

**WSR 13-09-020**  
**RULES OF COURT**  
**STATE SUPREME COURT**

[April 5, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO DEPART- ) NO. 25700-A-1018  
MENT OF FISH AND WILDLIFE'S )  
PROPOSED AMENDMENTS TO IRLJ )  
6.2 - MONETARY PENALTY SCHED- )  
ULE FOR INFRACTIONS; DISTRICT )  
AND MUNICIPAL COURT JUDGES' )  
ASSOCIATION'S PROPOSED AMEND- )  
MENTS TO GR 31(1) - ACCESS TO )  
COURT RECORDS AND RESCISSION )  
OF CrRLJ 8.10 - CLOSURE OF PRO- )  
CEEDINGS AND SEALING OF )  
RECORDS, CrRLJ 8.11 - DISCLOSURE )  
OF RECORDS AND ARLJ 9 - DISCLO- )  
SURE OF RECORDS )

The Supreme Court Rules Committee having recom-  
mended the adoption of the proposed amendments to Depart-  
ment of Fish and Wildlife's proposed Amendments to IRLJ  
6.2 - Monetary Penalty Schedule for Infractions; District  
Municipal Court Judges' Association's Proposed Amendment  
to GR 31(1) - Access to Court Records and Rescission of  
CrRLJ 8.10 - Closure of Proceedings and Sealing of Records;  
CrRLJ 8.11 - Disclosure of Records and ARLJ 9 - Disclosure  
of Records, and the Court having approved the proposed  
amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provision of GR 9(g), the pro-  
posed amendments as shown below are to be published for  
comment in the Washington Reports, Washington Register,  
and on the Washington State Bar Association and Office of  
the Administrator for the Courts' websites expeditiously.

(b) The purpose statements as required by GR 9(e), are  
published solely for the information of the Bench, Bar and  
other interested parties.

(c) Comments are to be submitted to the Clerk of the  
Supreme Court by either U.S. Mail or Internet E-Mail by no  
later than 60 days from the published date. Comments may  
be sent to the following addresses: P.O. Box 40929, Olym-  
pia, Washington 98504-0929, or Denise.Foster@courts.  
wa.gov. Comments submitted by e-mail message must be  
limited to 1500 words.

DATED at Olympia, Washington this 5th day of April,  
2013.

For the Court  
Madsen, C.J.  
\_\_\_\_\_  
CHIEF JUSTICE

**GR 9 COVER SHEET**  
**Suggested Amendment**  
**Infraction Rules for Courts of Limited Jurisdiction**  
**(IRLJ)**

**Rule Amendment 6.2(d) Monetary Penalty Schedule for**  
**Infractions**

**(C) PURPOSE:** To amend the penalty schedule in Infrac-  
tion Rule of Courts of Limited Jurisdiction (IRLJ) 6.2(d) to  
provide varied penalties for fish and wildlife infractions.  
Such an amendment will not create or resolve any conflicts  
with statutes, case law, or other court rules. However, it will  
penalize fish and wildlife infractions according to the seri-  
ousness of each infraction.

Fish and wildlife infractions are currently classified as  
"Unscheduled infractions" under IRLJ 6.2(b). These infrac-  
tions previously did not fall under this rule. When the  
Supreme Court amended the Criminal Rule for Courts of  
Limited Jurisdiction (CrRLJ) 3.2 on July 1, 2012, to repeal a  
monetary penalty schedule that provided "bail" amounts for  
several infractions, all fish and wildlife infractions were  
moved to IRLJ 6.2(b) and classified as unscheduled, with a  
base penalty of \$42. When public safety and education  
assessments (PSEAs) are added pursuant to RCW 3.62.090,  
the full penalty is for each infraction is \$87. This penalty  
(\$87) is appropriate for several fish and wildlife infractions,  
but it is low for others. For example, the infraction associated  
with unlawful operation of a vessel around southern resident  
orca whales used to be \$1,025 (\$500 base penalty and \$525 in  
PSEAs) under RCW 7.84.100. Because this population of  
whales is listed under state and federal laws as an endangered  
species, WDFW would like to set the base penalty for this  
infraction at the maximum level, \$500, in order to provide  
adequate violation deterrence. To establish an appropriate  
penalty for each fish and wildlife infraction, WDFW pro-  
poses to amend the penalty schedule in IRLJ 6.2(d).

IRLJ 6.2(d)  
MONETARY PENALTY SCHEDULE FOR  
INFRACTIONS

(a) Effect of Schedule. The penalty for any infraction  
listed in this rule may not be changed by local court rule. The  
court may impose on a defendant a lesser penalty in an indi-  
vidual case. Provided that, whenever the base penalty plus  
statutory assessments results in a total payment that is not an  
even dollar amount, the base penalty is deemed to be  
amended to a higher amount which produces the next greatest  
even dollar total.

(b) Unscheduled Infractions. The penalty for any infrac-  
tion not listed in this rule shall be \$42, not including statutory  
assessments. A court may, by local court rule, provide for a  
different penalty.

(c) Infractions Not Covered. This schedule does not  
apply to penalties for parking, standing, stopping, or pedes-  
trian infractions established by municipal or county statute.  
Penalties for those infractions are established by statute or  
local court rule, but shall be consistent with the philosophy of  
these rules.

(d) Penalty Schedule. The following infractions shall  
have the penalty listed, not including statutory assessments.

|   | Base<br>Penalty |
|---|-----------------|
| (1) Traffic Infractions   |                 |
| Second Degree Negligent Driving   | \$250           |
| Wrong way on freeway (RCW 46.61.150)  | \$182           |
| Wrong way on freeway access (RCW 46.61.-155)                                  | \$87            |
| Backing on limited access highway (RCW 46.61.605)                             | \$87            |
| Spilling or failure to secure load (RCW 46.61.-655)                           | \$87            |
| Throwing or depositing debris on highway (RCW 46.61.645)                      | \$87            |
| Disobeying school patrol (RCW 46.61.385)                                      | \$87            |
| Passing stopped school bus (with red lights flashing) (RCW 46.61.370)         | \$87            |
| Violation of posted road restriction (RCW 46.44.080; RCW 46.44.105(4))        | \$182           |
| Switching license plates, loan of license or use of another's (RCW 46.16.240) | \$87            |
| Altering or using altered license plates (RCW 46.16.240)                      | \$87            |
| Operator's Licenses (RCW 46.20)   |                 |
| No Valid Driver's License (With Identification)                               | \$250           |
| All other RCW 46.20 infractions   |                 |
| Vehicle Licenses (RCW 46.16)  | \$42            |
| Expired Vehicle License (RCW 46.16.010)                                       |                 |
| Two months or less  | \$42            |
| Over 2 months   | \$87            |
| Speeding (RCW 46.61.400) if speed limit is over 40 m.p.h.                     |                 |
| 1-5 m.p.h. over limit   | \$27            |
| 6-10 m.p.h. over limit  | \$37            |
| 11-15 m.p.h. over limit   | \$52            |
| 16-20 m.p.h. over limit   | \$67            |
| 21-25 m.p.h. over limit   | \$82            |
| 26-30 m.p.h. over limit   | \$102           |
| 31-35 m.p.h. over limit   | \$127           |
| 36-40 m.p.h. over limit   | \$152           |
| Over 40 m.p.h. over limit   | \$182           |
| Speeding if speed limit is 40 m.p.h. or less                                  |                 |
| 1-5 m.p.h. over limit   | \$37            |
| 6-10 m.p.h. over limit  | \$42            |
| 11-15 m.p.h. over limit   | \$57            |
| 16-20 m.p.h. over limit   | \$77            |
| 21-25 m.p.h. over limit   | \$102           |
| 26-30 m.p.h. over limit   | \$127           |
| 31-35 m.p.h. over limit   | \$152           |
| Over 35 m.p.h. over limit   | \$182           |

