

WSR 14-05-003
NOTICE OF PUBLIC MEETINGS
BIG BEND
COMMUNITY COLLEGE
 [Filed February 6, 2014, 9:55 a.m.]

This notice is in accordance with RCW 42.30.075 that the board of trustees for Big Bend Community College, District No. 18, have made changes to the board meeting schedule.

The March 6, 2014, meeting will begin at 3:00 p.m. instead of 1:30 p.m.

WSR 14-05-004
ATTORNEY GENERAL'S OFFICE
 [Filed February 6, 2014, 10:01 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by March 12, 2014. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by e-mail to jeff.even@atg.wa.gov or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeff Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested, information about the attorney general's opinion process, information on how to submit your comments, and a due date by which your comments must be received to ensure that they are fully considered.

If you are interested in receiving notice of new formal opinion requests via e-mail, you may visit the attorney general's web site at www.atg.wa.gov/AGOOpinions/default.aspx for more information on how to join our AGO opinions list.

The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 14-02-01

Request by Andy Billing, State Senator

QUESTION(S):

1. As a matter of law is it necessary to obtain the consent of the law enforcement officer/s who are a party to the inter-

cepted conversation or is the consent of the officer considered obtained by virtue of the officers employment?

2. If a party objects to the interception and recording would it be necessary for the law enforcement officer/s to cease intercepting and recoding? If the officer continued to intercept and record once an objection was made by one of the parties to a private communication would that action therefore subject the officer/s and the agency to criminal and civil liability?

3. Are intercepted conversations and video actions which take place inside a private residence between law enforcement officers and private citizens private or public? What case law establishes what constitutes a private conversation?

4. What legal standards or rules of evidence are in place which would establish the requirements for preservation of intercepted private conversations/video evidence making such evidence available in its original format for a citizen seeking damages under RCW 9.73.030?

5. Does RCW 9.73.080 limit the interception of conversations via a body worn camera by law enforcement officers to only those interactions with citizens where the conversation is "operated simultaneously" with video cameras "mounted in law enforcement vehicles"? An example would be when an officer leaves a vehicle and enters a residence.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Attorney General's Office and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 14-05-005
NOTICE OF PUBLIC MEETINGS
CENTER FOR CHILDHOOD
DEAFNESS AND HEARING LOSS

[Filed February 6, 2014, 10:30 a.m.]

Due to severe weather warning our board of trustees meeting, scheduled for Friday, February 7, 2014, in Olympia has been cancelled.

WSR 14-05-012
NOTICE OF PUBLIC MEETINGS
TURFGRASS SEED COMMISSION

[Filed February 7, 2014, 8:01 a.m.]

The Washington state turfgrass seed commission has changed the location and start time for their February 20, 2014, meeting. The meeting will start at 9:00 a.m. and be held at Country Cousin's Restaurant, 4605 North Road 68, Pasco, WA 99301.

If you need further information contact Dave Johnson, chairman, (509) 539-1229 or e-mail david.johnson@simplot.com.

WSR 14-05-021
RULES OF COURT
STATE SUPREME COURT

[February 6, 2014]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO GR 33) NO. 25700-A-1055

The Access to Justice Board having recommended the adoption of amendments to GR 33, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in 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 April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929 or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of February, 2014.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET
Suggested Change
GENERAL RULE 33

Requests for Accommodation by Persons with Disabilities Submitted by the Washington State Access to Justice Board

Purpose: The proposed technical amendments to GR 33 are intended to more perfectly reflect the requirements of the Americans with Disabilities Act (ADA). In 2007 the ATJ Board approved, and the Supreme Court adopted, GR 33. The rule sets forth procedures for handling requests for accommodation from persons with disabilities. In 2011, after questions were raised by court clerks about the procedures for handling orders, the ATJ approved, and the Supreme Court adopted, an amended rule. In 2012 the Civil Rights Division of the U.S. Department of Justice (DOJ) contacted the ATJ Board to express concerns, including that the bifurcated process in the 2011 amendment did not satisfy the ADA. The original drafters of GR 33 engaged with the DOJ in a series of meetings and drafts, resulting in the proposed amended rule. The amended rule was approved by the ATJ Board on November 15, 2014. The proposed amendments are technical in nature, as no substantive changes are proposed.

GR 33

Requests for Accommodation by Persons with Disabilities

(a) Definitions. The following definitions shall apply under this rule:

(1) "Accommodation" means measures to make each court service, program, or activity, when viewed in its entirety, readily accessible to and usable by a person with a disability, and may include but is not limited to:

(A) making reasonable modifications in policies, practices, and procedures;

(B) furnishing, at no charge, auxiliary aids and services, including but not limited to equipment, devices, materials in alternative formats, qualified interpreters, or readers; and

(C) as to otherwise unrepresented parties to the proceedings, representation by counsel, as appropriate or necessary to making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by a person with a disability.

