

WSR 12-07-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed March 20, 2012, 2:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-22-074.

Title of Rule and Other Identifying Information: WAC 388-106-0010, 388-106-0075, 388-106-0126, 388-106-0130, 388-106-0210, and 388-106-0213, children's CARE assessment.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on May 8, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 9, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on May 8, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by April 24, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The aging and disability services administration (ADSA) is amending rules in WAC 388-106-0010, 388-106-0075, 388-106-0126, 388-106-0130, 388-106-0210, and 388-106-0213 to revise the assessment process for allocating personal care hours to disabled children as a result of the Washington state supreme court decision regarding *Samantha A. v. DSHS*.

Additionally, effective February 1, 2012, the department eliminated the add-on hours for off-site laundry and add-on hours to those clients living more than forty-five minutes from essential services as a result of the department's need to stay within budget appropriations.

Reasons Supporting Proposal: See Purpose statement above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.-520.

Rule is necessary because of state court decision, *Samantha A. vs. Department of Social and Health Services*.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Geri-Lyn McNeill, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2353.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The preparation of a small business economic impact statement is not required, as

no new costs will be imposed on small businesses or nonprofits as a result of this rule amendment.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

March 13, 2012

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-22-043, filed 10/27/11, effective 11/27/11)

WAC 388-106-0010 What definitions apply to this chapter? "Ability to make self understood" means how you make yourself understood to those closest to you; express or communicate requests, needs, opinions, urgent problems and social conversations, whether in speech, writing, sign language, symbols, or a combination of these including use of a communication board or keyboard:

(a) Understood: You express ideas clearly;

(b) Usually understood: You have difficulty finding the right words or finishing thoughts, resulting in delayed responses, or you require some prompting to make self understood;

(c) Sometimes understood: You have limited ability, but are able to express concrete requests regarding at least basic needs (e.g. food, drink, sleep, toilet);

(d) Rarely/never understood. At best, understanding is limited to caregiver's interpretation of client specific sounds or body language (e.g. indicated presence of pain or need to toilet.)

"Activities of daily living (ADL)" means the following:

(a) Bathing: How you take a full-body bath/shower, sponge bath, and transfer in/out of tub/shower.

(b) Bed mobility: How you move to and from a lying position, turn side to side, and position your body while in bed, in a recliner, or other type of furniture.

(c) Body care: How you perform with passive range of motion, applications of dressings and ointments or lotions to the body and pedicure to trim toenails and apply lotion to feet. In adult family homes, contracted assisted living, enhanced adult residential care, and enhanced adult residential care-specialized dementia care facilities, dressing changes using clean technique and topical ointments must be performed by a licensed nurse or through nurse delegation in accordance with chapter 246-840 WAC. Body care excludes:

(i) Foot care if you are diabetic or have poor circulation;

or

(ii) Changing bandages or dressings when sterile procedures are required.

(d) Dressing: How you put on, fasten, and take off all items of clothing, including donning/removing prosthesis.

(e) Eating: How you eat and drink, regardless of skill. Eating includes any method of receiving nutrition, e.g., by mouth, tube or through a vein.

(f) Locomotion in room and immediate living environment: How you move between locations in your room and immediate living environment. If you are in a wheelchair,

locomotion includes how self-sufficient you are once in your wheelchair.

(g) Locomotion outside of immediate living environment including outdoors: How you move to and return from more distant areas. If you are living in a boarding home or nursing facility (NF), this includes areas set aside for dining, activities, etc. If you are living in your own home or in an adult family home, locomotion outside immediate living environment including outdoors, includes how you move to and return from a patio or porch, backyard, to the mailbox, to see the next-door neighbor, etc.

(h) Walk in room, hallway and rest of immediate living environment: How you walk between locations in your room and immediate living environment.

(i) Medication management: Describes the amount of assistance, if any, required to receive medications, over the counter preparations or herbal supplements.

(j) Toilet use: How you use the toilet room, commode, bedpan, or urinal, transfer on/off toilet, cleanse, change pad, manage ostomy or catheter, and adjust clothes.

(k) Transfer: How you move between surfaces, i.e., to/from bed, chair, wheelchair, standing position. Transfer does not include how you move to/from the bath, toilet, or vehicle.

(l) Personal hygiene: How you maintain personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, washing/drying face, hands (including nail care), and perineum (menses care). Personal hygiene does not include hygiene in baths and showers.

"Age appropriate" means the client is functioning within typical developmental milestones. Proficiency in the identified task is not expected of a child that age and a child that age would require assistance with the task with or without a functional disability.

"Aged person" means a person sixty-five years of age or older.

"Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to you in your own home.

"Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant must submit the request on a form prescribed by the department.

"Assessment details" means a summary of information that the department entered into the CARE assessment describing your needs.

"Assessment or reassessment" means an inventory and evaluation of abilities and needs based on an in-person interview in your own home or your place of residence, using CARE.

"Assistance available" means the amount of (~~informal support~~) assistance available for a task if (~~the need~~) status is coded partially met or shared benefit due to availability of other support. The department determines the amount of the assistance available using one of four categories:

(a) Less than one-fourth of the time;

(b) One-fourth to one-half of the time;

(c) Over one-half of the time to three-fourths of the time;

or

(d) Over three-fourths but not all of the time.

"Assistance with body care" means you need assistance with:

(a) Application of ointment or lotions;

(b) Trimming of toenails;

(c) Dry bandage changes; or

(d) Passive range of motion treatment.

"Assistance with medication management" means you need assistance managing your medications. You are scored as:

(a) Independent if you remember to take medications as prescribed and manage your medications without assistance.

(b) Assistance required if you need assistance from a nonlicensed provider to facilitate your self-administration of a prescribed, over the counter, or herbal medication, as defined in chapter 246-888 WAC. Assistance required includes reminding or coaching you, handing you the medication container, opening the container, using an enabler to assist you in getting the medication into your mouth, alteration of a medication for self-administration, and placing the medication in your hand. This does not include assistance with intravenous or injectable medications. You must be aware that you are taking medications.

(c) Self-directed medication assistance/administration if you are a person with a functional disability who is capable of and who chooses to self-direct your medication assistance/administration.

(d) Must be administered if you must have medications placed in your mouth or applied or instilled to your skin or mucus membrane. Administration must either be performed by a licensed professional or delegated by a registered nurse to a qualified caregiver (per chapter 246-840 WAC). Intravenous or injectable medications may never be delegated. Administration may also be performed by a family member or unpaid caregiver if facility licensing regulations allow.

"Authorization" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

"Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act. See WAC 388-475-0100 and chapter 388-513 WAC.

"Child" means an individual less than eighteen years of age.

"Chronic care management" means programs that provide care management and coordination activities for medical assistance clients receiving long-term care services and supports determined to be at risk for high medical costs.

"Health action plan" means an individual plan which identifies health-related problems, interventions and goals.

"Client" means an applicant for service or a person currently receiving services from the department.

"Current" means a behavior occurred within seven days of the CARE assessment date, including the day of the assessment. Behaviors that the department designates as current must include information about:

- (a) Whether the behavior is easily altered or not easily altered; and
- (b) The frequency of the behavior.

"Decision making" means your ability and actual performance in making everyday decisions about tasks or activities of daily living. The department determines whether you are:

(a) Independent: Decisions about your daily routine are consistent and organized; reflecting your lifestyle, choices, culture, and values.

(b) Modified independence/difficulty in new situations: You have an organized daily routine, are able to make decisions in familiar situations, but experience some difficulty in decision making when faced with new tasks or situations.

(c) Moderately impaired/poor decisions; unaware of consequences: Your decisions are poor and you require reminders, cues and supervision in planning, organizing and correcting daily routines. You attempt to make decisions, although poorly.

(d) Severely impaired/no or few decisions: Decision making is severely impaired; you never/rarely make decisions.

"Department" means the state department of social and health services, aging and disability services administration or its designee.

"Designee" means area agency on aging.

"Developmental milestones" means a set of functional skills that most children achieve during a certain age range.

"Difficulty" means how difficult it is or would be for you to perform an instrumental activity of daily living (IADL). This is assessed as:

- (a) No difficulty in performing the activity;
- (b) Some difficulty in performing the activity (e.g., you need some help, are very slow, or fatigue easily); or
- (c) Great difficulty in performing the activity (e.g., little or no involvement in the activity is possible).

"Disabling condition" means you have a medical condition which prevents you from self performance of personal care tasks without assistance.

"Estate recovery" means the department's process of recouping the cost of medicaid and long-term care benefit payments from the estate of the deceased client. See chapter 388-527 WAC.

"Home health agency" means a licensed:

(a) Agency or organization certified under medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(b) Home health agency, certified or not certified under medicare, contracted and authorized to provide:

- (i) Private duty nursing; or
- (ii) Skilled nursing services under an approved medicaid waiver program.

"Income" means income as defined under WAC 388-500-0005.

"Individual provider" means a person employed by you to provide personal care services in your own home. See WAC 388-71-0500 through 388-71-05909.

"Disability" is described under WAC 388-511-1105.

"Informal support" means a person or resource that is available to provide assistance without home and community program funding. The person or resource providing the informal support must be age 18 or older. Examples of informal supports include but are not limited to: family members, friends, neighbors, school, childcare, after school activities, adult day health, church or community programs.

