

WSR 15-14-001
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed June 17, 2015, 12:45 p.m., effective July 18, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-320 WAC, Hospital licensing regulations (construction standards only), the department of health amended the hospital licensing regulations to align with current federal standards and national consensus codes as recognized by the industry.

Citation of Existing Rules Affected by this Order: Amending WAC 246-320-500, 246-320-505, and 246-320-600.

Statutory Authority for Adoption: RCW 70.41.030.

Other Authority: C.F.R. 2005, Title 42, Vol. 3, Sec. 482.41.

Adopted under notice filed as WSR 15-07-024 on March 10, 2015.

A final cost-benefit analysis is available by contacting John L. Williams, Department of Health, Community and Health Systems, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2944, fax (360) 236-2321, e-mail john.williams@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: May 14, 2015.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 10-17-120, filed 8/18/10, effective 9/18/10)

WAC 246-320-500 Applicability of WAC 246-320-500 through 246-320-600. The purpose of construction regulations is to provide for a safe and effective patient care environment. These rules are not retroactive and are intended to be applied as outlined below.

(1) These regulations apply to hospitals including:

- (a) New buildings to be licensed as a hospital;
- (b) Conversion of an existing building or portion of an existing building for use as a hospital;
- (c) Additions to an existing hospital;
- (d) Alterations to an existing hospital; and
- (e) Buildings or portions of buildings licensed as a hospital and used for hospital services;

(f) Excluding nonpatient care buildings used exclusively for administration functions.

(2) The requirements of chapter 246-320 WAC in effect at the time the application and fee are submitted to the department, and project number is assigned by the department, apply for the duration of the construction project.

(3) Standards for design and construction.

Facilities constructed and intended for use under this chapter shall comply with:

(a) The following chapters of the ((2010)) 2014 edition of the *Guidelines for Design and Construction of ((Health Care)) Hospitals and Outpatient Facilities* as developed by the Facilities Guidelines Institute and published by the American Society for Healthcare Engineering of the American Hospital Association, 155 North Wacker Drive Chicago, IL 60606, as amended in WAC 246-320-600:

(i) 1.1 Introduction

(ii) 1.2 Planning, Design, Construction, and Commissioning

(iii) 1.3 Site

(iv) 1.4 Equipment

(v) 2.1 Common Elements for Hospitals

(vi) 2.2 Specific Requirements for General Hospitals

(vii) ~~(2.4 Specific Requirements for Critical Access Hospitals (Reserved))~~

~~(viii) 2.5 Specific Requirements for Psychiatric Hospitals~~

~~(ix) 2.6 Specific Requirements for Rehabilitation Hospitals and Other Facilities~~

~~(x) 3.1 Common Elements for Outpatient Facilities~~

~~(xi) 3.2 Specific Requirements for Primary Care Outpatient Centers~~

~~(xii) 3.3 Specific Requirements for Small Primary Care (Neighborhood) Outpatient Facilities~~

~~(xiii) 3.4 Specific Requirements for Freestanding Outpatient Diagnostic and Treatment Facilities~~

~~(xiv) 3.6 Specific Requirements for Freestanding Cancer Treatment Facilities~~

~~(xv) 3.7 Specific Requirements for Outpatient Surgical Facilities~~

~~(xvi) 3.8 Specific Requirements for Office Surgical Facilities~~

~~(xvii) 3.9 Specific Requirements for Gastrointestinal Endoscopy Facilities~~

~~(xviii) 3.10 Specific Requirements for Renal Dialysis Centers~~

~~(xix) 3.11 Specific Requirements for Psychiatric Outpatient Centers~~

~~(xx) 3.12 Specific Requirements for Outpatient Rehabilitation Facilities~~

~~(xxi) 4.3 Specific Requirements for Hospice Facilities~~

~~(xxii) 5.1 Mobile, Transportable, and Relocatable Units~~

~~(xxiii) 5.2 Freestanding Birth Centers~~

~~(xxiv) Part 6: Ventilation of Health Care Facilities))~~ 2.3

Specific Requirements for Freestanding Emergency Departments

(viii) 2.4 Specific Requirements for Critical Access Hospitals

(ix) 2.5 Specific Requirements for Psychiatric Hospitals

(x) 2.6 Specific Requirements for Rehabilitation Hospitals and Other Facilities

(xi) 2.7 Specific Requirements for Children's Hospitals

(xii) 3.1 Common Elements for Outpatient Facilities

(xiii) 3.2 Specific Requirements for Primary Care Facilities

(xiv) 3.3 Specific Requirements for Freestanding Outpatient Diagnostic and Treatment Facilities

(xv) 3.4 Specific Requirements for Freestanding Birth Centers

(xvi) 3.5 Specific Requirements for Freestanding Urgent Care Facilities

(xvii) 3.6 Specific Requirements for Freestanding Cancer Treatment Facilities

(xviii) 3.7 Specific Requirements for Outpatient Surgical Facilities

(xix) 3.8 Specific Requirements for Office Based Procedure and Operating Rooms

(xx) 3.9 Specific Requirements for Endoscopy Facilities

(xxi) 3.10 Specific Requirements for Renal Dialysis Centers

(xxii) 3.11 Specific Requirements for Outpatient Psychiatric Centers

(xxiii) 3.12 Specific Requirements for Outpatient Rehabilitation Therapy Facilities

(xxiv) 3.13 Mobile, Transportable, and Relocatable Units

(xxv) 3.14 Specific Requirements for Dental Facilities

(xxvi) Part 4: Ventilation of Health Care Facilities

(b) *The National Fire Protection Association, Life Safety Code, NFPA 101, ((2000)) as adopted by the centers for medicaid and medicare services.*

(c) *The State Building Code as adopted by the state building code council under the authority of chapter 19.27 RCW.*

(d) Accepted procedure and practice in cross-contamination control, *Pacific Northwest Edition, 6th Edition, December 1995, American Waterworks Association.*

(e) *The National Fire Protection Association, Health Care Facilities Code, NFPA 99, as adopted by the centers for medicaid and medicare services.*

AMENDATORY SECTION (Amending WSR 10-17-120, filed 8/18/10, effective 9/18/10)

WAC 246-320-505 Design, construction review, and approval of plans. (1) Drawings and specifications for new construction, excluding minor alterations, must be prepared by or under the direction of, an architect registered under chapter 18.08 RCW. The services of a consulting engineer registered under chapter 18.43 RCW may be used for the various branches of work where appropriate. The services of a registered engineer may be used in lieu of the services of an architect if the scope of work ((involves engineering only)) is primarily engineering in nature.

(2) A hospital will meet the following requirements:

(a) Preconstruction. Request and attend a presubmission conference for projects with a construction value of two hundred fifty thousand dollars or more. The presubmission conference shall be scheduled to occur for the review of con-

struction documents that are no less than fifty percent complete.

(b) Construction document review. Submit construction documents for proposed new construction to the department for review within ten days of submission to the local authorities. Compliance with these standards and regulations does not relieve the hospital of the need to comply with applicable state and local building and zoning codes.

~~((e))~~ The construction documents must include:

(i) A written program containing, but not limited to, the following:

(A) Information concerning services to be provided and operational methods to be used;

(B) An interim life safety measures plan to ensure the health and safety of occupants during construction and installation of finishes((-));

(C) An infection control risk assessment indicating appropriate infection control measures, keeping the surrounding area free of dust and fumes, and ensuring rooms or areas are well ventilated, unoccupied, and unavailable for use until free of volatile fumes and odors((-));

(ii) Drawings and specifications to include coordinated architectural, mechanical, and electrical work. Each room, area, and item of fixed equipment and major movable equipment must be identified on all drawings to demonstrate that the required facilities for each function are provided; and

(iii) Floor plan of the existing building showing the alterations and additions, and indicating location of any service or support areas; and

(iv) Required paths of exit serving the alterations or additions((-

~~(+))~~; and

(v) Verification that the capacities and loads of infrastructure systems will accommodate planned load.

(c) Resubmittals. The hospital will respond in writing when the department requests additional or corrected construction documents;

~~((e) Notify))~~ (d) Construction. Comply with the following requirements during the construction phase.

(i) The hospital will not begin construction until all of the following items are complete:

(A) The department has approved construction documents or granted authorization to begin construction; and

(B) The local jurisdictions have issued a building permit; and

(C) The hospital has notified the department in writing when construction ((has commenced;

~~(f) Provide the department with)) will commence.~~

(ii) The department will issue an "authorization to begin construction" when the construction documents have been conditionally approved or when all of the following items have been reviewed and approved:

(A) A signed form acknowledging the risks if starting construction before the plan review has been completed. The acknowledgment of risks form shall be signed by the:

~~((+))~~ (I) Architect; and

~~((+))~~ (II) Hospital CEO, COO, or designee; and

~~((+))~~ (III) Hospital facilities director.

~~((g))~~ (B) The infection control risk assessment;

(C) The interim life safety plan;

(D) A presubmission conference has occurred.

(iii) Submit to the department for review any addenda or modifications to the construction documents;

((H)) (iv) Assure construction is completed in compliance with the final "department approved" documents. Compliance with these standards and regulations does not relieve the hospital of the need to comply with applicable state and local building and zoning codes. Where differences in interpretations occur, the hospital will follow the most stringent requirement.

((I)) (v) The hospital will allow any necessary inspections for the verification of compliance with the construction documents, addenda, and modifications.

((j) Notify the department in writing when construction is completed and include a copy of the local jurisdiction's approval for occupancy.

(3)) (e) Project closeout. The hospital will not ((begin construction or)) use any new or remodeled areas until:

((a) The infection control risk assessment has been approved by the department;

(b) The interim life safety plan has been approved by the department;

(c) An acknowledgment of risk form has been submitted to the department as required by subsection (2)(f) of this section;

((d)) (i) The department has approved construction documents ((or granted authorization to begin construction)); and

((e)) (ii) The local jurisdictions have ((issued a building permit)) completed all required inspections and approvals, when applicable or given approval to occupy((-

(4) The department will issue an "authorization to begin construction" when subsection (3)(a), (b), and (c) are approved and the presubmission conference is concluded); and

(iii) The facility notifies the department in writing when construction is completed and includes a copy of the local jurisdiction's approval for occupancy.

AMENDATORY SECTION (Amending WSR 10-17-120, filed 8/18/10, effective 9/18/10)

WAC 246-320-600 Washington state amendments.

This section contains the Washington state amendments to the ((2010)) 2014 edition of the *Guidelines for Design and Construction of ((Health Care)) Hospitals and Outpatient Facilities* as developed by the Facilities Guideline Institute and published by the American Society for Healthcare Engineering of the American Hospital Association, 155 North Wacker Drive Chicago, IL 60606. The language below will replace the corresponding language of the 2014 edition of the Guidelines in its entirety. Subsections with an asterisk (*) preceding a paragraph number indicates that explanatory or educational material can be found in an appendix item located in the ((2010)) 2014 Guidelines.

CHAPTER 1.1 INTRODUCTION

((1-1-5.5)) 1.1-6.3 Deviations

Authorities adopting these standards as codes may approve plans and specifications that contain deviations if it

is determined that the applicable intent or objective has been met.

1.1-8 Referenced Codes and Standards

Washington State Building Code (<http://www.sbcc.wa.gov/>)

CHAPTER 1.2 PLANNING, DESIGN, AND IMPLEMENTATION PROCESS

((1-2-6.1.4 Design Criteria for Room Noise Levels

(1) Room noise levels shall not exceed the sound level ranges shown for the chosen rating system in Table 1.2-2 ((Minimum-Maximum Design Criteria for Noise in Interior Spaces.)) **1.2-3.8.2.1 Design Features**

Appendix note:

The security portion of the safety risk assessment should consider the placement of emergency call devices in public and staff toilets.

Table A1.2

Add footnote to this table:

The security specialist shall review portions of the infection control component, specifically: Construction and demolition related risk such as planned utility shutdowns, relocations, and pathway disruptions.

CHAPTER 2.1 COMMON ELEMENTS FOR HOSPITALS

2.1-2.6.5 Handwashing Station

2.1-2.6.5.3 Additional Requirements for Handwashing Stations that Serve Multiple Patient Care Stations

(1) At least one handwashing station shall be provided for every four patient care stations or fewer and for each major fraction thereof.

(2) Based on the arrangement of the patient care stations, handwashing stations shall be evenly distributed and provide uniform distance from the two patient care stations farthest from a handwashing station.

(3) Post anesthesia care unit (PACU) handwashing stations. At least one handwashing station with hands-free or wrist-blade operable controls shall be available for every six beds or fraction thereof, uniformly distributed to provide equal access from each bed.

2.1-2.6.7 Nourishment Area or Room

((2-1-2.1.6.7.5)) 2.1-2.1.6.7.4 Nourishment function may be combined with a clean utility without duplication of sinks and work counters.

2.1-2.6.12 Environmental Services Room

2.1-2.6.12.3 Environmental services and soiled rooms may be combined.

2.1-4.3 Food and Nutrition Services

2.1-4.3.1.3 Regulations. Construction, equipment, and installation of food and nutrition service facilities in a hospital shall comply with the requirements of:

(1) U.S. Food and Drug Administration (FDA).

(2) U.S. Department of Agriculture (USDA).

(3) Underwriters Laboratories, Inc. (UL).

(4) NSF International.

(5) Chapter 246-215 WAC, the Washington state food code.

2.1-7.2.2.1 Corridor Width

2.1-7.2.2.1 Corridor width. For corridor width requirements, see applicable building codes. In addition to building code requirements, in areas typically used for stretcher transport a minimum corridor or aisle width of 6 feet shall be provided.

2.1-7.2.2.10 Handrails

(1) Unless the safety risk assessment determines that handrails are not needed, handrails shall be installed on one side of patient use corridors.

(2) Handrails shall comply with local, state, and federal requirements referenced in Section 1.1-4.1 (Designs Standards for the Disabled) as amended in this section.

(3) Rail ends shall return to the wall or floor.

(4) Handrails, including fasteners, shall be smooth and have a nontextured surface free of rough edges.

(5) Handrails shall have eased edges and corners.

(6) Handrail finishes shall be cleanable.

2.1-7.2.3 Surfaces**(2.1-7.2.3.2 Flooring**

2.1-7.2.3.2(14) The floors and wall bases of kitchens, soiled workrooms, and other areas subject to frequent wet cleaning shall be either seamless flooring with integral coved base, sealed ceramic tile with ceramic tile base, or equivalent.

***2.1-8.2.1 General**

Basic HVAC system requirements are defined in Part 6 of this document, ANSI/ASHRAE/ASHE Standard 170-2008: *Ventilation of Health Care Facilities*. This section of the Guidelines includes additional requirements.

2.1-8.2.1 General**2.1-8.2.1.1 Mechanical system design**

(f) VAV systems. The energy-saving potential of variable air volume systems is recognized, and the requirements herein are intended to maximize appropriate use of those systems. Any system used for occupied areas shall include provisions to avoid air stagnation in interior spaces where thermostat demands are met by temperatures of surrounding areas and air movement relationship changes if constant volume and variable volume are supplied by one air handling system with a common pressure dependent return system.

***2.1-8.2.1.1 Mechanical system design**

(2) Air handling systems with unitary equipment that serves only one room. These units shall be permitted for use as recirculating units only. All outdoor air shall be provided by a separate air handling system with proper filtration, as noted in 2.1-8.2.5.1 (Filter efficiencies).

(a) Recirculating room HVAC units themselves shall have a MERV 6 (or higher) filter in Filter Bank 1 and are not required to have Filter Bank 2. For more information see AIA (2006).

(b) Recirculating room units shall be allowed in General Laboratory rooms and Sterilizer Equipment rooms provided at least 6 air changes are provided by the air handling system and adequate total cooling capacity is provided.

2.1-8.2.2 HVAC Requirements for Specific Locations**2.1-8.2.2.7 Emergency and radiology waiting areas**

When these areas are not enclosed, the exhaust air change rate shall be based on the general volume of the space designated for patients waiting for treatment.

2.1-8.2.4 HVAC Air Distribution**2.1-8.2.4.2 HVAC ductwork*****(2) Humidifiers**

(a) If humidifiers are located upstream of the final filters, they shall be at least twice the rated distance for full moisture absorption upstream of the final filters.

(b) Ductwork with duct-mounted humidifiers shall have a means of water removal.

(c) Humidifiers shall be connected to airflow proving switches that prevent humidification unless the required volume of airflow is present or high-limit humidistats are provided.

(d) All duct takeoffs shall be sufficiently downstream of the humidifier to ensure complete moisture absorption.

(e) Steam humidifiers shall be used. Reservoir-type water spray or evaporative pan humidifiers shall not be used.

Appendix Language:

A2.1-8.2.4.1(2) It is recognized that some facilities may not require humidity control within the ranges in table 2.1-2 and that the final determination of a facility's ability to control humidity will be made by that facility.)) 2.1-7.2.3.1 Flooring and wall bases.

2.1-7.2.3.1(6) The following rooms shall have floor and wall base assemblies that are monolithic and have an integral coved wall base that is carried up the wall a minimum of 6 inches (150 mm) and is tightly sealed to the wall:

(a) Operating rooms;

(b) Interventional imaging rooms, including cardiac catheterization labs;

(c) Cesarean delivery rooms;

(d) Cystoscopy, urology, and minor surgical procedure rooms;

(e) Endoscopy procedure rooms;

(f) Endoscopy instrument processing rooms;

(g) IV and chemotherapy preparation rooms;

(h) Airborne infection isolation (AII) rooms;

(i) Protective environment (PE) rooms;

(j) Anterooms to AII and PE rooms, where provided;

(k) Sterile processing rooms;

(l) Central processing rooms.

2.1-8.3.4.3(7) Lighting for Specific Locations in the Hospital

2.1-8.3.4.3(7) When installed in patient care areas, upright fixtures or troughs that create ledges which collect dust shall be provided with a lens on the top of the fixture to facilitate cleaning.

2.1-8.3.7 Call Systems**2.1-8.3.7.3 Bath Stations****Appendix Language:**

A2.1-8.3.7.3 Where new construction or renovation work is undertaken, hospitals should make every effort to install assistance systems in all public and staff toilets.

