno@secstate.wa.gov, fax (360) 586-5629, by October 10, 2008.

Assistance for Persons with Disabilities: Contact Megan Moreno by October 6, 2008, TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To reflect changes made to the ACP by SHB 1421 and SSB 6339, passed by the legislature in 2008.

SHB 1421 specifies procedures for issuance of participant information and conditions under which a court order should be issued.

SSB 6339 adds "trafficking" to the list of crimes qualifying an applicant for program participation.

Additionally, protected records voter provisions have been updated and sections pertaining to voting procedures have been repealed and will be more appropriately placed with election WACs.

Reasons Supporting Proposal: Passage of SHB 1421 and SSB 6339 by the legislature during the 2008 legislative session and identification of outdated material pertaining to protected records voter provisions.

Statutory Authority for Adoption: RCW 40.24.090.

Statute Being Implemented: Chapter 434-840 WAC.

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

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Moreno, 250 Legislative Building, Olympia, Washington, (360) 902-4141; Implementation and Enforcement: Missy Deinlein, 250 Legislative Building, Olympia, Washington, (360) 753-2972.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes in the WAC do not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. There is no identifiable fiscal impact associated with the proposed changes in the WAC.

August 27, 2008

Steve Excel
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-005 Definitions. For the purposes of this chapter:

(1) "Address" means any physical locations where the participant resides, works, or attends school, for which the participant is requesting confidentiality.

(2) "Address confidentiality program (ACP)" means the agency employee designated by the secretary of state with responsibility for developing and administering the program that implements the provisions of chapter 40.24 RCW.

~~((2))~~ (3) "Agency" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of that agency.

~~((3))~~ (4) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides advocacy, counseling, referral, or shelter services to victims of sexual assault, domestic violence, trafficking, or stalking who has been designated by the respective agency, and has been accepted by the secretary of state to assist individuals with threat assessment, safety planning, determining whether the program's services can help keep the victim safe, and the completion and submission of the ACP application.

~~((4))~~ (5) "Authorization card form" means the incomplete form for an authorization card on which no identifying program participant information has been entered.

~~((5))~~ (6) "Authorized personnel" means an employee of a county auditor's office, a county recording office, the Washington state department of health, or the office of the secretary of state who has been designated by the chief executive officer of the respective agency, to process and have access to voter application, voting records, marriage applications and records pertaining to program participants.

~~((6))~~ (7) "Bona fide statutory or administrative requirement" means that without possession of an individual's actual residential address the agency is incapable of fulfilling its statutory duties and obligations.

~~((7))~~ (8) "Protected records voter" means a program participant who has applied and qualified as ~~((a servicee))~~ an ongoing absentee voter, as provided under RCW ~~((29A.04-163, with ongoing absentee ballot voter status, as provided under RCW 29A.40.140))~~ 40.24.060.

~~((8))~~ (9) "Record" means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

~~((9))~~ (10) "Substitute mailing address" means the mailing address designated by the secretary of state which shall not be the program participant's residential address as documented on her or his application for program participation.

~~((10))~~ "Residential address" means the physical location where the participant resides for which the participant is requesting confidentiality-)

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-010 Application and certification process. (1) The program applicant shall provide all the informa-

tion required on the certification application and date and sign the form. An applicant shall specify ((#)) any Washington state residential ((address)) addresses, work, and school addresses, if any, for which confidentiality is requested. The standard application form shall also include the application preparation date, and the signature of the application assistant as provided in RCW 40.24.080.

(2) An individual who has filed a properly completed application shall be certified as a program participant and issued a program participant authorization card. The authorization card shall include the program participant's name, authorization code, substitute mailing address, certification expiration date, and applicant's signature.

(3) A properly completed application shall be effective on the day it is received by the address confidentiality program.

(4) The term of a program participant's certification shall be four years following the effective date of her or his application unless the certification is withdrawn or invalidated before that date.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-060 Information release to law enforcement agency. A request from a law enforcement agency for release of records in a program participant's file containing no indication the participant has reason to believe he or she is a victim of domestic violence, sexual assault, trafficking, or stalking perpetrated by an employee of a law enforcement agency, shall be in writing, on agency letterhead stationery, and shall contain the signature of the agency's chief law enforcement officer or his or her designee as defined in RCW 10.98.040, the request date, and the name of the program participant.

A request from a law enforcement agency for release of records in a program participant's file in which the participant's application affirmatively indicates that the applicant has reason to believe he or she is a victim of domestic violence, sexual assault, trafficking, or stalking perpetrated by an employee of a law enforcement agency, must be accompanied by a court order for release of records in the program participant's file.

NEW SECTION

WAC 434-840-063 Issuance of a court order for address confidentiality program participant information. A court order for address confidentiality program participant information may only be issued upon a probable cause finding by a judicial officer that release of address confidentiality program participant information is legally necessary:

(1) In the course of a criminal investigation or prosecution; or

(2) To prevent immediate risk to a minor and meet the statutory requirements of the Washington child welfare system. Any court order so issued will prohibit the release of the information to any other agency or person not a party to the order.

NEW SECTION

WAC 434-840-065 Information release to nonlaw enforcement agency. A request from a nonlaw enforcement agency for release of records in a program participant's file must be accompanied by a court order for release of records in the program participant's file.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-100 Acknowledgement for marriage and voting record confidentiality. (1) When a program participant requests confidentiality for marriage records, both the program participant and her or his intended spouse shall sign and date a statement provided by the secretary of state, that describes access limitations on confidential marriage records.

(2) When a program participant requests confidentiality for voting records, she or he shall sign a statement provided by the secretary of state((;)) that documents the date of this request and the ongoing absentee ballot voting process to be used.

(3) The authorized personnel shall ((keep)) receive the original copy of this signed acknowledgement, ((forward one copy to)) the address confidentiality program shall have one copy and ((give one copy to)) the program participant shall have one copy.

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-110 Proof of program participant's authority. (1) When a program participant requests name and address confidentiality for a marriage ((or voting)) record((s)), authorized personnel shall check the authorization card to confirm that the term of program participation has not expired and that the program participant's signature on the authorization card matches that on the acknowledgement form.

(2) Authorized personnel may make a photocopy of the program participant's authorization card. The authorization card shall be immediately returned to the program participant. The photocopy shall be kept with the confidential marriage ((or voting)) record((s)) for this program participant during the time the record((s-are)) is filed and maintained by the county auditor or county recording officer. The authorized personnel may call the program to verify an individual's current participation status in the program.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-230 Marriage record transmission to department of health. The county authorized personnel shall transmit a completed marriage certificate containing the name and address of a program participant((;)) to the department of health in an envelope distinctly marked "confidential records."

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-310 Protected records voter (~~(application)~~ status. (1) A program participant shall (~~(notify the appropriate county authorized personnel of her or his request for confidentiality in voting records)~~) apply for protected records voter status by appearing in person before the appropriate county authorized personnel or requesting an application from the address confidentiality program. The program participant shall: (a) (~~(Present her or his program authorization card; (b))~~) Cancel any previously existing voter registration; and ((e) apply to vote by providing) (b) provide all the information required on the (~~(address confidentiality program ongoing absentee ballot)~~) protected records voter registration application.

(2) The program participant shall disclose to the authorized personnel the actual address of her or his residence only for the purpose of determining the proper precinct (~~(and district designations~~).

(3) ~~An application for protected records voter status and an absentee ballot to be issued to the participant in person, may be made no later than the day before an election. An application for protected records voter status and an absentee ballot to be mailed to the substitute mailing address shall be made no later than twenty working days before the first election in which the program participant wishes to vote).~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 434-840-320 Maintaining protected records voter information.
- WAC 434-840-330 Mailing protected records voter ballots.
- WAC 434-840-340 Processing protected records voter ballot.
- WAC 434-840-350 Canvassing procedure for a special ballot of a protected records voter.
- WAC 434-840-360 Undeliverable ballot.
- WAC 434-840-370 Election challenges.

**WSR 08-18-036
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed August 28, 2008, 8:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-082.

Title of Rule and Other Identifying Information: New WAC 308-96A-545 Gold Star Parent license plate.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on October 8, 2008, at 12:00 p.m.

Date of Intended Adoption: November 4, 2008.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-7821 or 902-7822, by October 7, 2008.

Assistance for Persons with Disabilities: Contact Dale R. Brown by October 7, 2008, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to implement SSB 6678 relating to special license plates for parents of United States armed forces members who have died while in service to his or her country or as a result of such service.

Reasons Supporting Proposal: To establish criteria for a special Gold Star Parent license plate.

Statutory Authority for Adoption: RCW 46.01.110, 46.16.725, 46.16.305.

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

Name of Agency Personnel Responsible for Drafting: Jennifer Dana, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; Implementation and Enforcement: Toni Wilson, 1125 Washington Street S.E., Olympia, WA, (360) 902-3811.

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 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

August 28, 2008
Mykel Gable
Assistant Director
Vehicle Services

NEW SECTION

WAC 308-96A-545 Gold Star Parent license plate.

(1) **What is a Gold Star Parent license plate?** The Gold Star Parent license plate was created by the legislature to recognize the parents of United States armed forces members who have died while in service to their country or as a result of such service.

(2) **Who qualifies as a parent of a member of the United State armed forces?** The term "parent," as defined by the Washington state department of veterans affairs, (WDVA) includes:

- (a) Birth mother;
- (b) Birth father;
- (c) Stepmother;
- (d) Stepfather;
- (e) Mother through adoption;
- (f) Father through adoption; and

(g) Adults who fulfilled the parental role including foster parents and kinship care providers or caretaker relative. (Documentation required.)

(3) **Who can purchase a Gold Star Parent plate?** A resident of this state and a registered owner of a motorized vehicle who is a parent of a member of the United States armed forces who has died while in service to their country or as a result of such service. The parent must be certified by the WDVA.

(4) **What is required to purchase a Gold Star Parent plate?** A copy of the letter to a qualifying parent provided by WDVA is required. The letter will be used in lieu of a special plate application to purchase the plate. No other documentation is required.

(5) **Can a Gold Star Parent plate be transferred to a new owner?** No. The plate may only be transferred to a vehicle owned by the same registered owner who was certified as a qualifying parent by WDVA. The plate cannot be transferred to a different registered owner. If the parent transfers the plate to a new car registered to them, they are required to pay the plate transfer fee.

(6) **What vehicles qualify to display a Gold Star Parent plate?** Motorized vehicles required to display one or two license plates.

(7) **What fees are required to purchase the plate?** There is no special plate fee or special plate renewal fee for the Gold Star Parent plate. The registered owner must pay all licensing fees.

(8) **Is the plate subject to the mandatory plate replacement?** Yes, the plate must be replaced every seven years due to mandatory plate replacement requirements. Customers will not be charged the plate replacement fees, or the fee to keep their same number.

(9) **Can a Gold Star Parent plate background be personalized?** Yes. A Gold Star Parent plate background can be personalized; however, the customer is required to pay all fees associated with a personalized plate original purchase or renewal.

(10) **Is a commercial vehicle eligible for a Gold Star Parent plate as long as it is in the name of the qualifying parent and not a business name?** Yes.

(11) **Can a prorated vehicle display a Gold Star Parent plate if the vehicle is under the name of the parent that is eligible for this plate?** No per chapter 46.87 RCW.

WSR 08-18-037
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed August 28, 2008, 8:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-081.

Title of Rule and Other Identifying Information: WAC 308-96A-560 Special license plates—Criteria for creation or continued issuance.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on October 7, 2008, at 10:00 a.m.

Date of Intended Adoption: November 4, 2008.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-7821 or 902-7822, by October 6, 2008 [2008].

Assistance for Persons with Disabilities: Contact Dale R. Brown by October 6, 2008 [2008], TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to clarify requirements to the special license plate review board.

Reasons Supporting Proposal: Make clearer what is required when reporting information to the special license plate review board.

Statutory Authority for Adoption: RCW 46.01.110.

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

Name of Agency Personnel Responsible for Drafting: Jennifer Dana, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; Implementation and Enforcement: Toni Wilson, 1125 Washington Street S.E., Olympia, WA, (360) 902-3811.

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 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

August 28, 2008

Mykel Gable
 Assistant Director
 Vehicle Services

AMENDATORY SECTION (Amending WSR 07-20-110, filed 10/3/07, effective 11/3/07)

WAC 308-96A-560 Special license plates—Criteria for creation or continued issuance. (1) **What is a special license plate series?** For the purpose of this rule a special license plate series is one license plate design with a range of numbers and letter combinations to be determined by the department.

(2) **What is required for an organization to apply to create a new plate through the special license plate review board?** The organization must submit a completed application packet, signature sheet and supporting documentation as required by law. Signature sheets must reflect that they are collected within three years of submission.

If an organization started collecting signature sheets before the moratorium was put into place that ends on July 1, 2009, they are exempt from the three-year time frame. However, organizations collecting signatures during the moratorium must submit their completed application packet and signature sheets at the next board meeting after the moratorium is lifted. If an organization does not submit the signature sheets at the board meeting following the moratorium, the signature sheets are no longer valid.

(3) What criteria are used to discontinue issuing special license plates? A special license plate series may be canceled if:

(a) The department determines that fewer than five hundred special license plates in the approved configuration are purchased annually and no less than one thousand five hundred special license plates are purchased in any continuous three-year period. (Except those license plates issued under RCW 46.16.301, 46.16.305, and 46.16.324); or

(b) If the sponsoring organization does not submit an annual financial statement required by RCW 46.16.765 and certified by an accountant; or

(c) The legislature concurs with a recommendation from the special license plate review board to discontinue a plate series created after January 1, 2003; or

(d) The state legislature changes the law allowing that plate series.

((3)) (4) What information must be contained in the annual financial report? The annual financial report must include all expenditures related to programs, fund-raising, marketing, and administrative expenses related to their special license plate. The report must include:

(a) The stated purpose of the organization receiving the special plate revenue;

(b) A message from the chair or director of the organization;

(c) Program highlights with a detailed list of how the funds were expended for those programs;

(d) List of special events the organization held to market their special plate for the current reporting year;

(e) A summary of financial information;

(i) Previous revenue received during current reporting year;

(ii) Total revenue received during current reporting year;

(iii) Summary of administrative expenses.

If an organization is disbursing funds through a grant program or to another nonprofit organization supporting Washington citizens, a list including the program and the organizations must be submitted which includes their name and amount received.

(5) What steps are taken by the department if the annual financial report is not submitted as required or the special plate revenue is expended for purposes other than allowed by law? The department will follow the guidelines as established in the organization's contractual agreement with the department:

(a) Send a written notice of the violations to the organization;

(b) The organization is given thirty days to correct the violation;

(c) If the violation is not corrected, the department may immediately terminate the contract.

(6) Can an organization have more than one special plate series? No. Organizations cannot have more than one special license plate series except those issued before January 1, 2006. Those organizations that already have multiple special plate series may not have more.

An updated design of the current special license plates does not constitute more than one special plate series. The newest design supersedes the prior design. The assigned

number and letter combination cannot be changed when a new plate design is created.

WSR 08-18-047

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

(Mental Health Division)

[Filed August 29, 2008, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-01-107.

Title of Rule and Other Identifying Information: The department is amending WAC 388-865-0105 What the mental health division does and how it is organized, 388-865-0410 Consumer rights, 388-865-0484 Process to certify providers of involuntary services, 388-865-0511 Evaluation and treatment facility certification, and 388-865-0526 Single bed certification; and creating WAC 388-865-0106 When local services are administered by the mental health division.

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 October 7, 2008, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 8, 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 October 7, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 30, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The mental health division (MHD) is codifying its policy on how it administers community mental health services in the event of a nonparticipating regional support network. The proposed rule change allows a community mental health agency (CMHA) to contract directly with MHD on a fee-for-service basis when the local RSN chooses not to administer mental health services for the state.

Reasons Supporting Proposal: Contracting directly with MHD on a fee-for-service basis is the only mechanism for a CMHA to receive payment for providing mental health services in areas of the state where there is no managed care entity (RSN) in place to manage the local mental health services on behalf of the state.

Statutory Authority for Adoption: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090.

Statute Being Implemented: RCW 71.24.035.

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: Kevin Sullivan, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1344; Implementation: Fran Collison, P.O. Box 45320, Olympia, WA 98504-5320, (360) 902-0864; and Enforcement: Melena Thompson, P.O. Box 45320, Olympia, WA 98504-5320, (360) 902-0840.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will impose no new or disproportionate costs on small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kevin Sullivan, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1344, fax (360) 586-9727, e-mail sullikm@dshs.wa.gov.

August 26, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06, effective 9/18/06)

WAC 388-865-0105 What the mental health division does and how it is organized. (1) The department of social and health services is designated by the legislature as the state mental health authority, and has designated the mental health division to administer the state mental health program.

(2) Local services are administered by regional support networks or by the mental health division.

(3) Telephone numbers for the mental health division or regional support networks are located in the local telephone directory and can also be obtained by calling the mental health division at the telephone number in subsection (4) of this section.

(4) To request an organizational chart, contact the mental health division at 1-888-713-6010 or (360) 902-8070, or write to the Mental Health Division Director, P.O. Box 45320, Olympia, WA 98504.

~~((3) Local services are administered by regional support networks (RSN), whose telephone number is located in the local telephone directory and can also be obtained by calling the mental health division at the above telephone number.))~~

NEW SECTION

WAC 388-865-0106 When local services are administered by the mental health division. (1) The mental health division administers local services if:

(a) A regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045; or

(b) The DSHS secretary assumes the duties assigned to a nonparticipating regional support network under RCW 71.24.035(16).