"Institution" means medical facilities, nursing facilities, and institutions for the mentally retarded. It does not include correctional institutions. See medical institutions in WAC 388-500-0005.

"Instrumental activities of daily living (IADL)" means routine activities performed around the home or in the community and includes the following:

(a) Meal preparation: How meals are prepared (e.g., planning meals, cooking, assembling ingredients, setting out food, utensils, and cleaning up after meals). NOTE: The department will not authorize this IADL to plan meals or clean up after meals. You must need assistance with actual meal preparation.

(b) Ordinary housework: How ordinary work around the house is performed (e.g., doing dishes, dusting, making bed, tidying up, laundry).

(c) Essential shopping: How shopping is completed to meet your health and nutritional needs (e.g., selecting items). Shopping is limited to brief, occasional trips in the local area to shop for food, medical necessities and household items required specifically for your health, maintenance or well-being. This includes shopping with or for you.

(d) Wood supply: How wood is supplied (e.g., splitting, stacking, or carrying wood) when you use wood as the sole source of fuel for heating and/or cooking.

(e) Travel to medical services: How you travel by vehicle to a physician's office or clinic in the local area to obtain medical diagnosis or treatment-includes driving vehicle yourself, traveling as a passenger in a car, bus, or taxi.

(f) Managing finances: How bills are paid, checkbook is balanced, household expenses are managed. The department cannot pay for any assistance with managing finances.

(g) Telephone use: How telephone calls are made or received (with assistive devices such as large numbers on telephone, amplification as needed).

"Long-term care services" means the services administered directly or through contract by the aging and disability services administration and identified in WAC 388-106-0015.

"Medicaid" is defined under WAC 388-500-0005.

"Medically necessary" is defined under WAC 388-500-0005.

"Medically needy (MN)" means the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"New Freedom consumer directed services (NFCDS)" means a mix of services and supports to meet needs identified in your assessment and identified in a New Freedom spending plan, within the limits of the individual budget, that provide you with flexibility to plan, select, and direct the purchase of goods and services to meet identified needs. Participants have a meaningful leadership role in:

- (a) The design, delivery and evaluation of services and supports;
- (b) Exercising control of decisions and resources, making their own decisions about health and well being;
- (c) Determining how to meet their own needs;
- (d) Determining how and by whom these needs should be met; and
- (e) Monitoring the quality of services received.

"New Freedom consumer directed services (NFCDS) participant" means a participant who is an applicant for or currently receiving services under the NFCDS waiver.

"New Freedom spending plan (NFSP)" means the plan developed by you, as a New Freedom participant, within the limits of an individual budget, that details your choices to purchase specific NFCDS and provides required federal medicaid documentation.

"Own home" means your present or intended place of residence:

- (a) In a building that you rent and the rental is not contingent upon the purchase of personal care services as defined in this section;
- (b) In a building that you own;
- (c) In a relative's established residence; or
- (d) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Past" means the behavior occurred from eight days to five years of the assessment date. For behaviors indicated as past, the department determines whether the behavior is addressed with current interventions or whether no interventions are in place.

"Personal aide" is defined in RCW 74.39.007.

"Personal care services" means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) due to your functional limitations. Assistance is evaluated with the use of assistive devices.

"Physician" is defined under WAC 388-500-0005.

"Plan of care" means assessment details and service summary generated by CARE.

"Provider or provider of service" means an institution, agency, or person:

- (a) Having a signed department contract to provide long-term care client services; and
- (b) Qualified and eligible to receive department payment.

"Reasonable cost" means a cost for a service or item that is consistent with the market standards for comparable services or items.

"Representative" means a person who you have chosen, or has been appointed by a court, whose primary duty is to act on your behalf to direct your service budget to meet your identified health, safety, and welfare needs.

"Residential facility" means a licensed adult family home under department contract or licensed boarding home under department contract to provide assisted living, adult residential care or enhanced adult residential care.

"Self performance for ADLs" means what you actually did in the last seven days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period and does not include support provided as defined in WAC 388-106-0010. Your self performance level is scored as:

- (a) Independent if you received no help or oversight, or if you needed help or oversight only once or twice;
- (b) Supervision if you received oversight (monitoring or standby), encouragement, or cueing three or more times;
- (c) Limited assistance if you were highly involved in the activity and given physical help in guided maneuvering of limbs or other nonweight bearing assistance on three or more occasions. For bathing, limited assistance means physical help is limited to transfer only;
- (d) Extensive assistance if you performed part of the activity, but on three or more occasions, you needed weight bearing support or you received full performance of the activity during part, but not all, of the activity. For bathing, extensive assistance means you needed physical help with part of the activity (other than transfer);
- (e) Total dependence if you received full caregiver performance of the activity and all subtasks during the entire seven-day period from others. Total dependence means complete nonparticipation by you in all aspects of the ADL; or
- (f) Activity did not occur if you or others did not perform an ADL over the last seven days before your assessment. The activity may not have occurred because:

- (i) You were not able (e.g., walking, if paralyzed);
- (ii) No provider was available to assist; or
- (iii) You declined assistance with the task.

"Self performance for IADLs" means what you actually did in the last thirty days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the thirty-day period. Your self performance is scored as:

- (a) Independent if you received no help, set-up help, or supervision;
- (b) Set-up help/arrangements only if on some occasions you did your own set-up/arrangement and at other times you received help from another person;
- (c) Limited assistance if on some occasions you did not need any assistance but at other times in the last thirty days you required some assistance;
- (d) Extensive assistance if you were involved in performing the activity, but required cueing/supervision or partial assistance at all times;
- (e) Total dependence if you needed the activity fully performed by others; or
- (f) Activity did not occur if you or others did not perform the activity in the last thirty days before the assessment.

"Service summary" is CARE information which includes: Contacts (e.g. emergency contact), services the client is eligible for, number of hours or residential rates, personal care needs, the list of formal and informal providers

and what tasks they will provide, a provider schedule, referral needs/information, and dates and agreement to the services.

"Shared benefit" means:

(a) A client and their paid caregiver both share in the benefit of an IADL task being performed; or

(b) Two or more clients in a multi-client household benefit from the same IADL task(s) being performed.

"SSI-related" is defined under WAC 388-475-0050.

"Status" means the amount of informal support available. The department determines whether the ADL or IADL is:

(a) Met, which means the ADL or IADL will be fully provided by an informal support;

(b) Unmet, which means an informal support will not be available to provide assistance with the identified ADL or IADL;

(c) Partially met, which means an informal support will be available to provide some assistance, but not all, with the identified ADL or IADL; ~~((#))~~

(d) Shared benefit, which means:

(i) A client and their paid caregiver both share in the benefit of an IADL task being performed; or

(ii) Two or more clients in a multi-client household benefit from the same IADL task(s) being performed.

(e) Age appropriate, which means the client is functioning within typical developmental milestones. Other options under status may be chosen if a child is not within typical developmental milestones; or

(f) Client declines, which means you do not want assistance with the task.

"Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

"Support provided" means the highest level of support provided (to you) by others in the last seven days before the assessment, even if that level of support occurred only once.

(a) No set-up or physical help provided by others;

(b) Set-up help only provided, which is the type of help characterized by providing you with articles, devices, or preparation necessary for greater self performance of the activity. (For example, set-up help includes but is not limited to giving or holding out an item or cutting food);

(c) One-person physical assist provided;

(d) Two- or more person physical assist provided; or

(e) Activity did not occur during entire seven-day period.

"You/your" means the client.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0075 How is my need for personal care services assessed in CARE? ~~((To assess your need for personal care services,))~~ The department gathers information from you, your caregivers, family members~~((s))~~ and other sources to assess your abilities to perform personal care tasks. The department will also consider developmental milestones for children as defined in WAC 388-106-0130 when individually assessing your abilities and needs for assistance. The department will assess your ability to perform:

(1) Activities of daily living (ADL) using self performance~~((s))~~ support provided, status and assistance available, as defined in WAC 388-106-0010. Also, the department determines your need for "assistance with body care" and "assistance with medication management," as defined in WAC 388-106-0010; and

(2) Instrumental activities of daily living (IADL) using self performance~~((s))~~ difficulty, status and assistance available, as defined in WAC 388-106-0010.

AMENDATORY SECTION (Amending WSR 11-11-024, filed 5/10/11, effective 6/10/11)

WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care? (1) The department assigns a base number of hours to each classification group as described in WAC 388-106-0125.