2.1-8.4.3 Plumbing Fixtures**2.1-8.4.3.1 General**

(1) Materials. The material used for plumbing fixtures shall be nonabsorptive and acid-resistant.

(2) Clearances. Water spouts used in lavatories and sinks shall have clearances adequate to:

(a) avoid contaminating utensils and the contents of carafes, etc.

(b) provide a minimum clearance of 6" from the bottom of the spout to the flood rim of the sink to support proper hand washing asepsis technique without the user touching the faucet, control levers, or the basin.

Appendix Language:

A2.1-8.4.3.2(3) Aerator usage on water spouts may contribute to the enhanced growth of waterborne organisms and is not recommended.

~~((2.1-8.4.3.6 Scrub sinks. Freestanding scrub sinks and lavatories used for scrubbing in procedure rooms shall be trimmed with foot, knee, or electronic sensor controls; single-lever wrist blades are not permitted.))~~

Table 2.1-2 Locations for Nurse Call Devices in Hospitals

Modify table as follows:

<u>Section</u>	<u>Location</u>	<u>Duty station</u>
<u>2.1-2.7.1</u>	<u>Staff lounge</u>	<u>Optional</u>

CHAPTER 2.2 SPECIFIC REQUIREMENTS FOR GENERAL HOSPITALS

2.2-2.2 Medical/Surgical Nursing Unit

2.2-2.2.2 Patient Room

2.2-2.2.2.1 Capacity

(1) In new construction, the maximum number of beds per room shall be two.

(2) Where renovation work is undertaken and the present capacity is more than one patient, maximum room capacity shall be no more than the present capacity with a maximum of four patients.

~~(*2.2-2.2.2.5 Hand-washing stations~~

~~(1) Location~~

~~(a) A hand-washing station shall be provided in every toilet room serving more than one patient. Alcohol-based hand sanitizers shall be provided where sinks are not required.~~

~~(b) A hand-washing station shall be provided in the patient room in addition to that in the toilet room.~~

~~(i) This hand-washing station shall be convenient for use by health care personnel and others entering and leaving the room.~~

~~(ii) When multi-patient rooms are permitted, this station shall be located outside the patients' cubicle curtains.~~

~~2.2-2.2.6 Support Areas for Medical/Surgical Nursing Units~~

~~2.2-2.2.6.5 Hand-washing stations. For design requirements, see 2.1-2.6.5.~~

~~(1) Hand-washing stations shall be conveniently accessible to the medication station and nourishment area. "Convenient" is defined as not requiring staff to access more than two spaces separated by a door.~~

~~(2) If it is convenient to each area, one hand-washing station shall be permitted to serve several areas.~~

~~2.2-3.2 Freestanding Emergency Care Facility~~

~~2.2-3.2.1 General~~

~~2.2-3.2.1.1 Definition~~

~~(1) "Freestanding emergency care facility" shall mean an extension of an existing hospital emergency department that is physically separate from (i.e., not located on the same campus as) the main hospital emergency department and that is intended to provide comprehensive emergency service.~~

~~(2) A freestanding emergency care facility that does not provide 24-hour-a-day, seven-day-a-week operation or that is not capable of providing basic services as defined for hospital emergency departments shall not be classified as a freestanding emergency care facility and shall be described under other portions of this document. Any facility advertising itself to the public as an emergency department or facility shall meet the requirements of Section 2.2-3.2.~~

~~2.2-3.2.1.2 Application. Except as noted in the following sections, the requirements for freestanding emergency service shall be the same as for hospital emergency service as described in Section 2.2-3.1 (Emergency Service).~~

~~2.2-3.2.2 Facility Requirements~~

~~This section is not adopted~~

~~2.2-3.3.3 Pre- and Postoperative Patient Care Areas~~

~~*2.2-3.3.3.3 Post-anesthetic care unit (PACU)~~

~~(4) Each PACU shall contain the following:~~

~~(a) A medication station.~~

~~(b) Hand-washing stations. At least one hand-washing station with hands free or wrist blade operable controls shall be available for every six beds or fraction thereof, uniformly distributed to provide equal access from each bed.~~

~~(c) Nurse station with charting facilities.~~

~~(d) Clinical sink.~~

~~(e) Provisions for bedpan cleaning.~~

~~(f) Storage space for stretchers, supplies, and equipment.~~

~~(g) Staff toilet. A staff toilet shall be located within the working area to maintain staff availability to patients.))~~

~~2.2-3.3.3.3 Control Room~~

~~2.2-3.3.3.3(2) The room shall be physically separated from the hybrid operating room with walls and a door. A door is not required when the control is built, maintained, and controlled exactly the same as the operating room.~~

~~2.2-3.3.4.2 Preoperative Patient Care Area~~

~~2.2-3.3.4.2 (2)(b)(ii) Where bays are used, an aisle with a minimum clearance of 6 feet (1.83 meters) independent of the foot clearance between patient stations or other fixed objects shall be provided.~~

~~2.2-3.3.4.3 Phase I Postanesthesia Care Unit (PACU)~~

~~2.2-3.3.4.3(b) PACU size. A minimum of 1.5 postanesthesia patient care stations or as determined by the functional program per operating room shall be provided.~~

~~2.2-3.4.2.1 CT Scanner Room~~

~~2.2-3.4.2.1 (1)(b) CT scanner room(s) shall be sized to allow a minimum clearance of 4 feet (122 centimeters) on the~~

patient transfer and foot side of the table and 3 feet (91 centimeters) on nontransfer side of the table.

2.2-3.4.4 Magnetic Resonance Imaging (MRI) Facilities

2.2-3.4.4.2(2) The MRI scanner room(s) shall have a minimum clearance of 4 feet (122 centimeters) on the patient transfer side and foot of the table and 3 feet (91 centimeters) on nontransfer side of the table. The door swing shall not interfere with the patient transfer.

2.2-3.5.2 Interventional Imaging Procedure Room

2.2-3.5.2.2 Ceilings. Ceilings in interventional imaging procedure rooms shall be designed as semirestricted, see 2.1-7.2.3.3(3) for finishes.

2.2-4.2 Pharmacy Service

2.2-4.2.1 General: Until final adoption of USP 797 by either federal or other state programs, facilities may request plan review for conformance to USP 797 with their initial submission to the Department of Health, Construction Review Services.

CHAPTER 2.4 CRITICAL ACCESS HOSPITALS

2.4-1.1 Application

2.4-1.1 Application. Chapter 2.4 contains specific requirements for small rural hospitals. The functional program for these facilities must clearly describe a scope of services that is appropriate for chapter 2.4. For facilities with services that are not appropriately addressed in chapter 2.4, the appropriate portions of chapters 2.2, 2.3, 2.5, 2.6 and 2.7 will apply.

CHAPTER 3.1 OUTPATIENT FACILITIES

***3.1-3.2.2 General Purpose Examination/Observation Room**

3.1-3.2.2.2 Space requirements

(3) Existing general purpose examination rooms under review for addition to a hospital license shall be no less than 80 gross square feet and provide a minimum 2'-6" clearance around the examination table.

~~(3.1-4.1.2 Laboratory Testing/Work Area~~

3.1-4.1.2.2 Work counters

(2) Work counters shall be sufficient to meet equipment specifications and lab technician needs and have the following:

- (a) Sinks.
- (b) Communications service.
- (c) Electrical service.

~~3.1-6.1.1 Vehicular Drop-Off and Pedestrian Entrance~~

3.1-6.1.1 Vehicular Drop-Off and Pedestrian Entrance (for ambulatory surgery facilities only). This shall be at grade level, sheltered from inclement weather, and accessible to the disabled.

A3.1-6.1.1 Accessibility requirements for all facility types can be found in 1.1-4.1

3.1-7.1 Building Codes and Standards

3.1-7.1.1.2

This Section is not adopted.

3.1-7.1.1.3

This section is not adopted.

3.1-7.1.3 Provision for Disasters

3.1-7.1.3.1 Earthquakes

Seismic force resistance of new construction for outpatient facilities shall comply with Section 1.2-6.5 (Provisions for Disasters). Where the outpatient facility is part of an existing building, that facility shall comply with applicable local codes.)

3.1-3.2.3 Special Purpose Examination Room

3.1-3.2.3.2(c) A room arrangement in which an examination table, recliner, bed or chair is placed at an angle, closer to one wall than another or against a wall to accommodate the type of patient being served shall be permitted.

3.1-7.2.2 Architectural Details

~~(3.1-7.2.2.1 Corridor width~~

(1) Public corridors shall have a minimum width of 5 feet (1.52 meters). Staff-only corridors shall be permitted to be 3 feet 8 inches (1.12 meters) wide unless greater width is required by NFPA 101 (occupant load calculations). Existing clinics that do not use gurneys shall meet the requirements of NFPA 101 for appropriate occupancy type.

3.1-8.2.4 HVAC Air Distribution

3.1-8.2.4.1 Return air systems. For patient care areas where invasive applications or procedures are performed and rooms containing materials used in these applications and procedures, return air shall be via ducted systems.)

3.1-7.2.2.2 Ceiling Height

3.1-7.2.2.2(2)

This subsection is not adopted.

3.1-7.2.3.1 Flooring and Wall Bases

3.1-7.2.3.1(5) The following rooms shall have floor and wall base assemblies that are monolithic and have an integral coved wall base that is carried up the wall a minimum of 6 inches (150 mm) and is tightly sealed to the wall:

- (a) Operating rooms;
- (b) Interventional imaging rooms, including cardiac catheterization labs;
- (c) Cystoscopy, urology and minor surgical procedure rooms;
- (d) Endoscopy procedure rooms;
- (e) Endoscopy instrument processing rooms;
- (f) IV and chemotherapy preparation rooms;
- (g) Airborne infection isolation (AII) rooms;
- (h) Anterooms to AII and PE rooms, where provided;
- (i) Sterile processing rooms.

3.1-8.4.3 Plumbing Fixtures

3.1-8.4.3.1 General

(2) Clearances. Water spouts used in lavatories and sinks shall have clearances adequate to:

- (a) avoid contaminating utensils and the contents of carafes, etc.
- (b) provide a minimum clearance of 6" from the bottom of the spout to the flood rim of the sink to support proper hand washing asepsis technique without the user touching the faucet, control levers, or the basin.

Appendix Language:

A3.1-8.4.3 Aerator usage on water spouts may contribute to the enhanced growth of waterborne organisms and is not recommended.

CHAPTER 3.2 SPECIFIC REQUIREMENTS FOR PRIMARY CARE OUTPATIENT CENTERS

3.2-1.3 Site

~~((3.2-1.3.1))~~ 3.2-1.3.2 Parking

This section is not adopted.

~~((CHAPTER 3.3 SPECIFIC REQUIREMENTS FOR SMALL PRIMARY CARE (NEIGHBORHOOD) OUTPATIENT FACILITIES~~

~~**3.3-1.3 Site**~~

~~3.3-1.3.2 Parking~~

~~This section is not adopted.))~~ **CHAPTER 3.5 SPECIFIC REQUIREMENTS FOR FREESTANDING URGENT CARE FACILITIES**

3.5-1.1 Application

3.5-1.1 Application. This chapter applies to facilities that provide urgent care to the public but are not freestanding emergency departments. The functional program for the facilities must clearly describe a scope of services that are appropriate for urgent care, as determined by the department.

CHAPTER 3.7 SPECIFIC REQUIREMENTS FOR OUTPATIENT SURGICAL FACILITIES

3.7-1.3 Site

3.7-1.3.2 Parking

This section is not adopted.

3.7-3.6.13.1(2) Location

3.7-3.6.13.1(2) Location. The sterile processing room shall be designed to provide a one-way traffic pattern of contaminated materials/instruments to clean materials/instruments to the sterilizer equipment. Two remotely located doors shall be provided as follows:

(a) Entrance to the contaminated side of the sterile processing room shall be from the semirestricted area.

(b) Exit from the clean side of the sterile processing room to the semirestricted area or to an operating room shall be permitted.

3.7-5.1.2 On-Site Sterilization Facilities

3.7-5.1.2 On-Site Sterilization Facilities. When sterilization occurs on-site, one of the following conditions shall apply:

(1) Outpatient surgical facilities with three or fewer operating rooms where immediate use sterilization occurs on-site shall meet the requirements in Section 3.7-3.6.13 (Sterile Processing Room) or shall meet the requirements of Section 2.1-5.1.

(2) Outpatient surgical facilities with four or more operating rooms, or facilities that do not use immediate use sterilization, shall meet the requirements of Section 2.1-5.1.

CHAPTER 3.9 SPECIFIC REQUIREMENTS FOR ENDOSCOPY FACILITIES

3.9-3.3.2.2 Space Requirements

3.9-3.3.2.2 (2)(b) Where bays are used, an aisle with a minimum clearance of 6 feet (1.83 meters) independent of the foot clearance between patient stations or other fixed objects shall be provided.

CHAPTER 3.11 SPECIFIC REQUIREMENTS FOR PSYCHIATRIC OUTPATIENT CENTERS

3.11-1.3 Site

3.11-1.3.1 Parking

This section is not adopted.

CHAPTER ~~((5.4))~~ 3.13 MOBILE, TRANSPORTABLE, AND RELOCATABLE UNITS

~~((5.1-1.1))~~ **3.13-1.1 Application**

~~((5.1-1.1.1))~~ 3.13-1.1.1 Unit Types

This section applies to mobile, transportable, and modular structures as defined below. These units can increase public access to needed services.

Mobile mammography units do not require review by the Department of Health, Construction Review Services.

Appendix Language:

~~((A5.1-1.1.1))~~ A3.13-1.1.1 The facility providing services, including mobile mammography, should review these requirements in consideration of the service offering and the delivery of care model.

~~((5.1-7.2 Architectural Details and Surfaces for Unit Construction~~

~~5.1-7.2.2 Surfaces~~

~~If the mobile unit is permanently installed, finishes shall comply with the requirements in this section.~~

~~5.1-7.2.2.1 Interior finish materials~~

~~(1) Interior finish materials shall meet the requirements of NFPA 101.~~

~~5.1-8.6))~~ **3.13-8.6 Safety and Security Systems**

~~((5.1-8.6.1))~~ 3.13-8.6.1 Fire Alarm System

Fire alarm notification shall be provided to the facility while the unit is on-site.

~~((5.1-8.6.1.2))~~ 3.13-8.6.1.2 Each mobile unit shall provide fire alarm notification by one of the following methods:

(1) Via an auto-dialer connected to the unit's smoke detectors.

(2) An audible device located on the outside of the unit.

(3) Connection to the building fire alarm system.

Part ((6) 4

ANSI/ASHRAE/ASHE Standard ~~((170-2008))~~ 170-2013: Ventilation of Health Care Facilities

~~((Table 7-1—Design Parameters~~

Function of Space	RH (k), %
Class B and C operating rooms (m)(n)(o)	max 60
Operating/surgical cystoscopy (m)(n)(o)	max 60
Delivery room (Caesarean) (m)(n)(o)	max 60
Treatment room (p)	max 60
Trauma room (crisis or shock) (e)	max 60
Laser eye room	max 60
Class A Operating/Procedure room (o)(d)	max 60
Endoscopy	max 60))

Section 7.2 Additional Room Specific Requirements

7.2.3 Combination Airborne Infectious Isolation/Protective Environment (AII/PE) Room

7.2.3 (c)(2)

This section is not adopted.

Ethan C. Nelson, DVM
Veterinary Board of Governors

7.4 Surgery Rooms

7.4.4 Sterile Processing Room. Where a sterile processing room is provided, it shall meet the following requirements:

(a) The airflow design shall provide a "clean to dirty" airflow within the space with supply air provided over the clean area and exhaust provided from the soiled area.

(b) This room shall be positive to adjacent spaces with the exception of operating rooms or positively pressurized procedure rooms.

(c) A minimum of two outside air changes and six total air changes shall be provided.

(d) Two filter banks shall be required: The primary filter shall be MERV 7, the final filter shall be MERV 14.

(e) Room air shall be exhausted to the exterior.

WSR 15-14-008

PERMANENT RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed June 18, 2015, 12:41 p.m., effective July 19, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-935-145 through 246-935-255 (repealed), and 246-935-060 (amended). SB 6745, passed by the 2010 legislature, eliminated the practical experience pathway for veterinary technicians effective July 1, 2015. This proposal repeals rules and sections of rules related to the practical experience pathway for veterinary technicians that are no longer effective after July 1, 2015.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-935-145, 246-935-150, 246-935-160, 246-935-170, 246-935-180, 246-935-190, 246-935-200, 246-935-210, 246-935-220, 246-935-230, 246-935-235, 246-935-240, 246-935-250 and 246-935-255; and amending WAC 246-935-060.

Statutory Authority for Adoption: RCW 18.92.030(2), 18.92.128.

Adopted under notice filed as WSR 15-04-113 on February 3, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 14.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 14.

Date Adopted: June 18, 2015.

AMENDATORY SECTION (Amending WSR 09-21-022, filed 10/9/09, effective 11/9/09)

WAC 246-935-060 Eligibility for examination as veterinary technician. Applicants must meet one of the following criteria to be eligible for the examination.

(1) Completion of an approved postsecondary educational program for animal or veterinary technology.

(a) Completion of a program for animal or veterinary technology approved by the Committee on Veterinary Technician Education and Activities (CVTEA) of the American Veterinary Medical Association (AVMA). The board approves all institutions accredited by, and in good standing with, the AVMA.

(b) Completion of a program for animal or veterinary technology approved by the Animal Health Technologist/Veterinary Technician Program Accreditation Committee (AHT/VTPAC) of the Canadian Veterinary Medical Association (CVMA). The board approves all institutions accredited by, and in good standing with, the CVMA.

(c) Other institutions applying for board approval must meet the accreditation standards of the CVTEA. It is the responsibility of the institution to apply for approval and of a student to ascertain whether or not a school has been approved by the board.

(d) The examination may be taken no sooner than six months before graduation from the approved course of instruction.

(2) Graduation from a two-year curriculum in animal health or veterinary technology which is not accredited by the CVTEA or AHT/VTPAC plus a minimum of thirty-six months of full-time experience under the supervision of a licensed veterinarian(s) who must attest to the completion of that experience.