(2) Within available resources as defined in RCW 71.24.025(2), consumers residing within the boundaries of a nonparticipating regional support network may receive ser-

vices from any community support service provider that is contracted with the department under the provisions of chapter 388-502 WAC and licensed by or certified by the mental health division;

(3) When the DSHS secretary assumes the duties assigned to a nonparticipating regional support network, the following standards and services continue to apply:

(a) WAC 388-865-0217, psychiatric indigent inpatient program;

(b) WAC 388-865-0222, advisory board;

(c) WAC 388-865-0225, resource management;

(d) WAC 388-865-0229, inpatient services;

(e) WAC 388-865-0230, community support services;

(f) WAC 388-865-0235, residential and housing services;

(g) WAC 388-865-0240, consumer employment services;

(h) WAC 388-865-0245, administration of ITA;

(i) WAC 388-865-0250, ombuds services; and

(j) WAC 388-865-0284, standards for contractors and subcontractors.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0410 Consumer rights. (1) The provider must document that consumers, prospective consumers, or legally responsible others are informed of consumer rights at admission to community support services in a manner that is understandable to the individual. Consumer rights must be written in alternative format for consumers who are blind or deaf, and must also be translated to the most commonly used languages in the service area consistent with WAC 388-865-0260(3);

(2) The provider must post a written statement of consumer rights in public areas, with a copy available to consumers on request. Providers of telephone only services (e.g., crisis lines) must post the statement of consumer rights in a location visible to staff and volunteers during working hours;

(3) The provider must develop a statement of consumer rights that incorporates the following statement or a variation approved by the mental health division: "You have the right to:

(a) Be treated with respect, dignity and privacy;

(b) Develop a plan of care and services which meets your unique needs;

(c) The services of a certified language or sign language interpreter and written materials and alternate format to accommodate disability consistent with Title VI of the Civil Rights Act;

(d) Refuse any proposed treatment, consistent with the requirements in chapters 71.05 and 71.34 RCW;

(e) Receive care which does not discriminate against you, and is sensitive to your gender, race, national origin, language, age, disability, and sexual orientation;

(f) Be free of any sexual exploitation or harassment;

(g) Review your clinical record and be given an opportunity to make amendments or corrections;

(h) Receive an explanation of all medications prescribed, including expected effect and possible side effects;

(i) Confidentiality, as described in chapters 70.02, 71.05, and 71.34 RCW and regulations;

(j) All research concerning consumers whose cost of care is publicly funded must be done in accordance with all applicable laws, including DSHS rules on the protection of human research subjects as specified in chapter 388-04 WAC;

(k) Make an advance directive, stating your choices and preferences regarding your physical and mental health treatment if you are unable to make informed decisions;

(l) Appeal any denial, termination, suspension, or reduction of services and to continue to receive services at least until your appeal is heard by a fair hearing judge;

(m) If you are Medicaid eligible, receive all services which are medically necessary to meet your care needs. In the event that there is a disagreement, you have the right to a second opinion from:

(i) A provider within the regional support network about what services are medically necessary; or

(ii) For consumers not enrolled in a prepaid health plan, a provider under contract with the mental health division.

(n) Lodge a complaint with the ombuds, regional support network, or provider if you believe your rights have been violated. If you lodge a complaint or grievance, you must be free of any act of retaliation. The ombuds may, at your request, assist you in filing a grievance. The ombuds' phone number is: _____;

(o) Ask for an administrative hearing if you believe that any rule in this chapter was incorrectly applied in your case."

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0484 Process to certify providers of involuntary services. In order to be certified to provide services to consumers on an involuntary basis, the provider must comply with the following process:

(1) Be licensed as a community support provider consistent with this section or licensed as a community hospital by the department of health;

(2) Complete and submit an application for certification to the regional support network or the mental health division if the DSHS secretary has assumed the duties assigned to the nonparticipating regional support network;

(3) The regional support network selects providers for certification and makes a request to the mental health division for certification;

(4) The mental health division conducts an on-site review to examine agency policies and procedures, personnel records, clinical records, financial documents, and any other information that may be necessary to confirm compliance with minimum standards of this section;

(5) The mental health division grants certification based on compliance with the minimum standards of this section and chapter 71.05 RCW;

(6) The certificate may be renewed annually ~~((at the request of))~~ if:

(a) Requested by the regional support network or those providers contracted with the mental health division directly; and

(b) The provider(~~(s continued compliance)) continues to comply~~ with the minimum standards of this section;

(7) The procedures to suspend or revoke a certificate are the same as outlined in WAC 388-865-0468;

(8) The appeal process to contest a decision of the mental health decision is the same as outlined in WAC 388-865-0482.

AMENDATORY SECTION (Amending WSR 04-07-014, filed 3/4/04, effective 4/4/04)

WAC 388-865-0511 Evaluation and treatment facility certification. To obtain and maintain certification to provide inpatient evaluation and treatment services under chapter 71.05 and 71.34 RCW, a facility must meet the following requirements:

(1) Be licensed by the department of health as:

(a) A hospital as defined in chapter 70.41 RCW;

(b) A psychiatric hospital as defined in chapter 246-322 WAC;

(c) A mental health inpatient evaluation and treatment facility consistent with chapter 246-337 WAC; or

(d) A mental health child long-term inpatient treatment facility consistent with chapter 246-337 WAC.

(2) Be approved by the regional support network, or the mental health division ~~((in the case of mental health))~~. Child long-term inpatient treatment facilities(~~(-and)) can only be approved by the mental health division.~~

(3) Successfully complete a provisional and annual on-site review by the mental health division to determine facility compliance with the minimum standards of this section and chapters 71.05 and 71.34 RCW.

AMENDATORY SECTION (Amending WSR 04-07-014, filed 3/4/04, effective 4/4/04)

WAC 388-865-0526 Single bed certification. At the discretion of the mental health division, an exception may be granted to allow treatment to an adult on a seventy-two hour detention or fourteen-day commitment in a facility that is not certified under WAC 388-865-0500; or for a maximum of thirty days to allow a community facility to provide treatment to an adult on a ninety- or one hundred eighty-day inpatient involuntary commitment order. For involuntarily detained or committed children, the exception may be granted to allow treatment in a facility not certified under WAC 388-865-0500 until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) The regional support network or its designee must submit a written request for a single bed certification to the mental health division prior to the commencement of the order. In the case of a child, the facility must submit the written request directly to the mental health division. If the DSHS secretary has assumed the duties assigned to a nonparticipating regional support network, a single bed certification may be requested by a mental health division designee contracted to provide inpatient authorization or designated crisis response services.

(2) The facility receiving the single bed certification must meet all requirements of this section unless specifically waived by the mental health division.

(3) The request for single bed certification must describe why the consumer meets at least one of the following criteria:

(a) The consumer requires services that are not available at a facility certified under this chapter or a state psychiatric hospital; or

(b) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.

(4) The mental health division director or the director's designee makes the decision and gives written notification to the requesting (~~(regional support network)~~) entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal law or state statute.

(5) The mental health division may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the mental health division determines that the violation places consumers in imminent jeopardy, immediate revocation of this exception can occur.

(6) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding single bed certification decisions by mental health division staff.

WSR 08-18-048
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)

[Filed August 29, 2008, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-06-044.

Title of Rule and Other Identifying Information: The department is amending WAC 388-416-0020 Certification periods for noninstitutionalized medically needy (MN) program.

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 October 7, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 8, 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 October 7, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 30,

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: DSHS is removing references to hospital expenses to comply with federal regulations.

Reasons Supporting Proposal: Being compliant with federal regulation prevents jeopardizing federal financial participation in the state's medicaid program.

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

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

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, Implementation and Enforcement: Catherine Fisher, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1357.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Client eligibility rules for medical assistance are exempt from the cost-benefit analysis requirement per RCW 34.05.328 (5)(b)(vii).

August 22, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-416-0020 Certification periods for the noninstitutionalized medically needy (MN) program.

(1) The certification period for the noninstitutionalized medically needy (MN) program for clients with countable income equal to or below the medically needy income level (MNIL):

(a) Begins on the first day of the month in which (hospital expenses equal the spenddown amount) eligibility is established; (and)

(b) (On the day that spenddown is met, when hospital expenses are less than the spenddown amount or no hospital expenses are involved) Is approved for twelve calendar months.

(2) The certification period (continues through the last day of the final month of the base period as described in chapter 388-519 WAC) for the noninstitutional MN program for clients with countable income above the MNIL:

(a) Begins on the day that spenddown is met; and

(b) Continues through the last day of the final month of the base period as described in WAC 388-519-0110.

(3) (The) A retroactive MN certification period (can begin up to) may be established for any or all of the three months immediately prior to the month of application (as described in chapter 388-519 WAC).

(4) (The certification period for MN clients with income below the medically needy income level (MNIL) is twelve

months)) Expenses used to meet the spenddown liability for the current or the retroactive certification periods are the responsibility of the client. The department is not responsible to pay for any expense or portion of an expense which has been used to meet the spenddown liability. See WAC 388-519-0110.

(5) A new application must be submitted for each subsequent certification period for which medically needy coverage is requested.

WSR 08-18-049
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed August 29, 2008, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-055.

Title of Rule and Other Identifying Information: The department is amending WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?

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 October 7, 2008, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 8, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on October 7, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 30, 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 rules provide standards used to determine monthly benefit levels for the Washington Basic Food program and WASHCAP program.

The proposed changes update income and deduction standards used for Basic Food and WASHCAP as required under regulations for the food stamp program. Rules in this filing will be emergency adopted effective October 1, 2008, because federal implementation time frames do not allow sufficient time to make the changes using the standard adoption process.

Reasons Supporting Proposal: 7 C.F.R. 273.9 requires the department to update the standards contained in these rules on an annual basis. The department updates these standards as provided by the United States Department of Agriculture, Food and Nutrition Service (FNS). FNS requires

these changes to be effective with the new federal fiscal year each October.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.9.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Don Winslow, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4580.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by setting standards used to determine eligibility and benefit levels for the Washington Basic Food program.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

August 27, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-22-035, filed 10/30/07, effective 11/30/07)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
 - (i) AU intends to return to the home;
 - (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
 - (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

(3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of four hundred (~~thirty-one~~) forty-six dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred (~~thirty-one~~) forty-six dollars.

AMENDATORY SECTION (Amending WSR 07-22-035, filed 10/30/07, effective 11/30/07)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE (~~(10-1-2007)~~) 10-1-2008

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$(1,107) 1,127	\$(851) 867	\$(162) 176	\$(1,404) 1,430
2	((1,484)) 1,517	((1,141)) 1,167	((298)) 323	((1,883)) 1,925
3	((1,861)) 1,907	((1,431)) 1,467	((426)) 463	((2,361)) 2,420
4	((2,238)) 2,297	((1,721)) 1,767	((542)) 588	((2,840)) 2,915
5	((2,615)) 2,687	((2,011)) 2,067	((643)) 698	((3,318)) 3,410
6	((2,992)) 3,077	((2,301)) 2,367	((772)) 838	((3,797)) 3,905
7	((3,369)) 3,467	((2,591)) 2,667	((853)) 926	((4,275)) 4,400
8	((3,746)) 3,857	((2,881)) 2,967	((975)) 1,058	((4,754)) 4,895
9	((4,123)) 4,247	((3,171)) 3,267	((1,097)) 1,190	((5,233)) 5,390
10	((4,500)) 4,637	((3,461)) 3,567	((1,219)) 1,322	((5,712)) 5,885
Each Additional Member	+((377)) 390	+((290)) 300	+((122)) 132	+((479)) 495

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

**WSR 08-18-050
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed August 29, 2008, 11:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-03-095 and 08-13-055.

Title of Rule and Other Identifying Information: The department is amending WAC 388-412-0015 General information about your Basic Food allotments and 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food?

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 October 7, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 8, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on October 7, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 30, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules provide standards used to determine monthly benefit levels for the Washington Basic Food program and WASHCAP program.

The proposed changes update income and deduction standards used for Basic Food and WASHCAP as required under regulations for the food stamp program. Rules in this filing will be emergency adopted effective October 1, 2008, because federal implementation time frames do not allow sufficient time to make the changes using the standard adoption process.

Reasons Supporting Proposal: 7 C.F.R. 273.9 requires the department to update the standards contained in these rules on an annual basis. The department updates these standards as provided by the United States Department of Agriculture, Food and Nutrition Service (FNS). FNS requires these changes to be effective with the new federal fiscal year each October.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.9.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Don Winslow, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4580.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by setting standards used to determine eligibility and benefit levels for the Washington Basic Food program.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

August 27, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-02-016, filed 12/27/04, effective 1/27/05)

WAC 388-412-0015 General information about your Basic Food allotments. (1) Your monthly Basic Food benefits are called an allotment. An allotment is the total dollar value of benefits your eligible assistance unit (AU) gets for a calendar month.

(2) You cannot receive the same type of benefit in:

(a) Two states in the same month;

(b) Two AUs in the same month, unless;

(c) You left the AU to live in a shelter for battered women and children. See WAC 388-408-0045.

(3) If your AU does not have any countable net income, you get the maximum allotment for the number of eligible people in your AU. See WAC 388-478-0060 for the maximum allotments.

(4) If your AU has countable net income under WAC 388-450-0162, we calculate, your allotment by:

(a) Multiplying your AU's countable net monthly income by thirty percent;

(b) Rounding this amount up to the next whole dollar; and

(c) Subtracting the result from the maximum allotment.

(5) If we determine you are eligible for Basic Food, your first month's benefits are from the date you applied for benefits through the end of the month of your application. If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055. This is called proration and is based on a thirty-day month.

(6) If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for Basic Food, we issue both your first and second months benefits in one allotment if you are eligible for both months.

(7) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(8) If your AU has one or two members, your monthly allotment will be at least ~~((ten))~~ fourteen dollars unless:

(a) It is the first month of your certification period;

(b) Your AU is eligible for only a partial month; and

(c) We reduced your first month's allotment below ~~((ten))~~ fourteen dollars based on the date you became eligible for Basic Food under WAC 388-406-0055.

AMENDATORY SECTION (Amending WSR 07-22-035, filed 10/30/07, effective 11/30/07)

WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food? We subtract the following amounts from your assistance unit's (AU's) countable income before we determine your Basic Food benefit amount:

(1) A standard deduction based on the number of people in your AU under WAC 388-408-0035:

Eligible and ineligible AU members	Standard deduction
1	\$ ((134)) <u>144</u>
2	\$ ((134)) <u>144</u>

Eligible and ineligible AU members	Standard deduction
3	\$ ((134)) <u>144</u>
4	\$ ((143)) <u>147</u>
5	\$ ((167)) <u>172</u>
6 or more	\$ ((191)) <u>197</u>

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense ~~((as described below))~~ needed for an AU member to:

(a) ~~((The dependent care must be needed for AU member to:~~

~~((i)))~~ (b) Keep work, look for work, or accept work;

~~((ii)))~~ (c) Attend training or education to prepare for employment; or

~~((iii)))~~ (d) Meet employment and training requirements under chapter 388-444 WAC.

~~((b) We subtract allowable dependent care expenses that are payable to someone outside of your AU:~~

~~((i) Up to two hundred dollars for each dependent under age two; and~~

~~((ii) Up to one hundred seventy-five dollars for each dependent age two or older.))~~

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) Legally obligated current or back child support paid to someone outside of your AU:

(a) For a person who is not in your AU; or

(b) For a person who is in your AU to cover a period of time when they were not living with you.

(6) A portion of your shelter costs as described in WAC 388-450-0190.

WSR 08-18-052

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF

FINANCIAL INSTITUTIONS

(Securities Division)

[Filed August 29, 2008, 2:37 p.m.]

**Notice of Withdrawal of Proposed Rule-Making
Concerning "Holding Out" as a "Financial Planner" or
"Investment Counselor"**

The department of financial institutions hereby withdraws the amendments to our rules proposed in the notice of proposed rule making (CR-102) that was published in the Washington state register at WSR 08-14-072.

Scott Jarvis
Director

**WSR 08-18-060
PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD**

[Filed September 2, 2008, 11:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-075.

Title of Rule and Other Identifying Information: Chapter 250-61 WAC, Regulations for the Degree Authorization Act.

Hearing Location(s): Washington State Investment Board, 2100 Evergreen Park Drive S.W., Olympia, WA 98502, on October 8, 2008, at 1:00 p.m. - 4:00 p.m.

Date of Intended Adoption: December 21, 2008.

Submit Written Comments to: Michael Ball, Associate Director, P.O. Box 43430, Olympia, WA 98504-3430, e-mail michaelb@hecb.wa.gov, fax (360) 704-6239, by October 7, 2008.

Assistance for Persons with Disabilities: Contact Karen Oelschlager by October 1, 2008, (360) 753-7869.

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

- Simplify and clarify the regulations.
- Strengthen the requirements for authorization of degree-granting institutions.
- Update regulations to include changes to chapter 28B.85 RCW.

Reasons Supporting Proposal: To comply with legislative changes, better reflect agency policy, and provide clearer direction for authorized institutions.

Statutory Authority for Adoption: RCW 28B.76.120 and 28B.85.020.

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

Name of Proponent: Higher education coordinating board, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Ball, 917 Lakemidge Way, Olympia, WA 98502, (360) 753-7866.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small business in Washington.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs involved in the proposed revisions. The higher education coordinating board is not named in the RCW.

September 2, 2008

Michael J. Ball

Associate Director

Degree Authorization

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-010 ((Scope and)) Purpose. The Degree ~~((Authorization))-Granting Institutions~~ Act, chapter 28B.85 RCW ~~((establishes a requirement))~~ requires that degree-granting institutions operating in Washington obtain authori-

zation from the higher education coordinating board, unless specifically exempted from the authorization requirement by the act. This chapter is ~~((promulgated))~~ declared by the board as a supplement to the act in order to establish necessary regulations for the authorization of degree-granting institutions. ~~((The standards set forth in this chapter also supplement the federal regulations governing institutions seeking approval from the appropriate Washington state approving agency (Washington higher education coordinating board or Washington work force training and education coordinating board) to offer degrees to persons eligible to receive benefits from the United States Department of Veterans Affairs.))~~

The purpose of the act is to ~~((insure))~~ ensure fair business practices and adequate quality among degree-granting institutions operating in the state of Washington and to protect citizens against substandard, fraudulent, and deceptive practices.