(2) "Person with a disability" means a person with a sensory, mental or physical disability as defined by the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101-12213), the Washington Law Against Discrimination (RCW 49.60 et seq.), or other similar local, state, or federal laws.

(3) "Proceedings Applicant" means any lawyer, party, witness, juror, or any other individual who is participating in any proceeding before any court.

(4) "Public Applicant" means any other person seeking accommodation.

(b) Process for Requesting Accommodation.

(1) Persons seeking accommodation may proceed under this rule. Local procedures not inconsistent with this rule may be adopted by courts to supplement the requirements of this rule. A disputed or denied request for accommodation is automatically subject to review under the procedures set out in subsections (d) and (e) of this rule. Requests for aids, modifications and services will be addressed promptly and in accordance with the ADA and the Washington State Law Against Discrimination, with the objective of ensuring equal access to courts, court programs, and court proceedings.

(2) Timing. Requests should be made in advance whenever possible, to better enable the Court to address the needs of the individual.

(3) Local Procedures Allowed. Local procedures not inconsistent with this rule are encouraged. Informal practices are appropriate when an accommodation is clearly needed and can be easily provided.

(4) Procedure. An application requesting accommodation should be made on may be presented ex parte in writing, or orally and reduced to writing, on a form approved by the Administrative Office of the Courts, and may be presented ex parte in writing, or orally and reduced to writing, to the presiding judge or officer of the court or his or her designee.

(5) Content. An application for accommodation The request shall include a description of the accommodation sought, along with a statement of the disability necessitating the accommodation. The court may require the applicant person requesting accommodation to provide additional information about the qualifying disability to help assess the appropriate accommodation. Medical and other health infor-

mation shall be submitted under a cover sheet created by the Administrative Office of the Courts for use by applicants designated "SEALED MEDICAL AND HEALTH INFORMATION" and such information shall be ~~sealed automatically~~ accessible only to the court and the person requesting accommodation unless otherwise expressly ordered. ~~The court may order that such information be sealed if it has not previously automatically been sealed.~~

(4) ~~An application for accommodation should be made as far in advance as practical.~~

(c) ~~Consideration and Decision. A request for accommodation shall be considered and acted upon as follows:~~

(1) Considerations. In determining whether to grant an accommodation and what accommodation to grant, the court shall:

(A) consider, but not be limited by, the provisions of the Americans with Disabilities Act of 1990 (§ 42 U.S.C. 12101 et seq.), RCW 49.60 et seq., and other similar local, state, and federal laws;

(B) give primary consideration to the accommodation requested by the applicant; and

(C) make its decision on an individual- and case-specific basis with due regard to the nature of the applicant's disability and the feasibility of the requested accommodation.

~~(2) If an application for accommodation by a proceedings applicant is submitted five (5) or more court days prior to the scheduled date of the proceeding for which the accommodation is sought, and if the applicant otherwise is entitled under this rule to the accommodation requested, the accommodation shall be provided unless:~~

~~(A) it is impossible for the court to provide the requested accommodation on the date of the proceeding; and~~

~~(B) the proceeding cannot be continued without prejudice to a party to the proceeding.~~

~~(3) If an application for accommodation by a proceedings applicant is submitted fewer than five (5) court days prior to the scheduled date of the proceeding for which the accommodation is requested, and if the applicant otherwise is entitled under this rule to the accommodation requested, the accommodation shall be provided unless:~~

~~(A) it is impractical for the court to provide the requested accommodation on the date of the proceeding; and~~

~~(B) the proceeding cannot be continued without prejudice to a party to the proceeding.~~

~~(4) If a requested accommodation is not provided by the court under subsection (e)(2) or (e)(3) of this rule, the court must offer the applicant an alternative accommodation.~~

~~(2) Determination. A request for accommodation may be denied only if:~~

~~(d) Denial: Proceedings Applicants. Except as otherwise set forth in subsection (e)(2) or (e)(3) of this rule, an application for accommodation by a proceedings applicant may be denied only if the court finds that:~~

~~(1)(A) the applicant person requesting application has failed to satisfy the substantive requirements of this rule; or~~

~~(2) the requested accommodation would create an undue financial or administrative burden;~~

~~(B) the court is unable to provide the requested accommodation on the date of the proceeding and the proceeding~~

~~cannot be continued without significant prejudice to a party; or~~

~~(C) permitting the applicant to participate in the proceedings with the requested accommodation would create a direct threat to the health or well being of the applicant or others.~~