|  | Base<br>Penalty |
|--|-----------------|
| Speed Too Fast for Conditions (RCW 46.61.400 (1))  | \$42            |
| Rules of the Road  |                 |
| Failure to stop (RCW 46.61.050.)   | \$42            |
| Failure to stop on approach of emergency vehicle (RCW 46.61.210)   | \$500           |
| Failure to yield the right of way (RCW 46.61.-180, 185, .190, .205, .235, .300, .365)  | \$42            |
| Failure to yield the right of way on approach of emergency vehicle (RCW 46.61.210)   | \$500           |
| Following too close (RCW 46.61.145, .635)  | \$42            |
| Failure to signal (RCW 46.61.310)  | \$42            |
| Improper lane usage or travel (RCW 46.61.140)  | \$42            |
| Impeding traffic (RCW 46.61.425)   | \$42            |
| Improper passing (RCW 46.61.110, .115, .120, .125, .130)   | \$42            |
| Prohibited and improper turn (RCW 46.61.290, .295, .305)   | \$42            |
| Crossing double yellow line left of center line (RCW 46.61.100, .130, .140)  | \$42            |
| Operating with obstructed vision (RCW 46.61.615)   | \$42            |
| Wrong way on one-way street (RCW 46.61.135)  | \$42            |
| Failure to comply with restrictive signs (RCW 46.61.050)   | \$42            |
| Accident   |                 |
| If an accident occurs in conjunction with any of the listed rules-of-the-road infractions or speed too fast for conditions, the penalty for the infraction shall be: | \$67            |
| Equipment (RCW 46.37)  |                 |
| Illegal use of emergency equipment (RCW 46.37.190)   | \$87            |
| Defective or modified exhaust systems, mufflers, prevention of noise and smoke (RCW 46.37.390 (1) and (3))   |                 |
| First offense (the penalty may be waived upon proof to the court of compliance)  | \$47            |
| Second offense within 1 year of first offense  | \$67            |
| Third and subsequent offenses within 1 year of first offense   | \$87            |
| Any other equipment infraction (RCW 46.37.-010)  | \$42            |
| Motorcycles  |                 |
| Any infraction relating specifically to motorcycles (including no valid endorsement, RCW 46.20.500)  | \$42            |
| Parking  |                 |
| Illegal parking on roadway (RCW 46.61.560)   | \$30            |

|   | Base<br>Penalty |
|---|-----------------|
| Any other parking infraction (not defined by city or county ordinance)                  | \$20            |
| Pedestrians   |                 |
| Any infraction regarding pedestrians (not defined by city or county ordinance)          | \$27            |
| Bicycles  |                 |
| Any infraction regarding bicycles   | \$32            |
| Load Violations<br>(all under RCW 46.44, except over license capacity) (see RCW 46.16)  |                 |
| Over legal—tires, wheelbase (RCW 46.44.105 (1))   |                 |
| (First offense)   | \$72            |
| (Second offense)  | \$102           |
| (Third offense)   | \$117           |
| In addition to the above (RCW 46.44.105(2)) 3 cents per excess pound                    |                 |
| Over license capacity (RCW 46.16.145)   |                 |
| (First offense)   | \$57            |
| (Second offense)  | \$102           |
| (Third offense)   | \$117           |
| Violation of special permit   | \$67            |
| Failure to obtain special permit  | \$67            |
| Failure to submit to being weighed  | \$67            |
| Illegal vehicle combination (RCW 46.44.036)   | \$67            |
| Illegally transporting mobile home  | \$72            |
| Any other infraction defined in RCW 46.44   | \$52            |
| Violation of Federal Motor Carrier Safety Regulations (RCW 46.32.010)                   |                 |
| Logbook/Medical Certificate   | \$69            |
| Equipment/All Others  | \$42            |
| Private Carrier (RCW 46.73)   |                 |
| Failure to display valid medical exam   | \$69            |
| Violation of daily log book   |                 |
| Driver not out of service   | \$69            |
| Driver out of service   | \$95            |
| Off-Road Vehicles (ATVs) (RCW 46.09)  |                 |
| Any RCW 46.09 infraction  | \$47            |
| Snowmobiles (RCW 46.10)   |                 |
| Any RCW 46.10 infraction  | \$47            |
| Failure to respond to notice of infraction or failure to pay penalty (RCW 46.63.110(3)) | \$25            |
| Failure to provide proof of motor vehicle insurance (RCW 46.30.020)                     | \$250           |
| (2) Commercial Vehicle Infractions  |                 |
| Defective Equipment/Driver Safety (auto transp.) (WAC 480-30-095)                       | \$42            |

|   | Base<br>Penalty |
|---|-----------------|
| Commercial Vehicle License (auto transp.) (WAC 480-30-095(1))                           | \$42            |
| Defective Equipment/Driver Safety (charter/excursion bus) (WAC 480-40-075)              | \$42            |
| Commercial Vehicle License (charter/excursion bus) (WAC 480-40-075(1))                  | \$42            |
| Defective Equipment/Driver Safety (solid waste transp.) (WAC 480-70-400)                | \$42            |
| Commercial Vehicle License (solid waste transp.) (WAC 480-70-400(1))                    | \$42            |
| Failure To Have Proof of Insurance (RCW 81.80.190)                                      | \$250           |
| Defective Equipment/Driver Safety (WAC 480-12-180)                                      | \$42            |
| Commercial Vehicle License (WAC 480-12-180(1))  | \$42            |
| Defective Equipment/Driver Safety (limousine) (WAC 480-35-090)                          | \$42            |
| Commercial Vehicle License (limousine) (WAC 480-35-090(1))                              | \$42            |
| (3) Parks and Recreation Infractions  |                 |
| Display of Snowmobile Registration Number, Decals, and Validation Tabs (WAC 308-94-070) | \$55            |
| Off-Road Vehicle Traffic Prohibited (WAC 332-52-030(4))                                 | \$42            |
| Travel Off-Road or Off-Trail (WAC 332-52-030 (4)(c))                                    | \$42            |
| Spark-Arresting Muffler Required (WAC 332-52-030 (4)(h))                                | \$42            |
| Yield Right of Way to:  |                 |
| Log Hauling and Gravel Trucks (WAC 332-52-030 (4)(l))                                   | \$42            |
| Animal-Drawn Vehicles/Persons Riding Animals (WAC 332-52-030 (4)(l))                    | \$42            |
| Following Closer Than 150 Feet (WAC 332-52-030 (4)(m))                                  | \$42            |
| Moving Through Livestock Herd Without Direction (WAC 332-52-030 (4)(o))                 | \$42            |
| Parking on the Traveled Portion of the Roadway (WAC 332-52-030 (4)(q))                  | \$30            |
| Excessively Rev Vehicle Engine (WAC 332-52-030 (4)(r))                                  | \$42            |
| Driving/Parking Vehicles (WAC 332-52-050(1))  | \$42            |
| Bicycles/Motorbikes/Motorcycles on Posted Trails (WAC 332-52-050(3))                    | \$42            |
| Driving Motor Vehicle in Camp (WAC 332-52-050(4))                                       | \$42            |
| Moorage and Use of Marine Facilities (WAC 352-12-010)                                   | \$42            |

|  | Base<br>Penalty |
|--|-----------------|
| Moorage Fees (WAC 352-12-020)  | \$42            |
| Seasonal Permits (WAC 352-12-030)  | \$42            |
| Use of Onshore Campsites (WAC 352-12-040)  | \$42            |
| Self-Registration (WAC 352-12-050)   | \$67            |
| Parking (WAC 352-20-010)   | \$24            |
| Motor Vehicles on Roads and Trails (WAC 352-20-020)  | \$67            |
| Speed Limits (WAC 352-20-030)  | \$42            |
| Vehicles in Snow Areas (WAC 352-20-040)  | \$67            |
| Trucks and Commercial Vehicles (WAC 352-20-050)  | \$42            |
| Camping (WAC 352-32-030)   | \$67            |
| Campsite Reservation (WAC 352-32-035)  | \$42            |
| Picnicking (WAC 352-32-040)  | \$42            |
| Park Periods (Unlawful Entry) (WAC 352-32-050)   | \$67            |
| Park Capacities (WAC 352-32-053)   | \$42            |
| Peace and Quiet (WAC 352-32-056)   | \$67            |
| Pets (WAC 352-32-060)  | \$42            |
| Horseback Riding (WAC 352-32-070)  | \$42            |
| Use of Nonmotorized Cycles or Similar Devices in State Parks (WAC 352-32-075)                                | \$42            |
| Swimming (WAC 352-32-080)  | \$42            |
| Games (WAC 352-32-090)   | \$42            |
| Disrobing (WAC 352-32-100)   | \$42            |
| Tents, etc., on Beaches (WAC 352-32-110)   | \$42            |
| Lakes Located Wholly Within State Park Boundaries—Internal Combustion Engines Prohibited (WAC 352-32-155)    | \$42            |
| Lakes located Partially Within State Park Boundaries—Internal Combustion Engines Prohibited (WAC 352-32-157) | \$42            |
| Solicitation (WAC 352-32-195)  | \$67            |
| Intoxication in State Park Areas (WAC 352-32-220)  | \$142           |
| Food and Beverage Containers on Swimming Beaches (WAC 352-32-230)  | \$42            |
| Use of Metal Detectors in State Parks (WAC 352-32-235)   | \$42            |
| Self-Registration (WAC 352-32-255)   | \$67            |
| Sno-Park Permit (WAC 352-32-260)   | \$42            |
| Sno-Park Permit Display (WAC 352-32-265)   | \$42            |
| Vehicular Traffic—Where Permitted—Generally (WAC 352-37-030)   | \$67            |
| Equestrian Traffic (WAC 352-37-080)  | \$42            |
| Pedestrians To Be Granted Right of Way (WAC 352-37-090)  | \$42            |
| Beach Parking (WAC 352-37-100)   | \$24            |