(3) Award of a D.V.M. or V.M.D. degree or equivalent from an American Veterinary Medical Association accredited or listed college of veterinary medicine.

(4) Registration, certification, or licensure as an animal health or veterinary technician in one or more states and thirty-six months of full-time experience under the supervision of a licensed veterinarian(s).

(5) Completion of a course in veterinary technician education as a member of the United States military and completion of a tour of active duty as a veterinary technician or specialist.

~~((6) Five years full-time experience as an unregistered assistant under the supervision of a licensed veterinarian(s) who must attest to the completion of that experience.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-935-145 Purpose and performance of practical experience standard tasks and procedures.

WAC 246-935-150	Definitions.
WAC 246-935-160	Basic veterinary science knowledge.
WAC 246-935-170	Clinical/pathology and laboratory diagnostics.
WAC 246-935-180	Hospital standard operating procedures, instruments, and equipment.
WAC 246-935-190	Anesthesia and emergency procedures.
WAC 246-935-200	Pharmacy.
WAC 246-935-210	Public health, infectious diseases, and zoonosis.
WAC 246-935-220	Dental.
WAC 246-935-230	Imaging equipment and techniques.
WAC 246-935-235	Supervised practical experience and unlicensed practice.
WAC 246-935-240	Trainee.
WAC 246-935-250	Supervising veterinarian's attestation.
WAC 246-935-255	Forms.

WSR 15-14-013**PERMANENT RULES****CASCADIA COLLEGE**

[Filed June 19, 2015, 10:23 a.m., effective July 20, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To adopt rules amending Cascadia's student conduct code, chapter 132Z-115 WAC, and adopting related amendments to WAC 132Z-108-050 concerning brief adjudicative proceedings.

Citation of Existing Rules Affected by this Order: Repealing WAC 132Z-115-005, 132Z-115-010, 132Z-115-020, 132Z-115-030, 132Z-115-040, 132Z-115-050, 132Z-115-060, 132Z-115-070, 132Z-115-080, 132Z-115-090, 132Z-115-100, 132Z-115-110, 132Z-115-120, 132Z-115-130, 132Z-115-140, 132Z-115-150, 132Z-115-160, 132Z-115-170, 132Z-115-180, 132Z-115-190, 132Z-115-200, 132Z-115-210, 132Z-115-220, 132Z-115-230 and 132Z-115-240; and amending chapter 132Z-115 WAC and WAC 132Z-108-050.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 15-09-040 on April 9, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 15, Amended 1, Repealed 25.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 17, 2015.

Dede Gonzales
Executive Assistant
to the President
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

**WAC 132Z-108-050 Brief adjudicative (~~proce-~~
~~dures~~) proceedings. ((This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are adopted by reference. Brief adjudicative proceedings shall be used in all matters related to:**

- (1) Residency determinations;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings;
- (4) Parking violations;
- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in college-sponsored events.)) (1) The college will conduct brief adjudicative proceedings in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted.

(2) Except as otherwise provided by rule or as determined in a particular case by the college president (or designee), brief adjudicative proceedings shall be used to hear appeals of administrative actions relating to the following matters:

- (a) Parking and traffic citations;
- (b) Outstanding student debts or employee overpayments;
- (c) Student residency determinations;
- (d) Library fines;
- (e) Challenges to contents of student education records;
- (f) Loss of student eligibility for participation in college athletics;

(g) Student disciplinary action as defined under the student conduct code, except for a decision referring the matter to the student conduct committee, a decision imposing a sanction of conduct suspension in excess of ten instructional days, or a decision imposing a sanction of conduct expulsion;

(h) Administrative decisions regarding mandatory tuition and/or fee waivers; or

(i) Administrative decisions denying admission or enrollment pursuant to RCW 28B.50.090(3).

(3) Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt and fair resolution of the matter.

(4) The administrative record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer

for any review. Such records shall be maintained as the official record of the proceedings.

Chapter 132Z-115 WAC

~~((CODE OF))~~ STUDENT CONDUCT ~~((AND DISCIPLINARY PROCEDURES))~~ CODE

NEW SECTION

WAC 132Z-115-006 Authority—Jurisdiction. (1)

This student conduct code is adopted by the governing board of Cascadia College as authorized under RCW 28B.50.140. Authority is hereby delegated to the college president and administrative officers to administer and enforce the provisions of this code.

(2) The student conduct code shall apply to student conduct that occurs on college premises and to conduct that occurs at or in connection with college sponsored events, programs, or activities. This code may also apply to other student conduct occurring off campus or in noncollege electronic environments when the college deems such conduct to threaten safety or security or otherwise adversely impact the college community. Students shall be responsible for their conduct from the time of acceptance for admission or registration through the actual awarding of a degree or other certificate of completion. The college shall have authority to revoke a degree or other certificate of completion based on prohibited student conduct that is found to have occurred before the award of such degree or certificate. Student organizations affiliated with the college may also be sanctioned under this code for the conduct of their student members.

(3) The college shall not be required to stay disciplinary action under this student code pending any criminal or civil proceeding arising from the same conduct that would constitute a violation of this code. Nor shall the disposition of any such criminal or civil proceeding control the outcome of any student disciplinary proceeding.

(4) Nothing in this student code shall be construed as authorizing the college to prohibit or to discipline speech or other conduct that is protected by law or constitutional right.

NEW SECTION

WAC 132Z-115-015 Definitions. The following definitions shall apply for purposes of this student conduct code:

(1) **College premises.** "College premises" shall include all campuses and electronic presences of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, computer systems, web sites, and other property owned, used, or controlled by the college.

(2) **Complainant.** A "complainant" for purposes of this student code means any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint.

(3) **Conduct officer.** The "conduct officer" or "student conduct officer" is the college official designated by the college to be responsible for initiating disciplinary action for alleged violations of this code.

(4) **Conduct review officer.** The "conduct review officer" is the college official designated by the college to hear

appeals of disciplinary action conducted as brief adjudicative proceedings and to enter final decisions in proceedings heard by the student conduct committee.

(5) **Day.** The term "day," unless otherwise qualified, means "calendar day." The qualified term "instructional day" means any day within an academic term that the college is open for business, excluding weekends and holidays.

(6) **Disciplinary action.** The term "disciplinary action" means the decision of the designated college official regarding alleged violations of the student code and includes any disciplinary sanction imposed for such violations. Disciplinary action does not include a summary suspension.

(7) **Filing and service.**

(a) **Filing.** The term "filing" means the delivery to the designated college official of any document that is required to be filed under this code. A document is filed by hand-delivering it or by mailing it to the college official (or the official's assistant) at the official's office address. Filing is complete upon actual receipt during office hours at the office of the designated official.

(b) **Service.** The term "service" means the delivery to a party of any document that is required to be served under this code. A document is served by hand-delivering it to the party or by mailing it to the party's address of record. Service is complete when the document is hand-delivered or actually deposited in the mail.

(c) **Electronic filing and service.** Unless otherwise provided, filing or service may be accomplished by electronic mail.

(8) **Party.** A "party" to a disciplinary proceeding under this code includes the student conduct officer and the student respondent, as well as any complainant in a proceeding involving allegations of sexual misconduct.

(9) **Preponderance of evidence.** The term "preponderance of the evidence" is a standard of proof requiring that facts alleged as constituting a violation of this code must be proved on a more likely than not basis.

(10) **Respondent.** A "respondent" is a student against whom disciplinary action is initiated.

(11) **Service.** See "Filing and service."

(12) **Student.** The term "student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. The term includes prospective students who have been accepted for admission or registration, currently enrolled students who withdraw before the end of a term, and students, including former students, who engage in prohibited conduct between terms of actual enrollment or before the awarding of a degree or other certificate of completion.

(13) **Vice-president.** The term "vice-president" means the chief student affairs officer of the college and includes any acting or interim vice-president and any other college official designated by the president to perform the functions and duties of the vice-president under this student code.

NEW SECTION

WAC 132Z-115-025 Prohibited student conduct. Prohibited student conduct includes engaging in, attempting

to engage in, or encouraging or assisting another person to engage in, any of the conduct set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means. The term "includes" or "including" as used in this section means "without limitation."

(1) **Academic dishonesty.** The term "academic dishonesty" includes cheating, plagiarism, and fabrication.

(a) **Cheating.** Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment, including collaboration without authority.

(b) **Plagiarism.** Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an academic assignment.

(2) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** An "alcohol violation" includes using, possessing, delivering, selling, or being under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** A "marijuana violation" includes using, possessing, delivering, selling, or being under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits any possession or use of marijuana on college premises or in connection with college activities.

(c) **Drug.** A "drug violation" includes using, possessing, delivering, selling, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner. The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Tobacco.** A "tobacco violation" means smoking or using tobacco products, electronic smoking devices (including e-cigarettes or vape pens), or other smoking devices in any area of college premises where smoking or tobacco use is prohibited in accordance with public law and college policy.

(3) **College policy violations.** The term "policy violation" means the violation of any applicable law or college policy governing the conduct of students as members of the college community, including college policies governing nondiscrimination, alcohol and drugs, computer use, copyright, and parking and traffic.

(4) **Disruptive or obstructive conduct.** The term "disruptive" or "obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, research, administrative, or other functions, procedures, services, pro-

grams, or activities of the college. The term includes disorderly conduct, breach of the peace, violation of local or college noise policies, lewd or obscene conduct, obstruction of pedestrian or vehicular traffic, tampering with student election processes, or interfering with the orderly conduct of college investigations or disciplinary proceedings, including interfering with or retaliating against any complainant, witness, or other participant.

(5) **Ethics violations.** An "ethics violation" includes the breach of any applicable code of ethics or standard of professional practice governing the conduct of a profession for which the student is studying to be licensed or certified. The term also includes the violation of any state law or college policy relating to the ethical use of college resources.

(6) **Failure to comply.** The term "failure to comply" means refusing to obey the lawful directive of a college official or authorized college body, including a failure to identify oneself upon request, refusing to comply with a disciplinary sanction, or violating any no-contact or other protective order.

(7) **False or deceptive conduct.** The term "false" or "deceptive conduct" means dishonest conduct (other than academic dishonesty) that includes forgery, altering or falsifying of college records, furnishing false or misleading information to the college, falsely claiming an academic credential, or falsely accusing any person of misconduct.

(8) **Harassment.** The term "harassment" means unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit the ability of a student to participate in or benefit from the college's educational program, or that creates an intimidating, hostile, or offensive environment for any campus community member(s). Protected status includes a person's actual or perceived race, color, national origin, gender, disability, or other status protected by law. See "sexual misconduct" for the definition of "sexual harassment."

(9) **Hazing.** "Hazing" includes any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes or is likely to cause the destruction or removal of public or private property or that causes or is likely to cause bodily danger or physical harm, or serious mental or emotional harm, to any student or other person.

(10) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights. The term includes personal offenses committed by electronic means.

(11) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal

financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(12) **Retaliation.** The term "retaliation" means harming, threatening, intimidating, coercing or taking adverse action of any kind against a person because such person reported an alleged violation of this code or other college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(13) **Safety violations.** The term "safety violation" includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(14) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program, or that creates an intimidating, hostile, or offensive environment for any campus community member(s).

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex, including stalking (or cyberstalking), voyeurism, indecent exposure, or the nonconsensual recording of sexual activity or distribution of such recording. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for such person's safety or the safety of others, or to suffer substantial emotional distress.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated against a person's will or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, and sexual coercion. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, unconsciousness, or other cause.

(15) **Unauthorized access.** The term "unauthorized access" means gaining entry without permission to any restricted area or property of the college or the property of another person, including any facility, computer system, e-mail account, or electronic or paper files. Unauthorized access includes computer hacking and the unauthorized possession or sharing of any restricted means of gaining access, including keys, keycards, passwords, or access codes.

(16) **Weapons violations.** A "weapons violation" includes the possession, display, or use of any firearm, explosive, dangerous chemical, knife, or other instrument capable of inflicting serious bodily harm in circumstances that are

reasonably perceived as causing alarm for the safety of any person. The term "weapons violation" includes any threat to use a weapon to harm any person and the use of any fake weapon or replica to cause the apprehension of harm. The term further includes the possession on college premises of any firearm or other dangerous weapon in violation of public law or college policy, but does not include the lawful possession of any personal protection spray device authorized under RCW 9.91.160.

NEW SECTION

WAC 132Z-115-035 Disciplinary sanctions. The college may impose any of the following disciplinary sanctions for violations of this student code. Violations must be proved by a preponderance of the evidence.

(1) **Conduct reprimand.** A "conduct reprimand" is a written notice formally censuring a student for a student code violation and providing notice that a repeated violation will subject the student to more severe disciplinary action.

(2) **Conduct probation.**

(a) The term "conduct probation" means a specified period of time during which a student's continued enrollment will be conditioned on the student's compliance with specified requirements or restrictions. The probation may be for a limited term or may extend for the duration of the student's attendance at the college, depending on the nature and seriousness of the code violation(s).

(b) Conditions placed on a student's continued enrollment may include, without limitation, any one or more of the following requirements or restrictions:

(i) Compliance with applicable standards of conduct under the student code and college policies;

(ii) Restitution, defined as payment of compensation for damage or loss caused to the college or any person as a result of the student's misconduct, or the assessment of such fines as may be authorized under specific college policies for violations of those policies;

(iii) Restrictions on the student's contact with specified individuals or groups, which may include an order that the student refrain from having any communication with the specified persons;

(iv) Restrictions on the student's access to specified college premises and/or limitations on the student's participation in college activities;

(v) A requirement that the student receive education or participate in training relating to the student's misconduct, which may include other educational sanctions assigned for the purpose of facilitating student development and learning as deemed appropriate to the offense;

(vi) A requirement that the student be professionally evaluated by a qualified health care provider who is approved by the college and who is authorized by the student to discuss the evaluation with designated college officials, together with a requirement that the student comply with treatment recommendations relating to the student's ability to maintain appropriate standards of conduct.

(c) A student's failure to comply with the conditions of the conduct probation may result in further disciplinary

action including, but not limited to, disciplinary suspension or permanent dismissal.

(3) **Conduct suspension.** A "conduct suspension" means a temporary dismissal from the college and the suspension of student status for a specified period of time with no refund of tuition or fees. Reenrollment following a disciplinary suspension may be conditioned on any of the requirements or restrictions that may apply to a conduct probation.

(4) **Conduct dismissal.** The term "conduct dismissal" means permanent expulsion from the college with no refund of tuition or fees and may include an order trespassing the student from college premises. A sanction of conduct dismissal shall be recorded on the student's academic transcript.

(5) **Other sanctions.** The following additional sanctions for student code violations may be imposed as required or permitted by law or college policy.

(a) **Athletics eligibility.** A student athlete found in violation of WAC 132Z-115-025 (2)(c), relating to drug violations, shall be ineligible to participate in college athletics pursuant to RCW 69.41.340.

(b) **Parental notification.** The college reserves the right to inform a student's parent(s) or legal guardian(s) of the student's misconduct to the extent permitted by applicable law.

NEW SECTION

WAC 132Z-115-043 Disciplinary action—Initiation.

(1) The student conduct officer will initiate disciplinary action by serving the student respondent with written notice of an initial disciplinary meeting. The notice shall briefly describe the factual allegations, the specific conduct code provision(s) the respondent is alleged to have violated, and the range of possible sanctions for such violation(s).

(2) At the disciplinary meeting, the student conduct officer will review the allegations with the respondent and will afford the respondent an opportunity to respond. If the respondent fails to attend or participate in the meeting, the conduct officer may take disciplinary action based on the available information.

(3) In a proceeding involving allegations of sexual misconduct, the student conduct officer prior to taking disciplinary action will afford the complainant an opportunity to discuss the results of any investigation and the possible sanctions and/or conditions that could be imposed for the complainant's protection if the sexual misconduct allegations are found to be substantiated.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) The conduct officer may dismiss the proceeding upon finding the allegations to be unsubstantiated and after providing any appropriate counseling or warnings. Such action shall be final and not subject to appeal or further review, except as provided in proceedings involving allegations of sexual misconduct.

(b) If the allegations are found to be substantiated, the conduct officer may impose any of the disciplinary sanctions authorized under WAC 132Z-115-035. Such sanction(s) shall be subject to review on appeal as provided in this student code.

(c) The conduct officer may refer the matter for disciplinary action by the student conduct committee. Such referral shall be in writing, to the attention of the committee chair, with a copy served on the respondent (and any complainant in a proceeding involving allegations of sexual misconduct). The decision to refer shall not be subject to appeal or further review.

(5) Within ten days of the initial disciplinary meeting, the conduct officer will serve the respondent (and any complainant in a proceeding involving sexual misconduct allegations) with a written decision either dismissing or referring the matter or imposing disciplinary sanctions. If sanctions are imposed, the decision will specify the conduct code provision(s) found to have been violated, will describe the facts and conclusions supporting the sanction(s), and will provide notice of any appeal rights.

(6) In a proceeding involving sexual misconduct allegations, the decision will state whether such allegations were substantiated and will describe any sanctions or conditions imposed for the complainant's protection. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

NEW SECTION

WAC 132Z-115-045 Appeal and review procedures—General. The following general rules apply to appeals or requests for further administrative review of disciplinary action at any stage of a student disciplinary proceeding.

(1) **Parties.** The parties to an appeal or review proceeding shall be the respondent, any complainant in a proceeding involving sexual misconduct allegations, and the student conduct officer.

(2) **Filing of appeals.**

(a) **Appeal periods.** An appeal or request for review of disciplinary action must be filed with the designated college official within the applicable time period as further specified in these rules.

(b) **Contents of appeal.** A party's written notice of appeal or request for review must explain why the party disagrees with the disciplinary decision and what relief or remedy the party is requesting.

(c) **Failure to appeal.** The failure of a party to file a timely appeal or request for review at any stage of the proceeding waives that party's right to appeal. However, in a proceeding involving sexual misconduct allegations, if any party appeals, the college official receiving the appeal or request for review will notify the other parties and will afford each party the opportunity to participate in the appeal or review proceeding.