~~(3) the requested accommodation would fundamentally alter the nature of the court service, program, or activity; or~~

~~(4) permitting the applicant to participate in the proceeding with the requested accommodation would create a direct threat to the health or safety or well being of the applicant or others.~~

~~(D) the requested accommodation would create an undue financial or administrative burden for the court; or would fundamentally alter the nature of the court service, program or activity under (i) or (ii):~~

~~(i) An accommodation may be denied based on a fundamental alteration or undue burden only after considering all resources available for the funding and operation of the service, program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.~~

~~(ii) If a fundamental alteration or undue burden would result from fulfilling the request, the Court shall nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the Court.~~

(e) Decision: Proceedings Applicants. The court shall, in writing or on the record, inform the applicant person requesting an accommodation and the court personnel responsible for implementing accommodations that the request for accommodation has been granted or denied, in whole or in part, and the nature and scope of the accommodation to be provided, if any. The A written decision shall be entered in the proceedings file, if any, in which case the Court shall determine whether or not the decision should be sealed. If there be no proceedings filed the decision shall be entered in the court's administrative files, with the same determination about filing under seal. If the court denies a requested accommodation pursuant to subsection (d) of this rule, the decision shall specify the reasons for the denial. If a requested accommodation is not provided by the court under subsection (e)(2) or (e)(3) of this rule, the court shall state:

(1) the facts and/or circumstances that make the accommodation impossible under subsection (e)(2) or impractical under subsection (e)(3); and

(2) the reasons why the proceeding cannot be continued without prejudicing a party to the proceeding.

~~(f) Decision: Public Applicants. A public applicant should be accommodated consistent with the Americans with Disabilities Act of 1990 (42 USC §§12101-12213) and the Washington Law Against Discrimination (RCW 49.60 et seq). The applicant shall, orally or in writing, be informed that the request for accommodation has been granted or denied. If requested, a written statement of reasons for denial shall be provided.~~

(4) Denial. If a requested accommodation is denied, the court shall specify the reasons for the denial (including the reasons the proceeding cannot be continued without prejudice to a party). The court shall also ensure the person requesting the accommodation is informed of his or her right

to file an ADA complaint with the United States Department of Justice Civil Rights Division.

For the Court

Comment

Madsen, C.J.

CHIEF JUSTICE

[1] Access to justice for all persons is a fundamental right. It is the policy of the courts of this state to assure that persons with disabilities have equal and meaningful access to the judicial system. Nothing in this rule shall be construed to limit or invalidate the remedies, rights, and procedures accorded to any person with a disability under local, state, or federal law.

[2] Supplemental informal procedures for handling accommodation requests may be less onerous for both applicants and court administration. Courts are strongly encouraged to adopt an informal grievance process for public applicants whose requested accommodation is denied.

[Adopted effective September 1, 2007; amended effective December 28, 010.]

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.

WSR 14-05-022
RULES OF COURT
STATE SUPREME COURT
[February 6, 2014]

IN THE MATTER OF THE ADOPTION) ORDER
OF PROPOSED NEW JuCR 1.6) NO. 25700-A-1056

The Washington State Bar Association having recommended the adoption of proposed New JuCR 1.6, and the Court having approved the proposed new rule for publication;

Now, therefore, it is hereby
ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed new rule as shown below is 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 April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929 or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of February, 2014.

GR 9 COVER SHEET
JUVENILE COURT RULES

JuCR 1.6 – Physical Restraints in the Courtroom

Suggested Juvenile Court Rule 1.6 addresses the routine shackling of juveniles in courtrooms in Washington absent an individualized determination that restraints are necessary to maintain order and prevent injury. The suggested rule would create a procedure to ensure that juveniles brought before juvenile courts in Washington would not appear in shackles unless the court found that there were no less restrictive means to ensure the safety of the court and to allow for orderly proceedings; it would not prohibit the use of shackles in every case.

Washington courts recognize that juveniles' due process rights are implicated when they are restrained during court proceedings.¹ Forty-five years ago, the Supreme Court's landmark ruling in *In re Gault*, 387 U.S. 1 (1967) held that juveniles are entitled to the same procedural rights as adults in court proceedings. Adoption of this rule would ensure those procedural rights in all juvenile courts in Washington.

There is currently no court rule establishing a standard procedure for removing shackles from a youth prior to his or her appearance in juvenile court. Washington State courts vary widely in the use of shackles. A survey conducted by University of Washington Law Students found that both juvenile offenders and status offenders are routinely shackled in juvenile courtrooms in a majority of the counties in the state, including Thurston, Pierce and Snohomish counties. Only one county, Chelan, has adopted a court order prohibiting the routine shackling of youth. In this rural county, shackling is permitted only when deemed necessary by the juvenile court judge or commissioner.² Several larger counties, including King, Clark, Yakima and Spokane, do not shackle juveniles. Like the newly adopted Court rule in Chelan, suggested JuCR 1.6 would presume that juveniles appear unshackled and would not require a juvenile to request removal of restraints.