~~((The act applies to degree programs and academic credit courses offered within the state. The act does not apply to degree programs and academic credit courses offered exclusively from outside the state through individual and private interstate communication.~~

~~A degree-granting institution shall not operate, conduct business, grant or offer to grant any courses or degree programs unless the institution has obtained authorization from the board or has been determined by the board to be exempt.~~

~~Institutions accredited by any association recognized by the federal government seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans Affairs shall first be authorized by the board or exempted under WAC 250-61-060 and shall meet the requirements of the appropriate Washington state approving agency.~~

~~Nonaccredited institutions seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans Affairs shall first be authorized by the board and shall meet the requirements of the appropriate Washington state approving agency.~~

~~Institutions seeking approval for their professional education programs from the state board of education first must be accredited by an accrediting association recognized by the federal government and authorized or exempted by the board.))~~

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-020 ~~((Previous regulations repealed.))~~
Applicability. ~~((Regulations previously adopted by this agency pursuant to chapter 28B.05 are repealed and superseded by this chapter. Degree-granting institutions authorized under the previous regulations will be governed by the previous rules and are not required to apply for authorization until the expiration date of such authorization. Degree-granting private vocational schools exempted under the previous regulations shall be required to apply for authorization within six months of the effective date of these regulations. Such degree-granting private vocational schools shall also be required to make their proportional initial capitalization contribution into the board's tuition recovery trust fund account~~

~~at the time of application. Religious institutions exempted under the previous regulations shall be required to apply for religious exemption under these regulations within six months of the effective date of these regulations.))~~ A degree-granting institution shall not operate, conduct business, grant or offer to grant any academic courses or degree programs unless the institution has obtained authorization from the board, been granted a waiver of the requirements of authorization, or has been determined by the board to be exempt.

The act applies to:

(1) Institutions granting or offering to grant degree programs and/or academic credit courses either at or from a location within the state; and

(2) Institutions maintaining or advertising a Washington location, mailing address, or telecommunications number for any purpose or any function of a degree-granting institution other than contact with the institution's former students; and

(3) Institutions specifically targeting Washington citizens with promotion of their degree programs and/or academic credit courses.

The act does not apply to degree programs and academic credit courses offered exclusively from outside the state through individual and private interstate communication.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-030 Delegation and board supervision.
~~((See RCW 28B.80.430.))~~

~~((4))~~ Unless otherwise indicated, the board delegates authority for administering the act and these rules to the executive director.

~~((2))~~ Any ~~Actions~~ Actions taken pursuant to these rules by the executive director or designee shall be subject to supervision by the board.

~~((3))~~ Such ~~actions~~ actions ~~((taken by the executive director pursuant to these rules))~~ shall be reported periodically to the board for its review.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-040 Duties of executive director. In addition to other administrative responsibilities vested in the executive director of the higher education coordinating board under the act and this chapter, the executive director shall carry out the following administrative responsibilities:

(1) Process authorization applications, fee payments, bonds or security deposits, to include the denial and issuance of authorization, signed by the executive director or designee.

(2) Cause the payment of any unsatisfied final judgment against an authorized institution, from the resources available through the institution's surety bond or other security deposit.

(3) Upon written notice from an authorized institution, release the surety on the institution's bond or return the institution's security deposit, as prescribed in RCW 28B.85.070.

(4) In the event of impaired liability of the ~~((surety upon a bond))~~ security, notify the institution of suspension until the ~~((bond))~~ security liability in the required amount, unimpaired by unsatisfied judgment claims, shall have been furnished.

(5) To the extent that there is a payment ~~((by a surety))~~, release the ~~((bond))~~ security to the extent of the payment.

~~((6))~~ ~~((Maintain and administer a separate account for authorized degree-granting private vocational schools in the tuition recovery trust fund established under RCW 43.84.092.~~

~~((7))~~ Establish and maintain all records called for under the provisions of the act and this chapter.

~~((8))~~ (7) Maintain a current inventory of degree-granting institutions authorized or exempted under this chapter, including student complaints against such institutions.

~~((9))~~ ~~The executive director may waive or modify the authorization requirements contained in this chapter for a particular institution if the executive director finds that such waiver or modification will not frustrate the purposes of this chapter and that literal application of this chapter creates a manifestly unreasonable hardship on the institution.)~~

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-050 Definitions. The definitions set forth in this section are intended to supplement the definitions in chapter 28B.85 RCW and shall apply throughout this chapter.

(1) "Act" means the Degree ~~((Authorization))~~-Granting Institutions Act, chapter 28B.85 RCW.

(2) "Board" means the Washington higher education coordinating board.

(3) "Executive director" means the executive director of the board or the executive director's designee.

(4) "Accrediting association" means a national or regional accrediting association that is recognized by the ~~((federal government))~~ board and the Secretary of the U.S. Department of Education.

(5) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.

(6) "College" means an institution which offers two-year and/or four-year programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.

(7) "University" means a multiunit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to ~~((the))~~ a doctorate.

(8) "Private vocational school" means a nonpublic entity that offers postsecondary programs designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.

(9) "Seminary" means an institution which offers one or more professional programs to candidates for the ministry, rabbinate, or priesthood.

(10) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or ~~((pur-~~

~~port to signify))~~ imply satisfactory completion of the requirements of an academic program of study ~~((beyond))~~ at the ~~((secondary school))~~ postsecondary level.

(11) "Associate degree" means a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours.

(12) "Bachelor's degree" or "baccalaureate degree" means an undergraduate degree that requires no fewer than 120 semester hours or 180 quarter hours.

(13) "Master's degree" means a graduate degree that requires no fewer than 24 semester hours or 36 quarter hours beyond the baccalaureate degree.

(14) "Doctor's degree" or "doctorate" means a postgraduate degree that requires no fewer than 60 semester hours or 90 quarter hours beyond the baccalaureate degree.

(15) "False academic credential" means a document that signifies or implies satisfactory completion of the requirements of an academic program of study beyond the secondary level issued by a person or entity that:

(a) Is not accredited by a board-recognized accrediting association or does not have the international equivalent to such accreditation; or

(b) Is not authorized by the board; or

(c) Has not been exempted or granted a waiver from the requirements of authorization by the board.

Additionally, it can mean a credential falsely claimed to have been earned from an institution accredited by a board-recognized accrediting association; authorized by the board; or that has been exempted or granted a waiver by the board.

(16) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.

~~((16))~~ (17) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.

~~((17))~~ (18) ~~((Telecommunication instruction))~~ Distance learning means a ~~((course or series of courses or degree programs which have as their primary mode of delivery))~~ form of educational instruction other than classroom instruction, to include, but not limited to, correspondence, video-conferencing, television, ((video, computer, film)) internet transmission, or other electronic communication(s).

~~((18))~~ (19) "Credit ~~((hour))~~" means the unit by which an institution measures its course work. The number of credit ~~((hours))~~ assigned to a course is generally defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit ~~((hour))~~ is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week is usually comprised of a combination of one hour of lecture and two of homework or three hours of laboratory. Semester and quarter credits ~~((hours))~~ are the most common systems of measuring course work. A semester credit ~~((hour))~~ is generally based on at least a fifteen week calendar or ~~((its equivalent))~~ 45 hours of student work. A quarter credit ~~((hour))~~ is generally based on at least a ten week calendar or ~~((its equivalent))~~ 30 hours of student work.

~~((19))~~ (20) ~~((Full-time))~~ Faculty means personnel who are appointed ~~((as such and have an employment agree-~~

~~ment related to)) by the institution for purposes of teaching, research, mentoring, advisory roles and/or other ((aspects)) activities relating to the development and delivery of the instructional programs of the institution. ((These personnel participate in faculty meetings, staff development activities, and in the design of the curriculum.~~

~~(20) "Permanent part time faculty" means personnel who are appointed as such and have an employment agreement for teaching less than full time. These personnel participate in faculty meetings, staff development activities, and in the design of the curriculum.~~

~~(21) "Part time faculty" means personnel usually assigned to teach one or more specific classes and perform class related activities.~~

~~(22)) (21) "To operate" means but is not limited to the following:~~

~~(a) Offering courses ((in person, by correspondence, or electronic media,)) for academic credit at any Washington location ((for degree credit, including electronic courses transmitted into the state of)) or via distance learning from a Washington location.~~

~~(b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.~~

~~(c) Maintaining or advertising a Washington location, mailing address, telecommunications number or ((telephone number)) internet server for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.~~

~~((23) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" shall also mean to solicit or encourage any person, directly or indirectly, to perform the act described.~~

~~(24)) (d) Advertising, promoting, publicizing, soliciting or recruiting for the institution or its offerings that is targeted specifically at Washington citizens, excluding multi-institutional college fairs.~~

~~(22) "Suspend" means that ((because of)), due to deficiencies, the board interrupts for a stated time the institution's authority to recruit and enroll new students, but it may continue serving currently enrolled students for the remainder of the term. Authorization or exemption may be reinstated, provided the deficiencies have been resolved to the satisfaction of the board.~~

~~(23) "Withdraw" means that, due to significant deficiencies or failure to meet the criteria of authorization or exemption, the board has withdrawn the authorization or exemption granted to an institution. Upon withdrawal, the institution must cease all degree-granting operations immediately.~~

~~((25)) (24) "(Recognized) Accrediting ((association) institution)" means an institution that has been accredited by an accrediting association recognized by the ((higher education coordinating)) board ((for purposes of this chapter and recognized by the federal government for purposes of financial aid program eligibility)) and the Secretary of the U.S. Department of Education.~~

AMENDATORY SECTION (Amending WSR 99-06-022, filed 2/22/99, effective 3/25/99)

WAC 250-61-060 Exemption((s)) criteria. No exemption from the requirements for degree authorization is considered to be permanent. The exemption granted is dependent upon the institution's maintenance of the conditions under which the exemption was granted.

The provisions of this chapter do not apply to:

(1) Honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) Any public college, public university, public community college, or public technical college or institute operating as part of the public higher education system of this state.

(3) Institutions that have received institutional accreditation from an ((agency)) association recognized by the board and the Secretary of the U.S. Department of Education, Provided:

(a) The institution has been continuously offering degree program(s) in Washington for fifteen years or more; and

(b) The institution was established originally within the state of Washington and has operated as the same organization continuously from that date until the present. An institution is considered to have operated as the same organization continuously if it has no significant alteration of primary location, ownership, or incorporation and no closure involving cessation of substantially all organized instructional and administrative activity; and

(c) The institution has been accredited as a degree-granting institution for ten years or more by an accrediting association recognized by the ((federal government)) board and the Secretary of the U.S. Department of Education, and maintains such accreditation status; and

(d) The institution maintains eligibility to participate in Title IV financial aid programs(;;).

~~((e)) (4) A branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, Provided:~~

~~(a) It has continuously offered degree programs in Washington for fifteen years or more; and~~

~~(b) It has held separate institutional accreditation as a free-standing institution for ten years or more by ((a recognized)) an accrediting association recognized by the board and the Secretary of the U.S. Department of Education, and maintains such accreditation status; and~~

~~(c) It maintains eligibility to participate in Title IV financial aid programs.~~

~~((4)) (5) Institutions offering instruction on a federal enclave solely to federal employees and their dependents. If the institution offers or advertises instruction for other persons, the institution shall be subject to authorization.~~

~~((5)) (6) Tribally controlled Native American colleges.~~

~~((6)) (7) Institutions which offer program(s) of study whose sole stated objective is training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church-related ((and)). Provided:~~

~~(a) The institution's mission reflects its religious nature; and~~

~~(b) The institution's degree program(s) in title and abbreviation, curriculum content, and objectives reflect the strictly religious nature of the institution; and~~

~~(c) The institution's program(s) of study require a prescribed program of study, which must be successfully completed prior to the granting of a degree; and~~

~~(d) The institution's program(s) of study are represented in an accurate manner in institutional catalogs, web sites, and other official ((publications: Provided, That an institution's degree programs in title (e.g., bachelor of religious studies, master of divinity, doctorate of ministry), curriculum content, and objectives reflect the strictly religious nature of the institution. The following procedures shall be employed in the implementation of this subsection:~~

~~(a) The chief academic officer shall contact board staff and arrange for a preliminary conference to discuss the religious exemption standards and the application/review procedures.~~

~~(b) The chief academic officer shall forward to the board office a copy of the institution's catalog and/or any other official publications that describe the nature of the institution and its programs. This information shall be used by the executive director to verify the religious exempt status of the institution.~~

~~(c) A religious institution which is granted an exemption under this regulation shall place the following statement in a prominent position on the front page of any catalog, general bulletins, and course schedules: "The Washington Higher Education Coordinating Board has determined that (name of institution) qualifies for religious exempt status from the Degree Authorization Act for the following programs: (List). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board at P.O. Box 43430, Olympia, WA 98504-3430."~~

~~(d) A religious institution which is granted a religious exemption is subject to biennial reporting, and maintenance of the conditions under which exemption is granted. Such institutions are prohibited from publicizing that they are accredited, unless they are accredited by an accrediting association recognized by the federal government.~~

~~(e) In the case of a religious institution that offers both religious and secular programs of instruction, the requirements of chapter 28B.85 RCW and this chapter shall pertain only to the secular programs of the institution.~~

~~(f) The executive director shall suspend or revoke an institution's religious exemption if it is found that:~~

~~(i) Any statement contained in the application for exemption is untrue;~~

~~(ii) The institution has failed to maintain the conditions under which the exemption was granted;~~

~~(iii) Advertising or representations made on behalf of and sanctioned by the institution are deceptive or misleading;~~

~~(iv) The institution has violated any provision of the religious exemption regulations;~~

~~(g) Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies and has been given a reasonable time to regain compliance.~~

~~(7)) published materials; and~~

~~(e) The institution does not claim or publicize accreditation from an accrediting association that is not recognized by the board and the Secretary of the U.S. Department of Education.~~

~~(8) In the case of institutions which offer both religious and secular programs, the secular programs shall be subject to the requirements of chapter 28B.85 RCW.~~

~~(9) Institutions not otherwise exempt which offer only workshops and seminars and institutions offering only credit-bearing workshops or seminars lasting no longer than three calendar days ((and for which academic credit is not awarded)).~~

NEW SECTION

WAC 250-61-063 Exemption requirements. In order to apply for and maintain an exemption from the requirements for degree authorization, an institution must comply with the following:

(1) The chief academic officer of the institution shall contact board staff and arrange for a preliminary conference to discuss the exemption criteria and procedures pertaining to the request for exemption.

(2) Any institution granted exemption from the requirements for degree authorization may be subject to periodic review by the board to ensure that all criteria for the exemption continue to be met. The institution is to provide all information requested by the board to assist in making this determination.

(3) The institution shall inform the board immediately of any proposed changes within the institution and/or its offerings that may affect the exemption granted.

(4) The executive director may suspend or withdraw the exemption granted to an institution that fails to maintain the conditions under which the exemption was granted; engages in false advertising; or allows misleading representations to be made on its behalf. Suspension shall allow the institution a prescribed period of time to address the issues that may have brought the suspension. Withdrawal shall require the institution to cease all degree-granting activities immediately.

(5) In the case of religious exemption, a religious institution shall be required to place the following statement in a prominent position within any catalog, general bulletins, web sites, and course schedules: "The Washington Higher Education Coordinating Board has determined that (name of institution) qualifies for religious exempt status from the Degree-Granting Institutions Act for the following programs: (List). The HECB makes no evaluation of the administration, faculty, business practices, financial condition or quality of the offerings by this institution. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the HECB at P.O. Box 43430, Olympia, WA 98504-3430."

NEW SECTION

WAC 250-61-065 Waiver of requirements. The executive director or the director's designee may waive or modify the authorization requirements contained in this chapter for a

particular institution if the executive director or the director's designee finds that such waiver or modification will not frustrate the purposes of this chapter and that literal application of this chapter creates a manifestly unreasonable hardship on the institution. No waiver granted under this chapter is permanent. The board will periodically review institutions granted waivers and continue the waiver only if the conditions under which the waiver was initially granted remain in effect.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-070 (~~(Interagency agreement for degree-granting)~~) **Applicability to private vocational schools.** Degree-granting private vocational schools' programs shall be regulated pursuant to the terms of an interagency agreement between the higher education coordinating board and the work force training and education coordinating board. As stipulated in the interagency agreement, degree programs shall be regulated by the higher education coordinating board and nondegree programs shall be regulated by the work force training and education coordinating board. Copies of the agreement are available from either agency upon request.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-080 Authorization standards. These standards form the basis for the review of an institution by the board staff and guide the decisions of the executive director and the board. To receive authorization, the institution shall meet ~~((each of the following))~~ all of the specific requirements ~~((for administration, academic programs, and instructional resource and support services in addition to the specific requirements))~~ of this chapter.

NEW SECTION

WAC 250-61-085 Accreditation requirements. An institution seeking initial degree authorization shall:

- (1) Be accredited by a board-recognized accrediting association; or
- (2) Have applied for accreditation and such application is pending before the accrediting association; or
- (3) Have been granted a temporary waiver by the board of the requirement for accreditation based upon submission of a plan for accreditation as outlined in the initial authorization application; or
- (4) Have been granted an exemption by the board of the requirement for accreditation based upon the following condition: The school has filed, and kept current with appropriate amendments, at the higher education coordinating board an affidavit by each president of two separate accredited colleges or universities accredited by an accrediting association recognized by the board and the Secretary of the U.S. Department of Education stating that the majority of course credits offered by the unaccredited institution are generally acceptable or transferable to the accredited college or university which each president represents.

AMENDATORY SECTION (Amending WSR 99-06-021, filed 2/22/99, effective 3/25/99)

WAC 250-61-090 Administrative requirements. (1) Name. The official name of the institution shall be consistent with and appropriate to the program(s) of study offered.

(2) Purpose. The institution shall clearly define its purpose or mission in an official statement which describes its role in higher education. The statement shall reflect the practices of the institution.

(3) Administration and governance. The institution shall be governed by bylaws or policies defining a chain of authority and responsibility.

(a) Administrators shall normally be graduates of ~~((recognized))~~ accredited institutions and ~~((possess))~~ have academic credentials and prior higher education administrative experience for their area of responsibility.