(3) **Effect of appeal - Stay.** The implementation of disciplinary action imposing a conduct suspension of any length or imposing a conduct expulsion shall be stayed pending the time for filing an appeal and the conclusion of disciplinary proceedings. Other disciplinary sanctions shall not be stayed.

(4) **Reviewing authority.**

(a) Appeals of disciplinary action taken by the student conduct officer will be heard by the conduct review officer or student conduct committee as further provided in these rules.

(b) Appeals of disciplinary action taken by the conduct review officer in a brief adjudicative proceeding will be heard by the vice-president (or designee) as further provided in these rules.

(c) Disciplinary action recommended by the student conduct committee will be heard by the conduct review officer as further provided in these rules.

(5) **Ex parte communications.** Reviewing authorities (the conduct review officer, student conduct committee members, and vice-president) may not communicate with any of the parties regarding an appeal without providing notice and an opportunity for all parties to participate.

(6) **Disqualification.** Reviewing authorities may not participate in a proceeding in which they:

(a) Are a complainant or witness;

(b) Have a direct or personal interest, prejudice, or bias; or

(c) Have acted previously in another capacity.

NEW SECTION

WAC 132Z-115-053 Disciplinary action—Appeals.

(1) **Respondent.** The student respondent may appeal the disciplinary action of the student conduct officer in accordance with the following rules:

(a) The respondent may appeal disciplinary action imposing a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days by filing a written notice of appeal with the conduct review officer within ten days of service of the disciplinary decision.

(b) The respondent may appeal disciplinary action imposing a conduct suspension in excess of ten days or a conduct dismissal by filing a written notice of appeal with the conduct review officer within twenty days of service of the disciplinary decision.

(2) **Complainant.** The complainant in a proceeding involving sexual misconduct allegations may appeal the disciplinary action of the student conduct officer with respect to such allegations in accordance with the following rules:

(a) The complainant may appeal disciplinary action dismissing the proceeding or imposing a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days by filing a written notice of appeal with the conduct review officer within ten days of service of the disciplinary decision.

(b) The complainant may appeal disciplinary action imposing a conduct suspension in excess of ten days or a conduct dismissal by filing a written notice of appeal with the conduct review officer within twenty days of service of the disciplinary decision.

(3) If no appeal is filed within the applicable time period, the disciplinary action of the student conduct officer shall be final.

NEW SECTION

WAC 132Z-115-055 Conduct review hearings—Initial decision. (1) Conduct review officer - Authority.

(a) The conduct review officer will hear a respondent's appeal of disciplinary action imposing a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days.

(b) In a proceeding involving sexual misconduct allegations, the conduct review officer will hear a complainant's appeal of disciplinary action dismissing the sexual misconduct allegations or imposing, with respect to such allegations, a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days.

(c) The conduct review officer shall have the same authority as the student conduct officer to dismiss a proceeding, to impose a disciplinary sanction of conduct reprimand, conduct probation, or conduct suspension not in excess of ten days, or to refer the matter for disciplinary action by the student conduct committee.

(2) **Appeal hearing.** Appeals heard by the conduct review officer will be conducted as informal administrative hearings consistent with the rules for "brief adjudicative proceedings" under RCW 34.05.482 and WAC 132Z-108-050. The review officer shall provide each party an opportunity to explain the party's view of the matter.

(3) Initial decision - Service.

(a) Within ten days of consideration of the appeal, the conduct review officer will serve an initial decision upon the respondent, the student conduct officer, and any complainant in a proceeding involving sexual misconduct allegations. The initial decision will explain the reasons for the decision and will provide notice of any right to request further administrative review.

(b) In a proceeding involving sexual misconduct allegations, the initial decision will explain the reasons for modifying any disciplinary action taken with respect to such allegations. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(c) A decision by the conduct review officer to refer the appeal to the student conduct committee is not subject to further administrative review.

(4) **Initial decision - Request for review.** The respondent (or any complainant) may request administrative review of the initial decision by filing a written request for review with the vice-president within twenty-one days of service of the initial decision. If no request for review is filed, the initial decision of the conduct review officer shall be final.

NEW SECTION

WAC 132Z-115-065 Conduct review hearings—Review of initial decision. (1) Requests for review of the initial decision of the conduct review officer will be heard by the vice-president (or designee). The vice-president shall have the same authority on review as the conduct review officer to take disciplinary action.

(2) The vice-president will review the hearing record and will afford the parties the opportunity to file written statements explaining their views of the matter. The vice-president may make any inquiries necessary to ascertain whether

the proceeding should be referred to the student conduct committee for a formal hearing.

(3) Within twenty days of the date for the parties to submit written statements, the vice-president will serve a written review decision upon the respondent, the student conduct officer, and any complainant in a proceeding involving sexual misconduct allegations. The review decision will explain the reasons for the decision and will provide a notice that judicial review may be available.

(4) In a proceeding involving sexual misconduct allegations, the review decision will explain the reasons for modifying any disciplinary action taken with respect to such allegations. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(5) The review decision of the vice-president (or designee) shall be final.

NEW SECTION

WAC 132Z-115-073 Student conduct committee. (1)

The student conduct committee shall consist of three members appointed by the president in consultation with student and faculty leadership:

- (a) A full-time student;
- (b) A full-time faculty member; and
- (c) A full-time exempt administrative staff member who shall serve as chair of the committee.

(2) The student conduct committee will hear appeals of disciplinary action imposing a conduct suspension in excess of ten days or a conduct dismissal. The committee will hear such other matters as may be referred to the committee by the student conduct officer, conduct review officer, or vice-president. The committee shall have the authority to recommend dismissing a proceeding or to recommend imposing any of the disciplinary sanctions under WAC 132Z-115-035.

(3) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and by the model rules of procedure (chapter 10-08 WAC), as supplemented by these rules.

NEW SECTION

WAC 132Z-115-075 Student conduct committee—

Prehearing procedure. (1) The student conduct committee chair shall cause all parties to be served written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if the parties agree, and may continue the hearing to a later time for good cause shown.

(2) The committee chair is authorized to conduct prehearing conferences and to make prehearing decisions concerning the forms and extent of any discovery, issuance of protective orders, and similar procedural matters.

(3) The committee chair may direct the parties prior to the hearing to exchange lists of witnesses and copies of exhibits that the parties reasonably expect to present to the committee. Failure to participate in good faith in such an

exchange may be cause for excluding from the hearing any witness or exhibit not disclosed.

(4) The committee chair in advance of the hearing may provide committee members with copies of (a) any notice of disciplinary action (or referral to the committee) and (b) any notice of appeal filed by the respondent (or any complainant). However, such "pleadings" shall not be regarded as evidence of any facts they may allege.

(5) Any party may be accompanied at the hearing by a nonattorney advisor of the party's choice. A respondent (or any complainant) may be represented by an attorney at such party's own cost, but will be deemed to have waived that right unless, at least four instructional days before the hearing, the attorney files and serves a notice of appearance. If the respondent (or complainant) is represented by an attorney, the student conduct officer may be represented by the college's assistant attorney general.

(6) The student conduct committee may itself be advised in any proceeding by an independently assigned assistant attorney general who shall have had no other involvement in the matter and who shall be appropriately screened from any other assistant attorney general appearing in the proceeding.

NEW SECTION

WAC 132Z-115-083 Student conduct committee—

Hearing procedure. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

- (a) Proceed with the hearing; or
- (b) Serve an order of default in accordance with RCW 34.05.440.

(2) Committee hearings shall be closed to the public, unless all parties (including any complainant) agree on the record that all or parts of the proceeding may be open. The committee chair shall determine any extent to which the hearing will be open. The chair may exclude from the hearing any person who disrupts the proceeding.

(3) The committee chair shall cause the hearing to be recorded pursuant to RCW 34.05.449 by a method the chair selects. Other recording shall be permitted in accordance with WAC 10-08-190. The chair shall maintain the official record of the proceeding that is required by RCW 34.05.476. Such record shall be made available upon request for inspection and copying by any party to the extent permitted by applicable laws.

(4) The committee chair shall preside at the hearing and shall decide procedural questions that arise during the hearing, except as overridden by a majority vote of the committee.

(5) The student conduct officer (or assistant attorney general) shall present the case for imposing disciplinary sanctions and shall bear the burden of establishing the alleged violations by a preponderance of the evidence.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) The respondent and a complainant in any proceeding involving sexual misconduct allegations shall not directly question or cross-examine one another. All questions shall be

directed to the committee chair, who will act as an intermediary and pose questions on behalf of the parties.

NEW SECTION

WAC 132Z-115-085 Student conduct committee—Recommended decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form the committee wishes to receive them. The committee may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the receipt of closing arguments, the student conduct committee shall issue a recommended decision in accordance with RCW 34.05.461 and WAC 10-08-210. The recommended decision shall contain findings on all material issues of fact, conclusions concerning which, if any, provisions of the student conduct code were found to be violated, and any recommended sanction(s). Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee chair shall cause the recommended decision to be served on the respondent, the student conduct officer, and any complainant in a proceeding involving sexual misconduct allegations. In a proceeding involving sexual misconduct allegations, the decision will state whether the sexual misconduct allegations were substantiated and will describe any sanctions or conditions recommended for the complainant's protection. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential information not relating to the sexual misconduct allegations.

(4) The committee chair shall promptly transmit the committee's recommended decision and the record of the proceedings for review by the conduct review officer who shall enter a final decision.

NEW SECTION

WAC 132Z-115-095 Student conduct committee—Review of recommended decision. (1) The recommended decision of the student conduct committee will be reviewed by the conduct review officer. The conduct review officer shall have the same authority on review as the student conduct officer to take disciplinary action.

(2) The review by the conduct review officer will be limited to the hearing record made before the student conduct committee. The conduct review officer will afford all parties the opportunity to file written statements explaining why they agree or disagree with the committee's recommended decision. The conduct review officer may notify the parties that the review will be limited to reviewing the specific issues raised by the parties.

(3) The conduct review officer will serve a written decision upon all parties (including the complainant in any proceeding involving sexual misconduct allegations) within twenty days of the date for the parties to submit written statements. The decision will adopt or modify the conduct committee's recommended decision and will provide a notice that reconsideration and/or judicial review may be available.

(4) In a proceeding involving sexual misconduct allegations, the review decision will explain the reasons for modifying any recommended disciplinary action with respect to such allegations. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(5) The decision of the conduct review officer shall be final.

NEW SECTION

WAC 132Z-115-105 Summary suspension. (1) A summary suspension is the temporary exclusion of a student from all or specified portions of college premises, programs, or activities pending an investigation and/or disciplinary proceeding relating to alleged student code violations.

(2) The vice-president (or designee) may summarily suspend a student when the vice-president has cause to believe that the student:

(a) Has violated any provision of the student code; and

(b) Presents an immediate danger to the safety or security of the campus community and/or poses an ongoing threat of serious disruption or interference with college operations.

(3) Notice of a summary suspension, if given orally, must be followed by service of a written notice within two instructional days of the oral notice. The written notice shall include:

(a) The duration and scope of the suspension, including any conditions under which the student may access college premises or contact members of the campus community;

(b) The reasons for the suspension, including reference to the student code provisions allegedly violated, together with notice of any resulting or pending disciplinary action; and

(c) Notice of a summary suspension hearing to be held within three instructional days before a reviewing officer not otherwise involved in disciplinary proceedings relating to the student.

(4) The reviewing officer will conduct the summary suspension hearing as an emergency proceeding under RCW 34.05.479. The issue before the reviewing officer shall be whether probable cause exists to continue the summary suspension. The student shall be afforded an opportunity at the hearing to explain why the suspension should not be continued or why the suspension should be less restrictive in scope. If the student fails to appear or to participate in the hearing, the reviewing officer may order that the suspension continue pending the conclusion of disciplinary proceedings.

(5) The reviewing officer, within two instructional days of the hearing, shall issue a written decision either terminating the summary suspension or explaining the immediate danger and policy reasons justifying the continuation and/or modification of the summary suspension. The reviewing officer will provide a copy of the decision to all persons who may be bound or protected by it.

(6) The student may request review of the reviewing officer's decision before the student conduct committee. Such review will be scheduled promptly and shall be consolidated

with any pending disciplinary proceeding arising from the same conduct.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 132Z-115-005 Student code of conduct.
- WAC 132Z-115-010 Purpose of the disciplinary system.
- WAC 132Z-115-020 Jurisdiction and authority for student discipline.
- WAC 132Z-115-030 Student participation.
- WAC 132Z-115-040 Demand for identification.
- WAC 132Z-115-050 Free movement on campus.
- WAC 132Z-115-060 Standards of classroom behavior.
- WAC 132Z-115-070 Violations of law and college regulations.
- WAC 132Z-115-080 Definitions.
- WAC 132Z-115-090 Code of conduct.
- WAC 132Z-115-100 Civil disturbances.
- WAC 132Z-115-110 Disciplinary terms.
- WAC 132Z-115-120 Procedures for resolving disciplinary violations.
- WAC 132Z-115-130 Summary suspension.
- WAC 132Z-115-140 Cascadia conflict resolution council.
- WAC 132Z-115-150 Conflict resolution council procedural guidelines.
- WAC 132Z-115-160 Loss of eligibility in college activities.
- WAC 132Z-115-170 Student groups and organizations.
- WAC 132Z-115-180 Appeals.
- WAC 132Z-115-190 Transcript notations.
- WAC 132Z-115-200 Refunds and access.
- WAC 132Z-115-210 Readmission after suspension or expulsion.
- WAC 132Z-115-220 Reestablishment of academic standing.
- WAC 132Z-115-230 Reporting, recording and maintaining records.
- WAC 132Z-115-240 Hazing.

stumpage value rule is also required by statute (RCW 84.33.091) to be effective on July 1, 2015.

Purpose: WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments, contains the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to provide the stumpage values to be used during the second half of 2015.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091 and 84.33.140.

Adopted under notice filed as WSR 15-10-073 on May 4, 2015.

A final cost-benefit analysis is available by contacting Mark E. Bohe, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1574, fax (360) 534-1606, e-mail markbohe@dor.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 22, 2015.

Dylan Waits
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-095, filed 12/17/14, effective 1/1/15)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ~~((January))~~ July 1 through ~~((June 30))~~ December 31, 2015:

WSR 15-14-019

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed June 22, 2015, 3:01 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The

Washington State Department of Revenue
STUMPAGE VALUE TABLE

((January)) July 1 through ((June 30)) December 31, 2015
Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
Starting July 1, 2012, there are no separate
Quality Codes per Species Code.

Species Name	Species Code	SVA (Stump- age Value Area)	Haul Zone				
			1	2	3	4	5
((Douglas-fir ⁽²⁾	DF	1	\$494	\$487	\$480	\$473	\$466
		2	496	489	482	475	468
		3	423	416	409	402	395
		4	533	526	519	512	505
		5	447	440	433	426	419
		6	271	264	257	250	243
Western-Hemlock and Other Conifer ⁽³⁾	WH	1	428	421	414	407	400
		2	437	430	423	416	409
		3	392	385	378	371	364
		4	386	379	372	365	358
		5	408	401	394	387	380
		6	260	253	246	239	232
Western-Red- cedar ⁽⁴⁾	RC	1-5	1001	994	987	980	973
		6	693	686	679	672	665
Ponderosa- Pine ⁽⁵⁾	PP	1-6	228	221	214	207	200
Red Alder	RA	1-5	481	474	467	460	453
Black Cotton- wood	BC	1-5	75	68	61	54	47
Other Hard- wood	OH	1-5	339	332	325	318	311
		6	23	16	9	2	1
Douglas-fir Poles & Piles	DFL	1-5	876	869	862	855	848
Western-Red- cedar Poles	RCL	1-5	1453	1446	1439	1432	1425
		6	944	937	930	923	916
Chipwood ⁽⁶⁾	CHW	1-5	8	7	6	5	4
		6	1	1	1	1	1
Small Logs ⁽⁶⁾	SML	6	25	24	23	22	21
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-5	289	282	275	268	261
Posts ⁽⁸⁾	LPP	1-5	0.35	0.35	0.35	0.35	0.35
DF Christ- mas Trees ⁽⁹⁾	DFX	1-5	0.25	0.25	0.25	0.25	0.25
Other Christ- mas Trees ⁽⁹⁾	TFX	1-5	0.50	0.50	0.50	0.50	0.50
Douglas-fir ⁽²⁾	DF	1	\$463	\$456	\$449	\$442	\$435
		2	485	478	471	464	457
		3	457	450	443	436	429
		4	527	520	513	506	499
		5	474	467	460	453	446
		6	282	275	268	261	254

Species Name	Species Code	SVA (Stump- age Value Area)	Haul Zone				
			1	2	3	4	5
Western Hemlock and Other Coni- fer ⁽³⁾	WH	1	312	305	298	291	284
Other Coni- fer ⁽³⁾		2	363	356	349	342	335
		3	374	367	360	353	346
		4	359	352	345	338	331
		5	354	347	340	333	326
		6	260	253	246	239	232
Western Red- cedar ⁽⁴⁾	RC	1-5	963	956	949	942	935
6		704	697	690	683	676	
Ponderosa Pine ⁽⁵⁾	PP	1-6	232	225	218	211	204
Red Alder	RA	1-5	492	485	478	471	464
Black Cotton- wood	BC	1-5	80	73	66	59	52
Other Hard- wood	OH	1-5	338	331	324	317	310
		6	32	25	18	11	1
Douglas-fir Poles & Piles	DFL	1-5	879	872	865	858	851
Western Red- cedar Poles	RCL	1-5	1522	1515	1508	1501	1494
		6	953	946	939	932	925
Chipwood ⁽⁶⁾	CHW	1-5	10	9	8	7	6
		6	4	3	2	1	1
Small Logs ⁽⁶⁾	SML	6	24	23	22	21	20
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-6	289	282	275	268	261
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christ- mas Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christ- mas Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, Lodgepole Pine in SVA 6, or any other conifer not listed on this page.

(4) Includes Alaska-Cedar.

(5) Includes Western White Pine in SVA 6, and all Pines in SVA 1-5.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage Value per 8 lineal feet or portion thereof.

