

WSR 10-12-019**EXPEDITED RULES****DEPARTMENT OF HEALTH**

(Medical Quality Assurance Commission)

[Filed May 21, 2010, 2:21 p.m.]

Title of Rule and Other Identifying Information: WAC 246-919-615 (physicians) and 246-918-010 (physician assistants). Repeal delegation of authority to initiate investigations.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Julie Kitten, Department of Health, Medical Quality Assurance Commission, P.O. Box 47866, Olympia, WA 98504-7866, AND RECEIVED BY August 2, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The medical quality assurance commission (commission) intends to repeal WAC 246-919-615 (physicians) and 246-918-010 (physician assistants) as these rules are not necessary because the commission has statutory authority to delegate to a panel.

Reasons Supporting Proposal: RCW 18.130.050(18) authorizes the disciplining authority to establish panels with three or more members to perform any duty or authority within its jurisdiction. The commission delegates authority to initiate investigations to a panel based upon this statute. For this reason, these rules are not required. The commission believes the expedited rule-making process is appropriate because the rules only pertain to internal governmental actions.

Statutory Authority for Adoption: RCW 18.130.050(1), 18.71.017.

Statute Being Implemented: RCW 18.130.080(2), 18.130.050 (11), (18).

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

Name of Proponent: Department of health, medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Julie Kitten, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2757; Implementation and Enforcement: Maryella Jansen, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2755.

April 5, 2010
Maryella E. Jansen
Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-918-010 Delegation of authority to initiate investigations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-919-615 Delegation of authority to initiate investigations.

WSR 10-12-043**EXPEDITED RULES****DEPARTMENT OF SERVICES FOR THE BLIND**

[Filed May 25, 2010, 4:29 p.m.]

Title of Rule and Other Identifying Information: WAC 67-16-030 Background check process for contractors, vendors, and service providers and 67-16-040 Department of services for the blind—Background check requirements for employees, applicants, volunteers and student interns.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ellen Drumheller, Department of Services for the Blind, P.O. Box 40933, Olympia, WA 98504-0933, AND RECEIVED BY August 2, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amendatory changes to the following are to:

WAC 67-16-030, clarify background check requirements for contractors, vendors and service providers. Delete ten working day notification of finding requirement.

WAC 67-16-040, update WAC 356-040-010 [356-34-010] to 357-40-010. Add language under subsection (10) referring to appeal processes.

Statutory Authority for Adoption: RCW 74.18.123 Background checks.

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

Name of Proponent: Department of services for the blind, public and governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ellen Drumheller, 4565 7th Avenue S.E., Lacey, WA 98503, (360) 725-3836.

May 24, 2010
Ellen Drumheller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-12-029, filed 5/26/04, effective 7/1/04)

WAC 67-16-030 Background check process for contractors, vendors, and service providers. (1) The director of the department of services for the blind (DSB) shall investigate the conviction records, pending charges and disciplinary board final decisions for contractors, vendors, and service providers who will or may have unsupervised access to DSB clients.

(2) The investigation shall consist of a background check as allowed under the Washington State Criminal Records Privacy Act, RCW 10.97.050; the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the Federal Bureau of Investigation. The background check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.

(3) The director may waive the requirement for a background check if the contractor, vendor, or service provider has been cleared in a background check within the previous two years.

(4) When necessary, the director may engage a service provider, vendor, or contractor on a conditional basis, pending completion of the background check.

(5) The investigation shall include an examination of state and national criminal identification data. The director shall use the information solely for the purpose of determining the character, suitability and competence of the individual contractor or service provider to work with the department of services for the blind clients.

(6) The director shall provide the results of the background check in writing to the contractor, vendor, or service provider ((~~within ten working days from receipt of the finding~~)).

(7) The office of the director shall maintain confidential records of all background check information. Such information shall be limited to only those individuals processing the information within the department.

(8) The fingerprint criminal history records checks will be at the expense of the contractor or service provider.

(9) Current contractors, vendors, or service providers for whom disqualifying crimes are discovered in the background check process will be notified in writing ((~~within ten working days from receipt of the finding~~)). The written notification shall include notice of termination of the contract or service provider agreement and give the individual the right to request a review by the director of the department of services for the blind.