(b) The main campus of the institution shall have, as a minimum, personnel to adequately staff the following roles: A chief executive officer, ~~((an))~~ academic officer, ~~((a))~~ registrar, ~~((a))~~ business officer, ~~((a))~~ student services officer, ~~((a))~~ library director, and, if financial aid services are offered, ~~((a))~~ financial aid officer. These officers shall be accessible to students, faculty, and other personnel located at the main campus and at educational sites or centers in Washington. In the event that the proposed Washington site is a branch campus of an out-of-state institution, the branch campus shall also have sufficient personnel to adequately serve the students at that location.

(i) The chief executive and academic officers shall ~~((possess))~~ have at least the master's degree and experience in college-level management, teaching, and academic administration, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(ii) The registrar~~((s))~~ shall have at least a baccalaureate degree from an accredited institution and college-level experience in admissions and student records, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(iii) The business, ~~((and))~~ student services, and financial aid officers and library director shall ~~((possess))~~ have at least the baccalaureate degree from an accredited institution and ~~((college-level))~~ experience in ~~((admissions/student records, accounting/managerial services, and student services respectively))~~ their assigned areas, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

~~((iii) The financial aid officer and library director shall possess at least the baccalaureate degree and experience in their assigned areas, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.))~~

(c) The institution shall specify an individual who will serve as the principal contact person for each educational site or academic center in Washington. ~~((This institutional representative shall be responsible for instructional program coordination and student services.))~~

(d) The institution shall have policies and provisions for the involvement of faculty in the academic affairs, curriculum development, and governance of the institution.

(e) The institution also shall have policies and provisions for faculty selection, orientation, teaching load, supervision, evaluation, and professional development.

(4) The following conditions shall disqualify individuals as an administrator of a degree-granting institution:

(a) Conviction of a felony within the past ten years;

(b) Involuntary surrender of authorization or a license to operate a school in Washington;

(c) Having been served with a cease and desist order for activities in violation of the current *Washington Administrative Code*; or

(d) Denial of renewal of authorization or a license because of violation of the current *Washington Administrative Code*.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-100 Academic (~~(program)~~) requirements. (1) Educational programs. Each program shall require the completion of a prescribed program of study leading to the attainment of competence in an interdisciplinary area or specific field of study. Programs shall generally meet the guidelines or standards of ~~((the))~~ an accrediting association ~~((s) to which the institution would apply for institutional or program accreditation))~~ recognized by the board and the Secretary of the U.S. Department of Education that accredits similar programs of study.

(a) Associate degrees:

(i) An associate degree shall require at least ninety quarter credits or sixty semester credits.

(A) An associate degree intended for occupational preparation shall require, as a minimum, general education requirements ~~((consistent with the standards established by the Washington state board for community and technical colleges))~~ that comprise a recognizable body of instruction in three program-related areas:

(I) Communications;

(II) Computation; and

(III) Human relations.

(B) The general education requirements of all other associate degrees shall be consistent with the current guidelines of the Washington inter-college relations commission.

~~((b))~~ (ii) The following associate degree designations shall be acceptable:

~~((i))~~ (A) The associate ~~((i))~~ of arts (A.A.), and associate ~~((i))~~ of sciences (A.S.) ~~((and associate in arts and sciences (A.A.S.))~~) for programs which emphasize the liberal arts and sciences. These programs generally satisfy the general education requirements for a baccalaureate degree and are transfer oriented.

~~((i))~~ (B) The associate in applied technology (A.A.T.), associate in ~~((technical arts (A.T.A.), associate in technology (A.T.))~~) applied science (A.A.S.), associate of occupational science (A.O.S.) and other such applied or technology-related degree designations for programs which emphasize preparation for occupations at the technical level. These pro-

grams generally do not satisfy the general education requirements for a baccalaureate degree and are not transfer-oriented.

~~((e) The))~~ (b) Baccalaureate degrees: A baccalaureate degree shall require at least one hundred eighty quarter credits ~~((;))~~ or one hundred twenty semester credits ~~((, or four full academic years of postsecondary study))~~. The degree shall require ~~((approximately two academic years of study in))~~ a distinct major ~~((and related subjects))~~ and, as a minimum, twenty-five percent of the program shall be in general education curricula.

~~((c))~~ (c) Master's degrees:

(i) A master's degree program ~~((s))~~ shall require at least thirty-six quarter credits ~~((;))~~ or twenty-four semester credits, ~~((or one full academic year of postgraduate study,))~~ specialization in an academic or professional area, and a demonstration of mastery.

~~((c))~~ (ii) The following master's degree designations shall be acceptable:

~~((i))~~ (A) The master of arts (M.A.) and master of science (M.S.) for programs which advance study and exploration in the discipline. The majority of credit for M.A. and M.S. degrees shall be at the graduate level in the major field.

~~((i))~~ (B) The master of business administration (M.B.A.), master of fine arts (M.F.A.), master of education (M.Ed.), etc., for programs which emphasize professional preparation. ~~((For students with disparate academic backgrounds, it may be appropriate to require a limited number of introductory courses in the field.~~

~~((d))~~ (d) Doctoral degrees:

(i) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities, and a wide range of current reference materials in the subject field. A doctoral degree shall require at least three full academic years of specialized postbaccalaureate study. To obtain a doctoral degree a student shall be required to demonstrate, through comprehensive examination, the ability to perform research at the level of the professional scholar or perform the work of a professional that involves the highest levels of knowledge and expertise.

~~((c))~~ (ii) The following doctoral degree designations shall be acceptable:

~~((i))~~ (A) The doctor of philosophy (Ph.D.) degree for programs which are oriented toward original research and require a dissertation.

~~((i))~~ (B) A professional doctoral degree (Ed.D., etc.) for programs which emphasize technical knowledge and professional competence and require either a research thesis or a project involving the solution of a substantial problem of professional interest.

~~((h) Home study, correspondence, and electronic media))~~ (e) Distance learning program(s) of study must be comparable in content, faculty, and resources to those offered in ~~((residency))~~ residence, and include regular student-faculty interaction by computer, telephone, mail, or face-to-face meetings.

~~((i))~~ (f) Noncollegiate learning.

(i) Undergraduate credit for noncollegiate learning may be awarded when validated through a portfolio or similar pro-

cedure. The institution shall maintain copies of examinations, portfolios, and evaluations used in this process. Non-collegiate learning credit shall constitute no more than twenty-five percent of an undergraduate degree program.

~~((j)) No credit shall be awarded for noncollegiate learning at the graduate level.~~ ((ii)) Credit awarded for noncollegiate learning at the graduate level must be consistent with the minimum standards as published by the school's accrediting association.

~~((5))~~ (2) Faculty.

~~(a) Faculty shall be professionally prepared (with background, degree levels, college-level teaching experience demonstrably higher than the instructional activities for which they are responsible. Faculty shall be) and graduates of accredited institutions and, as a group, the institutions from which they earned their degrees shall be diverse. (The composition and qualifications of faculty shall generally meet the standards of the accrediting association(s) to which the institution would apply for institutional or program accreditation.~~

~~(a))~~ (b) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services.

(c) Faculty teaching academic courses at the undergraduate level shall (possess) have a master's degree in the assigned or related program area from an accredited institution. Faculty assigned to teach in vocational-technical (program areas) subjects shall (possess) have educational credentials and experience compatible with their teaching assignment. Faculty assigned to teach general education courses within any undergraduate program shall have a master's degree in a related area from an accredited institution.

~~((b))~~ (d) Faculty teaching at the master's degree level in programs which emphasize advanced study and exploration in a discipline shall (possess) have an earned doctorate in a related field from an accredited institution and experience in directing independent study and research. Faculty teaching in master's programs which emphasize professional preparation shall (possess) have, as a minimum, a master's degree from an accredited institution and documented achievement in a related field.

~~((e))~~ (e) Faculty teaching at the doctoral level shall (possess) have an earned doctorate in a related field from an accredited institution and experience in teaching and directing independent study and research.

~~((d) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services. As a minimum, 20 percent of the curriculum, defined in terms of the number of courses or credit hours necessary for program completion, shall be taught by full-time faculty.~~

~~(6))~~ (3) Admissions. Admission requirements shall be based on the institution's objectives and consistently applied to each program of study. Through pre-enrollment assessments, testing and advising ~~((based on the characteristics of the institution))~~, the institution shall determine the readiness and ability of each student to succeed in his/her degree program. Institutions shall use only those tests reviewed and approved by the ~~((United States))~~ U.S. Department of Education.

High school graduation or the equivalent shall be required for undergraduate admission. A baccalaureate degree or the equivalent shall be required for admission into graduate programs. Special undergraduate admission may be granted, based on the applicant's general educational development.

~~((7))~~ (4) Enrollment contract. If an enrollment contract is utilized, the institution shall discuss all terms and provisions of the ~~((enrollment))~~ contract with the student prior to the student's execution of the ~~((enrollment))~~ contract. The ~~((enrollment))~~ contract shall contain an acknowledgement section directly above the student's signature blank for the student to acknowledge that the institution discussed all terms and provisions of the contract with the student and that the student understands all financial obligations and responsibilities.

~~((8))~~ (5) Evaluation. The institution shall provide ~~((provisions for continual))~~ evidence that it has procedures for continuing evaluation and improvement of educational programs, ~~((improvement))~~ quality of instruction, and overall operations of the institution.

(a) Student, alumni, and employer evaluations of the effectiveness of the curricula shall be considered in these evaluations.

~~((All areas of the institution and its employees and authorized programs shall be evaluated periodically by))~~ The institution's chief academic officer or designee shall periodically evaluate all areas of the institution to determine their effectiveness in fulfilling institutional objectives and meeting the standards set forth in these regulations or implied in the statute. (At a minimum, every four years) The results of those evaluations shall be submitted to board staff upon request.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-110 Student services and instructional resources ~~((and support services))~~ requirements. (1) Student services. The institution shall provide adequate services for students in addition to formal instruction. These services shall normally ~~((shall))~~ include admissions, advising and guidance, financial assistance, student records, and ~~((job placement))~~ disability accommodation.

(a) Advising and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.

(b) Financial aid administration and distribution, if provided, shall be performed according to institutional, state, and federal policies.

(c) Student records shall be maintained in accordance with the guidelines established by the ~~((United States))~~ U.S. Department of Education.

~~((b))~~ (d) Students with disabilities shall have access to, and reasonable accommodations in, all programs for which they are qualified consistent with the provisions of the Americans with Disabilities Act.

~~((e))~~ (e) Placement services and employment opportunities, if provided, shall be accurately described.

~~((d)) Financial aid administration and distribution shall be performed according to institutional, state, and federal policies.~~

~~(e) Advising and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.)~~

(2) Facilities ~~((and academic support resources))~~ for site-based instruction.

(a) The institution shall have adequate space, facilities and equipment, instructional materials, and staff to support quality education and services.

~~((a))~~ (b) The institution shall comply with all applicable ordinances, laws, codes, and regulations concerning the safety, health, and access of all persons on its premises.

~~((b))~~ (3) Disability accommodations. The institution shall provide reasonable accommodations for students and employees with disabilities. The institution shall inform students and employees of local, state, and federal laws regarding discrimination against people with disabilities.

~~((c))~~ (4) Library. The institution shall provide adequate and accessible library resources and facilities to support the educational needs of students and faculty. ~~((a))~~ If the institution, educational site, or academic center does not maintain its own library on site, it must demonstrate that it can provide sufficient library resources to meet the needs of the program(s) through a written agreement with another institution or organization, or through other mechanisms.

~~((b))~~ ~~The institution shall provide a biennial library operating budget which appropriates sufficient financial support to sustain library holdings, facilities, and services for the needs of the program(s) of study.~~

~~(4) Finances.)~~ (5) Financial resources.

(a) The institution shall ~~((possess and maintain))~~ have adequate financial resources necessary to sustain its purpose and commitment to students.

(b) In the case of an institution seeking initial authorization, it shall have sufficient financial resources to sustain itself for one full academic year without the assistance of revenue from tuition and fees.

(6) Financial records.

(a) The institution shall maintain financial records in conformity to generally accepted accounting principles.

(b) The institution shall be audited annually by an independent certified public accountant according to generally accepted auditing standards.

~~((c))~~ (c) Such records shall be made available to the board upon request.

(7) Recruitment and publications. All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading. Any catalog and/or web site that is made available to students describing the educational services offered shall include the statement of authorization as provided by the board upon the granting of authorization.

~~((a))~~ The institution shall provide disclosure statements in its catalog regarding its authorization and accreditation status.

~~((b))~~ Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or oth-

erwise endorsed by the board. Such institutions may only state that they are authorized by the board.

~~((6) Educational))~~ (8) Transcripts and academic credentials. The institution shall provide accurate and appropriate transcripts of credit for enrolled students and diplomas for graduates.

(a) For each student, the institution shall maintain and make available a transcript that specifies the name of the institution, the name of the student, all courses completed, and an explanation of the institution's evaluation system. Each course entry shall include a title, the number of credits awarded, and a grade or written evaluation. The transcript shall distinguish credits awarded by transfer, for prior learning experience, ~~((correspondence,))~~ and credit by examination.

(b) The institution shall not be required to make copies of transcripts available unless all tuition and fees and other expenses owed by the student to the institution have been paid.

(c) In addition to transcripts, the institution shall maintain records to document the performance and progress of each student, including, but not limited to: Financial transactions, admissions records, and records of interruption for unsatisfactory progress or conduct. ~~Transcripts((records, and accounts))~~ shall be kept permanently after a student has discontinued enrollment. All other records and accounts shall be kept for a minimum of six years after a student has discontinued enrollment.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-120 Catalog requirements. ~~((1))~~ ~~An institution shall publish a catalog supplemented as necessary by other published materials (a draft copy may be provided for initial application) which shall include at least the following information:~~

~~(a) Official name, address, and telephone number of institution.~~

~~(b) Identifying data, such as volume number, date of publication, and year(s) for which the catalog is effective.~~

~~(c) A statement of purpose, objectives, and educational program of the institution.~~

~~(d) A listing of the names of all faculty, showing earned degrees and the institution conferring them; names of administrative officers, owner(s) and/or board.~~

~~(e) Specific programs of study, listing the degrees and majors offered, a brief description of each course offering, and the requirements for successful completion of each program.~~

~~(f) Admission, retention, and degree completion requirements.~~

~~(g) A detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, deposits, and all other student charges necessary for the completion of each program of study.~~

~~(h) Cancellation and refund policies.~~

~~(i) Policies and procedures relative to the granting of credit for experience, along with the maximum amount of credit which can be obtained in this manner.~~

(j) A statement of the institution's policy on acceptance of transfer credits and credit by examination.

(k) A statement explaining the transferability of the institution's credits to other institutions and the process by which a student may determine whether the institution's credits are transferable to another institution.

(l) Policies and procedures for the development of individualized courses and programs.

(m) A description of the types of financial aid assistance available to students enrolled in the institution.

(n) A description of student support services and auxiliary services available to students enrolled in the institution.

(o) A description of the institution's library facilities, and equipment.

(p) A table of contents.

(q) An institutional calendar showing legal holidays, beginning and ending dates of each term, and other important dates.

(r) Policies outlining students' academic responsibilities, standards of academic progress, grading, grievance and appeal process, and reentrance after dismissal for unsatisfactory progress.

(s) Regulations of conduct and disciplinary procedures.

(t) Name, title, and address/office location of personnel responsible for handling student complaints.

(u) An authorization statement on the cover or front page of the catalog which reads: The (name of institution) is authorized by the Washington higher education coordinating board and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree Authorization Act. This authorization is valid until (expiration date) and authorizes (name of institution) to offer the following degree programs: (List). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board office at P.O. Box 43430, Olympia, WA 98504-3430.

(2) An institutional catalog and other official publications shall not include accreditation statements unless the institution is accredited by an association recognized by the federal government.

(3) An institutional catalog shall be published at least once every two years and be provided to students at the time of their enrollment.) (1) An institution granted authorization shall publish a catalog supplemented as necessary by other published materials, providing sufficient information for students to obtain an adequate understanding of the institution, its programs, policies and procedures. Institutional catalogs shall be published at least once every two years and be provided to students at the time of their enrollment. Electronic catalogs must be archived and students must have access to the archived information.

(2) An institution granted authorization shall print a statement in a prominent position in the catalog and on its web site that reads: "The (name of institution) is authorized by the Washington Higher Education Coordinating Board (HECB) and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree-Granting Institutions Act. This authorization is subject to periodic review and authorizes (name of

institution) to offer the following degree programs: (List). Authorization by the HECB does not carry with it an endorsement by the board of the institution or its programs. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the HECB at P.O. Box 43430, Olympia, WA 98504-3430."

(3) The catalog shall include elements as required by the board in application materials such that a prospective student may become reasonably informed about the institution, its offerings, policies and procedures.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-130 Cancellation and refund requirements. (1) Each institution shall publish its cancellation and refund policies in clear language that can be easily understood by prospective students. No student shall be enrolled without having received the explanatory materials. These policies shall apply to all terminations for any reason, by either party.

(2) The refund policy ((for nonaccredited institutions)) shall comply with the federal guidelines established by the ((United States)) U.S. Department of Education((-

(3) The refund policy for accredited institutions shall comply with the federal guidelines established by the United States Department of Education)) and the standards established by ((the institution's accrediting association)) the accrediting association which accredits the institutions or from which the institution is seeking accreditation.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-140 ((Surety bond) Security requirements. The institution is required to have on file with the board an original surety bond or other security acceptable to the board in lieu of the bond.

(1) For institutions seeking initial authorization, the surety bond or security amount for the initial period of authorization shall be twenty-five thousand dollars.

(2) For institutions seeking renewal authorization, the ((amount of the)) surety bond or ((other)) security amount shall be ten percent of the preceding fiscal year's total tuition and fee ((charges)) revenue received for educational services in Washington, but not less than twenty-five thousand dollars nor more than two hundred fifty thousand dollars. For private vocational schools that offer nondegree programs as well as degree programs, the amount required shall be based only on the degree program portion of its revenue from tuition and fees.

((2) In the case of new institutions, the bond or security amount for the first year shall be twenty-five thousand dollars.))

(3) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-160 Discontinuance or closure requirements. (1) In the event an institution chooses to discontinue a program and/or site currently available to Washington residents, but maintain other operations, it shall notify the board well in advance of any such proposed action and provide information to the board pertaining to accommodations to be made for any currently enrolled students to ensure they are provided the opportunity to complete their studies.