|  | Base<br>Penalty |
|--|-----------------|
| Overnight Parking or Camping Prohibited (WAC 352-37-110)   | \$67            |
| Speed Limits (WAC 352-37-130)  | \$42            |
| (4) Boating Infractions  | \$167           |
| Operating Vessel in Negligent Manner (RCW 79A.60.030)  |                 |
| No Personal Flotation Device (PFD) on Vessel for Each Person (RCW 79A.60.160(1))                                   | \$42            |
| Personal Flotation Device Not the Appropriate Size (RCW 79A.60.160(1))   | \$42            |
| Personal Flotation Device Not Readily Accessible (RCW 79A.60.160(1))   | \$42            |
| Observer Required on Board Vessel (RCW 79A.60.170(2))  | \$42            |
| Observer To Continuously Observe (RCW 79A.60.170(2))   | \$42            |
| Failure To Display Skier Down Flag (RCW 79A.60.170(2))   | \$42            |
| Flag/Pole Not to Specifications (RCW 79A.60.-170(2))   | \$42            |
| Observer Does Not Meet Minimum Qualifications (RCW 79A.60.170(3))  | \$67            |
| Water Skier Not Wearing Personal Flotation Device (RCW 79A.60.170(4))  | \$67            |
| Overloading of Vessel Beyond Safe Carrying Ability (RCW 79A.60.180(1))   | \$117           |
| Carrying Passengers in Unsafe Manner (RCW 79A.60.180(1))   | \$67            |
| Overpowering of Vessel Beyond Vessel's Ability To Operate Safely (RCW 79A.60.180(2))                               | \$117           |
| Person Not Wearing Personal Flotation Device (PFD) on Personal Watercraft (RCW 79A.60.-190(1))                     | \$67            |
| Failure To Give Accident Information to Law Enforcement (RCW 79A.60.200(1))  | \$117           |
| Motor Propelled Vessels Without Effective Muffler in Good Working Order and Constant Use (RCW 79A.60.130(1))       | \$42            |
| Sound Level in Excess of 90 Decibels for Engines Made Before 1/1/94 Using Stationary Test (RCW 79A.60.130(1))      | \$42            |
| Sound Level in Excess of 88 Decibels for Engines Made on or After 1/1/94 Using Stationary Test (RCW 79A.60.130(1)) | \$42            |
| Sound Level in Excess of 75 Decibels Using Shoreline Test (RCW 79A.60.130(3))                                      | \$42            |
| Removing, Altering or Modifying Muffler or Muffler System (RCW 79A.60.130(7))                                      | \$42            |

|  | Base<br>Penalty |
|--|-----------------|
| Manufacturing, Selling, or Offering for Sale Any Vessel Equipped With Noncomplying Muffler or Muffler System (RCW 79A.60.130(8)) | \$67            |
| Vessel Exemption/Exception for Competing in Racing Events Carried on Board Operating Vessel (RCW 79A.60.130(8))                  | \$42            |
| Personal Flotation Devices (PFDs) (WAC 352-60-030)   | \$42            |
| Visual Distress Signals (WAC 352-60-040)   | \$42            |
| Ventilation (WAC 352-60-050)   | \$42            |
| Navigation Lights and Sound Signals (WAC 352-60-060)   | \$42            |
| Steering and Sailing (WAC 352-60-070)  | \$42            |
| Fire Extinguishing Equipment (WAC 352-60-080)  | \$42            |
| Backfire Flame Control (WAC 352-60-090)  | \$42            |
| Liquefied Petroleum Gas (WAC 352-60-100)   | \$42            |
| Canadian Vessels (WAC 352-60-110)  | \$42            |
| <u>(5) Fish and Wildlife Infractions</u>   |                 |
| <u>Fish for Personal Use—Barbed Hooks (RCW 77.15.160 (1)(a))</u>   | <u>\$48</u>     |
| <u>Fail to Immediately Record Fish/Shellfish Catch (RCW 77.15.160 (1)(b))</u>  | <u>\$48</u>     |
| <u>Fail to Return Catch Record Card (RCW 77.15.-160 (1)(c))</u>  | <u>\$39</u>     |
| <u>Recreational Fishing—License not with Person (no fish/shellfish possession) (RCW 77.15.160 (1)(d)(i))</u>                     | <u>\$73</u>     |
| <u>Recreational Fishing—Rule Violation (no fish/shellfish possession) (RCW 77.15.160 (1)(d)(ii))</u>                             | <u>\$73</u>     |
| <u>Seaweed—License not with Person (&lt;2x daily limit) (RCW 77.15.160 (1)(e)(i))</u>  | <u>\$48</u>     |
| <u>Seaweed—Rule Violation (&lt;2x daily limit) (RCW 77.15.160 (1)(e)(ii))</u>  | <u>\$48</u>     |
| <u>Unclassified Fish/Shellfish (not game fish, food fish, shellfish, or endangered/protected fish) (RCW 77.15.160 (1)(f))</u>    | <u>\$73</u>     |
| <u>Wasting Fish/Shellfish (&lt;\$250) (RCW 77.15.-160 (1)(g))</u>  | <u>\$48</u>     |
| <u>Harm Bird Eggs/Nests (not endangered/protected wild birds) (RCW 77.15.160 (2)(a))</u>   | <u>\$97</u>     |
| <u>Unclassified Wildlife (not big game, game animals, game birds, or endangered/protected wildlife) (RCW 77.15.160 (2)(b))</u>   | <u>\$73</u>     |
| <u>Wasting Wildlife (not big game) &lt;\$250) (RCW 77.15.160 (2)(c))</u>   | <u>\$73</u>     |

|   | Base<br>Penalty |
|---|-----------------|
| <u>Hunting Wild Animals (not big game)—License not with Person (no wild animal possession) (RCW 77.15.160 (2)(d))</u>               | <u>\$73</u>     |
| <u>Hunting Wild Birds—License not with Person (no wild bird possession) (RCW 77.15.160 (2)(e)(i))</u>                               | <u>\$73</u>     |
| <u>Hunting Wild Birds—Rule Violation (no wild bird possession) (RCW 77.15.160 (2)(e)(ii))</u>                                       | <u>\$73</u>     |
| <u>Taxidermist/Fur Dealer/Wildlife Meat Cutter—Fail to Maintain Records (RCW 77.15.160 (3)(a)(i))</u>                               | <u>\$122</u>    |
| <u>Taxidermist/Fur Dealer/Wildlife Meat Cutter—Fail to Report Information (RCW 77.15.160 (3)(a)(ii))</u>                            | <u>\$73</u>     |
| <u>Trapper—Fail to Report Trapping Activity (RCW 77.15.160 (3)(b))</u>  | <u>\$73</u>     |
| <u>Contest Violation (RCW 77.15.160 (4)(a))</u>   | <u>\$146</u>    |
| <u>Violate Other Infraction Rules (RCW 77.15.160 (4)(b))</u>  | <u>\$73</u>     |
| <u>Posting Signs (RCW 77.15.160 (4)(c))</u>   | <u>\$122</u>    |
| <u>Scientific Permit Violation (not big game/big game parts)—Violate Permit Terms or Conditions (RCW 77.15.160 (4)(d)(i))</u>       | <u>\$122</u>    |
| <u>Scientific Permit Violation (not big game/big game parts)—Violate Rule re: Permit Issuance or Use (RCW 77.15.160 (4)(d)(ii))</u> | <u>\$122</u>    |
| <u>Transporting Aquatic Plants (RCW 77.15.160 (4)(e))</u>   | <u>\$73</u>     |
| <u>Violate Distance/Feeding Prohibitions for Southern Resident Orca Whales (RCW 77.15.-740)</u>                                     | <u>\$500</u>    |
| <u>Negligently Feed/Attempt to Feed Large Wild Carnivores (RCW 77.15.790)</u>   | <u>\$73</u>     |

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

**GR 9 COVER SHEET  
Suggested Amendments to  
GENERAL RULE 31**

**Amend General Rule 31: Access to Court Records  
Submitted by the District & Municipal Courts Judges  
Association**

**Purpose:** The Supreme Court requested the District and Municipal Court Judges Association (DMCJA) review the apparent conflict between GR 31 and ARLJ 9 and provide a recommendation to resolve the conflict. The DMCJA has determined that because access to court records in courts of limited jurisdiction is governed by two court rules that are not entirely consistent with each other, GR 31 and ARLJ 9, it may create confusion for courts and the public. DMCJA therefore recommends the repeal of ARLJ 9 and related rules

CrRLJ 8.10 and 8.11, with the simultaneous amendment to GR 31 by adding a new section (l).