Suggested JuCR 1.6 would provide a standard procedure for the court to determine whether a juvenile should be shackled in the courtroom. A judge would be required to make a finding on the record that shackles are the least restrictive means to ensure that the courtroom will be secure and orderly. The suggested rule would require that any physical restraint be removed prior to the youth's appearance before the court unless the judge deemed the use of restraints necessary. This suggested procedure would provide a meaningful safeguard to ensure that every youth in Washington State has equal access to justice in the juvenile court system.

¹ *State v. E.J.Y.* 113 Wn. App. 940, 951-952, P.3d 673 (2002).

² Chelan county Juvenile Court GENERAL ORDER Number 2010-01 In re: SHACKLING OF JUVENIL DETAINEES APPEARING IN COURT

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.

JuCR 1.6 PHYSICAL RESTRAINTS IN THE COURTROOM.

(a) Use of Restraints on Juvenile Respondents. Juveniles shall not be brought before the court wearing any physical restraint devices except when ordered by the court during or prior to the hearing. Instruments of restraint, such as handcuffs, ankle chains, waist chains, strait jackets, electric-shock producing devices, gags, spit masks and all other devices which restrain an individual's freedom of movement shall not be used on a respondent during a court proceeding and must be removed prior to the respondent's appearance before the court unless the court finds both that:

(1) The use of restraints is necessary due to one of the following factors:

(A) Present behavior of the respondent represents a current threat to his or her own safety, or the safety of other people in the courtroom;

(B) Recent disruptive courtroom behavior of the respondent has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm to himself or herself or others; or

(C) Present behavior of the respondent presents a substantial risk of flight from the courtroom; and

(2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the respondent or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

(b) Challenge to the use of restraints. Before or after any juvenile is ordered restrained, the court shall permit any party to be heard on the issue of whether the use of physical restraints is necessary in a particular situation or as to a particular child.

WSR 14-05-023
RULES OF COURT
STATE SUPREME COURT
[February 6, 2014]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO GR 15) NO. 25700-A-1057

The Judicial Information System Committee having recommended the adoption of amendments to GR 15, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed 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 April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929 or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th Day of February, 2014.

For the Court

Madsen, C.J.
CHIEF JUSTICE

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 14-06 issue of the Register.

WSR 14-05-028
HEALTH CARE AUTHORITY

[Filed February 10, 2014, 3:50 p.m.]

NOTICE

Title or Subject: Apple health managed care program.

Effective Date: January 1, 2014.

Description: Medicaid State Plan Amendment 14-0004.

Beginning January 1, 2014, the state of Washington will implement portions of the Affordable Care Act (ACA) in part, by expanding medicaid eligibility to individuals with a modified adjusted gross income up to one hundred thirty-eight percent of the federal poverty level (FPL).

The health care authority intends to mandatorily enroll newly eligible medicaid beneficiaries in apple health managed care (formerly healthy options) beginning with January 1, 2014, enrollment. We anticipate an addition of approximately 239,000 newly eligible medicaid clients by the end of 2014, many of whom will enroll in managed care. Apple health managed care provides full scope medical benefits, as well as mental health services and care coordination for program enrollees with chronic health care conditions.

To allow mandatory enrollment of clients in the expansion population, the agency intends to submit 1932(a) SPA 14-0004 to the Centers for Medicare and Medicaid Services, adding the medicaid expansion population to Washington's apple health managed care program as a mandatory eligibility group.

For additional information, contact Alison Robbins, Division of Health Care Services, Quality and Care Management Section, 626 8th Avenue, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1634, TDD/TTY 1-800-848-5429, fax (360) 753-7315, e-mail Alison.Robbins@hca.wa.gov.

WSR 14-05-031
NOTICE OF PUBLIC MEETINGS
APPLE COMMISSION
 [Filed February 11, 2014, 2:44 p.m.]

The Washington apple commission has changed the date for their March 2014 meeting. The meeting will now be held on March 13, 2014. The time and location will stay the same for this meeting, W. L. Hansen Building, Yakima, Washington, 9:00 a.m.

If you need further information contact Randi Harnden, export marketing coordinator, (509) 663-9600, or e-mail randi.harnden@waapple.org.

WSR 14-05-034
NOTICE OF PUBLIC MEETINGS
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
 [Filed February 12, 2014, 8:49 a.m.]