(2) In the event an institution proposes to discontinue all its operation, the chief administrative officer of the institution shall:

(a) Notify the executive director immediately by certified mail(-); and

(b) Furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions(-); and

(c) The institution shall make all reasonable efforts to ensure that current students are provided with alternative opportunities to complete their studies; and

~~((2))~~ (d) Provide for the permanent maintenance of official records in a manner acceptable to the executive director.

~~((3))~~ In the event it appears to the executive director that the official records of an institution discontinuing its operation are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the students and the board, the executive director may seek a court order to take possession of the records and provide for their permanent maintenance.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-170 Application requirements. (1) Initial application ~~((requirements))~~:

(a) ~~((To apply for authorization an institution based outside of Washington shall be authorized to do business in the state in which it is primarily located, and shall furnish evidence that the institution is in good standing with its accrediting association and that the association has either approved or been notified of the proposed Washington operation(s). An institution based in Washington shall also furnish evidence that it is in good standing with its accrediting association.~~

~~((b))~~ Institutions seeking initial authorization shall contact the board staff ~~((and))~~ to arrange for a preliminary conference to discuss the authorization ~~((standards))~~ criteria, application procedures and ~~((application/))~~ the review ~~((pre-edures))~~ process.

~~((c))~~ At least one year prior to operation, an institution shall apply to the board for authorization by completing application forms provided by the executive director.

~~((d))~~ Within six months of the effective date of these regulations, degree-granting private vocational schools exempted under the previous regulations shall apply to the board for authorization by completing an application form and making their proportional initial capitalization contribution into the

~~board's tuition recovery trust fund account at the time of application.~~

~~((e))~~ As a minimum, the application shall include:

~~((i))~~ Name and address of institution.

~~((ii))~~ Purpose of institution.

~~((iii))~~ Names and addresses of the owner(s) of the institution and shareholders holding more than a ten percent interest, and, if applicable, members of the institution's board.

~~((iv))~~ Name and address of the chief administrative officer and representatives of the institution in Washington.

~~((v))~~ Bylaws and regulations established for the governance and operation of the institution.

~~((vi))~~ Bank or other financial institution that may be consulted as a financial reference.

~~((vii))~~ Resumes for administrators and faculty and their respective duties, course assignments, and full-time/part-time employment status.

~~((viii))~~ A description of the degrees and programs of study offered, including course syllabi as requested that specify course title and description, required text(s), sequence of instruction, instructional methodology, method of evaluation, and expected student learning outcomes.

~~((ix))~~ A description of the facilities and equipment utilized.

~~((x))~~ A signed written statement from the chief administrative officer attesting to the truth and accuracy of the information provided and pledging that the institution will comply with the requirements of the act and this chapter.

~~((xi))~~ Projected enrollments.

~~((f))~~ Each application shall be accompanied by the following:

~~((i))~~ An initial application fee payable to the Washington state treasurer for two thousand dollars.

~~((ii))~~ A surety bond or other form of security as specified in chapter 28B.85 RCW and this chapter.

~~((iii))~~ A financial statement, prepared by an independent certified public accountant, conforming to generally accepted accounting principles, and a two-year budget for the proposed Washington operation.

~~((iv))~~ A copy of enrollment agreements or student contracts utilized by the institution.

~~((v))~~ A copy of the institution's articles of incorporation on record with the Washington state office of the secretary of state.

~~((vi))~~ A copy of the institution's catalog.

~~((vii))~~ Documentation verifying the institution's accreditation status and authorization status in primary location.

~~((viii))~~ Documentation that fire, safety, and health codes are met by the institutional facility in Washington.

~~((g))~~ If additional program(s) of study or new locations for existing programs are proposed during the current authorization period, the institution shall submit to the board a supplemental application at least ninety days before the program is to be offered. The program(s) of study and location(s) shall be authorized prior to operation, which includes advertising and recruitment.) (b) An institution shall submit a fully completed application packet using forms provided by board staff. The application packet will not be considered complete until all required elements have been received by the board.

(c) An initial application fee in the amount of two thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington state treasurer.

(2) ((Biennial)) Renewal application ((for authorization)).

(a) ((At least six months prior to the expiration date of the institution's current authorization, an institution based outside of Washington shall provide evidence that it continues to be authorized to do business in the state in which it is primarily located and it continues to be in good standing with its accrediting association and that association continues to approve the Washington operation(s). An institution based in Washington shall also furnish evidence that it continues to be in good standing with its accrediting association. Additionally, such institutions shall:

(i) Submit a renewal application fee payable to the Washington state treasurer for one thousand dollars.

(ii) Provide evidence of continued compliance with the surety bond or security requirement.

(iii) Submit financial statement, prepared by an independent certified public accountant, conforming to generally accepted accounting principles, and a two-year budget for the continuing Washington operation.

(iv) File a renewal application on a form developed by the executive director, together with a signed, written statement from the chief administrative officer, attesting to the truth and accuracy of the information provided in the renewal application and pledging continued compliance with all the requirements of the act and this chapter.) Authorized institutions must submit an application for renewal of authorization on a biennial basis when requested by board staff.

(b) No later than the due date provided by the board, an institution seeking renewal must submit a fully completed renewal application packet using the forms provided by board staff. Failure to provide all requested materials by the due date may result in temporary suspension of the institution's authorization.

(c) A renewal application fee in the amount of one thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington state treasurer.

(3) Additional program(s).

(a) If an institution proposes to offer additional program(s) of study during the current authorization period, the institution shall submit a new program application well in advance of the proposed offering.

(b) The program(s) of study may not be offered, advertised or promoted prior to the granting of authorization.

(4) Additional site(s).

(a) If an institution proposes to offer programs at a new site in Washington, the institution shall submit a new site application well in advance of the proposed start of operations at that site.

(b) The site may not be utilized, advertised or promoted prior to the granting of authorization.

((b)) (5) Change of ownership or control. A significant change of ownership or control of an institution shall nullify any previous authorization((-and)). The chief administrator, representing the new owner(s), shall ((comply with all the

application requirements applicable to the initial application for authorization outlined in this section)) notify the board as soon as the change is known. If the chief administrator ((furnishes)) asserts in a written statement ((asserting)) that all conditions set forth in the act and these rules are being met or will be met before offering instruction, the executive director may issue a temporary certificate of authorization for a maximum of ((ninety)) one hundred eighty days. The new ownership shall complete an application for initial authorization and submit the application to the board no later than sixty days prior to the expiration of the temporary certificate of authorization.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-180 Application review procedures. (1) Staff analysis. Following receipt of a ((complete)) fully completed application, board staff shall review and analyze the ((application and documentation)) material submitted.

(2) ((Site visit and)) Additional documentation and site visit. ((In the case of an application where the)) If board staff determines it is necessary to verify or supplement the information provided in the application, the staff may require additional written documentation and/or arrange for a site visit. The expense for any site visits shall be paid by the institution applying for authorization.

(3) ((Outside)) External consultants. At the discretion of the executive director ((and the executive director's designee, at their discretion, may utilize)), the expertise of other higher education experts may be used to assist in the evaluation of the documentation submitted. The cost for the services of the evaluation expert(s) shall be paid by the institution applying for authorization. The ((institution applying for authorization shall reimburse a maximum of three outside consultants five hundred dollars each for their external reviews)) fee for such services is five hundred dollars per program per consultant, to be submitted by the institution upon request by the board during the review process. The check is to be made payable to the higher education coordinating board.

(4) Comment period. Upon completion of a preliminary review, the board shall post a notification of the request for authorization on its web site for a set period of time. Any persons having knowledge as to why the institution or its program(s) may not meet the requirements for degree authorization may provide comment to the board on the proposal.

((4)) (5) Staff ((report)) recommendations. ((Following the staff analysis)) After the final review has been completed, board staff shall summarize its findings and develop a recommendation to the executive director regarding the application. This recommendation ((shall be shared with the applicant as follows)) will take one of the following forms:

(a) That the institution be granted authorization, subject to biennial reporting and maintenance of the conditions under which authorization has been granted.

(b) That the institution be granted conditional authorization, subject to ((annual reporting)) additional conditions as established by the board, and maintenance of the conditions under which authorization has been granted.

(c) That the institution be denied authorization.

~~((5))~~ (6) Notification. Following the executive director's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the executive director to the chief administrative officer of the institution.

(a) The letter of authorization will serve as official authorization for the institution to operate in Washington ~~((and offer the stated program(s) of study at stated location(s)))~~ for the specific programs and locations designated in the letter.

~~((6))~~ (b) An institution denied authorization shall ~~((file))~~ be provided with an explanation as to how the institution and/or its programs failed to meet the criteria for authorization. Any institution denied authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of one thousand dollars ((reapplication fee in order to have the new application considered for authorization)). The check is to be made payable to the Washington state treasurer.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-190 Complaints. A student with a complaint against an authorized institution concerning loss of tuition and/or fees due to unfair or deceptive business practices by the institution shall make a reasonable effort to resolve the complaint directly with the institution. If a mutually satisfactory solution cannot be reached, the following procedure shall be pursued:

(1) Upon ~~((written))~~ receipt of a written complaint that an institution has failed or is failing to comply with the provisions of the act or this chapter, and documentation that the student has made a reasonable effort ~~((was made))~~ to resolve the complaint directly with the institution, the executive director shall notify the institution by mail of the nature of the complaint and shall conduct an investigation.

(2) If preliminary findings indicate that a violation(s) may have occurred or are occurring, the executive director shall attempt, through mediation and conciliation, to effect compliance and bring about a settlement.

(3) If no agreement is reached, the executive director shall file a formal complaint with the board and notify the institution of the conduct which warrants the complaint. Final resolution of the complaint shall be subject to hearing procedures provided for in this chapter and the institution may be subject to a summary suspension of its authorization, pending further proceedings for ~~((revocation,))~~ suspension, withdrawal or other actions deemed proper after the hearing.

(4) ~~((To be considered by the board, a complaint shall))~~ Any complaints must be filed within one year after the student's last recorded date of attendance in order to be considered by the board. Only the student or the student's legal guardian may file a complaint on behalf of the student.

(5) Complaints may also be filed with the board by an authorized staff member of the board or by the attorney general.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-200 Suspension ~~((and revocation))~~ or withdrawal of authorization. (1) The executive director may suspend or ~~((revoke))~~ withdraw an institution's authorization if it finds that:

(a) Any statement contained in the application for authorization is untrue~~((-))~~; or

(b) The institution has failed to maintain ~~((faculty, facilities, equipment, and programs of study on the basis of which the authorization was granted.))~~ the standards for authorization as detailed in the act and this chapter; or

(c) Advertising or representations made on behalf of, and sanctioned by, the institution is deceptive or misleading~~((-))~~; or

(d) The institution has violated any provision of this chapter.

(2) ~~((Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies and has been given reasonable time to restore itself to the level of the required standards. The executive director shall grant an institution a period of suspension if in the executive director's judgment any unsatisfactory condition can reasonably be corrected within such time.~~

~~((3))~~ The executive director may suspend the institution's authorization for a period of time if, in the executive director's judgment, the deficiencies can be corrected within the given time period. Upon suspension, the institution must immediately cease the recruitment and/or enrollment of new students. The institution may continue serving currently enrolled students for the remainder of the term. Authorization may be reinstated after any deficiencies have been resolved to the satisfaction of the board.

(3) Authorization shall be withdrawn only after the institution has been informed in writing of its deficiencies and been given reasonable time to meet the required standards. Upon withdrawal, the institution must immediately cease all degree-granting operations. To seek reinstatement of authorization, the institution must apply for initial authorization.

(4) The executive director's and board's actions are subject to due process hearing procedures of the Washington Administrative Procedure Act.

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-210 ~~((Request for adjudicative proceeding.))~~ Hearing process. (1) A party subject to the following actions may request a hearing ~~((as provided in WAC 250-61-220))~~:

(a) A denial of exemption from the Degree ~~((Authorization))-Granting Institutions Act;~~

(b) A denial of authorization under the Degree ~~((Authorization))-Granting Institutions Act;~~

(c) A cease and desist order issued under chapter 28B.85 RCW; or

(d) Other final action as defined in chapter 34.05 RCW, by the executive director that adversely affects the institution or student and which is contrary to the intent and purpose of

the Degree (~~(Authorization)~~)-Granting Institutions Act or this chapter.

(2) A party must submit a request for a hearing to the executive director at the board office no later than thirty days following receipt of the notice of final agency action. In the written request, the party must identify the final action in dispute and state that a hearing is requested.

(3) Any hearing called for under the act shall be conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW as follows:

(a) The presiding officer, who shall be the executive director or the hearing officer designated by the executive director, shall conduct the hearing under the provisions of chapter 34.05 RCW and shall enter an initial order under RCW 34.05.461 (2) through (9).

(b) The board shall review the initial order under RCW 34.05.464 and either enter a final order or remand the matter for further proceedings under RCW 34.05.464(7).

(c) If the challenged agency action is upheld, the party that initiated the hearing process shall pay the costs of the administrative hearing within sixty days following final disposition of the matter.

(d) Any further review of final action must be taken in accordance with RCW 34.05.510 et seq.

NEW SECTION

WAC 250-61-225 Issuance of false academic credentials. (1) It is unlawful for a person or entity to:

(a) Grant, award or offer to grant or award a false academic credential, in violation of this chapter; or

(b) Represent that a credit earned or granted by a person or entity, in violation of this chapter, can be applied toward a credential offered by another person; or

(c) Solicit another person to seek a credential or credit offered in violation of this chapter.

(2) The granting, awarding or issuance of a false academic credential is a Class C felony and is subject to criminal and civil penalties as prescribed in RCW 9A.20.021.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 250-61-220 Hearings.

WSR 08-18-061
PROPOSED RULES
STATE BOARD OF HEALTH

[Filed September 2, 2008, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-07-097.

Title of Rule and Other Identifying Information: Chapter 246-105 WAC, creating a new chapter; repealing WAC 246-100-166 Immunization of childcare and school children against certain vaccine-preventable diseases.

Hearing Location(s): Yakima Convention Center, 10 North 8th Street, Yakima, WA 98901-2515, on October 8, 2008, at 1:00 p.m.

Date of Intended Adoption: October 8, 2008.

Submit Written Comments to: Jeff Wise, Washington State Department of Health, Immunization Program CHILD Profile, P.O. Box 47843, Olympia, WA 98504-7843, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-5390, by October 3, 2008.

Assistance for Persons with Disabilities: Contact Desiree Robinson by October 1, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will: (1) Add pneumococcal to the list of vaccine-preventable diseases that children are to be vaccinated against before attending child care centers and preschools. Pneumococcal vaccination is routinely recommended by the Advisory Committee on Immunization Practices (ACIP) for children two to fifteen months of age. It is estimated that this requirement will help increase Washington's immunization coverage for this disease to 95% by 2011. (2) Update the ACIP recommended immunization schedule from the 2007 version to the 2008 version so that the rule reflects the best available science. (3) Repeal WAC 246-100-166 and recodify it into nine sections under new chapter 246-105 WAC while clarifying existing terms and policies. This will allow any future "housekeeping" activity to the rule, such as annual ACIP schedule updates, to be done through a more efficient process.

Reasons Supporting Proposal: This rule is necessary to: (1) Protect the health of young children from pneumococcal disease outbreaks by decreasing disease incidence through vaccination, (2) maintain consistency between Washington's school and child care center immunization requirements and national standards set by the ACIP, and (3) provide clarity for the reader and administrative efficiency of the rule itself in preparation for future proposals.

Statutory Authority for Adoption: RCW 28A.210.140.

Statute Being Implemented: RCW 28A.210.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: An effective date of July 1, 2009, is specifically chosen for the revised federal immunization schedule and the new pneumococcal vaccination requirement to allow schools and child care centers adequate time for implementation including parental education. It also correlates with our state fiscal year cycle for vaccine purchasing, and falls between school years for further ease of implementation for schools. All other aspects of this rule will be effective thirty-one days after filing the rule-making order with the code reviser.

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

Name of Agency Personnel Responsible for Drafting: Jeff Wise, DOH, Town Center #2, Tumwater, Washington, (360) 236-3483; Implementation and Enforcement: Janna Bardi, DOH, Town Center #2, Tumwater, Washington, (360) 236-3568.

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 Jeff Wise, Washington State Department of Health, P.O. Box 47843, Olympia, WA 98504, phone (360) 236-3483, fax (360) 236-3590, e-mail jeff.wise@doh.wa.gov.

September 2, 2008
Craig McLaughlin
Executive Director

Chapter 246-105 WAC

IMMUNIZATION OF CHILD CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES

NEW SECTION

WAC 246-105-010 Purpose. The purpose of this rule is to protect children and the public against certain vaccine-preventable diseases. Under the authority of the board of health, this rule describes the immunization requirements of children attending schools and child care centers.

NEW SECTION

WAC 246-105-020 Definitions. For the purposes of this chapter, the words and phrases in this section have the following meanings unless the context clearly indicates otherwise:

(1) "Certificate of exemption (COE)" means a form that is:

(a) Approved by the department and consistent with the requirements of WAC 246-105-050(2); or

(b) An immunization form produced by the state immunization information system.

(2) "Certificate of immunization status (CIS)" means a form that is:

(a) Approved by the department and consistent with the requirements of WAC 246-105-050(1); or

(b) An immunization form produced by the state immunization information system.

(3) "Chief administrator" means:

(a) The person with the authority and responsibility for supervising the immediate operation of a school or child care center; or

(b) A person designated in writing by the statutory or corporate board of directors of the school district or school; or

(c) If (a) and (b) of this subsection do not apply, a person or persons with the authority and responsibility for supervising the general operation of the school district or school.

(4) "Child" means any person regardless of age admitted to:

(a) Any public school district; or

(b) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060; or

(c) Any child care center.

(5) "Child care center" means any licensed facility or center that regularly provides care of children for periods of less than twenty-four hours per day subject to licensure by the department of early learning as described in chapter 43.215 RCW.