AMENDATORY SECTION (Amending WSR 04-12-029, filed 5/26/04, effective 7/1/04)

WAC 67-16-040 Department of services for the blind—Background check requirements for employees, applicants, volunteers and student interns. (1) The executive director of the department of services for the blind shall conduct background checks on all employees in covered positions and applicants under final consideration for a covered position. A covered position is one in which a person will or may have unsupervised access to vulnerable clients or potential clients with vision disability. These clients or potential clients may also have other disabilities, such as developmental disabilities or mental health disabilities. Employees and applicants shall authorize the executive director of the department of services for the blind to conduct a background check.

(2) The requirement for background checks shall include the following:

(a) Current employees as of July 1, 2004.

(b) Any employee seeking a covered position because of a reduction in force, reallocation, transfer, promotion or demotion.

(c) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis under subsection (7)(b) of this section.

(3) A background check will be conducted on the final preferred candidate prior to appointment.

(4) The executive director of the department of services for the blind shall use the results of a background check solely to determine the character, competence and suitability of a person for a covered position. The background check information shall consist of:

(a) A fingerprint check using a complete Washington State criminal identification fingerprint card.

(b) Conviction records, pending charges, and disciplinary board final decisions (if applicable).

(c) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decisions;

(v) The nature and number of previous offenses; and

(vi) The relationship between the nature of the conviction, pending charge, or disciplinary board final decision and the duties of the employee or applicant.

(5) A permanent employee with a background check disqualification may voluntarily resign, or be subject to disciplinary action ((~~for any of the causes listed~~)) in accordance with WAC ((356-34-010)) 357-40-010.

(6) Interim measures that may be used while the executive director explores availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(a) Voluntary use of accrued vacation, exchange, and/or compensatory time.

(b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave.

When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(7) The executive director of the department of services for the blind shall:

(a) Notify employees and applicants that a background check is required for covered positions;

(b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

(c) Develop policies and procedures pertaining to background checks;

(d) Provide the employee/applicant with the results of the background check in writing;

(e) Notify employees of their promotional register rights when they have been separated from their position, either voluntarily or involuntarily due to a background disqualification.

(8) Failure to authorize the executive director of the department of services for the blind to conduct a background check disqualifies an employee or applicant from consideration for any covered position including an employee's current covered position.

(9) An applicant for a covered position who is denied employment due to a disqualifying finding, shall be given the right to request a review of the decision by the executive director.

((~~a~~)) Requests for review must be in writing and received by the executive director within fifteen calendar days of the postmark date of the notification or date of hand-delivery.

(10) Permanent nonrepresented employees may appeal to the personnel (~~appeals~~) resources board in accordance with RCW 41.06.170 and rules promulgated thereunder including WAC (~~(358-20-101 and 358-20-020)~~) 357-52-010. Represented employees may appeal to the Washington state federation of state employees under the terms of the collective bargaining agreement.

(11) Nothing in this rule shall limit the department of services for the blind executive director's use of other authorities to conduct background checks.

(12) Information pertaining to background checks is confidential and shall be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee. Access to background check information shall be limited to only those individuals processing the information for the department. Misuse of background check information is a criminal offense and may result in prosecution and/or disciplinary action as provided under WAC (~~(356-34-010)~~) 357-40-010.

(13) The department of services for the blind will pay the costs associated with the background checks for current employees, applicants, volunteers, and student interns.

WSR 10-12-065
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed May 27, 2010, 3:18 p.m.]

Title of Rule and Other Identifying Information: WAC 220-56-255 Halibut—Seasons—Daily and possession limits.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Preuss, Rules Coordinator, Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY August 2, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to change the state's recreational halibut fishery area boundaries to make them consistent with federal boundaries. The federal boundaries are listed in Code of Federal Regulations (C.F.R.) Title 50, Part 300. This rule amendment will redefine the boundary of the northern near-shore area in Marine Catch Area 2 so that it follows the 30-fathom line. This will simplify the rule for fishermen and agency enforcement.

Reasons Supporting Proposal: This proposal was discussed during public meetings of the Pacific Fisheries Management Council (PFMC). The change was approved by PFMC and the International Halibut Commission.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.04.020, 77.12.-045, and 77.12.047.