Following is the schedule of the annual meeting for the board of registration for professional engineers and land surveyors for 2014:

Date	Time	Location
June 19, 2014	8:00 a.m.	Radisson 18118 International Boulevard SeaTac, WA 98188

If you need further information contact Cassandra Fewell, P.O. Box 9025, Olympia, WA 98507-9025, (360) 664-1564, (360) 664-2551, cfewell@dol.wa.gov, http://www.dol.wa.gov/business/engineerslandsurveyors/meetings.html.

WSR 14-05-039
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
 (Geologist Licensing Board)
 (Board for Architects)
 (Board of Licensure for Landscape Architects)
 (Funeral and Cemetery Board)
 [Filed February 12, 2014, 3:50 p.m.]

2014 Design, Funeral and Cemetery Board Meetings

Geologist Licensing Board – all meetings start at 9 a.m.

February 11, 2014	SPSCC Hawks Prairie Lacey
March 18, 2014	Conference Call Olympia
June 3, 2014	Central Washington University Ellensburg

September 30, 2014	Whitman College Walla Walla
December 2, 2014	SPSCC Hawks Prairie Lacey

Washington State Board for Architects – all meetings start at 9 a.m.

January 24, 2014	SPSCC Hawks Prairie Lacey
April 4, 2014	Columbia Basin College Pasco
July 25, 2014	Western Washington University Bellingham
September 19, 2014	Conference Call Olympia
November 7, 2014	Washington State University Pullman

Board of Licensure for Landscape Architects – all meetings start at 9:30 a.m.

January 31, 2014	WET Center Olympia
April 18, 2014	University of Washington Seattle
July 18, 2014	SPSCC Main Campus Olympia
October 17, 2014	Washington State University Pullman

Funeral and Cemetery Board – all meetings start at 9 a.m.

February 4, 2014	Department of Licensing Olympia
May 6, 2014	Department of Licensing Olympia
August 5, 2014	Department of Licensing Olympia
November 4, 2014	Department of Licensing Olympia

WSR 14-05-043
HEALTH CARE AUTHORITY
 [Filed February 13, 2014, 3:14 p.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 14-0013.

Effective Date: October 1, 2014.

Description: Third party recovery.

The health care authority (the agency) intends to submit SPA 14-0013 to revise the treatment questionnaire (TQ) process. TQs are generated based on ICD-9 accident-related diagnosis codes within the range of 800 to 999. Certain diagnosis codes within that range are not active in the ProviderOne payment system because there is no recovery potential. Because states will start using ICD-10 diagnosis codes within the next year, the agency intends to list the excluded diagnosis codes in the state plan, making the transition to ICD-10 easier.

In addition, SPA 14-0013 will reflect the practice of no longer sending out third notices or ask [asking] the community service offices (CSOs) to sanction clients for noncooperation (not responding to the TQs).

There is no anticipated increase or decrease in annual aggregate expenditures.

For additional information, contact Kathy Fertuna, Coordination of Benefits, Casualty Unit, P.O. Box 45561, Olympia, WA 98504-5561, (360) 725-1195, TDD/TTY 1-800-848-5229, fax (360) 753-3077, e-mail fertuke@hca.wa.gov.

WSR 14-05-044

INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed February 13, 2014, 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 department of social and health services.

Developmental Disabilities Administration (DDA)

Document Title: Public Notice.

Subject: Change to the following DDA medicaid HCBS waivers: Basic plus and core.

Effective Date: March 16, 2014.

Document Description: Washington is submitting an amendment for the core waiver, WA.0410 and Basic plus waiver, WA.0409. These amendments will adjust the capacity to reflect higher utilization of the waiver programs. Core and Basic plus waiver services provide an alternative to the intermediate care facility for the individuals with intellectual disabilities (ICF/ID) who want to live in their own homes or residential settings. Participants must meet financial and functional eligibility requirements. In addition to personal care, services include residential options, behavior support and consultation, staff and family consultation and training, environmental accessibility adaptations, skilled nursing, transportation, specialized medical equipment and supplies, employment and community access, nurse delegation and community transition services.

To receive a copy of the interpretive or policy statements, contact Kris Pederson, DDA, P.O. Box 45310, phone (360) 725-3445, TDD/TTY (360) 438-2637, fax (360) 407-0955, e-mail Kristine.Pederson@dshs.wa.gov, web site <http://www.dshs.wa.gov/ddd>.

WSR 14-05-054

DEPARTMENT OF ECOLOGY

[Filed February 14, 2014, 1:37 p.m.]