(6) "Conditional" means a type of temporary immunization status where a child is not immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization but is in the process of becoming fully immunized. A child in this status is allowed to attend a school or child care center provided:

(a) The parent has submitted the proper documentation under WAC 246-105-060 as evidence of progressing toward completing his or her required immunization(s); and

(b) The child receives the required immunizations within the time limits according to WAC 246-105-080(2).

(7) "Department" means the department of health.

(8) "Exempt" or "exemption" means a type of immunization status where a child has not been immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization due to medical, religious, philosophical or personal reasons. A child in this status is allowed to attend a school or child care center only by providing the required COE form.

(9) "Full immunization" or "fully immunized" means an immunization status where a child has provided proof of acquired immunity or has been vaccinated with immunizing agents against each of the vaccine-preventable diseases listed in WAC 246-105-030 according to the national immunization guidelines described in WAC 246-105-040.

(10) "Immunizing agent" means any vaccine or other immunologic drug licensed and approved by the United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against vaccine-preventable diseases.

(11) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county or combined county health district.

(12) "National immunization guidelines" means guidelines that are:

(a) Approved by the Advisory Committee on Immunization Practices (ACIP); and

(b) Published in the *Morbidity and Mortality Weekly Report (MMWR)*; and

(c) Consistent with the terms and conditions set forth in WAC 246-105-040.

(13) "Parent" means, for the purposes of signature requirements in this rule:

(a) The mother, father, legal guardian, or any adult *in loco parentis* of a child seventeen years of age or younger; or

(b) A person eighteen years of age or older; or

(c) An emancipated minor.

(14) "School" means a facility, site, or campus for programs of education as defined in RCW 28A.210.070 to include preschool and kindergarten through grade twelve.

NEW SECTION

WAC 246-105-030 Vaccine-preventable diseases children must be protected against for full immunization.

In accordance with the conditions of this chapter, a child is required to be vaccinated against, or show proof of acquired immunity for, the following vaccine-preventable diseases before attending school or a child care center:

- (1) Diphtheria;
- (2) Tetanus;
- (3) Pertussis (whooping cough);
- (4) Poliomyelitis;
- (5) Measles (rubeola);
- (6) Mumps;
- (7) Rubella;
- (8) Hepatitis B;
- (9) Haemophilus influenzae type B disease;
- (10) Varicella; and
- (11) Effective July 1, 2009, pneumococcal.

NEW SECTION

WAC 246-105-040 Requirements based on national immunization guidelines. The department shall develop and distribute implementation guidelines for schools and child care centers that are consistent with the national immunization guidelines described in this section and the requirements in WAC 246-105-090.

(1) Unless otherwise stated in this section, a child must be vaccinated against each vaccine-preventable disease listed in WAC 246-105-030 at ages and intervals according to the following published national immunization guidelines:

(a) Effective July 1, 2008, the "*Recommended Immunization Schedule for Persons Aged 0-18 Years, United States, 2007*"; as published in the *Morbidity and Mortality Weekly Report (MMWR)*, 2007;55(51 and 52):Q1-4.

(b) Effective July 1, 2009, the "*Recommended Immunization Schedule for Persons Aged 0-18 Years, United States 2008*"; as published in *MMWR* 2008;57(01):Q1-4.

(2) In addition to the ages and intervals required by subsection (1) of this section, the following vaccine administration guidelines shall apply. Schools and child care centers may accept one of the following as proof of a child's immunization status against varicella:

- (a) Documentation on the CIS form that the child received age appropriate varicella vaccine; or
- (b) Diagnosis or verification of a history of varicella disease by a health care provider; or
- (c) Diagnosis or verification of a history of herpes zoster by a health care provider; or
- (d) Serologic proof of immunity against varicella; or
- (e) Documentation by the parent that a child has a history of varicella. This type of proof will be accepted only for certain grade levels described in the department's implementation guidelines according to WAC 246-105-090(2).

NEW SECTION

WAC 246-105-050 Required documentation of immunization status. Before a child may attend a school or child care center, a parent must provide proof of immunization status using the following types of documentation:

(1) A department-approved CIS form which must be signed by the parent. The CIS form must include:

- (a) Name of child or student;
- (b) Birth date;
- (c) Type of vaccine(s) administered;
- (d) Month, day, and year of each dose of vaccine received;
- (e) A section to indicate whether an accompanying COE form has been provided;

(f) A section to document serologic proof of immunity which must be signed by a licensed health provider and include a copy of a lab report; and

(g) Parent signature and date.

(2) A department-approved COE form signed by a parent. A COE form must include:

- (a) Name of child or student;
- (b) Birth date;
- (c) A section to indicate a medical exemption for one or more vaccines which must be signed by a licensed health care provider;
- (d) A section to indicate a religious exemption for one or more vaccines;

(e) A section to indicate a personal or philosophical exemption for one or more vaccines;

(f) Notice to parents that if an outbreak of vaccine-preventable disease for which the child is exempted occurs, the child may be excluded from the school or child care center for the duration of the outbreak; and

(g) Parent signature and date.

NEW SECTION

WAC 246-105-060 Duties of schools and child care centers. (1) Schools and child care centers shall require a CIS form and, if applicable, a COE form, for new enrollees registering for admission into kindergarten through grade twelve or a child care center as a requirement of admission. Information on the CIS is used to determine if a child is fully immunized, conditional or exempt. A CIS form is required to provide evidence of full immunization upon admission unless a parent submits the following additional documentation as proof of conditional or exempt status:

(a) For conditional status, evidence of satisfactory progress toward full immunization, including:

- (i) Documentation of when the next immunization is due as determined by WAC 246-105-080(2);
- (ii) Documentation of start or continuance towards full immunization status; and
- (iii) Documentation that immunizations received are consistent with the national immunization guidelines described in WAC 246-105-040.

(b) For exempt status, a signed COE form indicating a medical, religious, philosophical or personal exemption.

(i) A medical exemption is allowed when a signature of a licensed medical doctor (M.D.), a doctor of osteopathy

(D.O.), doctor of naturopathy (N.D.), physician assistant (P.A.), or nurse practitioner (A.R.N.P.), acting within the scope of practice, certifies medical reasons to defer or forego one or more immunizations required for full immunization.

(ii) If immunizations are deferred on a temporary basis for medical reasons, the student must receive the required immunization(s) no later than thirty days after the expiration of the medical exemption.

(2) In maintaining child immunization records, schools and child care centers shall:

(a) Keep all department-approved forms described in WAC 246-105-050 for each enrolled child attending their school or child care center.

(b) Keep a list of children currently with medical, religious, philosophical, or personal exemptions. This list must be transmitted to the local health department upon request.

(c) Return the department-approved CIS or applicable COE or a legible copy of such documents to the parent if the child is withdrawn from a school or child care center or transferred from the school. A school or child care center may not withhold from the parent a child's department-approved CIS or COE for any reasons, including nonpayment of school or child care center fees.

(d) Provide access to immunization records to agents of the state or local health department of each child enrolled.

(3) In maintaining child immunization records, the chief administrator shall:

(a) Retain records for at least three years on a child who is excluded from school under this chapter. The record must include the child's name, address, and date of exclusion.

(b) Submit an immunization status report under chapter 28A.210 RCW either electronically on the internet or on a form provided by the department. The report must be submitted to the department by November 1 of each year. If a school opens after October 1, the report is due thirty days from the first day of school.

NEW SECTION

WAC 246-105-070 Duties of health care providers.

Persons or organizations administering immunizations, either public or private, shall:

(1) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(2) Provide immunizations and records in accordance with chapter 246-100 WAC.

NEW SECTION

WAC 246-105-080 Criteria for excluding children from schools or child care centers. For any child excluded under subsection (1), (2), or (3) of this section, schools must use procedures consistent with chapters 180-38 and 392-380 WAC. A school or child care center shall exclude a child if one or more of the following applies:

(1) Parent(s) fail to provide a completed CIS form on or before the child's first day of attendance.

(2) A child admitted under conditional status has not received the required immunization(s) within thirty days after the last day of the interval in which the child was due to have

received the next required dose according to WAC 246-105-040.

(3) A child has been admitted under a temporary medical exemption and the particular vaccine for which the exemption was granted is no longer contraindicated and the child has not received the immunization within thirty days from the due date for completion of the next dose.

(4) A local health officer excludes a child from school or a child care center under chapter 246-110 WAC during an outbreak of a vaccine-preventable disease if the child has not been fully immunized against that disease due to:

- (a) Conditional status;
- (b) Medical exemption;
- (c) Religious exemption;
- (d) Philosophical exemption; or
- (e) Personal exemption.

NEW SECTION

WAC 246-105-090 Implementation. (1) The department shall develop and distribute implementation guidelines for schools and child care centers that:

(a) Interpret immunization requirements by grade level consistent with the ages specified in the national immunization guidelines and this chapter; and

(b) Reflect national immunization guidelines for children who did not receive required immunizations prior to entry into kindergarten or first grade, and for whom a full series of immunizations is not recommended.

(2) The department may develop school implementation guidelines that waive or modify immunization requirements when a phasing-in period is warranted for a new immunization mandate, when there is limited availability of a required immunizing agent, or when new information about the safety or efficacy of an immunizing agent prompts a reevaluation of an existing vaccination requirement. Any waiver or modification must:

(a) Reflect the best available medical research as indicated by the ACIP or the state health officer recommendation;

(b) Identify a specific vaccine-preventable disease or immunizing agent;

(c) Identify a specific cohort of children by age or grade level;

(d) Be limited in duration; and

(e) Be approved by the board.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-100-166

Immunization of child care and school children against certain vaccine-preventable diseases.

WSR 08-18-063
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

(Division of Banks)

[Filed September 2, 2008, 12:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-056.

Title of Rule and Other Identifying Information: Compliance standards for *Federal Interagency Guidance on Non-traditional Mortgage Product Risks* and *Statement on Subprime Mortgage Lending*.

Hearing Location(s): Seattle Office of Division of Banks, Washington State Department of Financial Institutions, Active Voice Building, Conference Room, Suite 1030, 2033 6th Avenue, Seattle, WA 98121, on October 14, 2008, at 10:00 a.m.

Date of Intended Adoption: November 4, 2008.

Submit Written Comments to: Gloria McVey, P.O. Box 41200, Olympia, WA 98504, e-mail gmcvey@dfi.wa.gov, fax (360) 704-6947, by 5:00 p.m., October 13, 2008.

Assistance for Persons with Disabilities: Contact Gloria McVey by October 7, 2008, TTY (360) 664-8126.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement compliance standards for Washington state-chartered commercial banks, savings banks and savings associations as to *Federal Interagency Guidance on Nontraditional Mortgage Product Risks* and *Statement on Subprime Mortgage Lending*, consistent with RCW 19.144.040 (section 4, chapter 108, Laws of 2008).

Reasons Supporting Proposal: RCW 19.144.040 (section 4, chapter 108, Laws of 2008).

Statutory Authority for Adoption: RCW 19.144.040 (section 4, chapter 108, Laws of 2008).

Statute Being Implemented: RCW 19.144.040 (section 4, chapter 108, Laws of 2008).

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

Name of Proponent: Department of financial institutions, division of banks, governmental.

Name of Agency Personnel Responsible for Drafting: Joe Vincent, 150 Israel Road S.W., (360) 902-8704; Implementation and Enforcement: Brad Williamson, 150 Israel Road S.W., (360) 902-8704.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose more than minor additional costs on the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The department of financial institutions is not a select agency and is not proposing significant legislative rules.

September 2, 2008
 Brad Williamson
 Director of Banks

NEW SECTION

WAC 208-512-400 Purpose of these rules. These rules are designed to help Washington state-chartered banks (Title 30 RCW), savings banks (Title 32 RCW) and savings associations (Title 33 RCW) establish, reiterate, integrate and maintain their own policies and procedures regarding subprime and nontraditional mortgage lending guidance. These policies and procedures are required by a new state law, chapter 108, Laws of 2008 (chapter 19.144 RCW).

NEW SECTION

WAC 208-512-410 What is the "guidance"? Because of concerns about problems with subprime mortgage lending, the federal government issued the *Interagency Guidance on Nontraditional Mortgage Product Risks* and a *Statement on Subprime Mortgage Lending* (collectively, "the guidance"). In 2007, the governor convened the Washington state task force for homeowner security. The task force recommended including the federal guidance in state legislation. The 2008 Washington state legislature enacted SHB 2770, requiring the department of financial institutions to apply the two guidance documents to financial institutions in Washington. Starting in 2008, credit unions, banks, savings banks, savings associations, mortgage brokers and other Washington state consumer loan companies (collectively, "financial institutions") must have policies and procedures that use the guidance.

NEW SECTION

WAC 208-512-420 What does the guidance require of banks, savings banks and savings associations? The stated intent of the guidance is to help borrowers to better understand adjustable rate mortgage (ARM) risks. The guidance requires financial institutions to have policies and procedures that focus on the various risks of subprime/nontraditional mortgage lending. The guidance requires financial institutions to be aware of portfolio and risk management practices, to use appropriate underwriting standards and to abide by consumer protection principles. Financial institutions also need to maintain strong internal control systems. Many of the recommendations in the guidance are good business practices and may already be followed by financial institutions.

Not all of the elements of the guidance may be applicable to all banks, savings banks and savings associations, or to all other financial institutions. Banks, savings banks and savings associations must determine which elements are relevant to their operations, and incorporate only those subjects into their policies and procedures.

NEW SECTION

WAC 208-512-430 Is there a list of subjects that banks, savings banks and savings associations must include in their policies and procedures? Yes, the guidance requires all financial institutions, including banks, savings banks and savings associations, to focus on the following

subjects and apply the relevant ones to their existing policies and procedures:

- Help borrowers understand ARM risks, including:
 - Low initial payment;
 - High or unlimited reset rate caps;
 - Low or no documentation loans;
 - Problems of frequent refinancing;
 - Risk layering;
 - Simultaneous second lien loans;
 - Prepayment penalties;
 - FDIC prohibited practices (banks, savings banks and savings associations);
 - OTS prohibited practices (savings associations).
- Understand portfolio and risk management practices, including:
 - Relationship between subprime lending and predatory lending;
 - Risks of loans based on foreclosed or liquidation value;
 - Problem of loan "flipping";
 - Fraud detection;
 - Use of qualifying standards;
 - Maintenance of appropriate capital levels;
 - Use of appropriate allowance for loan and lease loss levels;
 - Risks of stated income loans;
- Underwriting standards.
- Workout arrangements.
- Consumer protection principles, including:
 - Use of a summary disclosure form;
 - Avoidance of steering borrowers to inappropriate products;
 - Explanation of payment shock risk;
 - Explanation of prepayment penalty;
 - Explanation of balloon payment;
 - Explanation of costs of low documentation or stated income loans;
 - Compliance with the Truth in Lending Act and other federal requirements;
 - Importance of good consumer communications in promotional materials and product descriptions;
 - Explanation of borrower responsibility for taxes and insurance.
- Development and maintenance of strong internal controls, including:
 - Management of deals with third-party originators;
 - Management of secondary market risk;
 - Effective management information and reporting;
 - Use of stress testing and performance measures;
 - Actual practices consistent with policies.

NEW SECTION

WAC 208-512-440 Where can I read the guidance documents? You can find the two federal guidance documents on the internet: <http://www.fdic.gov/news/news/press/2006/pr06086b.pdf>; and <http://www.fdic.gov/news/news/press/2007/pr07055a.html>.

You can also click on the links on the DFI web site at www.dfi.wa.gov.

If you do not have internet access, you may contact the department of financial institutions, division of banks (division of banks) for a copy of the documents.

Read these documents to ensure proper application of the law to your institution and to comply with the required integration of the guidance into your policies and procedures. If your institution needs help incorporating the guidance or reconciling it to your policies and procedures, contact your legal counsel.

NEW SECTION

WAC 208-512-450 Why do I need to read the federal guidance documents? The federal guidance consists of two lengthy documents that are very detailed. Because they are required by state statutory law, they apply in their entirety. Division of banks cannot merely summarize them or give you a checklist. You must read the documents in order to apply them to your particular institution by means of integrating the guidance into your own policies and procedures.

NEW SECTION

WAC 208-512-460 What will the division of banks do about compliance with guidance policies and procedures? Every state-chartered bank, savings banks and savings association is different. There is no "one-size-fits-all" guidance available. Division of banks will not issue model guidance, because the process of self-analysis that your institution needs to do, in order to develop its own guidance policies and procedures, is beneficial. The division of banks does not provide technical legal advice. Also, the guidance is complex and will result in variations in wording or applicability of guidance policies and procedures among institutions, depending upon the size and complexity of a particular institution, the overall characteristics of its mortgage lending market base, and the specific types of mortgage lending it does, if any.

For supervision purposes, the division of banks will:

(1) Verify that an institution has integrated the guidance into its policies and procedures, as part of its risk-focused examination. Division of banks will not mandate the length or exact wording used in the guidance policies and procedures.

(2) Review the guidance policies and procedures with the institution, if a consumer complaint indicates a problem or issue regarding subprime and nontraditional mortgage lending practices.

(3) Verify that an institution is following its policies and procedures.

The division of banks expects prompt compliance by banks, savings banks and savings associations with the requirements of this rule.

The law provides the division of banks with examination, enforcement and investigation authority to take appropriate action against banks, savings banks and savings associations that are in noncompliance with the guidance policies and procedures requirement.

WSR 08-18-065
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Division of Credit Unions)
[Filed September 2, 2008, 1:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-057.

Title of Rule and Other Identifying Information: Credit union compliance standards for *Federal Interagency Guidance on Nontraditional Mortgage Product Risks* and *Statement on Subprime Mortgage Lending*.

Hearing Location(s): John A. Cherberg, Senate Office Building, Hearing Room 3, State Capitol Campus, Olympia, Washington 98504, on October 30, 2008, at 10 a.m. to 12 noon.

Date of Intended Adoption: November 4, 2008.

Submit Written Comments to: Joanne Conrad, Regulatory Analyst, Department of Financial Institutions, P.O. Box 41200, Olympia, WA 98504-1200, e-mail jconrad@dfi.wa.gov, fax (360) 704-6490, by October 30, 2008.