(2) The department will ~~((deduct from the))~~ adjust base hours to account for informal supports, shared benefit, and age appropriate functioning (as those terms are defined in WAC 388-106-0010), ~~((#))~~ and other paid services that meet some of an individual's need for personal care services, including adult day health, as follows:

(a) The CARE tool determines the adjustment for informal supports ~~((by determining))~~, shared benefit, and age appropriate functioning; determines the amount of assistance available ~~((to meet your needs,))~~; assigns ~~((#))~~ a numeric ~~((percentage,))~~ value to those assessed indicators; and ~~((reduces))~~ adjusts the base hours assigned to the classification group by the numeric ~~((percentage))~~ value. The department has assigned the following numeric values for the amount of assistance available for each ADL and IADL:

Meds	Self ((Performance)) Administration	Status	Assistance Available	Value ((Percentage))
((Self administration of medications)) <u>Medication Management</u>	Rules for all codes apply except independent is not counted	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	N/A	<u>0</u>
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
			1/2 to 3/4 time	.5
>3/4 time	.3			

Unscheduled ADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Bed mobility, transfer, walk in room, eating, toilet use	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider =1; Did not occur/client declined and independent are not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
			1/2 to 3/4 time	.5
>3/4 time	.3			
Scheduled ADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Dressing, personal hygiene, bathing	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider =1; Did not occur/client declined and independent are not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.75
			1/4 to 1/2 time	.55
			1/2 to 3/4 time	.35
>3/4 time	.15			
IADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Meal preparation, Ordinary housework, Essential shopping	Rules for all codes apply except independent is not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met or Shared benefit	<1/4 time	.3
			1/4 to 1/2 time	.2
			1/2 to 3/4 time	.1
>3/4 time	.05			
IADLs	Self Performance	Status	Assistance Available	Value ((Percentage))
Travel to medical	Rules for all codes apply except independent is not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		<u>Age appropriate functioning</u>	<u>N/A</u>	<u>0</u>
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
			1/2 to 3/4 time	.5
>3/4 time	.3			
Key: > means greater than < means less than				

(b) To determine the amount ((of reduction)) adjusted for informal support, shared benefit and/or age appropriate functioning, the ((value percentages)) numeric values are totaled

and divided by the number of qualifying ADLs and IADLs needs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is

value C. Value A and Value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to your classification group and the result is the number of adjusted in-home hours (~~reduced for informal supports~~).

(3) ~~((Also, the department will adjust in-home base hours when:~~

~~(a) There is more than one client receiving ADSA-paid personal care services living in the same household, the status under subsection (2)(a) of this section must be met or partially met for the following IADLs:-~~

~~(i) Meal preparation;~~

~~(ii) Housekeeping;~~

~~(iii) Shopping; and~~

~~(iv) Wood supply.~~

~~(b) You are under the age of eighteen, your assessment will be coded according to age guidelines codified in WAC 388-106-0213.~~

~~(4)) Effective February 1, 2012, after ((deductions)) adjustments are made to your base hours, as described in ((subsections (2) and (3))) subsection (2), the department may add on hours ((based on your living environment)) only if you use wood as your sole source of heat:~~

Condition	Status	Assistance Available	Add On Hours
((Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.	N/A	N/A	8
Client is >45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market).	Unmet	N/A	5
	Met	N/A	0
	Partially met	<1/4 time	5
		between 1/4 to 1/2 time	4
		between 1/2 to 3/4 time	2
>3/4 time		2))	
Wood supply used as sole source of heat.	Unmet	N/A	8
	Met	N/A	0
	Declines	N/A	0
	Age appropriate	N/A	0
	Partially met or Shared benefit	<1/4 time	8
		between 1/4 to 1/2 time	6
		between 1/2 to 3/4 time	4
>3/4 time		2	

~~((5))~~ (4) In the case of New Freedom consumer directed services (NFCDS), the department determines hours as described in WAC 388-106-1445.

~~((6))~~ (5) The result of actions under subsections (2), (3), and (4) is the maximum number of hours that can be used to develop your plan of care. The department must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to ~~((meet))~~ address your identified needs. In the case of New Freedom consumer directed services (NFCDS), a New Freedom spending plan (NFSP) is developed in place of a plan of care.

~~((7))~~ (6) You and your case manager will work to determine what services you choose to receive if you are eligible. The hours may be used to authorize:

(a) Personal care services from a home care agency provider and/or an individual provider.

(b) Home delivered meals (i.e. a half hour from the available hours for each meal authorized).

(c) Adult day care (i.e. a half hour from the available hours for each hour of day care authorized).

(d) A home health aide if you are eligible per WAC 388-106-0300 or 388-106-0500.

(e) A private duty nurse (PDN) if you are eligible per WAC 388-71-0910 and 388-71-0915 or WAC 388-551-3000

(i.e. one hour from the available hours for each hour of PDN authorized).

(f) The purchase of New Freedom consumer directed services (NFCDS).

(7) If you are a child applying for personal care services:

(a) The department will complete a CARE assessment and use the developmental milestones table below when assessing your ability to perform personal care tasks.

(b) Your status will be coded as age appropriate when your self performance is at a level expected for persons in your assessed age range, as indicated by the developmental milestones table, unless the circumstances in subpart (c) apply.

(c) The department may code status as other than age appropriate for an ADL or IADL, despite your self performance falling within the expected developmental milestones for your age, if the department determines during your assessment that your level of functioning is not primarily due to your age.

<u>Developmental Milestones for Activities of Daily Living (ADLS)</u>		
<u>ADL</u>	<u>Self-Performance</u>	<u>Assessed Age Range</u>
<u>Medication Management</u>	<u>Independent</u> <u>Self-Directed</u> <u>Assistance Required</u> <u>Must Be Administered</u>	<u>Birth through the 17th year</u>
<u>Locomotion in Room</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 3rd year</u>
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Locomotion Outside Room</u>	<u>Independent</u> <u>Supervision</u>	<u>Birth through the 5th year</u>
	<u>Limited</u> <u>Extensive</u>	<u>Birth through the 3rd year</u>
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Walk in Room</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 3rd year</u>
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Bed Mobility</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 2nd year</u>
	<u>Total</u>	<u>Birth through the 1st year</u>
<u>Transfers</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 2nd year</u>
	<u>Total</u>	
<u>Toilet Use</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 7th year</u>
	<u>Total</u>	<u>Birth through the 3rd year</u>
<u>Eating</u>	<u>Independent</u> <u>Supervision</u> <u>Limited</u> <u>Extensive</u>	<u>Birth through the 2nd year</u>
	<u>Total</u>	
<u>Bathing</u>	<u>Independent</u> <u>Supervision</u>	<u>Birth through the 11th year</u>
	<u>Physical help/Transfer only</u> <u>Physical help/part of bathing</u>	<u>Birth through the 7th year</u>
	<u>Total</u>	<u>Birth through the 4th year</u>
<u>Dressing</u>	<u>Independent</u> <u>Supervision</u>	<u>Birth through the 11th year</u>
	<u>Limited</u> <u>Extensive</u>	<u>Birth through the 7th year</u>
	<u>Total</u>	<u>Birth through the 4th year</u>

Developmental Milestones for Activities of Daily Living (ADLS)		
ADL	Self-Performance	Assessed Age Range
Personal Hygiene	Independent	Birth through the 11th year
	Supervision	
	Limited or extensive	Birth through the 7th year
	Total	Birth through the 4th year

Developmental Milestones for Instrumental Activities of Daily Living		
IADL	Self Performance	Assessed Age
Telephone	Independent	Birth through the 17th year
Transportation	Supervision	
Essential	Limited	
Shopping	Extensive	
Wood Supply	Total	
Housework		
Finances		
Meal Preparation		

Additional Developmental Milestones coding		
CARE panel	Selection	Assessed Age
Speech/Hearing: Comprehension	By others client is = Age Appropriate	Birth through the 2nd year
Psych Social: MMSE	Can MMSE be administered? = No	Birth through the 17th year
Psych Social: Memory/Short Term	Recent memory = Age appropriate	Birth through the 11th year
Psych Social: Memory/Long Term	Long Term memory = Age appropriate	Birth through the 11th year
Psych Social: Depression	Interview = unable to obtain	Birth through the 11th year
Psych Social: Decision Making	Rate how client makes decision = Age appropriate	Birth through the 11th year
Bladder/Bowel:	Bladder/Bowel Control: Continent Usually Continent Occasionally Incontinent Frequently Incontinent	Birth through the 11th year
Bladder/Bowel:	Bladder/Bowel Control: Incontinent all or most of the time	Birth through the 5th year
Bladder/Bowel:	Appliance and programs = Potty Training	Birth through the 3rd year

(8) If you are a child applying for personal care services and your self performance is not age appropriate as determined under subsection (7), the department will assess for any informal supports or shared benefit available to assist you with each ADL and IADL.

(a) When you are living with your legally responsible parent(s), the department will take into account their legal obligation to care for you when determining the availability of informal supports. Legally responsible parents include natural parents, step-parents, and adoptive parents. Legally responsible parents generally do not include other relative caregivers or foster parents. A legally responsible parent will

not be considered unavailable to meet your needs due to other obligations such as work or additional children because such obligations do not decrease the parent's legal responsibility to care for you regardless of your disabilities.

(b) Informal supports for school-age children include supports actually available through a school district, regardless of whether you take advantage of those available supports.

(c) The department will presume that you have informal supports available to assist you with your ADLs and IADLs over three-fourths but not all of the time. The department will code your informal support as greater or less than the

For each Activity of Daily Living, the minimum level of assistance required in		
	<u>Self Performance, Status or Treatment Need is:</u>	Support Provided is:
Transfer	Extensive Assistance	One person physical assist
Bed Mobility and Turning and repositioning	Limited Assistance and Need	One person physical assist
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Extensive Assistance	One person physical assist
Medication Management	Assistance Required Daily	N/A
Personal Hygiene	Extensive Assistance	One person physical assist
Body care which includes: <ul style="list-style-type: none"> ■ Application of ointment or lotions; ■ Toenails trimmed; ■ Dry bandage changes; (■ = if you are <u>eighteen years of age or older</u>) or Passive range of motion treatment (if you are <u>four years of age or older</u>). 	<u>Needs or Received/Needs</u> Need: coded as "Yes"	
Your need for assistance in any of the activities listed in subsection (b) of this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose determining your functional eligibility.		