PUBLIC NOTICE

Announcing the Reissuance of the Washington State Department of Transportation Municipal Stormwater General Permit

2014 Updated Permit: The Washington state department of ecology (ecology) issued the general permit to the Washington state department of transportation (WSDOT) on March 6, 2014. The permit covers discharges from its municipal separate storm sewer system (MS4). MS4s are conveyances or a system of conveyances including roads with drainage systems, streets, catch basins, ditches, man-made channels, and storm drains. This permit will replace WSDOT's coverage under the current permit issued February 4, 2009. The effective date of this permit is April 5, 2014.

Purpose of the Permit: State and federal regulations require WSDOT to have national pollutant discharge elimination system (NPDES) permit coverage in areas covered by Phase I and Phase II of the municipal stormwater permit program. This permit covers stormwater runoff from WSDOT highways, ferry terminals, rest areas, park and ride lots, maintenance facilities, vector decant and street sweepings facilities, and winter chemical storage facilities. The permit addresses these legal requirements and regulates the discharge of pollutants to protect water quality in Washington state.

Public Notice Process and Comments: Ecology accepted public comment on the draft permit and fact sheet from November 6, 2013, until January 10, 2014. The WSDOT and ecology implementing agreement (IA) and the 2014 draft Highway Runoff Manual (HRM) were also available for comment.

The 2014 HRM has also been approved as an equivalent manual to ecology's stormwater manuals in March 6, 2014. Through the implementing agreement, WSDOT agrees to apply the technical standards from the HRM throughout Washington state.

Ecology held a hearing and workshop in Lacey, Washington on January 8, 2014. Ecology received written comments during the public comment period and responded to these comments in the fact sheet. You may download copies of the permit, the response to comments, and the fact sheet from the ecology web site at <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/wsdot.html>. In addition, you may contact water quality program at (360) 407-6400 to request permit documents.

Appeal Options: The terms and conditions of this general permit, being issued March 6, 2014, may be appealed only by filing an appeal in writing to the pollution control hearings board and by serving it upon ecology at the addresses below. E-mail is not accepted. Appeals of the general permit must be made within thirty days of issuance or receipt, whichever is later (see chapter 43.21B RCW) (RCW is the Revised Code of Washington). The procedures and requirements for the appeal process are contained in RCW 43.21B.310. An appeal must be filed with:

Address and Location Information:

Street Addresses: Department of Ecology, Attn: Appeals Processing Desk, 300 Desmond Drive S.E., Lacey, WA, 98503; or Pollution Control Hearings Board, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501.

Mailing Addresses: Department of Ecology, Attn: Appeals Processing Desk, P.O. Box 47608, Olympia, WA 98504-7608; or Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903.

If you have questions about the permit, contact Foroozan Labib at foroozan.labib@ecy.wa.gov, or (360) 407-6439.

WSR 14-05-060**DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 18, 2014, 8:26 a.m.]

Under RCW 39.12.015, 39.12.020 and WAC 296-127-011, on February 3, 2014, the industrial statistician determined and published on the internet the statewide prevailing rates of wage. A correction was made and published on February 5, 2014. The rates published on February 3, 2014, as corrected on February 5, 2014, become effective March 5, 2014.

For more information on prevailing wage or for a copy of the rates please visit our web site at www.lni.wa.gov/TradesLicensing/PrevailingWage/.

If you have any questions please call (360) 902-5335.

Suchi Sharma
Senior Policy Advisor
and Rules Coordinator

WSR 14-05-068**NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)**

[Filed February 18, 2014, 10:17 a.m.]

Proposed Public Employees Benefits Board (PEBB)
Policy Statements

The health care authority (HCA) will hold a public meeting to consider proposed PEBB administrative policies.

The meeting is scheduled for **Friday, March 14, 2014, at 10:00 a.m.** in the Pear Conference Room, Health Care Authority, 626 8th Avenue S.E., Olympia, WA 98501.

The proposed policies can be downloaded online from <http://www.hca.wa.gov/pebb/Pages/policy.aspx>. Public comment on these policies can be submitted through the web page or to Rob Parkman, 626 8th Avenue S.E., Olympia, WA 98501-42684. **The deadline for public comments is March 14, 2014.**

For further information or to receive a hard copy of the proposed policies, please contact Rob Parkman at (360) 725-0883.

WSR 14-05-082**NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD**

[Filed February 18, 2014, 1:13 p.m.]

MEETING NOTICE: April 24, 2014
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: April 25, 2014
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 14-05-085**RULES COORDINATOR
CHARTER SCHOOL COMMISSION**

[Filed February 18, 2014, 4:00 p.m.]

Pursuant to RCW 34.05.312, the rules coordinator for the charter school commission is Colin Pippin-Timco, P.O. Box 40996, Olympia, WA 98504-0996, phone (360) 725-5511, e-mail colin.pippin-timco@charterschool.wa.gov.