Assistance for Persons with Disabilities: Contact Rhonda Mires by e-mail rmires@dfi.wa.gov, TTY (360) 664-8126 or (360) 902-8718.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement compliance standards for Washington state-chartered credit unions as to the *Federal Interagency Guidance on Nontraditional Mortgage Product Risks* and the *Statement on Subprime Mortgage Lending*, consistent with RCW 19.144.-040 (section 4, chapter 108, Laws of 2008).

Reasons Supporting Proposal: Required by RCW 19.144.040 (chapter 108, Laws of 2008).

Statutory Authority for Adoption: RCW 19.144.040 (chapter 108, Laws of 2008).

Statute Being Implemented: RCW 19.144.040 (section 4, chapter 108, Laws of 2008).

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

Name of Proponent: Department of financial institutions, division of credit unions, governmental.

Name of Agency Personnel Responsible for Drafting: Joanne Conrad, 150 Israel Road, Tumwater, WA 98501, (360) 902-8813; Implementation and Enforcement: Linda Jekel, 150 Israel Road, Tumwater, WA 98501, (360) 902-8778.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose more than minor additional costs on the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The department of financial institutions is not a select agency, and is not proposing significant legislative rules.

September 2, 2008
Linda Jekel, Director
Division of Credit Unions

Chapter 208-490 WAC

"GUIDANCE" FOR CREDIT UNIONS

NEW SECTION

WAC 208-490-010 Purpose of these rules. These rules are designed to help Washington state-chartered credit unions establish, reiterate, integrate and maintain their own policies and procedures regarding subprime and nontraditional mortgage lending guidance. These policies and procedures are required by chapter 108, Laws of 2008 (chapter 19.144 RCW).

NEW SECTION

WAC 208-490-020 What is the "guidance"? Because of concerns about problems with subprime mortgage lending, the federal government issued the *Interagency Guidance on Nontraditional Mortgage Product Risks* and a *Statement on Subprime Mortgage Lending* (collectively, "the guidance").

In 2007, governor Christine Gregoire convened the Washington state task force for homeowner security. The task force recommended including the federal guidance in state legislation. The 2008 Washington state legislature enacted SHB 2770, requiring the department of financial institutions to apply the two guidance documents to financial institutions in Washington. Starting in 2008, credit unions, banks, mortgage brokers and other Washington state financial institutions must have "policies and procedures" that use the guidance.

NEW SECTION

WAC 208-490-030 What does the guidance require of credit unions? The stated intent of the guidance is to help borrowers to better understand adjustable rate mortgage (ARM) risks. The guidance requires credit unions and other financial institutions to have "policies and procedures" that focus on the various risks of subprime/nontraditional mortgage lending.

The guidance requires credit unions to be aware of portfolio and risk management practices, to use appropriate underwriting standards and to abide by consumer protection principles. Credit unions also need to maintain strong internal control systems. Many of the recommendations in the guidance are good business practices, and may already be followed by credit unions.

Not all of the elements of the guidance may be applicable to all credit unions. Credit unions must determine which elements are relevant to their operations, and incorporate only those subjects into their policies and procedures.

NEW SECTION

WAC 208-490-040 Is there a list of subjects that credit unions must consider for inclusion in their policies and procedures? Yes, the guidance requires all financial institutions, including credit unions, to focus on the following subjects and apply the relevant ones to their existing policies and procedures:

- Help borrowers understand ARM risks, including:
 - Low initial payment;
 - High or unlimited reset rate caps;
 - Low or no documentation loans;
 - Problems of frequent refinancing;
 - Risk layering;
 - Simultaneous second lien loans;
 - Prepayment penalties;
 - NCUA prohibited practices.
 - Understand portfolio and risk management practices, including:
 - Relationship between subprime lending and predatory lending;
 - Risks of loans based on foreclosed or liquidation value;
 - Problem of loan "flipping";
 - Fraud detection;
 - Use of qualifying standards;
 - Maintenance of appropriate capital levels;
 - Use of appropriate allowance for loan and lease loss levels;
 - Risks of stated income loans.
 - Underwriting standards.
 - Workout arrangements.
 - Consumer protection principles, including:
 - Use of a summary disclosure form;
 - Avoidance of steering borrowers to inappropriate products;
 - Explanation of payment shock risk;
 - Explanation of prepayment penalty;
 - Explanation of balloon payment;
 - Explanation of costs of low documentation or stated income loans;
 - Compliance with the Truth in Lending Act and other federal requirements;
 - Importance of good consumer communications in promotional materials and product descriptions;
 - Explanation of borrower responsibility for taxes and insurance.
 - Development and maintenance of strong internal controls, including:
 - Management of deals with third-party originators;
 - Management of secondary market risk;
 - Effective management information and reporting;
 - Use of stress testing and performance measures;
 - Actual practices consistent with policies.
- There may also be other subjects contained in the guidance that may be relevant to some credit unions.

NEW SECTION

WAC 208-490-050 Where can I read the guidance documents? You can find the two federal guidance documents on the internet: <http://www.fdic.gov/news/news/press/2006/pr06086b.pdf>; and <http://www.fdic.gov/news/news/press/2007/pr07055a.html>.

You can also click on the links on the DFI web site at www.dfi.wa.gov.

If you do not have internet access, you may contact the department of financial institutions, division of credit unions (DCU) for a copy of the documents.

Read these documents carefully to ensure your credit union's application of the law, and to comply with its required integration of the guidance into your policies and procedures. If your credit union needs help incorporating the guidance into your policies and procedures, contact your lawyer.

NEW SECTION

WAC 208-490-060 Why do I need to read the federal guidance documents? The federal guidance consists of two lengthy documents that are very detailed. Because they are required by state statutory law, they apply in their entirety. DCU cannot merely summarize them or give you a checklist. You must read the documents in order to apply the relevant provisions to your particular credit union, by integrating the guidance into your own policies and procedures.

NEW SECTION

WAC 208-490-070 What will the division of credit unions do about compliance with guidance policies and procedures? Every state-chartered credit union is different. There is no one-size-fits-all guidance available. DCU will not issue model guidance, because the process of self-analysis that a credit union needs to do, in order to develop its own guidance policies and procedures, is beneficial. The DCU does not provide technical legal advice.

Also, the guidance is complex, and will result in variations in wording or applicability of guidance policies and procedures among credit unions, depending upon the size and complexity of that particular credit union, the characteristics of its membership base, and the type of mortgage lending it does, if any.

For supervision purposes, the division of credit unions will:

(1) Verify that a credit union has integrated the guidance into its policies and procedures, as part of its risk-focused exam. DCU will not mandate the length or exact wording used in the guidance policies and procedures.

(2) Review the guidance policies and procedures with the credit union, if a consumer complaint indicates a problem or issue regarding subprime and nontraditional mortgage lending practices.

(3) Verify that a credit union is following its policies and procedures.

The DCU expects prompt compliance by credit unions with the requirements of this rule.

The law provides DCU with examination, enforcement and investigation authority to take appropriate action against credit unions that are in noncompliance with the guidance policies and procedures requirement.

WSR 08-18-082
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed September 3, 2008, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-053.

Title of Rule and Other Identifying Information: Implementing the one page disclosure summary requirement of RCW 19.144.020.

Hearing Location(s): John A. Cherberg Senate Building, Senate Hearing Room 4, Capitol Campus, Olympia, Washington 98504, on October 7, 2008, at 9 - 11 a.m.

Date of Intended Adoption: November 4, 2008.

Submit Written Comments to: Susan Putzier, P.O. Box 41200, 150 Israel Road, Olympia, WA 98504-1200, e-mail sputzier@dfi.wa.gov, fax (360) 586-5068, by October 7, 2008.

Assistance for Persons with Disabilities: Contact Susan Putzier by September 30, 2008, TTY (360) 664-8126 or (360) 902-8786.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to provide guidance to those affected by the law, including commercial and alien banks under Title 30 RCW, savings banks under Title 32 RCW, savings associations under Title 33 RCW, credit unions under chapter 31.12 RCW, consumer loan companies under chapter 31.04 RCW, and mortgage brokers under chapter 19.146 RCW.

Reasons Supporting Proposal: Requirement under RCW 19.144.020.

Statutory Authority for Adoption: RCW 43.320.040; chapter 19.144 RCW.

Statute Being Implemented: Chapter 19.144 RCW.

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

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Catherine Mele-Hetter, 150 Israel Road S.W., Olympia, WA, (360) 902-8764.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will not impose more than minor costs on the businesses impacted by the proposed rule.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

September 3, 2008

Deborah Bortner, Director
Division of Consumer Services

Chapter 208-600 WAC

MORTGAGE LENDING AND HOME OWNERSHIP

NEW SECTION

WAC 208-600-100 Reserved.

NEW SECTION

WAC 208-600-200 Residential mortgage loan one page disclosure summary. (1) **Purpose and scope of rule.** This rule is the result of legislation recommended by the Washington state task force on homeowner security. The

legislation was enacted by the Washington state legislature, at chapter 108, Laws of 2008, and codified in chapter 19.144 RCW. The stated intent of the law is to enhance responsible mortgage lending, protect borrowers, and preserve access to credit in the residential real estate market. The law requires disclosure of certain material terms of residential mortgage loans. The law also provides the department of financial institutions (DFI) with the discretionary regulatory authority to require disclosure of additional information, to clarify material terms, and to otherwise protect borrowers as needed in the residential mortgage loan market. The law mandates the one page disclosure summary in RCW 19.144.020(2), and authorizes DFI, under RCW 19.144.020(3), to require additional disclosures for the purpose of protecting borrowers.

(2) **Definitions.** For the purposes of this section, the following definitions apply:

(a) "Application" means the same as in the Real Estate Settlement Procedures Act (RESPA), Regulation X, 24 C.F.R. Sec. 3500.2(b).

(b) "Business day" means any day of the week except Sunday and federally recognized bank holidays.

(c) "Closing" means the process of signing the loan documents and disbursing the loan funds under the following two scenarios:

(i) Where the borrower is provided a right of rescission under the Truth in Lending Act, closing occurs at the expiration of the rescission period; or

(ii) Where the borrower is not provided a right of rescission under the Truth in Lending Act, closing occurs at the time the loan documents are signed.

(d) "Discount points" or "points" refer to a fee paid by the borrower to the lender to reduce the interest rate. The points are expressed as a percent of the loan amount. The higher the points paid, the lower the interest rate.

(e) "Finance charge" means the same as in the Truth in Lending Act, Regulation Z, 12 C.F.R. Sec. 226.4 excluding prepaid finance charges.

(f) The "fully indexed rate" is:

(i) The current value of the rate index used by a particular adjustable rate mortgage (ARM); plus

(ii) A margin applied to that ARM which may vary from one transaction to another but stays the same throughout the life of that particular ARM.

(g) The "maximum interest rate" is the highest interest rate allowed under the loan agreement. It is not the default rate.

(h) "Reduced documentation" or "stated income" loan means a loan for which the lender may charge more because the borrower does not provide full documentation of income or assets.

(i) "Residential mortgage loan" means an extension of credit secured by residential real property located in this state upon which is constructed or intended to be constructed, a single-family dwelling or multiple-family dwelling of four or less units. It does not include a reverse mortgage or a borrower credit transaction that is secured by rental property. It does not include a bridge loan. It does not include loans to individuals making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment. For purposes of this subsection, a "bridge loan" is any

temporary loan, having a maturity of one year or less, for the purpose of acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

For purposes of this definition, residential mortgage loan means a loan used to purchase an owner-occupied, primary residence, or second home.

For purposes of this definition, a residential mortgage loan does not include an extension of credit secured by residential real property located in this state for business, commercial, or agricultural purposes, or an extension of credit secured by residential real property located in this state for the primary purpose of financing income or investment property.

For purposes of this definition, a residential mortgage loan does not include an extension of credit secured by residential real property located in this state for an open or closed-end home equity line of credit (HELOC).

(j) For purposes of this disclosure, "yield spread premium" or "YSP" means a payment to a broker by a lender for originating a mortgage loan. The YSP should be used to reduce the fees normally charged the borrower for a market rate loan. A YSP is separate from a mortgage broker fee.

(3) Do I have to provide borrowers with a disclosure summary in addition to all other required disclosures at loan application? Yes. State law now requires a clear, brief one page summary to help borrowers understand their loan terms. See RCW 19.144.020.

(4) What information must be provided in the disclosure summary? The disclosure summary must provide at a minimum the following material terms:

(a) Loan fees that are charged and retained by the broker or lender (for example, processing, underwriting, or document preparation fees).

(b) Discount points the borrower will pay to reduce the interest rate.

(c) Interest rates (initial, fully indexed, maximum).

(d) Broker fee or lender's origination fee.

(e) Broker yield spread premium, expressed as a dollar amount.

(f) Whether the loan contains a prepayment penalty.

(g) Whether the loan contains a balloon payment.

(h) Whether the property taxes and property insurance are included (escrowed) in the loan payment.

(i) Amount of the initial loan payment.

(j) Amount of the fully indexed loan payment.

(k) Amount of the maximum loan payment.

(l) Whether the loan cost or rate is based on reduced documentation.

(m) Principal amount of the loan.

(n) The date the loan resets to a higher interest rate.

(5) How must I provide the disclosure summary to the borrower? The disclosure summary must be provided on one page separate from any other documents and must use clear, simple, plain language terms that are reasonably understandable to the average person.

(6) When must I provide the disclosure summary?

(a) You must provide the initial disclosure summary to the borrower within three business days following your receipt of a complete loan application.

(b) You must redisclose material loan terms within three days of a significant change, or at least three days before closing, whichever is earlier.

(c) For purposes of this disclosure, "provide" includes sending the disclosure to the borrower's address via the United States Postal Service or other common carrier within the statutory time frames.

(7) What type of change in a material term triggers redisclosure? You must redisclose any significant change in a material term. A "significant change" is any change which results in an increase in the borrower's loan amount or fees as follows:

(a) Any increase in the principal loan amount by five percent or more from the most recently disclosed loan amount;

(b) Any increase in the interest rate greater than one-eighth of one percent;

(c) A change in the loan type (fixed to adjustable or adjustable to fixed);

(d) Any increase in the broker's yield spread premium, the loan origination fee, discount point fees, or any other fees considered finance charges under the Truth in Lending Act, by five hundred dollars or more;

(e) A "significant change" also means any change in the following:

(i) Whether the loan contains a prepayment penalty;

(ii) Whether the loan contains a balloon payment;

(iii) Whether the property taxes and property insurance are included (escrowed) in the loan payment;

(iv) Whether the loan cost or rate is based on reduced documentation.

(8) Will the department create a form I can use? Yes. The department of financial institutions will make a model form available to you. However, you may choose to use a form that you design, as long as it is clear, accurate, contains all of the material terms, uses simple language, and fits on one page.

(9) Can I provide the disclosure summary electronically? Yes. You may provide the disclosure summary in electronic form, in a manner consistent with the procedure for delivery of electronic disclosure under Regulation Z of the Truth in Lending Act, 12 C.F.R. Part 226, currently in effect, which implements the E-Sign Act of 2000, 15 U.S.C. Sec. 7001 et seq.

(10) Do I have to provide borrowers with the disclosure summary if their loan application is denied within three days of being taken? No. If the borrower's loan application is canceled, withdrawn, or denied within three days of being taken, you do not have to provide the disclosure summary.

NEW SECTION

WAC 208-600-300 Reserved.

NEW SECTION

WAC 208-600-400 Reserved.

NEW SECTION**WAC 208-600-500 Reserved.**NEW SECTION**WAC 208-600-600 Reserved.**NEW SECTION**WAC 208-600-700 Reserved.**NEW SECTION**WAC 208-600-800 Reserved.**NEW SECTION**WAC 208-600-900 Reserved.**

WSR 08-18-085
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed September 3, 2008, 11:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-14-113.

Title of Rule and Other Identifying Information: WAC 363-116-200 Duties of pilots.

Hearing Location(s): 2901 Third Avenue, 1st Floor, Agate Conference Room, Seattle, WA 98121, on October 9, 2008, at 9:30 a.m.

Date of Intended Adoption: October 9, 2008.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail laronp@wsdot.wa.gov, fax (206) 515-3906, by October 2, 2008.

Assistance for Persons with Disabilities: Contact Judy Bell by October 6, 2008, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To set forth requirements for a pilot on board a vessel which has been involved in a serious marine incident.

These requirements involve stabilizing the vessel, relieving the pilot, transferring the con, and drug and alcohol testing.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The board has received comments from the Puget Sound pilots favoring the adoption [of] this new rule. Further written and oral comments are welcome throughout the rule-making process. The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written

comments from the public and any other interested party.

Name of Proponent: Board of pilotage commissioners, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The application of the proposed modifications is clear in the description of the proposal and its anticipated effects as well as the attached proposed language.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

September 3, 2008

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 08-15-119, filed 7/21/08, effective 8/21/08)

WAC 363-116-200 Duties of pilots. (1) In any case where a vessel in the charge of a state licensed pilot is involved in an incident or near-miss occurrence, said pilot shall make a report to the board in the following required manner:

(a) *Pilot's Report of Incident.* A state licensed pilot involved in an incident shall notify the board by telephoning or radioing the Marine Exchange of Puget Sound as soon as the situation is stabilized or within one hour of reaching shore. The pilot shall also complete the board required *Pilot's Report of Incident* form and file it with the board as soon as possible after the incident, but in no event more than ten days afterwards. An incident includes an actual or apparent collision, allision or grounding, as well as a navigational occurrence which results in actual or apparent personal injury or property damage or environmental damage.

(b) *Pilot's Report of Marine Safety Occurrence.* A state licensed pilot involved in a near-miss occurrence shall complete the board required *Pilot's Report of Marine Safety Occurrence* form and file it with the board as soon as possible after the near-miss occurrence, but in no event more than ten days afterwards. A near-miss occurrence is where a pilot successfully takes action of a nonroutine nature to avoid a collision with another vessel, structure or aid to navigation, to avoid a grounding of the vessel or to avoid causing damages to the environment. Information relating to near-miss occurrences provided by a pilot on this form shall not be used for imposing any sanctions or penalties against said pilot. A state licensed pilot may also use this form on a voluntary basis for reporting out of the ordinary occurrences or concerns for navigational safety encountered or observed during the course of piloting a vessel.