WSR 12-08-042
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Naturopathy)
 [Filed March 30, 2012, 3:42 p.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 11-23-108.
 Title of Rule and Other Identifying Information: Chapter 246-836 WAC, amending sections to change the regulatory authority to the board of naturopathy, update the scope of practice, general housekeeping, and amend requirements to approve naturopathic medical education institutions.
 Hearing Location(s): Department of Health, 20435 72nd Avenue South, Suite 200, Kent, WA 98032, on May 11, 2012, at 9:00 a.m.
 Date of Intended Adoption: May 11, 2012.
 Submit Written Comments to: Susan Gragg, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by May 11, 2012.
 Assistance for Persons with Disabilities: Contact Susan Gragg by May 7, 2012, TTY (800) 833-6388 or 711.
 Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules amend existing rules to implement HB 1181 (chapter 41, Laws of 2011), which created the board of naturopathy; and SSB 5152 (chapter 40, Laws of 2011), which modified portions of naturopathic scope of practice. The proposed rules make general housekeeping edits and, because of the change in authority, add language for temporary practice permits and sexual misconduct. The proposed rules also update the education program standards and accept accreditation from national organizations as meeting the approval standards. This would allow on-site evaluations by national organizations, thereby eliminating duplication and inefficiencies.
 Reasons Supporting Proposal: The proposed rules reflect the change of regulatory authority from the secretary of health to the board of naturopathy and the modification to scope of practice. In addition, the changes to education standards provide flexibility for evolving educational institutions to continue to meet Washington standards.
 Statutory Authority for Adoption: RCW 18.36A.160, HB 1181 (2011), SSB 5152 (2011).
 Statute Being Implemented: Chapter 18.36A RCW.
 Rule is not necessitated by federal law, federal or state court decision.
 Name of Proponent: Department of health, board of naturopathy, governmental.
 Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Gragg, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, (360) 236-4941.
 No small business economic impact statement has been prepared under chapter 19.85 RCW. 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 Susan Gragg, Department of Health, P.O. Box

47852, Olympia, WA 98504-7852, phone (360) 236-4941, fax (360) 236-2901, e-mail susan.gragg@doh.wa.gov.

March 30, 2012
Susan Teil Boyer
Executive Director

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-010 Definitions. ~~((For the purposes of this chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "~~((Department))~~ Board" means the ~~((department of health))~~ board of naturopathy, whose address is:

Department of Health
~~((Professional Licensing Service))~~
P.O. Box 1099
Olympia, Washington 98507-1099

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

(3) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

~~((3))~~ "~~Mentally or physically disabled naturopath~~" means a naturopath who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice naturopathy with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.)

(4) "Naturopath" or "naturopathic physician" means a person licensed pursuant to chapter 18.36A RCW.

(5) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(6) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-020 Eligibility for licensure examination. (1) Graduates holding a degree/diploma from a college of naturopathic medicine approved by ~~((Washington state department of health))~~ the board shall be eligible to take the examination, provided all other requirements of RCW 18.36A.090 are met.

(2) All applicants shall file with the ~~((department))~~ board a completed application, with the required fee, at least ~~((60))~~ sixty days prior to the exam.

(3) Applicants shall request that the college of naturopathic medicine send official transcripts directly to the ~~((department))~~ board.

(4) Applicants who have filed the required applications, whose official transcript has been received by the ~~((department))~~ board, and who meet all qualifications shall be notified of their eligibility, and only such applicants will be admitted to the exam.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-030 Licensure examination. (1) The licensure examination shall consist of the following components and tests:

(a) Basic science component which may include but not be limited to tests in the following subjects: Pathology, anatomy, physiology, microbiology and biochemistry.

(b) Clinical science component which may include but not be limited to tests in the following subjects: Physical diagnosis; nutrition; physical medicine; botanical medicines and toxicology; psychological and lifestyle counseling; emergency medicine, basic skills and public health; lab and X-ray diagnosis.

(c) Law of the state and administrative regulations as they relate to the practice of naturopathic medicine.

(d) The ~~((department))~~ board, at its discretion, may require tests in other subjects. Candidates will receive information concerning additional tests prior to the examination.

(2) Candidates may take the basic science component of the exam after two years of training. A candidate who has achieved a passing score on the basic science component after two years of training must achieve a passing score on the clinical science component and the state law test within twenty-seven months after graduation; otherwise, the candidate's basic science component exam results will be null and void and the candidate must again take the basic science component of the exam. All exam candidates are required to obtain a passing score on all tests before a license is issued. A candidate who takes the basic science component of the exam after two years of training must submit an application for reexamination, along with reexamination fees, to take the clinical science component and the state law test at a later exam administration.

(3) Examinations shall be conducted twice a year.

(4) The minimum passing score for each test in the examination is seventy-five.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-050 Reexaminations. (1) A candidate wishing to retake the examination or any portion thereof must file with the ~~((department))~~ board the required reexamination fees and an application to retake the examination at least sixty days before the administration of the exam.

(2) A candidate must retake the entire basic science component if he or she failed to achieve a passing score in three or more basic science tests. A candidate must retake the entire clinical science component if he or she failed to achieve a passing score in four or more clinical science tests. A candidate must retake any test(s) for which the candidate failed to achieve a passing score.

(3) A candidate who failed to achieve a passing score in three or more basic science tests and/or four or more clinical science tests must achieve a passing score on those tests within the next two administrations of the examination. A candidate who does not achieve a passing score within those next two administrations of the exam will be required to retake the entire component.

(4) A candidate must achieve passing scores on all tests in the entire exam within a twenty-seven month period; otherwise the candidate's exam results are null and void and the candidate must retake the entire exam. Provided: WAC 246-836-030(2) shall apply to a candidate who took the basic science component of the exam after two years in training.

(5) A candidate is required to pay a reexamination fee to retake the exam or any portion thereof.

(6) A candidate who took the basic science component of the exam after two years of training must submit an application for reexamination, along with reexamination fees, to take the clinical science component and the state law test at a later exam administration.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-836-080 Continuing competency program.

(1) Licensed naturopathic physicians must demonstrate completion of ~~((20))~~ twenty hours of continuing education as provided in chapter 246-12 WAC, Part 7. Only courses in diagnosis and therapeutics as listed in RCW 18.36A.040 shall be eligible for credit.

(2) In emergency situations, such as personal or family illness, the ~~((department))~~ board may in its discretion, for good cause shown, waive all or part of the continuing education requirement for a particular one year period for an individual licensee. The ~~((department))~~ board may require such verification of the emergency as is necessary to prove its existence.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-100 Applicants educated and/or licensed in another country. (1) Applicants for licensure educated in a country outside the United States or its territories shall meet the following requirements for licensure.

(a) Satisfactory completion of a basic naturopathic medical program in a naturopathic school or college officially approved by the country where the school is located.

(i) The naturopathic education program at the time of graduation shall be equivalent to or exceed the minimum required standards for Washington state approved colleges of naturopathic medicine.

(ii) Any deficiencies in the naturopathic medical program shall be satisfactorily completed in a Washington state approved college of naturopathic medicine.

(b) Applicants licensed under the laws of a country outside of the United States or its territories shall be required to take the current licensing examinations noted in WAC 246-836-030: Provided, That those persons meeting the requirements of WAC 246-836-110, (Licensing by endorsement), are exempt from this requirement.

(c) All other requirements of chapter 18.36A RCW and this chapter must be met, including the requirement that the applicant be of good moral character; not have engaged in unprofessional conduct; and not be unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

(2) Applicants for examination shall:

(a) File with the ~~((department))~~ board a completed notarized license application with the required fee at least sixty days prior to examination.

(b) Request the college of naturopathic medicine to submit an official transcript directly to the ~~((department))~~ board.

(c) Request the licensing agency in the country of original license to submit evidence of licensure to the ~~((department))~~ board.

(d) If the applicant's original documents (education and licensing) are on file in another state, the applicant may request that the other state send to the ~~((department))~~ board notarized copies in lieu of the originals.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-110 Licensing by endorsement. A license to practice as a naturopathic physician in the state of Washington may be issued without examination at the discretion of the ~~((secretary))~~ board provided the applicant meets all of the following requirements:

(1) The candidate has graduated from and holds a degree/diploma from a college of naturopathic medicine approved by the state or jurisdiction where the school is located and which prepares candidates for licensure as a naturopathic physician: Provided, That such program at the time of the candidate's graduation is equivalent to or exceeds the minimum naturopathic medical educational standards required for Washington state approved schools;

(2) The candidate holds a current valid license in good standing to practice as a naturopathic physician in another state or jurisdiction. Official written verification of such licensure status must be received by the ~~((department))~~ board from the other state or jurisdiction;

(3) The candidate has completed and filed with the ~~((department))~~ board a notarized application for licensure by endorsement, a true and correct copy of the current valid license, and the required application fee;

(4) The candidate has successfully passed a naturopathic physician licensure examination in another state or jurisdiction. Written official verification of successful completion of the licensure examination and of licensure in good standing must be requested of the state or jurisdiction by the candidate and must be received by the ~~((department))~~ board directly from the state or jurisdiction;

(5) The candidate must meet all other requirements of chapter 18.36A RCW and this chapter, including the requirement that the applicant be of good moral character; not have engaged in unprofessional conduct; and not be unable to practice with reasonable skill and safety as a result of a physical or mental impairment; and

(6) The state or jurisdiction in which the candidate is currently licensed grants similar privilege of licensure without examination to candidates who are licensed in Washington as naturopathic physicians.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-130 Approval of colleges of naturopathic medicine. (1) For the purposes of this chapter, "college" means a college, university, educational institution, or educational program.