(9) Stumpage Value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((January)) July 1 through ((June 30)) December 31, 2015:

**TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5**
((January)) July 1 through ((June 30)) December 31, 2015

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	((-\$50.00)) -\$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Area 6**
((January)) July 1 through ((June 30)) December 31, 2015

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale

SVAs 1 through 5 only: ((~~\$2.00~~))
\$0.00

Note: This adjustment only applies to published MBF sawlog values.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass,** has a \$0/ton stumpage value.

WSR 15-14-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)

[Filed June 23, 2015, 11:41 a.m., effective July 24, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the chapter is to have uniform statewide standards for domestic violence shelters and supportive services funded by DSHS. These standards address issues such as adequate food, clothing, emergency housing, safety, security, and advocacy. The amendments revise the training requirements for advocates and advocate supervisors.

Citation of Existing Rules Affected by this Order: Amending WAC 388-61A-0220, 388-61A-0350, and 388-61A-0360.

Statutory Authority for Adoption: Chapter 70.123 RCW.

Adopted under notice filed as WSR 15-09-007 on April 2, 2015.

A final cost-benefit analysis is available by contacting Susan Hannibal, Program Manager, 4045 Delridge Way S.W., Room 300, Seattle, WA 98106, phone (206) 923-4910, fax (206) 923-5497, e-mail hsus300@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: June 22, 2015.

Kevin Quigley
Secretary

AMENDATORY SECTION (Amending WSR 13-10-028, filed 4/24/13, effective 5/25/13)

WAC 388-61A-0220 What definitions apply to this chapter?

"**Advocacy**" means that the client is involved with an advocate in individual or group sessions with a primary focus of safety planning, empowerment, and education of the client through reinforcement of the client's autonomy and self-determination. Advocacy also means speaking and acting for change or justice with, or on behalf of, another person or cause. Advocacy is survivor-centered and uses nonvictim blaming methods that include:

- Identifying barriers to, and strategies to enhance, safety, including safety planning.
- Clarifying and increasing awareness of the power and control associated with domestic violence and the options one may have to obtain resources while staying safe.
- Supporting independent decision-making based on the unique needs and circumstances of each individual.

"**Advocate**" means a trained staff person who works in a domestic violence agency and provides advocacy to clients.

"**Child care**" means the temporary care of a client's child or children by staff of the domestic violence agency at the agency's location or another location where the client is receiving confidential or individual services from the domestic violence agency or is participating in activities sponsored by the domestic violence agency, other than employment, and so long as the client remains on the premises.

"Children/youth activities" means activities other than children/youth advocacy, such as recreational and educational activities.

"Children/youth advocacy" means an age-appropriate intervention service that strives to assist children/youth to express feelings about their exposure to domestic violence. It is an educational, rather than a therapeutic intervention, and is focused on providing education about domestic violence, safety planning, and developing or enhancing problem-solving skills. Advocacy can be provided on an individual basis and in group settings.

"Client" means a victim of domestic violence who is accessing services at a domestic violence agency. Client can also be referred to as a survivor, service recipient, or resident.

"Cohabitant" means a person who is or was married, in a state registered domestic partnership, or cohabiting with another person in an intimate or dating relationship at the present time or at some time in the past. Any person who has one or more children in common with another person, regardless of whether they have been married, were/are in a domestic partnership with each other, or have lived together at any time, must be treated as a cohabitant. Any person who is or was in a dating relationship with another person at the present or at some time in the past, regardless of whether they lived together at any time, must be treated as a cohabitant.

"Community education" refers to information that is provided in community settings about domestic violence and services related to victims of domestic violence. Community education activities include: Training, presentations, outreach to specific communities or geographic areas, community events, and media events.

"Confidential communication" means all information, oral, written or nonverbal, that is transmitted between a victim of domestic violence and an employee or supervised volunteer of a domestic violence agency in the course of their relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person.

"Confidential information" includes, but is not limited to, any information, advice, notes, reports, statistical data, memoranda, working papers, records or the like, made or given during the relationship between a victim of domestic violence and a domestic violence agency, however maintained. Confidential information includes the name, address, telephone number, social security number, date of birth, nine-digit postal (ZIP) code, physical appearance of, case file or history of, and other information that would personally identify a victim of domestic violence who seeks or has received services from a domestic violence agency.

"Crisis hotline or helpline" means a designated telephone line of the domestic violence agency that operates twenty-four hours a day, three hundred sixty-five days a year. A hotline/helpline provides crisis intervention, safety planning, information, and referral services.

"Crisis intervention" means services provided to an individual in crisis to stabilize an individual's emotions, clarify issues, and provide support and assistance to help explore options for resolution of the individual's immediate crisis and needs.

"Department" means the department of social and health services (DSHS).

"Domestic violence" is a pattern of assaultive and coercive behaviors that an adult or adolescent uses to maintain power and control over their intimate partner. Abusive tactics may include, but are not limited to the following: Physical abuse, sexual abuse, intimidating tactics, physical and/or psychological isolation of the victim, repeated attacks against the victim's competence, alternating use of indulgences, control of family funds and resources, stalking, and the use of children and systems to control the victim. The abuser's use of physical force against persons or property or the use of conduct that establishes credible threat of physical harm (i.e. terrorizing tactics) combined with other controlling tactics are key elements of domestic violence. The effect of the overall pattern of assaultive and coercive behavior is to increase the abuser's power and control in the relationship. It includes, but is not limited to, the categorization of offenses defined in RCW 10.99.020(3) when committed by one cohabitant against another.

"Domestic violence agency" means an agency that provides shelter and advocacy for domestic violence clients in a safe and supportive environment.

"Intimate partner violence" focuses on the most common form of domestic violence, which is between adult or adolescent intimate partners or cohabitants, rather than on violence between nonintimate adult or adolescent household members.

"Job-shadowing" means a work experience where an individual observes and learns about a job, activity, or activities by walking through the work day as a shadow to a skilled and competent employee. The experience must be planned for and structured with the goal of observing behavior and situations, engaging in interactive questions and answers, and experiencing the link between learning and practice. Job-shadowing can be anywhere from a few hours, to a day, to a week or more, depending on the job or activity to be experienced.

"Legal advocacy" means personal support and assistance with victims of domestic violence to ensure their interests are represented and their rights upheld within the civil and criminal justice systems, including administrative hearings. It includes educating and assisting victims in navigating the justice systems; assisting victims in evaluating advantages and disadvantages of participating in the legal processes; facilitating victims' access and participation in the legal systems; and promoting victims' choices and rights to individuals within the legal systems.

"Live training" means events that are held at a specific time and not prerecorded, where participants have the opportunity to ask questions and hear the questions of others in real-time. Examples of live training include events that are in-person, teleconferences, interactive webinars and web casts.

"Lodging unit" means one or more rooms used for a victim of domestic violence including rooms used for sleeping or sitting.

"Marginalized populations" includes, but is not limited to, populations that have been historically underserved

and oppressed in society because of ethnicity, race, culture or language diversity, age, sexual orientation, or disability.

"Personally identifying information" includes, but is not limited to, first and last name, home or other physical address, telephone number, Social Security number, date of birth, nine-digit postal (ZIP) code, physical appearance of, case file or history of, and other information that would personally identify a victim of domestic violence who seeks or has received services from a domestic violence agency, or such other information which, taken individually or together with other identifying information, could identify a particular individual.

"Program" means the DSHS domestic violence program.

"Resident" means a client of the domestic violence agency who is residing in a shelter as defined in this chapter.

"Safe home" means a shelter that has two or fewer lodging units and has a written working agreement with a domestic violence agency.

"Safety plan" is a process of thinking through with the victim how to increase safety for both the victim of domestic violence and any dependent children of the victim. Safety planning addresses both immediate and long term risks, barriers, or concerns regarding the victim and any dependent children. It is based on knowledge about the specific pattern of the domestic violence perpetrator's tactics and the protective factors of the victim and any dependent children. Safety planning can be done formally, informally, in writing or orally, or in any other conversational process between the victim and advocate.

"Secretary" means the DSHS secretary or the secretary's designee.

"Self-study" is a form of study in which one is, to a large extent, responsible for one's own instruction. Examples of self-study include reading articles, books, academic journals, training materials, engaging in on-line learning opportunities, and prerecorded webinars. Self-study content must be current or have historical relevance to the domestic violence advocacy field.

"Shelter" means a safe home or shelter home that provides temporary refuge and food and clothing offered on a twenty-four hour, seven-day-per-week basis to victims of domestic violence and their dependent children. Domestic violence agencies may use hotels and motels for victims who need safe shelter, but the domestic violence agency must also have a shelter home and/or safe home(s) that meet the requirements of this chapter.

"Shelter home" means a shelter that has three or more lodging units and is either a component of, or has a written working agreement with, a domestic violence agency.

"Staff" means persons who are paid or who volunteer to provide services to clients and are a part of a domestic violence agency.

"Support group" means interactive group sessions of two or more victims of domestic violence that is facilitated by trained staff on a regular basis. Participants share experiences, offer mutual support, and receive information and education around a specific topic of common interest. Support groups validate the experiences of victims, explore options, build on strengths, and respect participants' rights to make

their own decisions. A shelter or house meeting where, for example, chores are discussed, and there is no advocacy provided, is not a support group.

"Victim" means a cohabitant who has been subjected to domestic violence.

"We, us and our" refers to the department of social and health services and its employees.

"You, I and your" refers to the domestic violence agency.

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

WAC 388-61A-0350 What type of training is required for staff of the domestic violence agency? Initial and continuing education training of domestic violence agency staff is critically important. In addition, quality supervision is an integral component for the provision of excellent advocacy and in supporting staff. Advocates and advocate supervisors must be able to demonstrate an understanding of the nature and scope of domestic violence as defined by this chapter, as well as the historical and societal attitudes in which domestic violence is rooted. Training must be current and relevant to the provision of empowerment-based advocacy. Domestic violence agencies should also strive to ensure that staff incorporate training on services to marginalized populations as part of each advocate's annual continuing education hours. In furtherance of these goals, domestic violence agency staff must meet the following minimum training requirements.

Initial training (~~for staff providing supportive services and staff supervisors~~)

(1) Staff providing supportive services and supervisors of staff shall obtain a minimum of twenty hours of initial basic training that covers the following topics and skills:

(a) Theory and implementation of empowerment-based advocacy.

(b) The history of the domestic violence movement.

(c) Active listening skills.

(d) Legal, medical, social service and systems advocacy.

(e) Anti-oppression and cultural competency theory and practice.

(f) Confidentiality and ethics.

~~((f))~~ (g) Safety planning skills and barriers to safety.

~~((g))~~ (h) Planning, clarifying issues and options, and crisis intervention.

~~((h))~~ (i) Providing services and advocacy to individuals from marginalized populations.

~~((i))~~ (j) Policies and procedures of the domestic violence agency.

(2) Initial training shall be completed prior to providing supportive services to clients and/or their dependent children.

(3) The recommended format for initial trainings is live and in-person group sessions. Structured job-shadowing and self-study may be included as part of the overall initial training. All domestic violence agency in-house training must be based on a training plan that covers one or more of the required initial training topics.

Continuing education and supervisor training (~~for staff providing supportive services and staff supervisors~~)

~~((2))~~ (4) Based on their date of hire with the domestic violence agency, staff providing supportive services and staff supervisors must obtain an annual minimum of ~~((thirty))~~ twenty hours of continuing education training beginning in their second year with the domestic violence agency, and in every year thereafter. ~~((Continuing education training must include:~~

~~(a) A minimum of fifteen hours of training on advocacy that is directly related to serving victims of domestic violence and their children.~~

~~(b) A minimum of five hours of training on providing services and advocacy to individuals from marginalized populations.~~

~~(3) Not more than ten hours of the thirty hours of continuing education training can be obtained from video, audio, or similar self-study methods.)~~

(5) A minimum of ten hours must be live training on topics specifically focused on serving victims of domestic violence and their children.

(6) The remaining ten hours of training may be satisfied through self-study on topics specifically focused on serving victims of domestic violence and their children.

(7) Within six months of being hired as an advocate supervisor and for each year thereafter, the supervisor must obtain a minimum of five hours of training on supervision. Supervision training can be counted toward the twenty hours of annual continuing education training hours required by this chapter. Examples of supervision training topics include leadership skills, job coaching and staff evaluation, personnel management, effective communication and managing conflict, multicultural supervision, and how to foster professional development of, and self-care with, advocates. While live, in-person training is the preferred method for supervision training, all methods of live and self-study training are acceptable.

Training for staff not providing supportive services

~~((4))~~ (8) Domestic violence agency staff who do not provide supportive services to clients or their dependent children are not required to obtain initial and continuing education training as described in this section. Examples of staff that are included in this category are shelter housekeeping staff, individuals providing child care assistance as defined in this chapter, and bookkeeping and accounting staff. It is recommended, however, that staff who may come into contact with clients of the domestic violence agency and their dependent children, but who do not provide supportive services, receive training on the following:

(a) Confidentiality.

(b) Relevant policies and procedures of the domestic violence agency.

(c) Mandated reporting of child abuse/neglect as required by chapter 26.44 RCW, Abuse of children.

AMENDATORY SECTION (Amending WSR 10-22-040, filed 10/27/10, effective 11/27/10)

WAC 388-61A-0360 How should training be documented? Initial, ~~((and))~~ continuing education, and supervisor training ~~((received by staff and supervisors of staff providing~~

~~supportive services must be recorded in a training log. At a minimum the log must include:~~

~~(1) Date(s) of training.~~

~~(2) Title or subject matter of the training.~~

~~(3) Individual or organization that provided the training.~~

~~(4) Number of training hours received.~~

~~(5) Training method (e.g. in-person, video, audio, self-study, or other method).~~

(6) For continuing education training, whether the training was on advocacy or serving individuals from marginalized populations)) must be documented as required by DSHS.

WSR 15-14-034

PERMANENT RULES

SUPERINTENDENT OF

PUBLIC INSTRUCTION

[Filed June 23, 2015, 1:12 p.m., effective July 24, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Make changes to the chapter 392-170 WAC to clarify language. Changes will not change the rule's effect.

For WAC 392-170-045, replace the word "nomination" with "referral." For WAC 392-170-045, 392-170-075, and 392-170-076, change language to indicate that the school board adopts policy and the school district establishes written procedures.

Citation of Existing Rules Affected by this Order: Amending WAC 392-170-045, 392-170-075, and 392-170-076.

Statutory Authority for Adoption: Chapter 28A.185 RCW, Highly capable students.

Adopted under notice filed as WSR 15-09-106 on April 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 23, 2015.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-045 ((Nomination)) Referral process for highly capable students. Each school district shall ~~((adopt))~~ establish written procedures for the ~~((nomination))~~ referral of students to participate in programs for highly capable students. Such procedures shall permit referrals based on data or evidence from teachers, other staff, parents, students, and members of the community.

A district's ~~((nomination))~~ referral procedure for students who are highly capable may include screening procedures to eliminate students who, based on clear, current evidence, do not qualify for eligibility under WAC 392-170-055.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-075 Selection of most highly capable. Each school district's board of directors shall adopt ~~((policies and))~~ a selection policy and school district shall establish written procedures for the selection of the most highly capable students by the multidisciplinary selection committee. Such ~~((policies))~~ policy and selection procedures:

(1) Shall not violate federal and state civil rights laws including, without limitation, chapters 28A.640 and 28A.642 RCW;

(2) Shall be based on professional judgment as to which students will benefit the most from inclusion in the district's program; and

(3) Shall be based on a selection system that determines which students are the most highly capable as defined under WAC 392-170-055, and other data collected in the assessment process.

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-076 Process for appeal. Each district shall ~~((adopt a))~~ have a clear and written procedure for appealing the multidisciplinary selection committee's decision and disseminate this procedure to the public.

WSR 15-14-038

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 24, 2015, 10:33 a.m., effective July 25, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is changing the hospital accreditation standards for the chemical using pregnant (CUP) women program providers found in WAC 182-533-0720. The agency also made housekeeping changes to WAC 182-533-0710, 182-533-0720, and 182-533-0730.

Citation of Existing Rules Affected by this Order: Amending WAC 182-533-0710, 182-533-0720, and 182-533-0730.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-11-006 on May 7, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: June 24, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0710 Chemical-using pregnant (CUP) women program—Client eligibility. (1) To be eligible for the chemical-using pregnant (CUP) women program, a woman must ~~((meet all of the following conditions))~~ be:

(a) ~~((Be))~~ Pregnant; and

(b) ~~((Be))~~ Eligible for medicaid.

(2) A client~~((s meeting the eligibility criteria in WAC 388-533-0710(1) who are))~~ eligible under subsection (1) of this section who is enrolled in ~~((an MAA))~~ a medicaid agency managed care plan ~~((are))~~ is eligible for CUP services outside ~~((their))~~ her ~~((, except Washington medicaid integration partnership clients))~~ plan. CUP services and reimbursement are delivered outside ~~((the))~~ a managed care plan ~~((are reimbursed and subject to the same program rules as apply to non-managed care clients))~~ and are subject to fee-for-services rules.

(3) A client~~((s))~~ receiving three-day or five-day detoxification services through the ~~((department are))~~ agency is not eligible for the CUP women program.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0730 Chemical-using pregnant (CUP) women program—Covered services. (1) The ~~((medical assistance administration (MAA)))~~ medicaid agency pays for the following covered services for a pregnant client and her fetus under the chemical-using pregnant (CUP) women program:

(a) Primary acute detoxification~~((/))~~ and medical stabilization;

(b) Secondary subacute detoxification~~((/))~~ and medical stabilization; and

(c) Rehabilitation treatment and services as determined by the provider.

(2) The maximum length of treatment per inpatient stay that ~~((MAA))~~ the agency will pay for is twenty-six days, unless additional days have been preauthorized by the ~~((MAA))~~ agency CUP women program manager.