(c) Completion of these forms does not replace or relieve a pilot from any other reporting requirements under federal, state or local law. If circumstances permit, a pilot will notify the vessel master of his/her intent to file a report of incident or marine safety occurrence with the board. The board shall

forward a copy of any form received to the respective shipper or its board representative. The board of pilotage commissioners may, with or without a complaint being made against a pilot, investigate the matter reported upon.

(2) Pilots will report to the aids to navigation officer of the United States Coast Guard, all changes in lights, range lights, buoys, and any dangers to navigation that may come to their knowledge.

(3) Any pilot who shall fail, neglect or refuse to make a report to the board of pilotage commissioners as required by the pilotage laws of the state, or by these rules and regulations, for a period of ten days after the date when said report is required to be made, shall be subject to having his/her license suspended at the discretion of the board, and if he/she fails to report for a period of thirty days the board may, at its discretion, revoke his/her license.

(4) Pilots when so notified in writing shall report in person to the board, at any meeting specified in such notice.

(5) Any pilot summoned to testify before the pilotage board shall appear in accordance with such summons and shall make answer, under oath, to any question put to him/her which deals with any matter connected with the pilot service, or of the pilotage waters over which he/she is licensed to act. The pilot shall be entitled to have his/her attorney or advisor present during any such appearance and testimony.

(6) Any pilot who shall absent himself/herself from his/her pilotage duties or district for a period of sixty days without permission of the board of pilotage commissioners shall be liable to suspension or to the forfeiture of his/her license.

(7) A pilot on boarding a ship, if required by the master thereof, shall exhibit his/her license, or photo static copy thereof.

(8) When a pilot licensed under this act is employed on an enrolled ship, the same rules and regulations shall apply as pertain to registered ships.

(9) Any state licensed pilot assigned to pilot a vessel entering, leaving, or shifting berths under its own power in any of the waters subject to the provisions of chapter 88.16 RCW shall before assuming pilotage obligations for such vessel obtain assurance from the master that the vessel meets all requirements for safe navigation and maneuvering. In addition, the pilot shall obtain assurance that the ship's officers will maintain navigation procedures by all navigational aids available to insure that the vessel's position is known at all times. If the pilot in his/her professional judgment considers the vessel to be incapable of safe navigation and maneuvering due to performance limitations, he/she shall refuse to assume the obligations of pilotage for such vessel until such limitations have been corrected and shall promptly notify the pilot's control station and the chairman of the board of pilotage commissioners of such action.

(10) In providing pilotage services under chapter 88.16 RCW every pilot shall perform those duties in a professional manner and without negligence so as to not endanger life, limb or property, not violate or not fail to comply with state laws or regulations intended to promote marine safety or to protect navigable waters.

(11) A pilot involved in a serious marine incident as that term is defined in 46 CFR 4.03-2 shall, in addition to meeting all requirements imposed by federal law:

(a) To the extent practicable and safe, stabilize the vessel and request relief by the dispatching of another pilot;

(b) As soon as the relief pilot arrives, transfer the con of the vessel to the new pilot;

(c) Depart the vessel and immediately proceed to an independent drug and alcohol testing site and take a drug and alcohol test that complies with the requirements of 46 CFR Part 4.06.

WSR 08-18-089

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed September 3, 2008, 11:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-122 and 08-12-111.

Title of Rule and Other Identifying Information: Chapter 308-20 WAC, Cosmetology, barber, manicurist, and estheticians; amending WAC 308-20-010 Definitions, 308-20-055 Apprentice records, 308-20-080 Minimum instruction guidelines for cosmetology, barbering, manicuring and esthetics training, 308-20-090 Student credit for training in a licensed [school] and 308-20-101 Apprentice credit for training in an approved apprentice salon/shop; and new sections: Student registration, examination code of conduct, preinspection of schools.

Hearing Location(s): Department of Licensing, Building 2, Conference Room 209, 405 Black Lake Boulevard S.W., Olympia, WA 98502, on October 10, 2008, at 9:30.

Date of Intended Adoption: October 13, 2008.

Submit Written Comments to: Lawna Knight, Department of Licensing, Cosmetology Program, P.O. Box 9026, Olympia, WA 98507, e-mail lknight@dol.wa.gov, fax (360) 664-2550, by October 8, 2008.

Assistance for Persons with Disabilities: Contact Lawna Knight by October 6, 2008, TTY (360) 664-8885 or (360) 664-6643.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to the passage of SHB 2427 which made the cosmetology apprenticeship pilot program permanent, the department needs to clarify the approval process for the registration of apprentice trainers, amend language that refers to the apprenticeship pilot program, and any other rules that need further written clarification.

The department is also considering adding a new section regarding the registration of students and apprentices to validate attendance at licensed schools and apprentice salons; and establish examination procedures for testing sites. Adding additional licensing requirements that include requiring additional documentation and submitting to a preinspection of the site prior to opening a school.

Statutory Authority for Adoption: RCW 18.16.030, 43.24.023.

Statute Being Implemented: RCW 18.16.030.

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, Implementation and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., (360) 664-6647.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will have minor impact to businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule revision. Washington state department of licensing is not a named agency, therefore, exempt from the provision.

September 3, 2008

Susan Colard
Assistant Administrator

AMENDATORY SECTION (Amending WSR 05-17-020, filed 8/4/05, effective 9/4/05)

WAC 308-20-010 Definitions. (1) "Chemical compounds formulated for professional use only" are those compounds containing hazardous chemicals in a form not generally sold to the public; including but not limited to, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances, facial creams, or approved chemical compounds. These compounds must be designated for use on the hair, face, neck, skin, or scalp.

(2) "Monthly student report" are forms provided by the school, approved by the department, preprinted with the school name. The report must include the daily activities of the student in each subject, (i.e., number of shampoos, haircuts, perms, colors, etc.) within each course (i.e., barbering, manicuring, cosmetology, esthetics, or instructor-trainee).

(3) "Completed and graduated" is the completion of the school curriculum and the state approved minimum hourly course of training.

(4) "Apprentice salon/shop" is a location certified by the ~~((advisory committee))~~ Washington state apprenticeship and training committee, that provides training for individuals accepted into the apprenticeship program. Apprentice salon/shops shall not receive payment from the apprentice for training.

(5) "Apprentice trainer" is a person that is currently licensed and in good standing. This person provides training in a licensed shop approved for the apprenticeship program, who must have received journey level training and have held a license in the curriculum for which he or she is providing training for a minimum of three years.

(6) "Journey level training" is the completion of three years working as a licensed cosmetologist, barber, manicurist or esthetician.

(7) "Completion of the apprenticeship ~~((program))~~ training" is the completion of the apprentice salon/shop curriculum that includes the state approved hourly course of training as described in WAC 308-20-080.

~~((7))~~ (8) "Monthly apprentice report" forms provided by the apprentice shop, approved by the department, printed

with the shop name, for use in recording apprentice training hours and activities.

AMENDATORY SECTION (Amending WSR 04-05-005, filed 2/6/04, effective 3/8/04)

WAC 308-20-055 Apprentice records. (1) Apprentice salon/shops shall collect and record monthly and final apprentice training records. ~~((Copies of each apprentice's records shall be forwarded to the apprenticeship program. The records))~~ These reports described in WAC 308-20-010(8) shall contain the cumulative number of hours the apprentice has earned in each area of the minimum instruction guidelines and the number of times an apprentice performs an activity.

(2) Copies of each apprentice's records shall be kept on file at the apprentice shop for the duration of training for each apprentice and provided to the apprentice and the apprenticeship program at the end of each month of training.

(3) Monthly and final apprentice records shall be signed by the trainer and shop owner. The apprentice salon/shop shall notify the department of persons authorized to sign the apprentice's records on forms provided by the department.

~~((3))~~ (4) At the completion of training the apprenticeship program shall certify to the department on forms provided by the department that the apprentice has satisfied the minimum number of training hours required in the standards of the apprenticeship program which must include the minimum instruction requirements for cosmetology, barbering, manicuring and esthetics training as described in WAC 308-20-080.

~~((4))~~ (5) The apprentice records shall be maintained by the shop during the training and by the Washington state apprenticeship ~~((program))~~ and training committee for three years once training is completed. The apprentice records shall include documentation of apprentice training.

NEW SECTION

WAC 308-20-065 Student and apprentice registration. (1) All schools and apprentice shops shall register any new student to the department in a manner and format prescribed by the department no later than the 10th day of each month.

(2) At least one time per month, schools and apprentice shops shall submit to the department, a record of each student or apprentice's accrued clock hours in a manner and format prescribed by the department. A school or apprentice shop's initial submission of clock hours shall include all hours accrued at the school or apprentice shop and all transferred hours received by the school or apprentice shop.

(3) Upon graduation, a school shall certify in a manner and format prescribed by the department that a student has completed the curriculum hours approved by the department. Upon completion of the apprenticeship training program, the apprentice shop shall certify in a manner and format prescribed by the department that an apprentice has completed the minimum number of training hours approved by the department.

(4) Schools and apprentice shops shall submit a student or apprentice's withdrawal or termination to the department within ten calendar days after the withdrawal or termination.

(5) Schools and apprentice shops shall submit a student or apprentice's leave of absence request approved by the school or apprentice shop to the department within ten calendar days of the start date of the leave.

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-080 Minimum instruction guidelines for cosmetology, barbering, manicuring and esthetics training. The minimum instruction guidelines for training required for a student or apprentice to be eligible to take the license examination for the following professions shall include:

- (1) For cosmetology:
 - (a) Theory of the practice of cosmetology, barbering, manicuring and esthetics services;
 - (b) At least 100 hours of skills in the application of manicuring and pedicuring services;
 - (c) At least 100 hours of skills in the application of esthetics services;
 - (d) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;
 - (e) Scalp and hair analysis;
 - (f) Hair cutting and trimming including scissors, razor, thinning shears and clippers;
 - (g) Hair styling including wet, dry and thermal styling, braiding and styling aids;
 - (h) Cutting and trimming of facial hair including beard and mustache design and eyebrow, ear and nose hair trimming;
 - (i) Artificial hair that may include extensions and fitting;
 - (j) Permanent waving including sectioning, wrapping, perm test curl, solution application, processing test curl and neutralizing;
 - (k) Chemical relaxing including sectioning, strand test, and relaxer application;
 - (l) Hair coloring and bleaching including predisposition test and strand test, and measurement, mixing, application and removal of chemicals;
 - (m) Disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;
 - (n) Diseases and disorders of the scalp, hair, skin and nails;
 - (o) Safety including proper use and storage of chemicals, implements and electrical appliances;
 - (p) First aid as it relates to cosmetology, barbering, manicuring and esthetics; and
 - (q) No more than twenty-five percent of skills training using mannequins.
- (2) For barbering:
 - (a) Theory of the practice of barbering services;
 - (b) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;
 - (c) Scalp and hair analysis;
 - (d) Hair cutting and trimming including scissors, razor, thinning shears and clippers;

(e) Hair styling, wet, dry and thermal styling and styling aids;

(f) Cutting and trimming of facial hair including shaving, beard and mustache design and eyebrow, ear and nose hair trimming;

(g) Artificial hair;

(h) Disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;

(i) Diseases and disorders of the skin, scalp and hair;

(j) Safety including proper use of implements and electrical appliances;

(k) First aid as it relates to barbering; and

(l) No more than twenty-five percent of skills training using mannequins.

(3) For manicuring:

(a) Theory in the practice of manicuring and pedicuring services;

(b) Artificial nails including silk, linen, fiberglass, acrylic, gel, powder, extensions and sculpting, preparation, application, finish and removal;

(c) Cleaning, shaping and polishing of nails of the hands and treatment of cuticles;

(d) Cleaning, shaping and polishing of nails of the feet;

(e) Disinfecting of individual work station, individual equipment and tools and proper use and storage of linens;

(f) Diseases and disorders of the nails of the hands and feet;

(g) Safety including proper use and storage of chemicals, implements and electrical appliances;

(h) First aid as it relates to manicuring and pedicuring; and

(i) No more than twenty-five percent of skills training using mannequins.

(4) For esthetics:

(a) Theory in the practice of esthetics services;

(b) Skin care of the face, neck and hands including hot compresses, massage, electrical or mechanical appliances or chemical compounds;

(c) Facials;

(d) Temporary removal of superfluous hair of the face, neck and hands by tweezing, waxing, tape, chemicals, lotions, creams, mechanical or electrical apparatus and appliances;

(e) Disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;

(f) Diseases and disorders of the skin of the face, neck and hands;

(g) Safety including proper use and storage of chemicals, implements and electrical appliances;

(h) First aid as it relates to esthetics; and

(i) No more than twenty-five percent of skills training using mannequins.

AMENDATORY SECTION (Amending WSR 04-05-005, filed 2/6/04, effective 3/8/04)

WAC 308-20-090 Student credit for training in a licensed school. (1) A maximum of twenty students per instructor is required within a licensed school.

(2) Only those hours of instruction a student is given under the direction of a licensed instructor of the licensed school in which the student is enrolled and in the courses listed in WAC 308-20-080 and 308-20-105 or hours earned under WAC 308-20-091 shall be credited toward completion of the course of study required in RCW 18.16.100.

(3) When all of a school's requirements have been met by a student and within thirty days of a student leaving a school, the school shall provide to the student a copy of the student's final report.

(4) Students may transfer between the schools and apprenticeship salon/shops and may receive credit toward completion of the curriculum in the new school or apprenticeship salon/shop. In order to receive a transfer student or apprentice, the new school or apprentice salon/shop shall do the following:

(a) Evaluate the certified final student report provided by the student or apprentice and compare the report with the new or apprentice salon/shop requirements;

(b) The school or apprentice salon/shop may accept or reject the final student or apprentice report in part or in total from the previous school or salon/shop and prepare a monthly report that documents the amount of instructions being accepted.

(5) Both the transferring and receiving school or salon/shop shall maintain student or apprentice records including the transfer record as required in WAC 308-20-040(4).

(6) Licensed instructors must be physically present where the students are training.

AMENDATORY SECTION (Amending WSR 05-17-020, filed 8/4/05, effective 9/4/05)

WAC 308-20-101 Apprentice credit for training in an approved apprentice salon/shop. (1) A minimum of one trainer per apprentice is required.

(2) Only those hours of theory instruction given under the direction of an instructor licensed under chapter 18.16 RCW shall be credited towards completion of the apprentice curriculum requirements for theory hours. Cosmetologist, barber, manicurist and esthetician theory hours must be taught in a classroom setting under the direct supervision of an instructor licensed in the curriculum for which he or she is providing theory instruction.

(3) With the exception of theory hours, only those hours of instruction an apprentice is given under the direction of an apprentice trainer as defined in WAC 308-20-010 and in the standards developed by the apprenticeship program shall be credited toward completion of the apprenticeship training.

(4) When all of the apprenticeship program requirements have been met by the apprentice and within thirty days of an apprentice's completed training, the committee shall provide to the apprentice a copy of the apprentice's final report.

(5) An apprentice may transfer between shops only when the committee approves the transfer.

(6) Apprentice trainers and instructors must be physically present where apprentices are receiving practical training.

NEW SECTION

WAC 308-20-121 Examination code of conduct. (1) Applicants will be required to refrain from:

(a) Talking to other examinees during the examination unless specifically directed or permitted to do so by a test monitor.

(b) Attempting to communicate or record any information by any means.

(c) Holding in their possession any unauthorized materials during any portion of the examination.

(d) Removing test materials and/or notes from the testing room.

(e) Disruptive behavior.

(2) Applicants who participate in any activity listed in subsection (1) of this section will be required to leave the examination site. Their opportunity to sit for the examination will be forfeited. Their answer sheet will be voided. A voided answer sheet will not be scored and the examination fee will not be refunded.

(3) Any applicant who was removed from the testing site for any of the reasons listed in subsection (1) of this section will be denied for testing for one year.

NEW SECTION

WAC 308-20-572 Preinspection of schools. (1) Prior to approval for licensure, any person wishing to operate a school shall, before opening a school, meet the requirements in RCW 18.16.140; submit to a preinspection of the site; and provide the following:

(a) Name of owner and current mailing and physical address if solely owned.

(b) Names of partners and current mailing and physical addresses if a partnership.

(c) Names of corporate officers and current mailing and physical addresses if a corporation.

(d) Name of the school, complete mailing address, and physical address.

(e) A signed fire inspection report from the local fire authority indicating all standards and requirements have been met.

(f) A copy of the official student contract.

(g) Listing of all instructors including license number and expiration date.

(h) Sample of monthly reports.

(i) Sample of student packet to be provided to student at enrollment that must contain, but is not limited to, a copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies.

(j) Floor plan drawn to scale showing placement of all equipment; areas designated for the clinic, dispensary, classroom, office and restrooms; and identify student capacity.

(2) All locations shall pass a preinspection by a department representative by meeting the following requirements:

(a) An entrance sign designating the name of the school.

(b) A time clock or other equipment necessary for verification of attendance and hours earned.

(c) An adequate supply of hot and cold running water shall be available for school operation.

(d) Textbooks/teaching materials - textbooks shall be provided for each student in attendance.

(e) Lavatories with hot and cold running water.

(f) When a salon and school are under the same ownership in the same building, separate operation of the salon and the school must be maintained. Common reception areas and restrooms will be allowed; however, the salon and school must have separate entrances and meet location requirements identified in chapter 18.16 RCW.

(g) Emergency evacuation plans posted for staff and students.

(h) There must be a sufficient number of tables/desks and chairs to accommodate the registered students.

(i) Department of licensing safety and sanitation guidelines posted in all dispensaries and classrooms.

(j) Supplemental training space must be located within two miles of the original facility of the licensed school. These facilities must bear the same name as the original licensed school and it is only approved for theory and/or practice rooms. No clinic services shall be provided in additional facilities.

(k) Schools must post a sign that contains the words "work done exclusively by students" or "all work performed by students under supervision of a licensed instructor" in the clinic area.