(2) The minimum educational requirement for licensure to practice naturopathic medicine in Washington is graduation from a naturopathic college approved by the ((secretary)) board which teaches adequate courses in all subjects necessary to the practice of naturopathic medicine.

~~((2))~~ (3) These rules provide the standards and procedures by which naturopathic colleges may obtain approval by the ((secretary)) board in order that graduates of those schools may be permitted to take examinations for license.

(4) The board determines the accreditation standards adopted June 2009 by the Council on Naturopathic Medical Education (CNME) to be substantially equivalent to the requirements of RCW 18.36A.100 and this chapter. Any naturopathic college holding current CNME accreditation shall be deemed to have met all requirements for approval.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-140 Provisional approval of colleges of naturopathic medicine. Provisional approval is ~~((the initial))~~ approval given to ~~((a previously))~~ an unapproved program while the program is undergoing the process of gaining full program approval. The ((secretary)) board may grant provisional approval to a naturopathic college which has been in continuous operation for at least one year. Provisional approval may be granted for a period not to exceed two and one-half years and may not be renewed or extended. Provisional approval shall neither imply nor assure eventual full approval.

(1) In order to obtain provisional approval, a naturopathic college must demonstrate compliance with, or adequate planning and resources to achieve compliance with, the standards contained in this chapter and ~~((chapter 18.36A))~~ RCW 18.36A.100.

(2) The procedures for application, examination, review and revocation of provisional approval shall be the same as those specified for full approval in this chapter.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-150 Full approval of colleges of naturopathic medicine. (1) Full approval of a college of naturopathic medicine is the approval given a program that meets the requirements of ~~((chapter 18.36A))~~ RCW 18.36A.100 and this chapter.

(a) Colleges of naturopathic medicine seeking full approval shall apply to the ((secretary)) board on a form and in a manner prescribed by the ((secretary)) board.

(b) Those naturopathic colleges holding current accreditation by the CNME need only reference their current CNME accreditation, which will be verified by the board; however,

such colleges shall be subject to all other provisions of this chapter.

(2) The ((secretary)) board may grant full approval to naturopathic colleges which have demonstrated compliance with the standards contained in this chapter and ~~((chapter 18.36A))~~ RCW 18.36A.100.

(3) To be eligible for full approval a naturopathic college must have been in continuous operation for a period of at least three years.

(4) After approval by the ((secretary)) board, periodic reports may be required. Failure to conform to or maintain established standards may result in loss of approval. No naturopathic college shall receive full approval for a period longer than five years. Prior to the expiration of the period of approval, the college must apply to the ((secretary)) board for renewal of approval using the same criteria required under subsection (1) of this section. The responsibility for renewal rests solely with the naturopathic college. The ((secretary)) board shall review the application and make a final decision of approval or disapproval in not more than one hundred twenty days.

(5) If a naturopathic college fails to maintain the required standards or fails to report significant institutional changes, including changes in location, within ninety days of the change, the ((secretary)) board may revoke or suspend approval. The ((secretary)) board may contact a naturopathic college at any time, either through an evaluation committee or representative, to audit, inspect or gather information concerning the ~~((operating of the school or college))~~ college's compliance with the required standards.

(6) After suspension of approval of a naturopathic college, the ((secretary)) board may reinstate approval upon receipt of satisfactory evidence that the college meets the standards of chapter 18.36A RCW and this chapter.

(7) After revocation of approval of a naturopathic college, a college may seek provisional approval, if otherwise qualified.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-160 Unapproved college of naturopathic medicine. (1) An "unapproved college of naturopathic medicine" is a program that has been removed from the ((secretary's)) board's list of approved colleges of naturopathic medicine for failure to meet the requirements of ~~((chapter 18.36A))~~ RCW 18.36A.100 and/or this chapter, or a program that has never been approved by the ((secretary)) board.

(2) A naturopathic college may be removed from the board's list of approved colleges when they no longer hold current accreditation through the CNME. Any college failing to maintain CNME accreditation is required to apply for approval to the board in accordance with the requirements in WAC 246-836-150.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-170 Appeal of ((secretary's)) board's decisions. A college of naturopathic medicine ~~((deeming~~

itself aggrieved by a decision of) removed from the ((secretary affecting its approval status)) board's approved list may appeal that decision in writing within thirty calendar days of the decision. If the board denies the appeal, the college shall have the right to appeal the ((secretary's decision)) board's denial in accordance with the provisions of the Administrative Procedure Act, ((chapter 34.05 RCW)) brief adjudicative proceedings, RCW 34.05.482 through 34.05.494.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-180 Standards for approval of colleges of naturopathic medicine. The following standards shall be used by the ((secretary)) board in considering a naturopathic college's application for approval:

(1) Objectives. The objectives of the ((institution)) college shall be clearly stated and address the preparation for the naturopathic physician to provide patient care. The implementation of the objectives should be apparent in the administration of the ((institution)) college, individual course objectives, and in the total program leading to graduation.

(2) Organization.

(a) For independent naturopathic colleges, the institution shall be incorporated under the laws of the state of its residence as an education corporation. Control shall be vested in a board of directors composed of naturopathic physicians and others. No less than one-third plus one of the directors shall be naturopathic physicians. Under no circumstances shall more than one-third of the directors have administrative or instructional positions in the college. The directors must demonstrate ((collective responsibility in)) their knowledge of ((, and)) the objectives of the college through policy decisions ((consistent with, the objectives of the college;)), support of college programs and active participation in college governance((;)), and selection and oversight of the chief administrative officer.

(b) For naturopathic colleges governed by a multidiscipline university, the institution shall be incorporated under the laws of the state of its residence as an education corporation and control vested in a governing board of directors or trustees composed of qualified members with diverse professional backgrounds. At least one of the directors shall be a naturopathic physician. Under no circumstances shall more than one-third of the directors have administrative or instructional positions in the institute. The institute shall have an established means by which the college can formally, regularly, and effectively communicate to the governing body its needs for resources and provide input on relevant institutional and programmatic issues.

(3) Administration. The education and experience of directors, administrators, supervisors, and instructors should be sufficient to ensure that the student will receive educational services consistent with institutional objectives. The administration of the ((institution)) college shall be such that the lines of authority are clearly drawn. The ((institution)) college shall present with its application a catalog and a brief, narrative explanation of how the administration of the ((institution)) college is, or is to be, organized and how the admin-

istrative responsibility for each of the following is, or is to be, managed:

(a) Faculty and staff recruitment;
 (b) Personnel records management;
 (c) Faculty pay scale and policies;
 (d) Standards and practices relating to evaluation, improvement of instruction, promotion, retention and tenure;
 (e) Admissions policies including procedures used to solicit students;

(f) Development and administration of policies governing rejection and retention of students, job placement, and student counseling and advising services;

(g) Curriculum requirements;
 (h) Tuition and fee policies; and
 (i) Financial management policies.

(4) Financial condition. The ((institution)) college shall demonstrate its financial stability by submitting certified audits once every three years and, reports, or other appropriate evidence annually.

(5) Records. The ((institution)) college shall maintain ((an adequately)) a detailed system of records for each student beginning with application credentials through the entire period of attendance. The records, including matriculation, attendance, grades, disciplinary action, and financial accounts, shall be the permanent property of the ((institution)) college, to be safeguarded from all hazards and not to be loaned or destroyed.

(6) Educational credentials.

(a) Upon satisfactory completion of the educational program, the student shall receive a degree from the ((institution)) college indicating that the course of study has been satisfactorily completed by the student.

(b) In addition, for each student who graduates or withdraws, the ((institution)) college shall prepare, permanently file, and make available a transcript which specifies all courses completed. Each course entry shall include a title, the number of credits awarded, and a grade. The transcript shall separately identify all credits awarded by transfer or by examination.

(c) Upon request, all student records and transcripts shall be made available to the ((secretary)) board.

(7) Catalog. The ((institution)) college shall publish a current catalog at least every two years containing the following information:

(a) Name, mailing address, and physical address of the school;

(b) Date of publication;

(c) Admission requirements and procedures;

(d) A statement of tuition and other fees or charges for which a student is responsible and a statement on refund policies;

(e) A school calendar designating the beginning and ending dates of each term, vacation periods, holidays, and other dates of significance to students;

(f) Objectives of the ((institution)) college;

(g) A list of trustees (directors), administrative officers and faculty members including titles and academic qualifications;

(h) A statement of policy about standards of progress required of students, including the grading system, minimum

satisfactory grades, conditions for interruption for unsatisfactory progress, probation, and reentry, if any;

(i) A description of each course indicating the number of hours and course content, and its place in the total program;

(j) A description of facilities and major equipment, including library, laboratory and clinical training facilities;

(k) Statements on the nature and availability of student financial assistance, counseling, housing, and placement services, if any;

(l) A statement indicating whether the ~~((school))~~ college is recognized by other agencies or associations for the licensing or certification of naturopathic physicians; and

(m) Any other material facts concerning the ~~((institution))~~ college which are reasonably likely to affect the decision of the potential student.