Joshua Halsey
Executive Director

WSR 14-05-086**PUBLIC RECORDS OFFICER
CHARTER SCHOOL COMMISSION**

[Filed February 18, 2014, 4:01 p.m.]

Pursuant to RCW 42.56.580, the public records officer for the charter school commission is Colin Pippin-Timco, P.O. Box 40996, Olympia, WA 98504-0996, phone (360) 725-5511, e-mail colin.pippin-timco@charterschool.wa.gov.

Joshua Halsey
Executive Director

WSR 14-05-103
LIQUOR CONTROL BOARD
 [Filed February 19, 2014, 11:46 a.m.]

Approval for filing the Small Business Economic Impact Statement (SBEIS) for I-1183 with the Code Reviser's Office

During the process of implementing I-1183 the Board adopted new rules, and revised and repealed numerous existing rules in order to implement the new laws enacted by the initiative. The Board adopted rules on June 2, 2012, and August 26, 2012, to implement sections of I-1183.

Two legal challenges to two sets of rules were filed by the Washington Restaurant Association, Northwest Grocery Association and Costco Corporation, raising various legal issues. The cases were consolidated for briefing and hearing in Thurston County Superior Court. One of the challenges

X	Approve	_____	Disapprove
X	Approve	_____	Disapprove
X	Approve	_____	Disapprove

_____	02/19/14
Sharon Foster, Chairman	Date
_____	02/19/14
Ruthann Kurose, Board Member	Date
_____	02/19/14
Chris Marr, Board Member	Date

Initiative 1183 - Small Business Economic Impact Statement
January 30, 2014

Initiative 1183 (I-1183), was passed by majority vote on November 8, 2011. It set in place a series of events, designed to transfer the business of distributing and selling spirits at retail from the exclusive province of the Washington State Liquor Control Board (WSLCB) to the private sector. I-1183 created new license types including spirits distributor and spirits retailer licenses. It also directed the Board to create new licenses and authorities, including certificates of approval and endorsements allowing certain activities relating to spirits to be conducted by licensees. The initiative eliminated the authority of the Board to buy and sell liquor.

During the process of implementing I-1183 the Board adopted new rules, and revised and repealed numerous existing rules in order to implement the new laws enacted by the initiative. The Board adopted rules on June 2, 2012, and August 26, 2012, to implement sections of I-1183.

Two legal challenges to two sets of rules were filed by the Washington Restaurant Association, Northwest Grocery Association and Costco Corporation, raising various legal issues. The cases were consolidated for briefing and hearing in Thurston County Superior Court. One of the challenges asserted was that the Board had improperly failed to prepare a Small Business Economic Impact Statement (SBEIS) to analyze the impact of the proposed rules on small businesses.

The Thurston County Superior Court found the Board had failed to prepare an SBEIS, and therefore found the rules invalid, but directed the Board to prepare a SBEIS. It stayed

asserted was that the Board had improperly failed to prepare a Small Business Economic Impact Statement (SBEIS) to analyze the impact of the proposed rules on small businesses.

The Thurston County Superior Court found the Board had failed to prepare an SBEIS, and therefore found the rules invalid, but directed the Board to prepare a SBEIS. It stayed the effect of the ruling until an SBEIS could be prepared on the rules published in Washington State Register filing nos. 12-12-065 and 12-17-006. The Board prepared this SBEIS to comply with the court's direction.

The Rules Coordinator requests approval to file the SBEIS on rules to implement I-1183 with the Code Reviser's Office. A copy of the SBEIS was provided at the Board meeting on February 19, 2014, and is attached to this order.

If approved for filing, the Rules Coordinator will file the SBEIS on February 19, 2014.

the effect of the ruling until an SBEIS could be prepared on the rules published in Washington State Register filing nos. 12-12-065 and 12-17-006. The Board prepared this SBEIS to comply with the court's direction.

The WSLCB sent out the SBEIS survey to 1193 stakeholders via its Liquor Advisories Listserv on August 16, 2013. It requested responses to the seven questions below. In addition to the Listserv the SBEIS survey was sent via email to the agency's I-1183 Information, Rules 1 and Rules 2 email distribution lists. Due to requests received by various stakeholder groups and individual licensees the original deadline for submission was extended from August 30, 2013 to September 13, 2013.

Response Numbers

- Total responses: 222
- Small business responses: 177
- Large business responses: 41
- Responses without pertinent information: 4

Summary of Findings

1. What kind of additional professional services did your small business need in order to comply with the rules?

Large and small businesses reported needing the following additional services to comply with the rules: accountant, service vendors, lawyer, tax consultant, point of sale equipment, system vendor to handle inventory management, recordkeeping, realtors, relocation specialists, storage facilities, bookkeepers, payroll service companies, credit card processing software and annual support fees, security system, electrician and additional liquor distributors.