(3) If a client's pregnancy ends before inpatient treatment is completed, a provider may continue ~~((the client's))~~ her treatment through the twenty-sixth day.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0720 Chemical-using pregnant (CUP) women program—Provider requirements. (1) The ~~((medical assistance administration (MAA)))~~ medicaid agency pays only those providers who:

(a) Have been approved by ~~((MAA))~~ the agency to provide chemical-using pregnant (CUP) women program services;

(b) Have been certified as chemical dependency service providers by the division of ~~((alcohol and substance abuse (DASA) as prescribed in chapter 388-805 WAC;~~

~~((c) Meet the hospital standards prescribed by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)))~~ behavioral health and recovery (DBHR) under chapter 388-877 WAC;

(c) Meet the department of health hospital accreditation standards in chapter 246-320 WAC;

(d) Meet the general provider requirements in chapter ~~((388-502))~~ 182-502 WAC; and

(e) Are not licensed as an institution for mental disease (IMD) under Centers for Medicare and Medicaid Services (CMS) criteria.

(2) ~~((CUP women program service))~~ Providers ~~((are required to))~~ must:

(a) Report any changes in their certification, level of care, or program operations to the ~~((MAA))~~ agency CUP women program manager;

(b) Have written policies and procedures that include a working statement describing the purpose and methods of treatment for chemical-using ~~((abusing))~~ or chemical-dependent pregnant women;

(c) Provide guidelines and resources for current medical treatment methods by specific ~~((drug and/or alcohol))~~ chemical type;

(d) Have linkages with state and community providers to ensure a working knowledge exists of current medical and substance abuse resources; and

(e) Ensure that a chemical dependency assessment of the client has been completed:

(i) By a chemical dependency professional ~~((as defined in))~~ under chapter 246-811 WAC;

(ii) Using the latest criteria of the American Society of Addiction Medicine (ASAM); and

(iii) No earlier than six months before, and no later than five days after, the client's admission to the CUP women program.

WSR 15-14-039

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 24, 2015, 10:34 a.m., effective July 25, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending this chapter to correct outdated references and improve clarity.

Citation of Existing Rules Affected by this Order: Amending WAC 182-502-0018, 182-502-0025, 182-502-0030, 182-502-0100, 182-502-0120, 182-502-0130, 182-502-0150, 182-502-0210, 182-502-0220, and 182-502-0260.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-11-058 on May 18, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 10, Repealed 0.

Date Adopted: June 24, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0018 Change of ownership. (1) A provider must notify the ~~((department))~~ medicaid agency in writing within seven calendar days of ownership or control changes of any kind. An entity is considered to have an ownership or control interest in another entity if it has direct or indirect ownership of five percent or more, or is a managing employee (e.g., a general manager, business manager, administrator, or director) who exercises operational or managerial control over the entity or who directly or indirectly conducts day-to-day operations of the entity. The ~~((department))~~ agency determines whether a new core provider agreement (CPA) must be completed for the new entity.

(2) When a provider obtains a new federal tax identification (ID) following a change of ownership, the ~~((department))~~ agency terminates the provider's CPA as of the date of the change in federal tax ID. The provider may reapply for a new CPA.

(3) All new ownership enrollments are subject to the requirements in WAC ~~((388-502-0010))~~ 182-502-0010. In addition to those requirements, the applicant must:

- (a) Complete a change of ownership form;
- (b) Provide the ~~((department))~~ agency with a copy of the contract of sale identifying previous and current owners; and
- (c) Provide the ~~((department))~~ agency with a list of all provider numbers affected by the change of ownership.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0025 Electronic health records (EHR) incentive program. The purpose of this section is to establish the medicaid electronic health records (EHR) incentive program ~~((in accordance with))~~ under the American Recovery and Reinvestment Act of 2009 (ARRA). The medicaid EHR incentive program promotes the adoption and meaningful use of certified EHR technology by offering financial incentives to eligible professionals and hospitals. This program is administered by the ~~((department))~~ medicaid agency.

(1) The ~~((department))~~ agency provides incentive payments to eligible providers and hospitals that adopt and meaningfully use certified EHR technology ~~((in accordance with the provisions of))~~ under 42 C.F.R. Parts 412, 413, 422, and any other federal regulations that apply.

(2) Providers and hospitals eligible to participate in EHR incentive program are identified in 42 C.F.R. Part 495.304 and other applicable rules.

(3) As authorized by 42 C.F.R. Parts 412, 413, 422, chapters 43.20B and 74.09 RCW, and any other federal or state rules that apply, the ~~((department))~~ agency monitors and reviews all providers and hospitals participating in the EHR incentive program. By the same authority, the ~~((department))~~ agency reviews all practices, documentation, and ~~((/or))~~ data related to EHR technology to determine whether professionals and hospitals participating in the EHR incentive program are eligible and complying with state and federal rules and regulations.

(4) The ~~((department))~~ agency may determine that a participating professional or hospital has not met the eligibility or performance requirements to receive an EHR incentive payment, or should receive an incentive payment in an amount less than the amount anticipated by the provider or hospital. Areas of possible dispute in the EHR incentive program include, at a minimum, any of the following:

(a) Patient volume thresholds and calculations, as outlined in 42 C.F.R. Parts 495.304 and 495.306.

(b) Eligibility criteria and payment limitations, as outlined in 42 C.F.R. Parts 495.10, 495.304, 495.306, and 495.310.

(c) Attestations and compliance demonstrations including, at a minimum:

(i) Attestations that certified EHR technology has been adopted, implemented, or upgraded; and

(ii) Demonstrations of meaningful use, as outlined in 42 C.F.R. Parts 495.6, 495.8, 495.306, 495.310, and in any future published federal regulations and requirements, as applicable.

(d) The payment process and incentive payment amounts, as outlined in 42 C.F.R. Parts 495.310, 495.312, and 495.314.

(e) Additional issues regarding EHR incentive program eligibility, participation, documentation, and compliance as outlined in 42 C.F.R. Parts 412, 413, 422 ~~((et al.))~~, and in any future published federal regulations and requirements, as applicable.

(5) All matters of dispute are subject to the Administrative Procedure Act (APA) appeal process ~~((per))~~ under chapter 34.05 RCW. A provider who disagrees with ~~((a department))~~ an agency action under this section may request a hearing. The hearing request must:

(a) Be in writing;

(b) Be received by the agency, at the address identified in the notice of action, within twenty-eight days of the date of the notice of action by certified mail (return receipt); and

(c) State the reason~~((s))~~ or reasons why the provider thinks the action is incorrect.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0030 Termination of a provider agreement—For cause. (1) The ~~((department))~~ medicaid agency may immediately terminate a provider's core provider agreement (CPA) for any one or more of the following reasons, each of which constitutes cause:

(a) Provider exhibits significant risk factors that endanger client health ~~((and/or))~~ or safety. These factors include, but are not limited to:

(i) Moral turpitude;

(ii) Sexual misconduct as defined in WAC 246-934-100 or in profession specific rules of the department of health (DOH);

(iii) A statement of allegations or statement of charges by DOH;

(iv) Restrictions placed by DOH on provider's current practice such as chaperone required for rendering treatment, preceptor required to review practice, or prescriptive limitations;

(v) Limitations, restrictions, or loss of hospital privileges or participation in any health care plan ~~((and/or))~~ or failure to disclose the reasons to the ~~((department))~~ agency;

(vi) Negligence, incompetence, inadequate or inappropriate treatment, or lack of appropriate follow-up treatment;

(vii) Patient drug mismanagement ~~((and/or))~~ failure to identify substance abuse~~((/))~~ or addiction, or failure to refer the patient for substance abuse treatment once abuse~~((/))~~ or addiction is identified;

(viii) Use of health care providers or health care staff who are unlicensed to practice or who provide health care services ~~((which))~~ that are outside their recognized scope of practice or the standard of practice in the state of Washington;

(ix) Failure of the health care provider to comply with the requirements of WAC ~~((388-502-0016))~~ 182-502-0016;

(x) Failure of the health care practitioner with an alcohol or chemical dependency to furnish documentation or other assurances as determined by the ~~((department))~~ agency to adequately safeguard the health and safety of ~~((medical assistance))~~ Washington apple health clients that the provider:

(A) Is complying with all conditions, limitations, or restrictions to the provider's practice both public and private; and

(B) Is receiving treatment adequate to ensure that the dependency problem will not affect the quality of the provider's practice.

(xi) Infection control deficiencies;

(xii) Failure to maintain adequate professional malpractice coverage;

(xiii) Medical malpractice claims or professional liability claims that constitute a pattern of questionable or inadequate treatment, or contain any gross or flagrant incident of malpractice; or

(xiv) Any other act ~~((which))~~ that the ~~((department))~~ agency determines is contrary to the health and safety of its clients.

(b) Provider exhibits significant risk factors that affect the provider's credibility or honesty. These factors include, but are not limited to:

(i) Failure to meet the requirements in WAC ~~((388-502-0010 and WAC 388-502-0020))~~ 182-502-0010 and 182-502-0020;

(ii) Dishonesty or other unprofessional conduct;

(iii) Investigatory (e.g., audit), civil, or criminal finding of fraudulent or abusive billing practices;

(iv) Exclusion from participation in medicare, medicaid, or any other federally~~((-))~~ funded health care program;

(v) Any conviction, no contest plea, or guilty plea relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct;

(vi) Any conviction, no contest plea, or guilty plea of a criminal offense;

(vii) Failure to comply with a DOH request for information or an ~~((on-going))~~ ongoing DOH investigation;

(viii) Noncompliance with a DOH or other state health care agency's stipulation to disposition, agreed order, final order, or other similar licensure restriction;

(ix) Misrepresentation or failure to disclose information on the enrollment application for a core provider agreement (CPA), failure to supply requested information, or failure to update CPA as required;

(x) Failure to comply with ~~((a department))~~ an agency request for information;

(xi) Failure to cooperate with ~~((a department))~~ an agency investigation, audit, or review;

(xii) Providing health care services ~~((which))~~ that are outside the provider's recognized scope of practice or the standard of practice in the state of Washington;

(xiii) Unnecessary medical~~((/))~~, dental, or other health care procedures;

(xiv) Discriminating in the furnishing of health care services, supplies, or equipment as prohibited by 42 U.S.C. § 2000d; and

(xv) Any other dishonest or discreditable act ~~((which))~~ that the ~~((department))~~ agency determines is contrary to the interest of the ~~((department))~~ agency or its clients.

(2) If a provider is terminated for cause, the ~~((department))~~ agency pays for authorized services provided up to the date of termination only.

(3) If the ~~((department))~~ agency terminates a provider who is also a full or partial owner of a group practice, the ~~((department))~~ agency also terminates all providers linked to the group practice. The remaining practitioners in the group practice may reapply for participation with the ~~((department))~~ agency subject to WAC ~~((388-502-0010(2)))~~ 182-502-0010(2).

(4) A provider who is terminated for cause may dispute ~~((a department))~~ an agency decision under the process in WAC ~~((388-502-0050))~~ 182-502-0050.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0100 General conditions of payment.

(1) The ~~((department))~~ medicaid agency reimburses for medical services furnished to an eligible client when all ~~((of))~~ the following apply:

(a) The service is within the scope of care of the client's ~~((medical assistance))~~ Washington apple health program;

(b) The service is medically or dentally necessary;

(c) The service is properly authorized;

(d) The provider bills within the time frame set in WAC ~~((388-502-0150))~~ 182-502-0150;

(e) The provider bills according to ~~((department))~~ agency rules and billing instructions; and

(f) The provider follows third-party payment procedures.

(2) The ~~((department))~~ agency is the payer of last resort, unless the other payer is:

(a) An Indian health service;

(b) A crime victims program through the department of labor and industries; or

(c) A school district for health services provided under the Individuals with Disabilities Education Act.

(3) The ~~((department))~~ agency does not reimburse providers for medical services identified by the ~~((department))~~ agency as client financial obligations, and deducts from the payment the costs of those services identified as client financial obligations. Client financial obligations include, but are not limited to, the following:

(a) Copayments ~~((co-pays))~~ (copays) (unless the criteria in chapter ~~((388-517))~~ 182-517 WAC or WAC ~~((388-501-0200))~~ 182-501-0200 are met);

(b) Deductibles (unless the criteria in chapter ~~((388-517))~~ 182-517 WAC or WAC ~~((388-501-0200))~~ 182-501-0200 are met)~~((;~~

~~((e))~~ Emergency medical expense requirements (EMER) ~~((see WAC 388-550-1050 and 388-865-0217))~~; and

~~((d))~~ (c) Spenddown (see WAC ~~((388-519-0110))~~ 182-519-0110).

(4) The provider must accept medicare assignment for claims involving clients eligible for both medicare and ~~((medical assistance))~~ Washington apple health before the ~~((department))~~ agency makes any payment.

(5) The provider is responsible for verifying whether a client has ~~((medical assistance))~~ Washington apple health coverage for the dates of service.

(6) The ~~((department))~~ agency may reimburse a provider for services provided to a person if it is later determined that

the person was ineligible for the service (~~(at the time)~~) when it was provided if:

- (a) The ~~((department))~~ agency considered the person eligible at the time of service;
 - (b) The service was not otherwise paid for; and
 - (c) The provider submits a request for payment to the ~~((department))~~ agency.
- (7) The ~~((department))~~ agency does not pay on a fee-for-service basis for a service for a client who is enrolled in a managed care plan when the service is included in the plan's contract with the ~~((department))~~ agency.
- (8) Information about medical care for jail inmates is found in RCW 70.48.130.
- (9) The ~~((department))~~ agency pays for medically necessary services on the basis of usual and customary charges or the maximum allowable fee established by the ~~((department))~~ agency, whichever is lower.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0120 Payment for health care services provided outside the state of Washington. (1) The ~~((department))~~ medicaid agency pays for health care services provided outside the state of Washington only when the service meets the provisions (~~(set forth)~~) described in WAC (~~388-501-0180, 388-501-0182, 388-501-0184~~) 182-501-0180, 182-501-0182, 182-501-0184, and specific program WAC.

(2) With the exception of hospital services and nursing facilities, the ~~((department))~~ agency pays the provider of service in designated bordering cities as if the care was provided within the state of Washington (see WAC (~~388-501-0175~~) 182-501-0175).

(3) With the exception of designated bordering cities, the ~~((department))~~ agency does not pay for health care services provided to clients in medical care services (MCS) programs outside the state of Washington (~~(see WAC 388-556-0500)~~).

(4) With the exception of hospital services (see subsection (5) of this section), the ~~((department))~~ agency pays for health care services provided outside the state of Washington at the lower of:

- (a) The billed amount; or
- (b) The rate established by the Washington (~~state medical assistance~~) apple health programs.

(5) The ~~((department))~~ agency pays for hospital services provided in designated bordering cities and outside the state of Washington (~~(in accordance with the provisions of WAC 388-550-3900, 388-550-4000, 388-550-4800 and 388-550-6700)~~) under WAC 182-550-3900, 182-550-4000, 182-550-4800, and 182-550-6700.

(6) The ~~((department))~~ agency pays nursing facilities located outside the state of Washington when approved by the aging and (~~disability services administration (ADSA))~~ long-term support administration (AL TSA) at the lower of the billed amount or the adjusted statewide average reimbursement rate for in-state nursing facility care, only in the following limited circumstances:

- (a) Emergency situations; or

(b) When the client intends to return to Washington state and the out-of-state stay is for:

- (i) Thirty days or less; or
- (ii) More than thirty days if approved by ~~((ADSA))~~ AL TSA.

(7) To receive payment from the ~~((department))~~ agency, an out-of-state provider must:

- (a) Have a signed agreement with the ~~((department))~~ agency;
- (b) Meet the functionally equivalent licensing requirements of the state or province in which care is rendered;
- (c) Meet the conditions in WAC (~~388-502-0100 and 388-502-0150~~) 182-502-0100 and 182-502-0150;
- (d) Satisfy all medicaid conditions of participation;
- (e) Accept the ~~((department's))~~ agency's payment as payment in full according to 42 C.F.R. 447.15; and
- (f) If a Canadian provider, bill at the U.S. exchange rate in effect (~~(at the time)~~) when the service was provided.

(8) For covered services for eligible clients, the ~~((department))~~ agency reimburses other approved out-of-state providers at the lower of:

- (a) The billed amount; or
- (b) The rate paid by the Washington state Title XIX medicaid program.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0130 Interest penalties—Providers.

(1) Providers who are enrolled as contractors with the ~~((department's))~~ medicaid agency's medical care programs may be assessed interest on excess benefits or other inappropriate payments. Nursing home providers are governed by WAC 388-96-310 and are not subject to this section.

(2) The ~~((department))~~ agency assesses interest when:

- (a) The excess benefits or other inappropriate payments were not the result of ~~((department))~~ agency error; and
- (b) A provider is found liable for receipt of excess benefits or other payments under RCW 74.09.220; or
- (c) A provider is notified by the ~~((department))~~ agency that repayment of excess benefits or other payments is due under RCW 74.09.220.

(3) The ~~((department))~~ agency assesses interest at the rate of one percent for each month the overpayment is not satisfied. Daily interest calculations and assessments are made for partial months.

(4) Interest is calculated beginning from the date the ~~((department))~~ agency receives payment from the provider. Interest ceases to be calculated and collected from the provider once the overpayment amount is received by the ~~((department))~~ agency.

(5) The ~~((department))~~ agency calculates interest and amounts, which are identified on all ~~((department))~~ agency collection notices and statements.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0150 Time limits for providers to bill the ~~((department))~~ agency. Providers must bill the ~~((depart~~

ment)) medicaid agency for covered services provided to eligible clients as follows:

(1) The ((~~department~~)) agency requires providers to submit initial claims and adjust prior claims in a timely manner. The ((~~department~~)) agency has three timeliness standards:

(a) For initial claims, see subsections (3), (4), (5), and (6) of this section;

(b) For resubmitted claims other than prescription drug claims and claims for major trauma services, see subsections (7) and (8) of this section;

(c) For resubmitted prescription drug claims, see subsections (9) and (10) of this section; and

(d) For resubmitting claims for major trauma services, see subsection (11) of this section.

(2) The provider must submit claims to the ((~~department~~)) agency as described in the ((~~department's~~)) agency's current published billing instructions.