(8) Admission policies and procedures. The ~~((institution))~~ college shall not deny admission to a prospective student because of ~~((sex))~~ gender, race, color, religion, physical handicap and/or ethnic origin.

(9) Attendance. The ~~((institution))~~ college shall have a written attendance policy ~~((relative to attendance))~~.

(10) Curriculum. The curriculum of the ~~((institution))~~ college shall be designed and presented to meet or exceed the requirements of this chapter. Each student shall complete a minimum of three thousand hours instruction, which shall include no less than two hundred post-graduate hours in the study of mechanotherapy. ~~((A))~~ Minimum ~~((total))~~ clinical training shall be one thousand one hundred hours, of which no less than eight hundred hours shall be training with student actively involved in diagnosis and treatment in accordance with RCW 18.36A.050(3). The remainder, if any, may be preceptorships overseen by the college. The clinical training shall be in naturopathic procedures. The following standards are intended not as an exact description of a college's curriculum, but rather as ~~((guidelines))~~ a guide for the typical acceptable program. It is expected that the actual program taught by each naturopathic college will be prepared by the academic departments of the college to meet the needs of their students and will exceed the outline present here. The ~~((secretary's))~~ board's policy is to preserve the autonomy and uniqueness of each naturopathic college, and to encourage innovative and experimental programs to enhance the quality of education in colleges of naturopathic medicine.

- (a) Basic science
 - Anatomy (includes histology and embryology)
 - Physiology
 - Pathology
 - Biochemistry
 - Public health (includes public health, genetics, microbiology, immunology)
 - Naturopathic philosophy
 - Pharmacology
- (b) Clinical sciences
- (i) Diagnostic courses
 - Physical diagnosis
 - Clinical diagnosis

- Laboratory diagnosis
- Radiological diagnosis
- (ii) Therapeutic courses
 - Materia medica (botanical medicine)
 - Homeopathy
 - Nutrition
 - Physical medicine
 - (includes mechanical and manual manipulation, hydrotherapy, and electrotherapy)
 - Psychological medicine
- (iii) Specialty courses
 - Organ systems (cardiology, dermatology, endocrinology, EENT, gastroenterology)
 - Human development (gynecology, obstetrics, pediatrics, geriatrics)
 - State law and regulations as they relate to the practice of naturopathy
 - Medical emergencies
 - Office procedures
- (iv) Clinical externship/preceptorship
- (11) Academic standards. The ~~((institution))~~ college must regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the program and graduation shall be dependent on mastery of the knowledge and skills presented in the program.
- (12) Faculty. Faculty members shall be qualified by training and experience to give effective instruction in the subject(s) taught; advanced degrees in their respective disciplines are expected. The faculty should participate in development and evaluation of curriculum instructional methods and facilities; student discipline, welfare, and counseling; establishment of administrative and educational policies; scholarly and professional growth. Provisions shall be made to allow and encourage faculty involvement in these noninstructional functions, including a plan for peer observation and evaluation among faculty. The ~~((institution))~~ college shall not discriminate on the basis of ~~((sex))~~ gender, race, age, color, religion, physical handicap, or national or ethnic origin in the recruitment and hiring of faculty. The ~~((institution))~~ college shall have stated policies on faculty hiring, compensation, fringe benefits, tenure, retirement, firing, grievance, and appeals procedures. The ~~((institution))~~ college shall submit to the ~~((secretary))~~ board for each faculty member a resume which includes the following information.
 - (a) Academic rank or title;
 - (b) Degree(s) held, the institution(s) that conferred the degree(s), the date(s) thereof, and whether earned or honorary;
 - (c) Other qualifying training or experience;
 - (d) Name and course number of each course taught;
 - (e) Other noninstructional responsibilities, if any, and the proportion of the faculty member's time devoted to them; and
 - (f) The length of time associated with the ~~((institution))~~ college.

(13) Library. The library shall be staffed, equipped, and organized to adequately support the instruction, and research of students and faculty.

(14) Clinical training. The clinical facilities shall be adequate in size, number, and resources to provide all aspects of naturopathic diagnosis and treatment. There shall be properly equipped rooms for consultation, physical examination and therapy, and a pharmacy, a laboratory, and radiological equipment each consistent with the definition of practice in chapter 18.36A RCW as now or hereafter amended. A licensed and adequately experienced naturopathic physician must be in direct supervision of and have final decision in the diagnosis and treatment of patients by students, and must be present in the clinic at all times when the clinic is open.

(15) Physical plant, materials and equipment. The ~~((institution))~~ college shall own or enjoy the full use of buildings and equipment adequate to accommodate the instruction of its students, and administrative and faculty offices. There shall be adequate facilities ~~((of))~~ for the safekeeping of valuable records. The plant and grounds, equipment, and facilities shall be maintained in an efficient, sanitary, and presentable condition. All laws relating to safety ~~((and))~~, sanitation, and other regulations concerning public buildings shall be observed. There shall be sufficient personnel employed to carry out proper maintenance.

(16) Cancellation and refund policy. The ~~((institution))~~ college shall maintain a fair and equitable policy regarding refund of the unused portion of tuition fees and other charges in the event a student fails to enter the course, or withdraws at any time prior to completion of the course. Such a policy shall be in keeping with generally accepted practices of institutions of higher education.

(17) Other information. The applicant ~~((institution))~~ college shall provide any other information about the ~~((institution))~~ college and its programs as required by the ~~((secretary))~~ board.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-836-200 Site review procedures for approval of college of naturopathic medicine. (1) The ~~((secretary))~~ board may send a representative or an examining or evaluation committee to inspect any ~~((institution))~~ college requesting approval or reapproval as a college of naturopathic medicine.

(2) Such inspections may be at any reasonable time during the normal operating hours of the ~~((institution))~~ college. The report of the representative or committee and the ~~((institution's))~~ college's response shall be submitted as part of the documentation necessary for the ~~((secretary's))~~ board's action on the ~~((institution's))~~ college's application for approval.

(3) Expenses incurred for the site review shall be the responsibility of the ~~((program))~~ college requesting approval.

AMENDATORY SECTION (Amending WSR 07-20-101, filed 10/2/07, effective 11/2/07)

WAC 246-836-210 Authority to use, prescribe, dispense and order. (1) Naturopathic medical practice includes the prescription, administration, dispensing, and use of:

(a) Nutrition and food science, physical modalities, minor office procedures, homeopathy, hygiene, and immunizations/vaccinations;

(b) ~~((Nondrug))~~ Contraceptive devices;

(c) Nonlegend medicines including vitamins, minerals, botanical medicines, homeopathic medicines, and hormones;

(d) Legend drugs as defined under RCW 69.41.010 with the exception of Botulinum Toxin (commonly known as, among other names, Botox, Vistabel, Dysport, or Neurobloc) and inert substances used for cosmetic purposes; and

(e) Codeine and testosterone products that are contained within Schedules III, IV, and V in chapters 69.50 RCW and 246-887 WAC.

(2) In accordance with RCW 69.41.010(13), all prescriptions must be hand-printed, typewritten, or generated electronically.

(3) Prior to being allowed to administer, prescribe, dispense, or order controlled substances, a naturopathic physician must meet the requirements in WAC 246-836-211 and have obtained the appropriate registration issued by the Federal Drug Enforcement Administration.

(4) Naturopathic physicians may not treat malignancies except in collaboration with a practitioner licensed under chapter 18.57 or 18.71 RCW.

AMENDATORY SECTION (Amending WSR 07-20-101, filed 10/2/07, effective 11/2/07)

WAC 246-836-211 Authorization regarding controlled substances. (1) Upon approval by the ~~((department))~~ board, naturopathic physicians may obtain a current Federal Drug Enforcement Administration registration. The ~~((department))~~ board may approve naturopathic physicians who have:

(a) Provided documentation of a current Federal Drug Enforcement Administration registration from another state; or

(b) Submitted an attestation of at least four hours of instruction. Instruction must be part of a graduate level course from a school approved under chapter 18.36A, 18.71, 18.57, or 18.79 RCW. Instruction must include the following:

(i) Principles of medication selection;

(ii) Patient selection and therapeutics education;

(iii) Problem identification and assessment;

(iv) Knowledge of interactions, if any;

(v) Evaluation of outcome;

(vi) Recognition and management of complications and untoward reactions; and

(vii) Education in pain management and drug seeking behaviors.

(2) The naturopathic physician must retain training documentation at least five years from attestation date.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-330 Mandatory reporting. (1) All reports required by this chapter shall be submitted to the ~~((department))~~ board as soon as possible, but no later than twenty days after a determination is made.

(2) A report should contain the following information if known:

(a) The name, address, and telephone number of the person making the report.

(b) The name and address and telephone numbers of the naturopath being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

(3) Mandatory reports shall be exempt from public inspection and copying to the extent permitted under RCW 42.17.310 or to the extent that public inspection or copying of the report or any portion of the report would invade or violate a person's right to privacy as set forth in RCW 42.17.255.