GR 31, Access to Court Records, is applicable to all Washington courts and establishes a presumption of public access to court records, in keeping with "article I, section 10 of the Washington State Constitution." GR 31(a). GR 31 requires that certain "personal identifiers," such as social security numbers, financial account numbers and driver's license numbers, be omitted or redacted from documents filed with the court. GR 31 also recognizes that "[a]ccess to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by article 1, section 7 of the Washington State Constitution and shall not unduly burden the business of the courts."

GR 31 reflects the Supreme Court's approval of the common law presumption of open court records. "The common law right of access to judicial records is well recognized in this country." *Cowles Publ'g Co. v. Murphy*, 96 Wn.2d 584, 588, 637 P.2d 966 (1981). However, this right to public access is not absolute. The court can prohibit access to certain records. For example, if law enforcement, a victim or other concerned party objects to disclosure of a court record and the court determines that security or privacy interests outweigh the presumption of open access, disclosure may be prohibited or restricted. *Id.* at 589; *Seattle Times Co. v. Eberharter*, 105 Wn.2d 144, 147-48, 713 P.2d 710 (1986).

DMCJA has recommended that ARLJ 9 be repealed, due primarily to its conflict with GR 31. If ARLJ 9 were repealed, disclosure of court records in courts of limited jurisdiction would be governed by GR 31 and any statutory provisions restricting access to certain types of documents. As discussed above, GR 31 provides that court records are presumptively open to access unless otherwise provided by law or rule. The documents currently protected from open public access under ARLJ 9, such as presentence reports, alcohol/drug evaluations, compliance reports regarding treatment, and probation officer's reports, would potentially be available for public review if ARLJ 9 were repealed without being replaced by another rule or provision.

If ARLJ 9 is repealed, it will be necessary to amend GR 31 to address the personal privacy interests in certain information found in the court records. A particular concern for courts of limited jurisdiction is the high volume of cases these courts handle and the number of pro se defendants who may not appreciate the need to make a motion to preserve their privacy interests in certain court records.

The DMCJA recommends that the Supreme Court amend GR 31 to include a new subsection that addresses the personal privacy concerns in certain types of court records, as shown in the proposed amendment, GR 31(l). The proposed addition to GR 31 is modeled after GR 22, Access to Family Law and Guardianship Court Records. The proposed amendment provides a presumption that unless the court orders otherwise in a criminal case, certain documents containing personal private information about a defendant are private. Access to these records is available for the defendant, prosecuting attorney and defense attorney for the case. Upon motion, the court may allow access to other interested persons if it finds no statute or other court rule prohibits access and the public interest in granting access or the personal

interest of the petitioner outweighs the privacy and safety interests of the defendant or other persons mentioned in the records. The DMCJA believes that this proposed amendment strikes the proper balance between preserving constitutional access to court records with the protection of individual privacy and law enforcement interests.

The DMCJA understands that other groups, such as the Superior Court Judges' Association, may have records that they feel should be subject to protection as well. The proposed amendment is left open-ended at this time to accommodate requests from other court levels regarding this general rule.

### Suggested Amendments:

#### Proposed New GR 31(l)

(l) Access to evaluations, presentence reports, probation and compliance reports.

(1) Criminal cases. Unless the court rules otherwise in a particular case, documents containing personal private information about a defendant such as: alcohol, competency, drug, mental health and sexual deviancy evaluations; domestic violence assessments; reports relating to compliance or noncompliance with treatment programs; presentence reports; probation reports; self-help support group attendance (e.g., AA or NA), are presumed to be private.

(A) The defendant, the defendant's attorney of record and the prosecuting attorney for the case shall have access to such records. Upon receipt of a written motion requesting access to these types of records by some other person, the court may allow access to court records restricted under this rule, or relevant portions of court records restricted under this rule, if the court finds no statute or other court rule prohibits access, and the public interest in granting access or the personal interest of the petitioner seeking access, outweighs the privacy and safety interests of the defendant or other persons mentioned in the records.

(B) If the court grants access to court records restricted under this rule, the court may enter such orders necessary to balance the personal privacy and safety interests of the defendant or other persons with the public interest in access.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

### GR 9 COVER SHEET

#### Suggested Amendments to CRIMINAL RULES FOR THE COURTS OF LIMITED JURISDICTION

#### Repeal CrRLJ 8.10: Closure of Proceedings and Sealing of Records

Submitted by the District & Municipal Courts Judges  
Association

**Purpose:** The Supreme Court requested the District and Municipal Court Judges Association (DMCJA) review the

apparent conflict between GR 31 and ARLJ 9 and provide a recommendation to resolve the conflict. The DMCJA has determined that because access to court records in courts of limited jurisdiction is governed by two court rules that are not entirely consistent with each other, GR 31 and ARLJ 9, it may create confusion for courts and the public. DMCJA therefore recommends the repeal of ARLJ 9 and related rules CrRLJ 8.10 and 8.11, with the simultaneous amendment to GR 31 by adding a new section (l).

CrRLJ 8.10 describes a procedure for closing proceedings and sealing records that is inconsistent with GR 15, which also addresses destruction, sealing and redaction of court records. Both rules specify procedures and provide standards regarding record sealing and redaction so it is difficult for courts of limited jurisdiction to have clarity regarding how to proceed. Further, CrRLJ 8.10 references ARLJ 9, which the DMCJA recommends be repealed. Therefore, DMCJA recommends that CrRLJ 8.10 be repealed.

**RULE 8.10**  
**CLOSURE OF PROCEEDINGS AND SEALING**  
**OF RECORDS**

~~(a) Proceedings and Records To Be Open. Court proceedings shall be open to the public, and court records denominated public records under ARLJ 9 shall be available for public inspection, unless the court orders closure or sealing, or other restrictions, pursuant to this rule.~~

~~(b) Grounds for Closure or Sealing Before Charges Filed. Before charges are filed, the court may order proceedings closed or records sealed only upon a showing that~~

~~(1) There is a likelihood of jeopardy to an accused's right to a fair trial; or~~

~~(2) There exists a substantial threat to effective law enforcement; or~~

~~(3) There exists a substantial threat to the privacy or safety of an individual; or~~

~~(4) For other good cause shown, and that there are no less restrictive means available to protect the interest threatened.~~

~~(c) Grounds for Closure or Sealing After Charges Filed. After charges are filed, the court may order proceedings closed or records sealed only upon a showing that~~

~~(1) There is a substantial probability of jeopardy to an accused's right to a fair trial; or~~

~~(2) There exists a serious and imminent threat to effective law enforcement; or~~

~~(3) There exists a serious and imminent threat to the privacy or safety of an individual; or~~

~~(4) For other good cause shown, and that there are no less restrictive means available to protect the interest threatened.~~

~~(d) Determination. Upon motion and supporting affidavit, the court shall determine whether a proceeding should be closed or records sealed.~~

~~(1) The proponent shall state the grounds for the motion with reasonable specificity, consistent with the protection of the interest threatened. Any person present when the motion is made shall be given an opportunity to object to the proposed restriction.~~

~~(2) If the motion is made upon grounds set forth in (b)(1) or (c)(1), any person objecting to closure or sealing shall have the burden of suggesting effective alternatives. Otherwise, the proponent shall have the burden of showing that restrictions are necessary.~~

~~(e) Order of Closure or Sealing. Upon determining that a proceeding should be closed or records sealed, the court shall promptly thereafter prepare~~