Rule is necessary because of federal law, C.F.R. Title 50, Part 330.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Heather Reed, 48 Devonshire Road, Montesano, WA, (360) 249-4628; Implementation: Michele Culver, 48 Devonshire Road, Montesano, WA, (360) 249-4628; and Enforcement: Chief Bruce Bjork, 1111 Washington Street S.E., Olympia, WA, (360) 902-2929.

May 27, 2010

Lori Preuss

Rules Coordinator

AMENDATORY SECTION (Amending Order 09-107, filed 6/22/09, effective 7/23/09)

WAC 220-56-255 Halibut—Seasons—Daily and possession limits. (1) It is unlawful to fish for or possess halibut

taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Open on the first Thursday in May or May 1, if May 1 is a Friday or Saturday, through the third Saturday in July, from 12:01 a.m. each Thursday through 11:59 p.m. each Saturday. The fishery will reopen on the first Friday in August through September 30, from 12:01 a.m. each Friday through 11:59 p.m. each Sunday. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish, except sablefish or Pacific cod, if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) The northern near shore fishery takes place in those waters from ((47°25.00'N.)) 47°31.70'N. lat. south to 46°58.00'N. lat. and east of ((124°30.00'W. long.--)) a boundary line approximating the 30 fathom depth contour as defined by the following coordinates:

47°31.70'N. lat., 124°37.03'W. long.

47°25.67'N. lat., 124°34.79'W. long.

47°12.82'N. lat., 124°29.12'W. long.

46°58.00'N. lat., 124°24.24'W. long.

Open on the first Sunday in May through September 30 on days that all other waters in Area 2 are open, as specified in (b)(ii) of this subsection, and from 12:01 a.m. each Thursday through 11:59 p.m. each Sunday.

(ii) All other waters in Area 2 - Open on the first Sunday in May through the third Sunday in May from 12:01 a.m. through 11:59 p.m. each Sunday, and from 12:01 a.m. through 11:59 p.m. each Tuesday. Beginning on the third Sunday in May through September 30, the halibut fishery will be open from 12:01 a.m. through 11:59 p.m. each Sunday.

(iii) From March 15((-)) through June 15, it is unlawful to fish for or possess bottomfish seaward of line approximating the 30-fathom depth contour as defined by the coordinates below. However, a person may fish for and retain sablefish and Pacific cod from May 1 through June 15 seaward of a line approximating the 30-fathom depth contour as defined by the coordinates below:

47°31.70'N. lat., 124°37.03'W. long.

47°25.67'N. lat., 124°34.79'W. long.

47°12.82'N. lat., 124°29.12'W. long.

46°52.94'N. lat., 124°22.58'W. long.

46°44.18'N. lat., 124°18.00'W. long.

46°38.17'N. lat., 124°15.88'W. long.

(c) Catch Record Card Areas 3 and 4 - Open the first Thursday between May 9 and May 15 of each year through September 30, from 12:01 a.m. through 11:59 p.m. each Thursday, and from 12:01 a.m. through 11:59 p.m. each Saturday. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward-facing C-shaped closed area defined as: Beginning at 48°18'N. lat., 125°18'W. long.; thence to 48°18'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 124°59'W. long.; thence to 48°00'N. lat.,

124°59'W. long.; thence to 48°00'N. lat., 125°18'W. long.; thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, from May 21 through September 30, on days and times closed to halibut fishing:

48°23.9'N. lat., 124°44.2'W. long.

48°23.6'N. lat., 124°44.9'W. long.

48°18.6'N. lat., 124°43.6'W. long.

48°18.6'N. lat., 124°48.2'W. long.

48°10.0'N. lat., 124°48.8'W. long.

48°02.4'N. lat., 124°49.3'W. long.

47°37.6'N. lat., 124°34.3'W. long.

47°31.7'N. lat., 124°32.4'W. long.

(d) Catch Record Card Area 5 - Open the Thursday before Memorial Day through September 30, except closed to fishing for halibut beginning at 12:01 a.m. each Tuesday through 11:59 p.m. each Wednesday.

(e) Catch Record Card Areas 6 through 13 - Open May 1 through September 30, except closed to fishing for halibut beginning at 12:01 a.m. each Tuesday through 11:59 p.m. each Wednesday.

(2) Daily limit is one halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-56-156 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-56-156 for rules on Canadian-origin halibut possession.

(4) A violation of this section is punishable under RCW 77.15.370 or 77.15.380, depending on the violation.