(4) A person is immune from civil liability, whether direct or derivative, for providing information to the ((department)) board pursuant to RCW 18.130.070.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-340 Health care institutions. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the ((department)) board when any naturopath's services are terminated or are restricted based on a determination that the naturopath has either committed an act or acts which may constitute unprofessional conduct or that the naturopath may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-350 Naturopathic associations or societies. The president or chief executive officer of any naturopathic association or society within this state shall report to the ((department)) board when the association or society determines that a naturopath has committed unprofessional conduct or that a naturopath may not be able to practice naturopathy with reasonable skill and safety to patients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-360 Health care service contractors and disability insurance carriers. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44

RCW, operating in the state of Washington shall report to the ((department)) board all final determinations that a naturopath has engaged in fraud in billing for services.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-370 Professional liability carriers. Every institution or organization providing professional liability insurance directly or indirectly to naturopaths shall send a complete report to the ((department)) board of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured naturopath's incompetency or negligence in the practice of naturopathy. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the naturopath's alleged incompetence or negligence in the practice of naturopathy.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-380 Courts. The ((department)) board requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed naturopaths, other than minor traffic violations.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-836-390 State and federal agencies. The ((department)) board requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a naturopath is employed to provide patient care services, to report to the ((department)) board whenever such a naturopath has been judged to have demonstrated his/her incompetency or negligence in the practice of naturopathy, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled naturopath. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 246-836-500 Sexual misconduct—Definitions.
(1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian, and person authorized to make health care decisions of the patient or client.

(3) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the naturopathic

profession. The activity must be within the scope of practice of naturopathic medicine.

(4) "Patient" or "client" means an individual who receives health care from a naturopathic physician.

NEW SECTION

WAC 246-836-510 Sexual misconduct. (1) A naturopathic physician shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus, or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis, and treatment and within the naturopathic physician's scope of practice;
- (c) Rubbing against a patient or client or key party for sexual gratification;
- (d) Kissing;
- (e) Hugging, touching, fondling, or caressing of a romantic or sexual nature;
- (f) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient, client, or key party;
- (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity, or being in a custodial setting;
- (k) Encouraging masturbation or other sex act in the presence of the naturopathic physician;
- (l) Masturbation or other sex act by the naturopathic physician in the presence of the patient, client, or key party;
- (m) Suggesting or discussing the possibility of a dating, sexual, or romantic relationship after the professional relationship ends;
- (n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (o) Soliciting a date with a patient, client, or key party;
- (p) Discussing the sexual history, preferences, or fantasies of the naturopathic physician;
- (q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (r) Making statements regarding the patient, client, or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;
- (s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening, or harming a patient, client, or key party;
- (t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(u) Showing a patient, client, or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A naturopathic physician shall not:

- (a) Offer to provide health care services in exchange for sexual favors;
- (b) Use health care information to contact the patient, client, or key party for the purpose of engaging in sexual misconduct; or
- (c) Use health care information or access to health care information to meet or attempt to meet the naturopathic physician's sexual needs.

(3) A naturopathic physician shall not engage, or attempt to engage, in activities listed in subsection (1) of this section with a former patient, client, or key party within two years after the provider-patient/client relationship ends.

(4) After the two-year period of time described in subsection (3) of this section, a naturopathic physician shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

- (a) There is a significant likelihood that the patient, client, or key party will seek or require additional services from the naturopathic physician; or
 - (b) There is an imbalance of power, influence, opportunity, and/or special knowledge of the professional relationship.
- (5) When evaluating whether a naturopathic physician is prohibited from engaging, or attempting to engage, in sexual misconduct, the board will consider factors including, but not limited to:

- (a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;
 - (b) Transfer of care to another health care provider;
 - (c) Duration of the provider-patient relationship;
 - (d) Amount of time that has passed since the last health care services to the patient or client;
 - (e) Communication between the naturopathic physician and the patient or client between the last health care services rendered and commencement of the personal relationship;
 - (f) Extent to which the patient's or client's personal or private information was shared with the naturopathic physician;
 - (g) Nature of the patient or client's health condition during and since the professional relationship;
 - (h) The patient or client's emotional dependence and vulnerability; and
 - (i) Normal revisit cycle for the profession and service.
- (6) Patient, client, or key party initiation or consent does not excuse or negate the naturopathic physician's responsibility.
- (7) These rules do not prohibit:
- (a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;
 - (b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to naturopathic medicine; or
 - (c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established

personal relationship with the naturopathic physician where there is no evidence of, or potential for, exploiting the patient or client.

NEW SECTION

WAC 246-836-600 How to obtain a temporary practice permit while the national background check is completed. Fingerprint-based national background checks may cause a delay in licensing. Individuals who satisfy all other licensing requirements and qualifications may receive a temporary practice permit while the national background check is completed.

(1) A temporary practice permit may be issued to an applicant who:

(a) Holds an unrestricted, active license as a naturopathic physician in another state that has substantially equivalent licensing standards to those in Washington state;

(b) Is not subject to denial of a license or issuance of a conditional or restricted license; and

(c) Does not have a criminal record in Washington state.

(2) A temporary practice permit grants the individual the full scope of practice under this chapter.

(3) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

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

(c) One hundred eighty days after the temporary practice permit is issued.

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

(a) Submit the necessary application, fee(s), and documentation for the license;

(b) Meet all requirements and qualifications for the license, except for the results from a fingerprint-based national background check, if required;

(c) Provide verification of having an active unrestricted license as a naturopathic physician from another state that has substantially equivalent licensing standards as Washington state; and

(d) Submit the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-836-990 Naturopathic physician licensing fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The~~

~~adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Amount
Application initial/retake	\$100.00
State examination (initial/retake)	100.00
Initial license	100.00
License renewal	325.00
Late renewal penalty	62.50
Expired license reissuance	62.50
Duplicate license	15.00
Certification of license	15.00
UW library access fee	*25.00

* The \$25 access fee for the University of Washington HEAL-WA library web site, required under RCW 43.70.110, is assessed with the initial application fee and the license renewal fee.

**WSR 12-08-052
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(By the Code Reviser's Office)

[Filed April 3, 2012, 8:38 a.m.]

WAC 388-76-10160, 388-76-10162, 388-76-10174 and 388-76-10947, proposed by the department of social and health services in WSR 11-18-096 appearing in issue 11-19 of the State Register, which was distributed on October 5, 2011, is withdrawn by the code reviser's office under RCW 34.05.335 (3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

**WSR 12-08-053
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD**

[Filed April 3, 2012, 9:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-11-077.

Title of Rule and Other Identifying Information: Amends WAC 181-85-033 to provide clock hours for educators scoring the ProTeach portfolio.

Hearing Location(s): Phoenix Inn, 415 Capitol Way North, Olympia, WA 98501, on July 30, 2012, at 8:30 a.m.

Date of Intended Adoption: July 30, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA

98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by July 23, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by July 23, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Awards credit to educators scoring the ProTeach portfolio.

Reasons Supporting Proposal: Supports external assessment process.

Statutory Authority for Adoption: RCW 28A.410.210.

Statute Being Implemented: RCW 28A.410.270.

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

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

April 3, 2012
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-04-031, filed 1/26/12, effective 2/26/12)

WAC 181-85-033 Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors—First peoples' language, culture and oral tribal traditions. (1) Notwithstanding any provisions of this chapter to the contrary, for consultation and collaboration as a member of an approved professional growth team, as defined by WAC 181-78A-010 and 181-78A-505, members of a professional growth team, excluding the candidate, shall receive the equivalent of ten continuing education credit hours. The team member may not receive more than the equivalent of twenty continuing education credit hours, as defined by this section, during a calendar year period.

(2) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(3)(a) Notwithstanding any provisions of this chapter to the contrary, individuals officially designated as a supervisor by a college/university, school district, educational service

district, an approved private school, a state agency providing educational services to students or the superintendent of public instruction, a person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for service as a supervisor. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(b) The term "supervisor" shall mean individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative interns, educational staff associate interns, and paraprofessionals.

(4) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of forty-five continuing education credit hours for completion of an assessment process as part of the National Board for Professional Teaching Standards certificate application. Upon achieving National Board certification, the individual shall receive the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per National Board certificate.

(5) Notwithstanding any provisions of this chapter to the contrary, teachers who achieve the professional certification through the external assessment per WAC 181-79A-206 will receive the equivalent of one hundred fifty continuing education credit hours.

(6) Notwithstanding any provisions of this chapter to the contrary, for designing and completing a professional growth plan under the provisions of WAC 181-85-034, participants shall receive the equivalent of no more than sixty continuing education credit hours over a period of two school years, as defined by this chapter.

(7) Notwithstanding any provision of this chapter to the contrary, individuals who receive in-service training or continuing education according to RCW 28A.415.020(6) in first peoples' language, culture and oral tribal traditions provided by a sovereign tribal government participating in the Washington state first peoples' language, culture and oral tribal traditions teacher certification program authorized under RCW 28A.410.045 shall be considered approved in-service training or approved continuing education under this section.

(8) Notwithstanding any provision of this chapter to the contrary, individuals who serve as scorers for the Washington teacher performance assessment shall receive the equivalent of ten continuing education credit hours for each four assessments scored, provided that an individual may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period. Additionally, individuals who receive initial training as scorers for the Washington teacher performance assessment shall receive the equivalent of ten continuing education credit hours.