~~(1) A transcript of any in camera proceedings; and~~

~~(2) An order of closure or sealing; and~~

~~(3) Written findings of fact and conclusions of law setting forth with specificity the court's consideration of the issues, including alternative methods suggested. If the order involves the sealing of records, it shall apply for a specific time period and require the proponent to come before the court at a time specified in the order to justify continued sealing.~~

~~(f) Other Order. If the court determines that there exists an alternative less restrictive than closure or sealing which will protect the threatened interest, it may issue an appropriate order and shall thereafter prepare the documents specified in section (e).~~

~~(g) Exclusion of Witness. This rule shall not apply to circumstances governed by ER 615.~~

~~(h) Discovery. This rule shall not apply to discovery procedures governed by rule 4.7.~~

~~(i) Disclosure Procedure. Reserved. See ARLJ 9.~~

[Reserved.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**GR 9 COVER SHEET**  
**Suggested Amendments to**  
**CRIMINAL RULES FOR THE COURTS OF LIMITED JURISDICTION**  
**Repeal CrRLJ 8.11: Disclosure of Records**  
**Submitted by the District & Municipal Courts Judges**  
**Association**

**Purpose:** The Supreme Court requested the District and Municipal Court Judges Association (DMCJA) review the apparent conflict between GR 31 and ARLJ 9 and provide a recommendation to resolve the conflict. The DMCJA has determined that because access to court records in courts of limited jurisdiction is governed by two court rules that are not entirely consistent with each other, GR 31 and ARLJ 9, it may create confusion for courts and the public. DMCJA therefore recommends the repeal of ARLJ 9 and related rules CrRLJ 8.10 and 8.11, with the simultaneous amendment to GR 31 by adding a new section (l).

In its entirety, CrRLJ 8.11 provides: "Disclosure of records of courts of limited jurisdiction shall be governed by ARLJ 9 and by RCW 10.97." As DMCJA has requested repeal of ARLJ 9, and the Court of Appeals has determined that Chap. 10.97 RCW does not apply to court records, *State v. Young*, 152 Wash. App. 186, 189, 216 P.3d 449 (2009), this rule is archaic and potentially misleading. The DMJCA recommends that it be repealed.

RULE 8.11  
DISCLOSURE OF RECORDS

~~Disclosure of records of courts of limited jurisdiction shall be governed by ARLJ 9 and by RCW 10.97.~~

[Reserved.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

GR 9 COVER SHEET

**Suggested Amendments to  
ADMINISTRATIVE RULES FOR THE COURTS OF LIMITED  
JURISDICTION  
Repeal ARLJ 9: Disclosure of Records  
Submitted by the District & Municipal Courts Judges  
Association**

**C. Purpose:** The Supreme Court requested the District and Municipal Court Judges Association (DMCJA) review the apparent conflict between GR 31 and ARLJ 9 and provide a recommendation to resolve the conflict. The DMCJA has determined that because access to court records in courts of limited jurisdiction is governed by two court rules that are not entirely consistent with each other, GR 31 and ARLJ 9, it may create confusion for courts and the public. DMCJA therefore recommends the repeal of ARLJ 9 and related rules CrRLJ 8.10 and 8.11, with the simultaneous amendment to GR 31 by adding a new section (l). A separate GR 9 Cover Sheet will be submitted with each rule proposal.

ARLJ 9 was adopted in 1987 and was the only court rule at that time addressing disclosure of court records. It contains three categories of court records based on the degree of public access of those records: Public, Private, and Quasi-Public. To assure that only public records are reviewed by the public, ARLJ 9(e) expressly allows for judicial review before a court record is released. The prosecuting authority, defendant, court clerks, or other interested parties may request such review.

By contrast, GR 31, Access to Court Records, is applicable to all Washington courts and establishes a presumption of public access to court records, in keeping with "article I, section 10 of the Washington State Constitution." GR 31(a). GR 31 reflects the Supreme Court's approval of the common law presumption of open court records. "The common law right of access to judicial records is well recognized in this country." *Cowles Publ'g Co. v. Murphy*, 96 Wn.2d 584, 588, 637 P.2d 966 (1981).

ARLJ 9 has not been amended since its adoption in 1987. Its general approach and a few of its provisions are no longer consistent with GR 31 and case law involving access to court records. If court records were presumptively open, there would be no need to label records as "public, private, or quasi-public". This approach may create confusion for courts and the public. The DMCJA recommends the Supreme Court repeal ARLJ 9 and simultaneously amend GR 31, which is discussed in a separate proposal.

RULE ARLJ 9  
DISCLOSURE OF RECORDS

~~a) Public Records. Unless the trial judge rules otherwise in a particular case, the following are considered public records and may be viewed and copied by the public:~~

~~(1) Court pleadings;~~

~~(2) Dockets, both civil and criminal, regardless of the current status of the proceeding;~~

~~(3) Indexes to civil and criminal cases;~~

~~(4) Tape recordings of court proceedings;~~

~~(5) Search warrants, affidavits, and inventories, after execution and return of the warrant.~~

~~b) Private Records. The following are considered exempt from disclosure unless they have been admitted into evidence, incorporated into a court pleading, or are the subject of a stipulation on the record which places them into public record:~~

~~(1) Witness statements and police reports;~~

~~(2) Presentence reports and reports related to compliance with conditions of sentence;~~

~~(3) Copies of driving records or criminal history records subject to RCW 10.97;~~

~~(4) Correspondence received by the court regarding sentencing and compliance with the terms of probation.~~

~~c) Quasi Public Documents. The following are not subject to public review, but are subject to review by the defendant and the defendant's lawyer:~~

~~(1) Witness statements;~~

~~(2) Presentence reports and reports related to compliance with conditions of sentence;~~

~~(3) Copies of driving records or criminal history records subject to RCW 10.97;~~

~~(4) Correspondence received by the court regarding sentencing and compliance with the terms of probation, except when the information is provided on the condition it remain confidential or when a finding of good cause is made for its confidentiality.~~

~~d) Court Assistance:~~

~~(1) Court facilities are available to the public to assist in disclosure, subject to local court rule.~~

~~(2) For security purposes, the court may require identification from the reviewing party.~~

~~e) Judicial Review. To assure that only public records are reviewed by the public, judicial review of disclosure may be requested by the prosecuting authority, defendant, court clerks, or other interested parties. The court may withhold dissemination until a hearing may reasonably be held. Following the hearing, the court may make such restrictive orders as are necessary.~~

~~f) Statutes Not Superseded. Nothing in this rule shall be construed to supersede existing statutes or subsequent amendments thereto.~~

[Reserved.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.



**WSR 13-10-003**  
**NOTICE OF PUBLIC MEETINGS**  
**LAKE WASHINGTON**  
**INSTITUTE OF TECHNOLOGY**

[Filed April 18, 2013, 8:11 a.m.]

Pursuant to RCW 42.30.075, we are hereby notifying you of the following change in the board meeting schedule for the Lake Washington Institute of Technology board of trustees.

Special board of trustees meetings will be held on each of the following dates:

Monday, April 22, 2013  
 Tuesday, April 23, 2013  
 Wednesday, April 24, 2013  
 Thursday, April 25, 2013  
 Friday, April 26, 2013  
 Tuesday, April 30, 2013

They will be held from 5:00 p.m. to 8:00 p.m. in the board room (W305A) at our Kirkland Campus, 11605 132nd Avenue N.E., Kirkland, WA 98034.

**WSR 13-10-004**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 18, 2013, 3:10 p.m.]

DVR State Plan Meeting  
 Lacey Public Forum  
 May 28, 2013  
 10:00 to noon  
 Lacey Community Center  
 6729 Pacific Avenue S.E.  
 Lacey, WA 98503

**WSR 13-10-006**  
**NOTICE OF PUBLIC MEETINGS**  
**LOTTERY COMMISSION**

[Filed April 19, 2013, 10:40 a.m.]

Thursday, April 25, 2013  
 Lottery Headquarters  
 Olympia, Washington

**WSR 13-10-007**  
**NOTICE OF PUBLIC MEETINGS**  
**LOTTERY COMMISSION**

[Filed April 19, 2013, 10:41 a.m.]

WORK SESSION  
 Thursday, April 25, 2013

Lottery Headquarters  
 Olympia, Washington  
 8:30 a.m.

**WSR 13-10-008**  
**NOTICE OF PUBLIC MEETINGS**  
**RENTON TECHNICAL COLLEGE**

[Filed April 19, 2013, 10:42 a.m.]