(3) Providers must submit the initial claim to the ((~~department~~)) agency and have a transaction control number (TCN) assigned by the ((~~department~~)) agency within three hundred sixty-five calendar days from any of the following:

(a) The date the provider furnishes the service to the eligible client;

(b) The date a final fair hearing decision is entered that impacts the particular claim;

(c) The date a court orders the ((~~department~~)) agency to cover the service; or

(d) The date the ((~~department~~)) agency certifies a client eligible under delayed certification criteria.

(4) The ((~~department~~)) agency may grant exceptions to the time limit of three hundred sixty-five calendar days for initial claims when billing delays are caused by either of the following:

(a) The ((~~department's~~)) agency's certification of a client for a retroactive period; or

(b) The provider proves to the ((~~department's~~)) agency's satisfaction that there are other extenuating circumstances.

(5) The ((~~department~~)) agency requires providers to bill known third parties for services. See WAC ((~~388-501-0200~~)) 182-501-0200 for exceptions. Providers must meet the timely billing standards of the liable third parties in addition to the ((~~department's~~)) agency's billing limits.

(6) When a client is covered by both Medicare and Medicaid, the provider must bill Medicare for the service before billing the initial claim to the ((~~department~~)) agency. If Medicare:

(a) Pays the claim the provider must bill the ((~~department~~)) agency within six months of the date Medicare processes the claim; or

(b) Denies payment of the claim, the ((~~department~~)) agency requires the provider to meet the three hundred sixty-five-day requirement for timely initial claims as described in subsection (3) of this section.

(7) ~~The following applies to claims with a date of service or admission before July 1, 2009:~~

~~(a) Within thirty-six months of the date the service was provided to the client, a provider may resubmit, modify, or adjust any claim, other than a prescription drug claim or a claim for major trauma services, with a timely TCN. This applies to any claim, other than a prescription drug claim or a~~

~~claim for major trauma services, that met the time limits for an initial claim, whether paid or denied. The department does not accept any claim for resubmission, modification, or adjustment after the thirty-six-month period ends.~~

~~(b) After thirty-six months from the date the service was provided to the client, a provider cannot refund overpayments by claim adjustment; a provider must refund overpayments by a negotiable financial instrument, such as a bank check.~~

~~(8) The following applies to claims with a date of service or admission on or after July 1, 2009:~~

~~(a)) Within twenty-four months of the date the service was provided to the client, a provider may resubmit, modify, or adjust an initial claim, other than a prescription drug claim or a claim for major trauma services.~~

~~((b)) (8) After twenty-four months from the date the service was provided to the client, the ((~~department~~)) agency does not accept any claim for resubmission, modification, or adjustment. This twenty-four-month period does not apply to overpayments that a provider must refund to the ((~~department~~)) agency by a negotiable financial instrument, such as a bank check.~~

(9) The ((~~department~~)) agency allows providers to resubmit, modify, or adjust any prescription drug claim with a timely TCN within fifteen months of the date the service was provided to the client. After fifteen months, the ((~~department~~)) agency does not accept any prescription drug claim for resubmission, modification, or adjustment.

(10) The fifteen-month period described in subsection (9) of this section does not apply to overpayments that a prescription drug provider must refund to the ((~~department~~)) agency. After fifteen months a provider must refund overpayments by a negotiable financial instrument, such as a bank check.

(11) The ((~~department~~)) agency allows a provider of trauma care services to resubmit, modify, or adjust, within three hundred and sixty-five calendar days of the date of service, any trauma claim that meets the criteria specified in WAC ((~~388-531-2000~~)) 182-531-2000 (for physician claims) or WAC ((~~388-550-5450~~)) 182-550-5450 (for hospital claims) for the purpose of receiving payment from the trauma care fund (TCF).

(a) No increased payment from the TCF is allowed for an otherwise qualifying trauma claim that is resubmitted after three hundred sixty-five calendar days from the date of service.

(b) Resubmission of or any adjustments to a trauma claim for purposes other than receiving TCF payments are subject to the provisions of this section.

(12) The three hundred sixty-five-day period described in subsection (11) of this section does not apply to overpayments from the TCF that a trauma care provider must refund to the ((~~department~~)) agency. A provider must refund an overpayment for a trauma claim that received payment from TCF using a method specified by the ((~~department~~)) agency.

(13) If a provider fails to bill a claim according to the requirements of this section and the ((~~department~~)) agency denies payment of the claim, the provider or any provider's agent cannot bill the client or the client's estate. The client is not responsible for the payment.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0210 Statistical data-provider reports. (1) At the request of the ~~((department))~~ medicaid agency, all providers enrolled with ~~((department))~~ agency programs must submit full reports, as specified by the ~~((department))~~ agency, of goods and services furnished to eligible ~~((medical assistance))~~ Washington apple health clients. The ~~((department))~~ agency furnishes the provider with a standardized format to report these data.

(2) The ~~((department))~~ agency analyzes the data collected from the providers' reports to secure statistics on costs of goods and services furnished and makes a report of the analysis available to the ~~((department's))~~ agency's advisory committee, the state welfare medical care committee, representative organizations of provider groups enrolled with the ~~((department))~~ agency, and any other interested organizations or individuals.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0260 Appeals and dispute resolution for providers with contracts other than core provider agreements. (1) Providers of medical services who have a contract, other than a core provider agreement, with a dispute resolution provision must follow the dispute resolution process described in the contract.

(2) See WAC ~~((388-502-0220))~~ 182-502-0220 for disputes involving rates. See chapter 182-502A WAC ~~((388-502-0240))~~ for disputes involving audits. See WAC ~~((388-502-0230))~~ 182-502-0230 for disputes involving provider reviews and termination.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0220 Administrative appeal contractor~~((#))~~ or provider rate reimbursement. (1) Any enrolled contractor~~((#))~~ or provider of medical services has a right to an administrative appeal when the contractor~~((#))~~ or provider disagrees with the ~~((department))~~ medicaid agency reimbursement rate. The exception to this is nursing facilities governed by WAC 388-96-904.

(2) The first level of appeal. A contractor~~((#))~~ or provider who wants to contest a reimbursement rate must file a written appeal with the ~~((department))~~ agency.

(a) The appeal must include ~~((all of))~~ the following:

- (i) A statement of the specific issue being appealed;
- (ii) Supporting documentation; and
- (iii) A request for the ~~((department))~~ agency to recalculate the rate.

(b) When a contractor~~((#))~~ or provider appeals a portion of a rate, the ~~((department))~~ agency may review all components of the reimbursement rate.

(c) ~~((In order))~~ To complete a review of the appeal, the ~~((department))~~ agency may do one or both of the following:

- (i) Request additional information; and~~((or))~~
- (ii) Conduct an audit of the documentation provided.

(d) The ~~((department))~~ agency issues a decision or requests additional information within sixty calendar days of receiving the rate appeal request.

(i) When the ~~((department))~~ agency requests additional information, the contractor~~((#))~~ or provider has forty-five calendar days from the date of the ~~((department's))~~ agency's request to submit the additional information.

(ii) The ~~((department))~~ agency issues a decision within thirty calendar days of receipt of the completed information.

(e) The ~~((department))~~ agency may adjust rates retroactively to the effective date of a new rate or a rate change. In order for a rate increase to be retroactive, the contractor~~((#))~~ or provider must file the appeal within sixty calendar days of the date of the rate notification letter from the ~~((department))~~ agency. The ~~((department))~~ agency does not consider any appeal filed after the sixty-day period to be eligible for retroactive adjustment.

(f) The ~~((department))~~ agency may grant a time extension for the appeal period if the contractor~~((#))~~ or provider makes such a request within the sixty-day period ~~((referenced under))~~ described in (e) of this subsection.

(g) Any rate increase resulting from an appeal filed within the sixty-day period described in subsection (2)(e) of this section is effective retroactively to the rate effective date in the notification letter.

(h) Any rate increase resulting from an appeal filed after the sixty-day period described in subsection (2)(e) of this section is effective on the date the rate appeal is received by the ~~((department))~~ agency.

(i) Any rate decrease resulting from an appeal is effective on the date specified in the appeal decision letter.

(j) Any rate change that the ~~((department))~~ agency grants that is the result of fraudulent practices on the part of the contractor~~((#))~~ or provider as described under RCW 74.09.210 is exempt from the appeal provisions in this chapter.

(3) The second level of appeal. When the contractor~~((#))~~ or provider disagrees with a rate review decision, it may file a request for a dispute conference with the ~~((department))~~ agency. For this section "dispute conference" means an informal administrative hearing ~~((for the purpose of resolving))~~ to resolve contractor~~((#))~~ or provider disagreements with ~~((a department))~~ an agency action as described under subsection (1) of this section~~((s))~~ and not agreed upon at the first level of appeal. The dispute conference is not governed by the Administrative Procedure Act, chapter 34.05 RCW.

(a) If a contractor~~((#))~~ or provider files a request for a dispute conference, it must submit the request to the ~~((department))~~ agency within thirty calendar days after the contractor~~((#))~~ or provider receives the rate review decision. The ~~((department))~~ agency does not consider dispute conference requests submitted after the thirty-day period for the first level decision.

(b) The ~~((department))~~ agency conducts the dispute conference within ninety calendar days of receiving the request.

(c) ~~((A department appointed))~~ An agency-appointed conference chairperson issues the final decision within thirty calendar days of the conference. Extensions of time for extenuating circumstances may be granted if all parties agree.

(d) Any rate increase or decrease resulting from a dispute conference decision is effective on the date specified in the dispute conference decision.

(e) The dispute conference is the final level of administrative appeal within the ~~((department))~~ agency and precedes judicial action.

(4) The ~~((department))~~ agency considers that a contractor ~~(/)~~ or provider who fails to attempt to resolve disputed rates as provided in this section has abandoned the dispute.

WSR 15-14-040

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 24, 2015, 10:36 a.m., effective July 25, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is updating these sections to fix outdated references and improve readability.

Citation of Existing Rules Affected by this Order: Amending WAC 182-540-101, 182-540-105, 182-540-120, 182-540-130, 182-540-140, 182-540-150, 182-540-160, 182-540-170, 182-540-190, 182-540-200, and 182-540-210.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-11-059 on May 18, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 0.

Date Adopted: June 24, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-101 Purpose and scope. This section describes the ~~((medical assistance administration (MAA)))~~ medicaid agency reimbursement rules for free-standing kidney centers providing dialysis and end-stage renal disease services to ~~((MAA))~~ agency clients.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-105 Definitions. The following definitions and those found in chapter 182-500 WAC (~~((388-500-0005))~~), apply to this chapter.

~~("Acute dialysis" means dialysis given to patients who are not ESRD patients, but who require dialysis of temporary kidney failure due to a sudden trauma (e.g., traffic accident or ingestion of certain drugs, etc.);)~~

"Affiliate" means a facility, hospital, unit, business, or person having an agreement with a kidney center to provide specified services to end stage renal disease (ESRD) patients.

"Agreement" means a written document executed between an ESRD facility and another facility in which the other facility agrees to assume responsibility for furnishing specified services to patients and for obtaining reimbursement for those services.

~~("Back up dialysis" means dialysis given to a patient under special circumstances, in a situation other than the patient's usual dialysis environment. Examples are:~~

~~(1) Dialysis of a home dialysis patient in a dialysis facility when patient's equipment fails;~~

~~(2) Inhospital dialysis when the patient's illness requires more comprehensive care on an inpatient basis;~~

~~(3) Pre and post-operative dialysis provided to transplant patients;)~~

"Composite rate" means a payment method in which all standard equipment, supplies, and services are calculated into a blended rate. All in-facility dialysis and all home dialysis treatments are billed under the composite rate system.

"Continuous ambulatory peritoneal dialysis (CAPD)" means a type of dialysis where the patient's peritoneal membrane is used as the dialyzer. The patient dialyzes at home, using special supplies, but without the need for a machine. (See "Peritoneal dialysis.")

"Continuous cycling peritoneal dialysis (CCPD)" means a type of peritoneal dialysis where the patient dialyzes at home and ~~((utilizes))~~ uses an automated peritoneal cycler for delivering dialysis.

"Dialysate" means an electrolyte solution ~~((;))~~ used in dialysis containing elements such as potassium ~~((;))~~ and sodium chloride ~~((; etc., surrounding))~~. It surrounds the membrane or fibers and ~~((allowing))~~ allows the exchange of substances with the patient's blood in the dialyzer.

"Dialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane.

"Dialysis session" means the period ~~((of time))~~ beginning when the patient arrives at the facility and ending when the patient departs from the facility. ~~((In the case of))~~ For home dialysis, ~~((the time))~~ it means the period beginning when the patient prepares for dialysis and ending when the patient is disconnected from the machine.

"Dialyzer" means the synthetic porous membrane or fibers ~~((;))~~ contained in a supporting structure, through which blood flows ~~((for the purpose of eliminating))~~ to eliminate harmful substances ~~((;))~~ and ~~((replacing))~~ replace them with useful ones.

~~("Drug related supplies" means nonpharmaceutical items necessary for administration or delivery of a drug.)~~

"Durable medical equipment (DME)" means equipment that:

- (1) Can withstand repeated use;
- (2) Is primarily and customarily used to serve a medical purpose;
- (3) Generally is not useful to a person in the absence of illness or injury; and
- (4) Is appropriate for use in the client's place of residence.

"End-stage renal disease (ESRD)" means the stage of renal impairment that is irreversible and permanent(;) and requires dialysis or kidney transplant to ameliorate uremic symptoms and maintain life.

"Epoetin alpha (EPO)" means the biologically engineered protein that stimulates the bone marrow to make new red blood cells. It is used in the treatment of anemia.

"Free-standing kidney center" means a limited care facility(;) not operated by a hospital(;) that is certified by the federal government to provide ESRD services.

~~("Hemodialysis" means a method of dialysis in which blood from a patient's body is circulated through an external device or machine and then returned to the patient's bloodstream. Hemodialysis is usually done in a kidney center or facility. It can be done at home with a trained dialysis helper.)~~

"Home dialysis" means any dialysis performed at home.

"Home dialysis helper" means a person trained to assist the client in home dialysis.

"In-facility dialysis(;)" - For the purpose of this chapter only, "in-facility dialysis" means dialysis of any type performed on the premises of a kidney center or other free-standing ESRD facility.

"Intermittent peritoneal dialysis (IPD)" means a type of peritoneal dialysis in which dialysis solution is infused into the peritoneal cavity(, allowed to remain there for a period of time;) and then drained out. IPD is usually done in a kidney center or facility. It can be done at home with a trained home dialysis helper.

"Kidney center" means a facility as defined and certified by the federal government to:

- (1) Provide ESRD services;
- (2) Provide the services specified in this chapter; and
- (3) Promote and encourage home dialysis for a client when medically indicated.

~~("Maintenance dialysis" means the usual periodic dialysis treatments given to a client who has ESRD.)~~

"Peritoneal dialysis" means a procedure that introduces dialysate into the abdominal cavity to remove waste products through the peritoneum. Three forms of peritoneal dialysis are continuous ambulatory peritoneal dialysis, continuous cycling peritoneal dialysis, and intermittent peritoneal dialysis.

~~("Self dialysis unit" means a unit in a free-standing kidney center where dialysis is performed by an ESRD client who has completed training in self dialysis.)~~

"Standard ESRD lab tests" means certain laboratory tests that the Centers for Medicare and Medicaid include in

their composite rate calculations. These tests are identified in ((MAA's)) the agency kidney center services billing instructions.

~~("Take home drugs" means outpatient prescription drugs that are administered outside of a provider's office.)~~

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-120 Provider requirements. To receive reimbursement from the ((medical assistance administration (MAA))) medicaid agency for providing care to ((MAA)) agency clients, a kidney center must:

(1) Be a Medicare-certified end-stage renal disease (ESRD) facility and have a signed core provider agreement with ((MAA)) the agency (see chapter ((388-502)) 182-502 WAC);

(2) Meet requirements found in chapter ((388-502)) 182-502 WAC;

(3) Provide only those services within the scope of their provider's license; and

(4) Provide, either directly or through an affiliate, all physical facilities, professional consultation, personal instructions, medical treatment, care, and all supplies necessary for carrying out an medically sound ESRD treatment program, including ((all of the following)):

(a) Dialysis for ESRD clients;

(b) Kidney transplant treatment, either directly or by referral, for ESRD clients when medically indicated;

(c) Treatment for conditions directly related to ESRD;

(d) Training and supervision of supporting personnel and clients for home dialysis, medical care, and treatment; and

(e) Supplies and equipment for home dialysis.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-130 Covered services. (1) The ((department)) medicaid agency covers the following services and supplies subject to the restrictions and limitations in this section and other applicable published WAC:

(a) In-facility dialysis;

(b) Home dialysis;

(c) Training for self-dialysis;

(d) Home dialysis helpers;

(e) Dialysis supplies;

(f) Diagnostic lab work;

(g) Treatment for anemia; and

(h) Intravenous drugs.

(2) Covered services are subject to the limitations specified by the ((department)) agency. Providers must obtain prior authorization (PA) or expedited prior authorization (EPA) before providing services that exceed specified limits in quantity, frequency, or duration (refer to WAC ((388-501-0165 and 388-501-0169)) 182-501-0165 and 182-501-0169).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-140 Noncovered services. (1) The ~~((department))~~ medicaid agency does not reimburse kidney centers for the following:

(a) Blood and blood products (refer to WAC ~~((388-540-190))~~ 182-540-190);

(b) Personal care items such as slippers~~((;))~~ and toothbrushes~~((; etc.))~~; or

(c) Additional staff time or personnel costs. Staff time is paid through the composite rate. Home dialysis helpers are the only personnel cost paid outside the composite rate (refer to WAC ~~((388-540-160))~~ 182-540-160).

(2) The ~~((department))~~ agency evaluates a request for any service listed as noncovered in this chapter under ~~((the provisions of WAC 388-501-0160))~~ WAC 182-501-0160.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-150 Reimbursement—General. (1) Kidney center services described in this section are paid by one of two methods:

(a) **Composite rate payments** - This is a payment method in which all standard equipment, supplies, and services are calculated into a blended rate.