(9) Notwithstanding any provision of this chapter to the contrary, individuals who serve as scorers for the Washington ProTeach Portfolio assessment shall receive the equivalent of ten continuing education credit hours for completing one full scoring session during a calendar year, provided that an indi-

vidual may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period. Individuals who receive initial training as scorers for the Washington ProTeach Portfolio assessment shall receive the equivalent of ten additional continuing education credit hours.

WSR 12-08-054
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed April 3, 2012, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-081.

Title of Rule and Other Identifying Information: Amends WAC 181-78A-100 to provide for off-site reviews of approved preparation programs. Requires an institutional report to facilitate the off-site review.

Hearing Location(s): The Inn at Gig Harbor, 3211 56th Street N.W., Gig Harbor, WA 98335, on May 10, 2012, at 8:30 a.m.

Date of Intended Adoption: May 10, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by May 3, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by May 3, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Streamlines review process. Clarifies and makes technical changes.

Reasons Supporting Proposal: Clarifies requirements.

Statutory Authority for Adoption: RCW 28A.410.210.

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

Name of Proponent: Professional educator standards board, governmental.

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

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

April 3, 2012
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-02-028, filed 12/28/11, effective 1/28/12)

WAC 181-78A-100 Existing approved programs.

Chapter 181-78A WAC rules shall govern all policies related to programs upon adoption by the professional educator standards board, which shall provide assistance to programs in the revision of their existing programs.

~~((1) All professional education programs shall be reviewed for approval under the 1997 program approval standards of chapter 181-78A WAC by August 31, 2000. Colleges and universities may permit individuals accepted into teacher preparation programs on or before August 31, 2000, to obtain certification by meeting requirements of programs approved under approval standards described in chapter 181-78 WAC if the individuals complete the program on or before August 31, 2003, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2003. Provided, That the professional educator standards board or its designee may waive this deadline on a case-by-case basis.~~

~~(2) All principal/program administrator programs shall be reviewed for approval under the 2002 program approval standards of chapter 181-78A WAC by August 31, 2004. Colleges and universities may permit individuals accepted into principal/program administrator programs on or before August 31, 2004, to obtain a residency certificate by meeting requirements of programs approved under 1997 approval standards described in chapter 181-78A WAC if the individuals complete the program on or before August 31, 2006, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2006. Provided, That the professional educator standards board or its designee may waive this deadline on a case-by-case basis.~~

~~(3) All school counselor or school psychologist programs shall be approved under the 2004 program approval standards of chapter 181-78A WAC by August 31, 2005. Colleges and universities may permit individuals accepted into the school counselor or school psychologist programs on or before August 31, 2005, to obtain a residency certificate by meeting requirements of programs approved under the 1997 approval standards described in chapter 181-78A WAC if the individuals complete the program on or before August 31, 2007, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2007. Provided that the professional educator standards board or its designee may waive this deadline on a case-by-case basis.~~

~~(4) Individuals who completed a principal/program administrator program on or before August 31, 2004, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2004. Individuals who complete an educational staff associate program on or before August 31, 2005, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2005.~~

~~(5) Institutions shall be given at least one year notification prior to a professional educator standards board review for compliance with these standards. Provided, That if an institution requests a visit with less than a year's notice, the~~

~~professional educator standards board shall consider that request.~~

~~((6)) (1)~~ The professional educator standards board shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under ~~((the 1997))~~ program approval standards. In determining the schedule for site visits, the board shall take into consideration the partnership agreement between the state and the National Council for the Accreditation of Teacher Education (NCATE) as such agreement relates to the NCATE accreditation cycle and allow NCATE accredited colleges/universities to follow the NCATE schedule for their state site visit. Non-NCATE accredited colleges/universities shall have a state approval site visit every five years. The professional educator standards board may require more frequent site visits at their discretion pursuant to WAC 181-78A-110(2).

~~((7)) (2)~~ Each institution shall submit its program for review when requested by the professional educator standards board to ensure that the program meets the state's program approval standards ~~((and to provide assessment data relative to the performance standards to the professional educator standards board for the year prior to the site visit.))~~ as follows:

(a) At least six months prior to a scheduled on-site visit, the institution(s) shall ((follow professional educator standards board posted timelines to)) submit an institutional report that ((shall:

(i) Describe how the program approval standards are met for each educator preparation program scheduled for review (NCATE reports may fulfill this requirement);

(ii) Describe how "unmet" standards or program weaknesses, identified during the previous site visit, have been corrected;

(iii) Describe major program(s) changes implemented since the last site visit;

(iv) Summarize all WEST-E data since the last site visit;

(v) Summarize all program completion survey data compiled since the last site visit;

(vi) Include all professional education advisory board reports submitted since the last site visit;

(vii) Summarize complaints related to the program(s) and actions taken to remedy the complaints; and

(viii) Describe the criteria used by the program(s) to assess, in multiple ways over time, its candidates' knowledge and skills, including evidence of positive impact on student learning) provides evidence and narrative, as needed, that addresses how the program approval standards are met for each preparation program undergoing review. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-255(2) as have been designated by the professional educator standards board as evidence pertinent to the program approval process.

(b) ~~The ((site visit))~~ institutional report shall be ~~((conducted))~~ reviewed by ~~((a))~~ an off-site team whose membership is composed of:

(i) One member of the professional educator standards board;

(ii) One peer institution representative;

(iii) One individual with assessment expertise;

(iv) Two K-12 practitioners with expertise related to the programs scheduled for review; and

(v) A designated professional educator standards board staff member who shall serve as team leader.

(vi) Substitutions, drawn from (b)(i) through (iv) of this subsection, may be assigned when individuals are not available. Additions to the team shall be drawn from (b)(i) through (iv) of this subsection when necessary. The professional educator standards board liaison for that institution may be present, but shall not serve in an evaluative role. All members, including substitutes, shall be trained.

~~(c) The ((site visit shall be conducted in compliance with the protocol and process adopted and published by the professional educator standards board))~~ review of the off-site team shall identify additional evidence and clarifications that may be needed to provide adequate support for the institutional report.

~~(d) The ((final site visit report and other appropriate documentation will be submitted to the professional educator standards board))~~ report of the off-site team shall be submitted to the institution, which shall provide an addendum to the institutional report no later than five weeks preceding the on-site review.

(e) The on-site visit shall be conducted in compliance with the protocol and process adopted and published by the professional educator standards board. The team shall be comprised of members of the off-site review team.

(f) The final site visit report and other appropriate documentation will be submitted to the professional educator standards board.

(g) Institutions may submit a reply to the report within two weeks following receipt of the report. The reply may address issues for consideration, including a request for appeal per this subsection (g) ((of this section)), limited to factual errors, evidence that the review disregarded state standards, failed to follow state procedures for review, or failed to consider evidence that was available at the time of the review.

~~((f))~~ (h) In considering the report, the professional educator standards board may grant approval according to WAC 181-78A-110 and 181-78A-100((6)) (1).

~~((g))~~ (i) Institutions may request a hearing in instances where it disagrees with the professional educator standards board's decision. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW. The institution seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035.

~~((8)) (3)~~ Institutions seeking National Council for the Accreditation of Teacher Education, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the professional educator standards board approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

WSR 12-08-056
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed April 3, 2012, 11:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-18-091.

Title of Rule and Other Identifying Information: WAC 415-02-130 Will I receive retirement and account information.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 9, 2012, at 2:00 p.m.

Date of Intended Adoption: June 1, 2012.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on May 9, 2012.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by April 6, 2012, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of retirement systems is amending the rule, as necessary, to ensure the rule is accurate, up-to-date, and written in "plain English."

Reasons Supporting Proposal: The amended rule ensures accuracy and clearly identifies what retirement information is being provided to retirement system members and by whom.

Statutory Authority for Adoption: RCW 41.50.050(5).

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation: Shawn Merchant, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7303; and Enforcement: Jennifer Dahl, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7219.

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

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

April 3, 2012
 Ken Goolsby
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-02-130 Will I receive retirement ~~((and))~~ account information? (1) DRS ~~((provides))~~ will make annual statements available to all members who ~~((are currently employed and are being reported, and to inactive mem-~~

bers who provide a mailing address)) have a balance of service credit or dollars in accordance with RCW 41.50.065.

(2) If you are a member of Plan 1 or 2, ~~((you will receive annual statements. The statements))~~ the information will include, but ~~((are))~~ is not limited to, the following ~~((informa-~~

- (a) Service credit;
- (b) Contributions; ~~and~~
- (c) Regular interest~~((; and~~
- ~~((d) Various retirement information)).~~

(3) ~~((For))~~ If you are a member of Plan 3, ~~((you will receive two types of statements))~~ the information will be provided through two sources.

(a) ~~((The defined benefit portion of your plan will provide an annual statement of your accumulated service credit and various retirement information))~~ Service credit information, used in the calculation of the defined benefit component, will be made available annually by DRS.

(b) ~~((The defined contribution portion of your plan will provide annual and))~~ Information regarding the defined contribution component of your plan will be provided on quarterly statements from the recordkeeper. The statements include, but are not limited to, contributions and account activity.

(4) Information on annual and quarterly statements are based on information provided to the department by your employer and are subject to correction.