A special meeting of the board of trustees of Community College District 27, state of Washington, 3000 Fourth Street, Renton, WA, will be held on Friday, April 26, 2013, in Room I-202 at 1:00 p.m.

The board of trustees will meeting in executive session to consider the selection of a site or the acquisition of real estate by lease or purchase.

Please contact Di Beers at (425) 235-2426 if you have questions.

**WSR 13-10-009**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF LICENSING**

(Real Estate Commission)

[Filed April 19, 2013, 12:00 p.m.]

The June 12, 2013, meeting will be held 9:00 a.m. to 3:00 p.m. or until completion of business at the Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662.

The September 17, 2013, meeting will be held at the Westin Hotel, 1900 5th Avenue, Seattle, WA 98101.

**WSR 13-10-010**  
**NOTICE OF PUBLIC MEETINGS**  
**ARTS COMMISSION**

[Filed April 19, 2013, 2:49 p.m.]

2013 BOARD MEETING SCHEDULE - REVISED

Updated information for remaining 2013 board meeting dates and locations are listed below. Please check the Washington state arts commission web site at [www.arts.wa.gov](http://www.arts.wa.gov) for any future changes to board meeting dates, times, and locations.

**Tuesday, May 7, 2013**

Convenes: 11 a.m.  
 Adjourns: 4 p.m.  
 Location: **South Kitsap School District Board Room**  
 2689 Hoover Avenue S.E.  
 Port Orchard, WA 98366  
 (360) 874-7000

**Wednesday, August 6 through Thursday, August 7, 2013**

Convenes: 12 p.m.

Adjourns: 12 p.m.  
Location: Spokane, Washington

**Thursday, November 7, 2013**

Convenes: 9 a.m.  
Adjourns: 12 p.m.  
Location: Seattle, Washington

**WSR 13-10-012**  
**NOTICE OF PUBLIC MEETINGS**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Filed April 22, 2013, 8:50 a.m.]

MEETING NOTICE: August 1, 2012 [2013]  
County Road Administration Board  
2404 Chandler Court S.W.  
Suite 240  
Olympia, WA 98504  
1:00 p.m. to 5:00 p.m.

MEETING NOTICE: August 1, 2012 [2013]  
County Road Administration Board  
2404 Chandler Court S.W.  
Suite 240  
Olympia, WA 98504  
2 p.m.

MEETING NOTICE: August 2, 2012 [2013]  
County Road Administration Board  
2404 Chandler Court S.W.  
Suite 240  
Olympia, WA 98504  
8:30 a.m. - noon

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact Karen Pendleton at (360) 753-5989.

**WSR 13-10-015**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**

[Filed April 22, 2013, 12:33 p.m.]

The following is a community meeting: Washington state human rights commission meeting, on May 23, 2013, at 6 p.m., at Seattle City Hall, Bertha Knight Landes Room, 600 Fourth Avenue, Seattle, WA 98104.

**WSR 13-10-019**  
**NOTICE OF PUBLIC MEETINGS**  
**CENTER FOR CHILDHOOD**  
**DEAFNESS AND HEARING LOSS**

[Filed April 23, 2013, 8:56 a.m.]

The Washington State Center for Childhood Deafness and Hearing Loss (formerly Washington School for the Deaf) board of trustees will hold a special meeting (no action will be taken) and a board meeting in July 2013 as follows:

|                  |                           |
|------------------|---------------------------|
| July 1, 2013     | Special meeting           |
| 11 a.m. - 6 p.m. | (no action will be taken) |
| July 2, 2013     | Board of trustees meeting |
| 9 a.m. - 2 p.m.  |                           |

Both meetings will be held on the Washington School for the Deaf campus at 611 Grand Boulevard, Vancouver, WA.

**WSR 13-10-025**  
**NOTICE OF PUBLIC MEETINGS**  
**CHARTER SCHOOL COMMISSION**

[Filed April 23, 2013, 3:04 p.m.]

**MEETING**  
**Tuesday, April 30, 2013**  
**10:00 a.m. to 5:00 p.m.**  
Bellevue Arts Museum  
510 Bellevue Way N.E.  
Bellevue, WA 98004

Contact: RaShelle Davis, policy advisor, office (360) 902-0551, e-mail [rashelle.davis@gov.wa.gov](mailto:rashelle.davis@gov.wa.gov).

Accessibility: This meeting is accessible to persons with disabilities. Special aids and services can be made available upon advance request. Advance request for special aids and services must be made no later than Friday, April 26, 2013. If you wish to receive general information about this meeting, please contact the policy advisor at (360) 902-0551. Please call 711 or 1-800-833-6388 to reach the Washington state relay service for deaf callers. If you need assistance due to a speech disability, speech-to-speech provides human voice for people with difficulty being understood. The Washington state speech-to-speech toll-free access number is 1-877-833-6341.

**WSR 13-10-027**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
(Nursing Care Quality Assurance Commission)

[Filed April 24, 2013, 9:30 a.m.]

Following is the schedule of regular meetings for the department of health, nursing care quality assurance commission (NCQAC) for 2013. This schedule follows the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW). The NCQAC

meetings are open to the public. Access for persons with disabilities may be arranged with advance notice. Please contact the staff person below for more information.

Agendas for the meetings listed below are available in advance via listserv and the NCQAC web site (see below). Every attempt is made to ensure the agenda is up-to-date. However, the NCQAC reserves the right to change or amend agendas at the meetings.

| Date               | Time      | Location   |
|--------------------|-----------|--|
| January 11, 2013   | 8:30 a.m. | Department of Health<br>110 Israel Road S.E.<br>Room 152/153<br>Tumwater, WA 98501 |
| March 8, 2013      | 8:30 a.m. | Department of Health<br>310 Israel Road S.E.<br>Room 152/153<br>Tumwater, WA 98501 |
| May 9, 2013 [2013] | 9:00 a.m. | Guest House Inn and Suites<br>1600 74th Avenue S.W.<br>Tumwater, WA 98501          |
| May 10, 2013       | 8:30 a.m. | Department of Health<br>310 Israel Road S.E.<br>Room 152/153<br>Tumwater, WA 98501 |
| July 12, 2013      | 8:30 a.m. | Department of Health<br>310 Israel Road S.E.<br>Room 152/153<br>Tumwater, WA 98501 |
| September 13, 2013 | 8:30 a.m. | Department of Health<br>310 Israel Road S.E.<br>Room 152/153<br>Tumwater, WA 98501 |
| November 15, 2013  | 8:30 a.m. | Department of Health<br>310 Israel Road S.E.<br>Room 152/153<br>Tumwater, WA 98501 |

If you need further information please contact Louise Lloyd, Secretary Supervisor, Department of Health, NCQAC, P.O. Box 47864, Olympia, WA 98504-7864, e-mail [louise.lloyd@doh.wa.gov](mailto:louise.lloyd@doh.wa.gov), web <http://www.doh.wa.gov/hsqa/Professions/Nursing/default.htm>, listserv <http://listserv.wa.gov/cgi-bin/wa?SUBED1=nursing-qac&A=1>.

### WSR 13-10-029

#### INTERPRETIVE OR POLICY STATEMENT HEALTH CARE AUTHORITY

[Filed April 24, 2013, 3:49 p.m.]

#### Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the health care authority (HCA).

#### HCA

#### Legal and Administrative Services

Document Title: Provider Notice #13-21.

Subject: ABC dental and dental-related services MPGs.

Retroactive to dates of service on and after January 1, 2013, unless otherwise specified, the medicaid program of

the HCA is republishing the following medicaid provider guides with coverage table changes and housekeeping changes.

For additional information, contact Amber Lougheed, HCA, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), web site <http://www.hca.wa.gov/>.

### WSR 13-10-030

#### INTERPRETIVE OR POLICY STATEMENT HEALTH CARE AUTHORITY

[Filed April 24, 2013, 3:50 p.m.]

#### Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the health care authority (HCA).

#### HCA

#### Legal and Administrative Services

Document Title: Provider Notice #13-22.

Subject: Revised Washington expedited authorization (EA) lists.

Effective for dates of service on and after May 1, 2013, the medicaid program of the HCA will no longer require prior authorization for Tudorza® (aclidinium bromide) and will add this drug and Protonix® Pak (pantoprazole) to the expedited authorization (EA) list. The agency is also updating the EA criteria for Orenicia® (abatacept) and Arava® (leflunomide).

For additional information, contact Amber Lougheed, HCA, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), web site <http://www.hca.wa.gov/>.