2. Is there an increased cost of compliance for your business in the following areas: equipment, supplies, labor and administrative costs?

Large and small businesses reported an increase in administrative and labor costs attributed to additional time/paperwork needed to locate specific products at multiple locations. Businesses of all sizes also reported an increase in the cost of goods, transportation costs due to 24 liter per day limitation, third party administrative fees and additional equipment.

3. Have the rules caused your business to lose sales or revenue?

The majority of business indicated the rules caused their business to lose sales or revenue, either directly or indirectly by having to change the way they operated their business. Large and small business reported they lost money due to the additional 17% fee on products and the 24 liter restriction. The majority of businesses were forced to use more than one distributor to purchase product.

Small businesses reported an increased cost of compliance because they were not able to enter into a co-op warehouse agreement with other small businesses. In many cases small businesses were forced to: purchase smaller quantities of products more frequently, purchase larger quantities, store more product than before. In addition, respondents referenced not being able to purchase any product because they couldn't afford the minimum order requirement. All of these answers resulted in increased prices for the consumer.

Some businesses reported the rules caused gaps in the supply chain and resulted in customers buying down.

4. What is your estimated number of jobs created or lost as a result of complying with these rules?

The majority of responding large and small businesses indicated the rules caused their business to lose jobs or prevented them from hiring additional employees.

5. What is the size of your business, (number of employees)?

The number of employees reported by responding businesses ranged from 1 to 750 employees.

6. How many hours of work, on average, does each employee work?

Due to the wide range of responding businesses (small and large) it is not possible to generate an accurate average of employee hours.

7. Did you provide comments on the Board's proposed rules, or participate in any other way in the I-1183 rulemaking process in 2012?

Less than half of the responding businesses indicated that they participated in the I-1183 rulemaking process.

Steps Taken by the WSLCB to Reduce the Costs of the Rules on Small Businesses

The majority of the responses to the SBEIS focused on the private system of spirits sales created by the initiative rather

than the rules adopted by the Board. Some small businesses responding to the survey suggested the rules be amended to reduce the 17 percent fee on all spirit sales created by the initiative. While the Board does not have the authority to amend the language of the initiative, they have tried to mitigate the impact of the fees by allowing businesses to pay on an agreed upon scheduled payment plan if they become delinquent in payments and are at risk of suspension of their spirits retail license.

Another mitigating technique suggested by small businesses in the survey was to allow businesses to organize a buying co-op in an effort to reduce the cost of product. The WSLCB does allow businesses to participate in a buying co-op under the rules in accordance with the parameters set out in the initiative.

During the transition of I-1183 the Board took several steps to avert harm to state and contract liquor stores that did not involve the rules and rulemaking progress. Contract liquor stores were able to transfer or sell their liquor stores to a qualified liquor applicant, including family members. State and contract stores planning on applying for a spirits retail license under I-1183 were allowed to move within a mile of their location without engaging in contract negotiations. On a case by case basis stores were given exceptions to move outside of the one mile radius if there was no existing competing store.

State and contract liquor store managers were given the option to purchase inventory in their stores below wholesale cost and pay over time. A 50 percent down payment on the value of the inventory was due to the WSLCB no later than Friday, May 11, 2012. The rest of the unpaid balance was due no later than Friday, June 22, 2012. The WSLCB provided a rebate of up to 60 percent of the winning bid amount or \$30,000, whichever was less, determined by the number of former WSLCB employees hired and the amount of months they were employed by the business. The WSLCB also gave priority processing for state and contract stores applications for spirits retail licenses.

The Involvement of Small Business in the Development of the Proposed Rules

The WSLCB used several techniques to involve small business and other interested parties in the rulemaking process. The publication of the rule-proposal documents includes rule language available for comments, notices, a public hearing and comment period. Email distribution lists were used by the WSLCB to provide the public, small businesses and others with regular updates and information related to the proposed rules. The WSLCB maintains a website dedicated to the rule-making effort, that includes a timeline of the rule-making schedule, recently adopted rules and proposed rules.

Summary

Survey results did not demonstrate a disproportional negative impact on small businesses. The Board was not given discretion on many aspects of the rules, as the content was dictated by statutory provisions. One prime example is the 17 percent fee imposed on "all spirits sales." While the Board would have preferred to interpret this fee as imposed only on sales to

consumers, the statutory language is unambiguous, and does not exempt sales of spirits between retailers from the payment of the 17 percent fee.