### WSR 13-10-031

#### INTERPRETIVE OR POLICY STATEMENT HEALTH CARE AUTHORITY

[Filed April 24, 2013, 3:52 p.m.]

#### Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the health care authority (HCA).

#### HCA

#### Legal and Administrative Services

Document Title: Provider Notice #13-24.

Subject: Kidney center services.

The agency no longer covers the anemia drug peginesatide (Omontys®) - procedure code J0890. Retroactive to April 1, 2013.

For additional information, contact Amber Lougheed, HCA, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-

800-848-5429, fax (360) 586-9727, e-mail [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), web site <http://www.hca.wa.gov/>.

DATE: April 25, 2013.

Nicholas W. Brown  
General Counsel  
to the Governor

**WSR 13-10-035**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD OF ACCOUNTANCY**

[Filed April 25, 2013, 7:25 a.m.]

**REVISED 2013 BOARD MEETING SCHEDULE**

The Washington state board of accountancy has changed the following regular meetings:

| From                           | To                              | Time         | Location  |
|--------------------------------|---------------------------------|--------------|---|
| July 23, 2013<br>Tuesday       | July 22, 2013<br>Monday         | 9:00<br>a.m. | The Doubletree Hotel<br>Seattle Airport<br>18740 International<br>Boulevard<br>SeaTac, WA |
| October 22,<br>2013<br>Tuesday | October 17,<br>2013<br>Thursday | 9:00<br>a.m. | The Doubletree Hotel<br>Seattle Airport<br>18740 International<br>Boulevard<br>SeaTac, WA |

If you need further information contact the board's clerk at phone (360) 664-9194, fax (360) 664-9190, e-mail [customerservice@cpaboard.wa.gov](mailto:customerservice@cpaboard.wa.gov), web site [www.cpa-board.wa.gov](http://www.cpa-board.wa.gov).

**WSR 13-10-040**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
(Board of Boiler Rules)

[Filed April 25, 2013, 12:38 p.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the board of boiler rules will be holding the May meeting on May 22, 2013, at 10:00 a.m., at the Department of Labor and Industries, 950 Broadway Avenue, Tacoma, WA 98402.

Please contact Alicia Curry at (360) 902-6244 or [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov), if you have any questions.

**WSR 13-10-053**  
**OFFICE OF THE GOVERNOR**

[Filed April 29, 2013, 9:45 a.m.]

**NOTICE OF APPEAL**  
**RCW 34.05.330(3)**

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On April 24, 2013, the Governor's Office received an appeal from Mr. Stephen Risotto of American Chemistry Council, relating to the Department of Ecology's denial of a petition to repeal or amend WAC 173-334.

**WSR 13-10-054**  
**NOTICE OF PUBLIC MEETINGS**  
**LAKE WASHINGTON**  
**INSTITUTE OF TECHNOLOGY**

[Filed April 29, 2013, 9:43 a.m.]

Pursuant to RCW 42.30.075, we are hereby notifying you of the following change in the board meeting schedule for the Lake Washington Institute of Technology board of trustees.

A special board of trustees meeting will be held on Tuesday, April 30, 2013.

It will be held from 5:00 p.m. to 8:00 p.m. in the Board Room (W305A) at our Kirkland Campus, 11605 132nd Avenue N.E., Kirkland, WA 98034.

Advertising of this meeting has already been taken care.

**WSR 13-10-056**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 29, 2013, 11:03 a.m.]

**Notice of Interpretive or Policy Statement**

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

**Behavioral Health and Service**  
**Integration Administration**  
**Division of Management Services**

Document Title: Notice of Possible Changes to the Medicaid Nursing Facility Payment System.

Subject: State plan amendment for medicaid nursing facility payment system.

Effective Date: July 1, 2013.

Document Description: The purpose of this notice is to advise nursing facilities and the general public that the state of Washington is considering adjustments to the methodology by which nursing facilities are paid for services they provide to medicaid recipients, as of July 1, 2013. This notice is furnished in accordance with federal Medicaid law, at 42 U.S.C. Sec. 1396a (a)(13)(A) and 42 C.F.R. Sec. 447.205, and state regulations, at WAC 388-96-718.

**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**Aging and Disability Services**  
**Management Services Division**  
**Notice of Possible Changes to the**

### Medicaid Nursing Facility Payment System Effective July 1, 2013

The purpose of this notice is to advise nursing facilities and the general public that the State of Washington is considering adjustments to the methodology by which nursing facilities are paid for services they provide to Medicaid recipients, as of July 1, 2013.

This notice is furnished in accordance with federal Medicaid law, at 42 U.S.C. Sec. 1396a(a)(13)(A) and 42 C.F.R. Sec. 447.205, and state regulations, at WAC 388-96-718. Under these provisions, the Department of Social and Health Services (DSHS) must publish proposed new methodologies for determining the payment rates, and the justification for those new methodologies, when the changes would amount to "material" changes that require DSHS to amend its Medicaid State Plan under Title XIX of the federal Social Security Act.

The current rate methodology was calculated to produce a weighted average daily rate of \$170.37 in SFY 2012, and \$171.43 in SFY 2013. (The state fiscal year runs from July 1 of one year to June 30 of the following calendar year, with the later year used for designation. For example, SFY 2013 runs from July 1, 2012 through June 30, 2013.) The weighted average daily rate designated in the operating budget is commonly known as the "budget dial" amount. DSHS is directed by state law to ensure that the weighted average daily rate actually paid does not exceed that amount; see RCW 74.46-421. In the following paragraphs, estimates are given for the weighted average daily rates which would be produced by the various proposals. Following each estimate is the difference between that figure and the "budget dial" amount of \$171.43 for SFY 2013; to set it apart, this figure is bolded and set in brackets - for example, **+\$2.50**. All cited weighted average daily rate amounts exclude the rate add-on used to reimburse facilities for the Safety Net Assessment paid in relation to Medicaid-funded residents.

In the current session of the Washington State Legislature, several measures are being considered in relation to the Medicaid nursing facility rate methodology:

1) First, the State Senate has passed an operating budget for the coming biennium, SB 5034. Sec. 206 of this bill provides for weighted average daily rates not to exceed \$171.32 for SFY 2014 **[-\$.11]** and \$171.53 for SFY 2015 **[\$.10]**. PSSB 5874, a separate bill that would implement the intent of Sec. 206, has also been presented to the Senate Ways and Means Committee. PSSB 5874 would do the following:

a. Postpone the rebase to the 2011 Medicaid cost report year, which is currently scheduled to affect rates beginning July 1, 2013. Instead of a July 1, 2013 rebase of the non-capital rate components to the 2011 cost report, there would be a July 1, 2015 rebase of the non-capital components to the 2013 cost report. The 2007 Medicaid cost report would continue to be used for rates between July 1, 2013 and June 30, 2015. This would amend RCW 74.46.431.

b. Freeze the Medicaid case mix index for all facilities at the level in effect on January 1, 2013. There would be no adjustments to case mix scores for the period July 1, 2013 through June 30, 2015. This would amend RCW 74.46.501.

c. Continue the "comparative analysis" and "acuity" rate add-ons that have applied to rates during the current biennium. The "comparative analysis" would give a facility the higher of its rate on July 1, 2013 or its rate on June 30, 2010. The "acuity add-on" would reward facilities for taking on higher-acuity residents by giving them a 10% add-on to their direct care component rate. A new section would be added to Ch. 74.46 RCW.

PSSB 5874 has an emergency clause with an effective date of July 1, 2013.

2) Second, HB 2042 has been introduced in the House. In regard to Medicaid nursing facility rates, this bill is similar to PSSB 5874, except that it would not freeze Medicaid case mix scores at their level in effect on January 1, 2013. Instead, case mix scores in effect on January 1, 2013 would be used, but the automatic increase of .5% (one-half of one percent) every six months would be continued. The version of the operating budget announced by the House Democratic majority, reflecting the substance of HB 2042 in relation to Medicaid nursing home rates, provides for a weighted average daily rate not to exceed \$171.35 in SFY 2014 **[-\$.08]** and \$171.58 in SFY 2015 **[\$.15]**.

HB 2042 also has an emergency clause with an effective date of July 1, 2013.

3) Third, there is HB 1885 and its companion measure SB 5838. These bills, identical at the time this notice is written, would do the following:

a. Repeal almost all the changes made to the nursing home rate methodology in 2011 in c. 7, Laws of 2011, 1st ex sess. Provisions include:

1. For the operations, property, and finance allowance rate components, the minimum occupancy thresholds would return to lower levels.

2. For the finance allowance component, for all facilities, the factor used to multiply net invested funds would increase to 8.5% from 4.0%.

3. The authority for DSHS to adjust the case mix index for any of the 10 lowest Resource Utilization Group categories would be repealed.

4. In the direct care component, the lid on the cost per case mix unit would increase to 112% of the peer group median, from 110%.

5. In the support services component, the lid would rise to 110% of the peer group median, from 108%.

b. Add a new component to the methodology, the "Medicaid disproportionate share component rate allocation" (MDS). The MDS would reward nursing facilities that had a high percentage of Medicaid-funded residents. Each facility would be given an MDS factor based on its percentage of Medicaid recipients served at the facility as reported in the preceding year's cost report, as follows:

- 75.1% to 100% - a factor of 2.5%
- 50.1% to 75% - a factor of 1.5%
- 25.01% to 50.0% - a factor of 0.5%
- 25% or less - a factor of 0%.

The MDS factor would be multiplied by a facility's total Medicaid per patient day rate, less the Safety Net Assessment provided for in Ch. 74.48 RCW. The MDS payment would

not be subject to settlement; it would be subject to the "budget dial."

DSHS estimates that if the provisions of this bill were implemented, the respective weighted average daily rates would be \$191.69 for SFY 2014 [**+\$20.26**] and \$194.23 for SFY 2015 [**+\$22.80**]. The bills contain an emergency clause that would make them effective July 1, 2013. Note that this proposal is silent on the rebase to the 2011 Medicaid cost report which is currently scheduled, so that rebase would occur on July 1, 2013.

4) Fourth, DSHS is aware of one other alternative that has been proposed. It has not been put into a formal bill, or included in any proposed operating budget. This proposal would postpone the rebase to the 2011 Medicaid cost report except as to the direct care component; direct care would be rebased to the 2011 cost report. For the finance allowance component, it would increase the factor used to multiply net invested funds to 8.0% from 4.0% for all facilities. Also, it would terminate the low-wage worker add-on of \$1.57 per patient day. DSHS estimates that if the provisions of this alternative were implemented, the weighted average daily rate for SFY 2014 would be \$178.32 [**+\$6.89**] and for SFY 2015 would be \$180.80 [**+\$9.37**].

DSHS emphasizes that none of the alternatives described have been adopted yet by the full Legislature, and all are obviously subject to change. It is possible that some other alternative might emerge and be adopted. However, as of the day this notice was filed, these are the alternatives of which DSHS is aware. To find and read the full text of bills before the Legislature go to <http://apps.leg.wa.gov/billinfo/>. To assist the Legislature in its deliberations, DSHS has supplied a variety of information to it. This information may be found at the website of the Office of Rates Management: <http://www.altsa.dshs.wa.gov/professional/rates/>. It is listed under "Notices" at "Notice of Possible Changes Effective July 1, 2013; Legislative Information." Attention is particularly directed to the cost study titled "Analysis of the Washington Nursing Facility Medicaid Payment Methodology" prepared by Navigant Consulting, Inc.

Persons or organizations that have comments on these changes may contact Edward Southon, Manager, Nursing Home Rates, Aging and Disability Services, P.O. Box 45600, Olympia, WA 98504-5600, or [edward.southon@dshs.wa.gov](mailto:edward.southon@dshs.wa.gov). Comments must be submitted by May 31, 2013. Of course, comments may also be directed to members of the Legislature at any time. See the Legislature's website, <http://www.leg.wa.gov>.

To receive a copy of the interpretive or policy statements, contact Ed Southon, Nursing Home Rates, Office of Rates Management, 4450 10th Avenue S.E., Lacey, WA 98503, phone (360) 725-2469, TDD/TTY 1-877-905-0454, fax (360) 725-2641, e-mail [Edward.Southon@dshs.wa.gov](mailto:Edward.Southon@dshs.wa.gov), web site <http://www.aasa.dshs.wa.gov/professional/rates/>.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 13-10-064****DEPARTMENT OF AGRICULTURE**

[Filed April 30, 2013, 9:09 a.m.]

LEGAL NOTICE FOR *SPARTINA* TREATMENT IN WESTERN WASHINGTON

LEGAL NOTICE FOR *SPARTINA* TREATMENTS: The Washington state department of agriculture (WSDA) is hereby notifying the affected public that the herbicides imazapyr and glyphosate may be used to control invasive *Spartina* grass species between June 1, 2013, and October 31, 2013.

Licensed pesticide applicators operating under WSDA's national pollutant discharge elimination system (NPDES) state waste discharge general permit may apply these products in the following locations: Grays Harbor, Hood Canal, Willapa Bay, Puget Sound, the north and west sides of the Olympic Peninsula, and the mouth of the Columbia River.

For more information, including locations of possible application sites or information on *Spartina*, contact WSDA *Spartina* Control Program: Phone (360) 902-1923, e-mail [cphillips@agr.wa.gov](mailto:cphillips@agr.wa.gov) or web site <http://agr.wa.gov/PlantsInsects/Weeds/Spartina/>. Or write WSDA *Spartina* Program, P.O. Box 42560, Olympia, WA 98504-2560.

The Washington state department of ecology 24-hour emergency number for reporting concerns about *Spartina* treatments is (360) 407-6283.

**WSR 13-10-070****PUBLIC RECORDS OFFICER****WHATCOM COMMUNITY COLLEGE**

[Filed April 30, 2013, 12:55 p.m.]

Pursuant to RCW 42.56.580, the public records officer for Whatcom Community College is Keri Parriera, 237 West Kellogg Road, Bellingham, WA 98226, phone (360) 383-3330, fax (360) 383-3331, e-mail [kparriera@whatcom.ctc.edu](mailto:kparriera@whatcom.ctc.edu).

Kathi Hiyane-Brown, EdD  
President

**WSR 13-10-071****RULES COORDINATOR****WHATCOM COMMUNITY COLLEGE**

[Filed April 30, 2013, 12:56 p.m.]

Pursuant to RCW 34.05.312, the rules coordinator for Whatcom Community College is Keri Parriera, 237 West Kellogg Road, Bellingham, WA 98226, phone (360) 383-3330, fax (360) 383-3331, e-mail [kparriera@whatcom.ctc.edu](mailto:kparriera@whatcom.ctc.edu).

Kathi Hiyane-Brown, EdD  
President

**WSR 13-10-072**  
**PUBLIC RECORDS OFFICER**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed April 30, 2013, 1:46 p.m.]

5429, fax (360) 725-9960, e-mail mark.nelson@dshs.wa.gov.

Pursuant to RCW 42.56.580, the public records officer for the Washington state department of natural resources is Debbie K. Nelson, 1111 Washington Street S.E., P.O. Box 47014, Olympia, WA 98504-7014, phone (360) 902-1542, fax (360) 902-1789, e-mail debbie.nelson@dnr.wa.gov.

Pamela Krueger  
Environmental and Legal Affairs  
Section Manager

**WSR 13-10-075**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed April 30, 2013, 3:40 p.m.]

**Notice of Repeal of Franchise Act Policy Statement FPS-04**

**Under the Franchise Investment Protection Act**

In light of the recent adoption of WAC 460-82-050, which addresses the same subject matter as Franchise Act Policy Statement FPS-04, the department of financial institutions hereby repeals Franchise Act Policy Statement FPS-04 under the Franchise Investment Protection Act, chapter 19.100 RCW.

Please contact Jill Valley at (360) 902-8801 or jill.valley@dfi.wa.gov if you have any questions.

Scott Jarvis  
Director

**WSR 13-10-082**  
**HEALTH CARE AUTHORITY**

[Filed May 1, 2013, 11:03 a.m.]

**NOTICE**

Title or Subject: Inpatient Psychiatric Services for Individuals under age 21.

Effective Date: April 1, 2013.

Description: The proposed change recognizes that services provided to psychiatric residential treatment facility (PRTF) (i.e., children's long-term inpatient (CLIP) facility) residents by agreement with a qualified provider outside of the existing PRTF are allowable and paid via the medicaid fee-for-service program when included in the individual's treatment plan. We do not anticipate any change in expenditures as a result of this SPA. This is a change prompted by recent CMS guidance on the subject of PRTF services, see CMCS Informational Bulletin dated November 28, 2012.

For additional information, contact Mark Nelson, DSHS/ADS/BHISIA/DBHR, 4500 10th Avenue S.E., Lacey, WA 98504-5330, phone (360) 725-1388, TDD/TTY (800) 848-