(i) A single dialysis session and related services are reimbursed through a single composite rate payment (refer to WAC ~~((388-540-160))~~ 182-540-160).

(ii) Composite rate payments for continuous ambulatory peritoneal dialysis (CAPD) or continuous cycling peritoneal dialysis (CCPD) are limited to thirty-one per month for an individual client.

(iii) Composite rate payments for all other types of dialysis sessions are limited to fourteen per month for an individual client.

(b) **Noncomposite rate payments** - End-stage renal disease (ESRD) services and items covered by the ~~((department))~~ medicaid agency but not included in the composite rate are billed and paid separately (refer to WAC ~~((388-540-170))~~ 182-540-170).

(2) **Limitation extension request** - The ~~((department))~~ agency evaluates billings for covered services that are subject to limitations or other restrictions, and approves ~~((such))~~ the services beyond those limitations or restrictions when medically necessary under ~~((the provisions of WAC 388-501-0165 and 388-501-0169))~~ WAC 182-501-0165 and 182-501-0169.

(3) **Take-home drugs** - The ~~((department))~~ agency reimburses kidney centers for take-home drugs only when they meet the conditions described in WAC ~~((388-540-170))~~ 182-540-170(1). Other drugs for at-home use must be billed by a pharmacy and be subject to the ~~((department's))~~ agency's pharmacy rules.

(4) **Medical nutrition** - Medical nutrition products must be billed by a pharmacy or a durable medical equipment (DME) provider.

(5) **Medicare eligible clients** - The ~~((department))~~ agency does not reimburse kidney centers as a primary payer for Medicare eligible clients.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-160 Items and services included in the composite rate. (1) The following equipment, supplies, and services for in-facility and home dialysis are included in the composite rate:

(a) Medically necessary dialysis equipment;

(b) All dialysis services furnished by the facility's staff;

(c) Standard end-stage renal disease laboratory tests (refer to WAC ~~((388-540-180))~~ 182-540-180);

(d) Home dialysis support services including delivery, installation, and maintenance of equipment;

(e) Purchase and delivery of all necessary dialysis supplies;

(f) Dec clotting of shunts and any supplies used to declo t shunts;

(g) Oxygen and the administration of oxygen;

(h) Staff time used to administer blood and nonroutine parenteral items;

(i) Noninvasive vascular studies; and

(j) Training for self-dialysis and home dialysis helpers.

(2) The ~~((medical assistance administration (MAA)))~~ medicaid agency issues a composite rate payment only when all ~~((of))~~ the ~~((above))~~ items and services in subsection (1) of this section are furnished or available at each dialysis session.

(3) If the facility fails to furnish or have available any of the ~~((above))~~ items ~~((, MAA))~~ in subsection (1) of this section, the agency does not pay for any part of the items and services that were furnished.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-170 Items and services not included in the composite rate. The following items and services are not included in the composite rate and must be billed separately, subject to the restrictions or limitations in this section and other applicable published WAC:

(1) Drugs related to treatment, including but not limited to epoetin alpha (EPO) and diazepam. The drug must:

(a) Be prescribed by a physician;

(b) Meet the rebate requirements described in WAC ~~((388-530-1125))~~ 182-530-7500; and

(c) Meet the requirements of WAC 246-905-020 when provided for home use.

(2) Supplies used to administer drugs and blood;

(3) Blood processing fees charged by the blood bank (refer to WAC ~~((388-540-190))~~ 182-540-190); and

(4) Home dialysis helpers.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-190 Blood products and services. (1) The ~~((medical assistance administration (MAA)))~~ medicaid agency reimburses free-standing kidney centers for:

(a) Blood processing and other fees assessed by non-profit blood centers that do not charge for the blood or blood products themselves; and

(b) Costs incurred by the center to administer its in-house blood procurement program.

(2) ~~((MAA))~~ The agency does not reimburse centers for blood or blood products (refer to WAC ~~((388-550-6500))~~ 182-550-6500).

(3) Staff time used to administer blood or blood products is reimbursed only through the composite rate (refer to WAC ~~((388-540-150 and 388-540-160))~~ 182-540-150 and 182-540-160).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-200 Epoetin alpha (EPO) therapy.

The ~~((medical assistance administration (MAA)))~~ medicaid agency reimburses the kidney center for EPO therapy when:

(1) Administered in the kidney center to a client:

(a) With a hematocrit less than thirty-three percent or a hemoglobin less than eleven when therapy is initiated;

(b) Continuing EPO therapy with a hematocrit between thirty and thirty-six percent; or

(c) Medical justification documented in the client's record is required for hematocrits ~~((greater))~~ more than thirty-six or ~~((hemoglobins greater than))~~ hemoglobins more than twelve. Medical justification includes:

(i) Documentation that the dose is being titrated downward to bring a patient's hematocrit back within target range; or

(ii) Documentation that it is medically necessary for the client to have a target hematocrit ~~((greater))~~ more than thirty-six percent.

(2) Provided to a home dialysis client:

(a) Under the same hematocrit~~((/))~~ and hemoglobin guidelines as stated in (1)(a) and (b) of this section; and

(b) When permitted by Washington board of pharmacy rules. (Refer to WAC 246-905-020 Home dialysis program—Legend drugs.)

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-540-210 Injectable drugs given in the kidney center. Injectable drugs administered in the kidney center are reimbursed up to the ~~((medical assistance administration's (MAA)))~~ medicaid agency published maximum fees.

vices how to use the division of behavioral health and recovery's complaint process, and update and clarify individual rights specific to the medicaid program. The department is repealing WAC 388-865-0255 that is outdated due to these new rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0255.

Statutory Authority for Adoption: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), and 71.34.380; 42 C.F.R. §438.400. Note: The Centers for Medicaid and Medicare [Medicare] Services (CMS) has proposed rule changes for 42 C.F.R. Parts 431, 433, 438, 440, 457 and 495 that will affect medicaid managed care regulations. The department anticipates future amendments to these WAC sections when the proposed CMS rules become final.

Adopted under notice filed as WSR 15-03-057 on January 15, 2015.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

A final cost-benefit analysis is available by contacting Kathy Sayre, 4500 10th Avenue S.E., Lacey, WA 98503, phone (360) 725-1342, fax (360) 725-2280, e-mail kathy.sayre@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 8, Amended 0, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 1.

Date Adopted: June 25, 2015.

Kevin Quigley
Secretary

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 15-15 issue of the Register.

WSR 15-14-058

**PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Behavioral Health and Service Integration Administration)

[Filed June 25, 2015, 3:36 p.m., effective July 26, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The new rules inform individuals applying for, eligible for, or receiving mental health services of their right to express dissatisfaction regarding a mental health service and how to use the regional support network's grievance system. The rules inform consumers of behavioral health ser-

WSR 15-14-063

**PERMANENT RULES
HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed June 26, 2015, 8:35 a.m., effective July 27, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending this rule to include continuous glucose monitoring systems among equipment that this program pays for with prior authorization. This update will make the rule consistent with other sections of WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 182-553-500.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-08-090 on March 31, 2015.

Changes Other than Editing from Proposed to Adopted Version: The agency made the following changes to the proposed rule:

~~WAC 182-553-500(3) The agency pays for FDA approved continuous glucose monitoring systems and related monitoring equipment and supplies with prior authorization when the client:~~

~~(a) Is either younger than nineteen years of age or enrolled in a continuous glucose monitoring trial. The trial must be approved by an institutional review board under RCW 70.02.010;~~

~~(b) Has diabetes mellitus and is insulin dependent;~~

~~(c) Has had a severe episode of hypoglycemia (blood glucose less than or equal to 50mg/dl) either requiring assistance from another person or complicated by a hypoglycemia-induced seizure;~~

~~(d) Has first tried a seventy-two hour monitoring period;~~

~~(e) Has recurrent unexplained severe hypoglycemic events despite modifications in therapy;~~

~~(f) Is followed by a pediatric endocrinologist;~~

~~(g) Has A1c target goals deemed appropriate by a physician; and~~

~~(h) Has submitted results of self-monitoring of blood glucose levels taken at least four times per day.~~

The agency pays for FDA-approved continuous glucose monitoring systems and related monitoring equipment and supplies with prior authorization for a client who:

(a) Either has had one or more severe episodes of hypoglycemia or is enrolled in a trial approved by an institutional review board;

(b) Is age eighteen and younger;

(c) Has a diagnosis of insulin dependent diabetes mellitus; and

(d) Is followed by an endocrinologist.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 26, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-16-059, filed 7/30/12, effective 8/30/12)

WAC 182-553-500 Home infusion therapy~~((#))~~ and parenteral nutrition program—Coverage, services, limitations, prior authorization, and reimbursement. (1) The home infusion therapy~~((#))~~ and parenteral nutrition program covers the following for eligible clients, subject to the limitations and restrictions listed:

(a) Home infusion supplies, limited to one month's supply per client, per calendar month.

(b) Parenteral nutrition solutions, limited to one month's supply per client, per calendar month.

(c) One type of infusion pump, one type of parenteral pump, and~~((#))~~ one type of insulin pump per client, per calendar month and as follows:

(i) All rent-to-purchase infusion, parenteral, and~~((#))~~ insulin pumps must be new equipment at the beginning of the rental period.

(ii) The agency covers the rental payment for each type of infusion, parenteral, or insulin pump for up to twelve months. ~~((#))~~ The agency considers a pump purchased after twelve months of rental payments. ~~((#))~~

(iii) The agency covers only one purchased infusion pump or parenteral pump per client in a five-year period.

(iv) The agency covers only one purchased insulin pump per client in a four-year period.

(2) Covered supplies and equipment that are within the described limitations listed in subsection (1) of this section do not require prior authorization for reimbursement.

(3) The agency pays for FDA-approved continuous glucose monitoring systems and related monitoring equipment and supplies with prior authorization for a client who:

(a) Either has had one or more severe episodes of hypoglycemia or is enrolled in a trial approved by an institutional review board;

(b) Is age eighteen and younger;

(c) Has a diagnosis of insulin dependent diabetes mellitus; and

(d) Is followed by an endocrinologist.

(4) Requests for supplies ~~((and/))~~ or equipment that exceed the limitations or restrictions listed in this section require prior authorization and are evaluated on an individual basis according to the provisions of WAC 182-501-0165 and 182-501-0169.

~~((#)) (5) The agency may adopt policies, procedure codes, and~~((#))~~ rates ~~((that are))~~ inconsistent with those set by medicare ~~((if the agency determines that such actions are necessary))~~.~~

~~((#)) (6) Agency reimbursement for equipment rentals and purchases includes the following:~~

~~((#)) (a) Instructions to a client ~~((#))~~ a caregiver, or both, on the safe and proper use of equipment provided;~~

~~((#)) (b) Full service warranty;~~

~~((#)) (c) Delivery and pickup; and~~

~~((#)) (d) Setup, fitting, and adjustments.~~

~~((#)) (6) Except as provided in subsection (6) of this section, ~~((#))~~ (7) The agency does not pay separately for home infusion supplies and equipment or parenteral nutrition solutions, except:~~

(a) When a client resides in a state-owned facility (~~((i.e.))~~ e.g., state school, a developmental disabilities (~~((DD))~~) facility, a mental health facility, Western State Hospital, (~~(and)~~) or Eastern State Hospital).

(b) When a client has elected and is eligible to receive the agency's hospice benefit, unless (~~(both of the following apply))~~):

(i) The client has a preexisting diagnosis that requires parenteral support; and

(ii) The preexisting diagnosis is not related to the diagnosis that qualifies the client for hospice.

~~((7))~~ (8) The agency pays separately for a client's infusion pump, parenteral nutrition pump, insulin pump, solutions, and (~~(for))~~ insulin infusion supplies when the client:

(a) Resides in a nursing facility; and

(b) Meets the criteria in WAC 182-553-300.

WSR 15-14-065
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed June 26, 2015, 10:13 a.m., effective July 27, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-79A-128, the result of the public hearing in January included removing conflicting language regarding uniform expiration dates. WSR 15-04-014 was filed without those changes. The incorrect language is removed.

Citation of Existing Rules Affected by this Order: Amending WAC 181-79A-128.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 15-09-062 on April 14, 2015.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 26, 2015.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 15-04-014, filed 1/23/15, effective 2/23/15)

WAC 181-79A-128 Temporary permits. Temporary permits may be issued by the superintendent of public instruction and designated agents under the following conditions:

(1) Temporary permits may be issued under this section to those persons who have filed an application for a certificate; who, based on available documentation, including affidavits or other evidence that appears reliable which substantiates the existence of missing documentation, appear to have completed all requirements for certification; and who do not disclose any information which indicates that such applicant fails to meet the character requirement of WAC 181-79A-150(2).

(2) An individual may apply for a permit directly to the superintendent of public instruction or designated agents—i.e., educational service districts or Washington state institutions of higher education.

(3) A permit entitles the holder to serve as a teacher, educational staff associate or administrator consistent with the endorsement(s) on his/her permit.

(4) A permit is valid for a minimum of one year (~~(calculated to the uniform expiration date in WAC 181-79A-117 (1)(a) and/or (b))~~) unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement. In such cases, the temporary permit shall expire on the date notice of cancellation is received by the applicant and/or the employer.

(5) The temporary permit may be reissued only upon demonstration that the applicant has made a good faith effort to secure the missing documentation; provided, that an individual affected by WAC 181-79A-132 may obtain one additional permit to meet additional endorsement requirements.

(6) Issuing authority. The superintendent of public instruction either directly or through a designated agent shall issue all permits and shall provide institutions of higher education and educational service districts with forms and instructions relevant to application for a permit.

WSR 15-14-073
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed June 26, 2015, 4:01 p.m., effective July 27, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-08-400 How much can a health care provider charge for searching and duplicating health care records?, the adopted rule adjusts the amounts health care providers may charge for searching and duplicating health care records. RCW 70.02.010(37) requires the adjustment to occur every two years based on the change in the consumer price index for the Seattle-Tacoma area. The amounts per page are increasing by 3.0 percent.

Citation of Existing Rules Affected by this Order: Amending WAC 246-08-400.

Statutory Authority for Adoption: RCW 70.02.010(37) and 43.70.040.

Adopted under notice filed as WSR 15-09-038 on April 9, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 26, 2015.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 13-14-092, filed 7/1/13, effective 8/1/13)

WAC 246-08-400 How much can a health care provider charge for searching and duplicating health care records? RCW 70.02.010(~~(45))~~ (37) allows health care providers to charge fees for searching and duplicating health care records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than one dollar and (~~(nine))~~ twelve cents per page for the first thirty pages;

(b) No more than (~~(eighty-two))~~ eighty-four cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a (~~(twenty-four))~~ twenty-five dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, (~~(2013))~~ 2015, through June 30, (~~(2015))~~ 2017.

(4) HIPAA covered entities shall refer to HIPAA regulation 45 C.F.R. 164.524 (c)(4).

WSR 15-14-075

PERMANENT RULES

DAIRY PRODUCTS COMMISSION

[Filed June 29, 2015, 8:30 a.m., effective August 1, 2015]

Effective Date of Rule: August 1, 2015.

Purpose: The purpose of this rule amendment is to decrease the amount of the maximum authorized assessment

rate on milk produced in Washington state by .01 (one-cent) per hundredweight.

Citation of Existing Rules Affected by this Order: Amending WAC 142-30-010.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 15.44.080, 15.44.130.

Adopted under notice filed as WSR 15-09-075 on April 15, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 25, 2015.

Janet C. Leister
General Manager

AMENDATORY SECTION (Amending WSR 07-23-095, filed 11/20/07, effective 1/1/08)

WAC 142-30-010 (~~(Declaration of purpose — Effective date.)~~) Assessment on milk produced in the state. To effectuate the purposes of chapter 15.44 RCW there is hereby levied upon all milk produced in this state an assessment of:

(1) 0.75 percent of the Class I price for 3.5% butterfat milk, as established in any market area by a market order in effect in that area or by the state department of agriculture in case there is no market order for that area; or

(2) While the Federal Dairy and Tobacco Adjustment Act of 1983, Title I, Subtitle B-Dairy Promotion Program, is in effect: (~~((a))~~) An assessment rate not to exceed the rate approved at the most recent referendum that would achieve a ten cent per hundredweight credit to local, state or regional promotion organizations provided by Title I, Subtitle B of the Federal Dairy and Tobacco Adjustment Act of 1983(~~(; and~~

~~(b) An additional assessment of .00625 (five-eighths of one cent) per hundredweight; and~~

~~(3) An additional assessment of .00375 (three-eighths of one cent) per hundredweight as allowed under RCW 15.44.080(2) and the referendum dated March 24, 1983).~~

WSR 15-14-077

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed June 29, 2015, 10:22 a.m., effective July 30, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Revising chapter 172-64 WAC, Alcohol policy at Eastern Washington University, to update rules and associated procedures related to the use of alcohol on property owned or controlled by Eastern Washington University. These revisions are needed to update university standards and processes concerning the use of alcohol on property owned or controlled by Eastern Washington University.

Citation of Existing Rules Affected by this Order: Amending chapter 172-64 WAC.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Adopted under notice filed as WSR 15-11-087 on May 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 26, 2015.

Trent Lutey
University Policy Administrator

AMENDATORY SECTION (Amending WSR 14-24-037, filed 11/24/14, effective 12/25/14)

WAC 172-64-020 Alcohol use in university residence halls. (1) Applicability. This section establishes rules for alcoholic beverages in residence halls that are owned or operated by Eastern Washington University.

(2) General policy. Persons, who are at least twenty-one years old, may possess and consume alcoholic beverages in the privacy of individual residence hall rooms subject to the requirements of this section.

(3) Restrictions.

(a) Consumption of alcoholic beverages is prohibited in any areas of residence halls outside of individual rooms including, but not limited to, hallways, entrances, corridors, lounges, and reception areas.

(b) Doors to individual residence hall rooms must remain closed while alcohol is being consumed.

(c) Kegs, common source containers, and nonalcoholic brews such as "near beer" are prohibited.

(d) Selling or providing alcohol to minors is prohibited.

(e) Alcohol is prohibited in any residence hall room where any student living in the room is under twenty-one years old, regardless of whether the under-age student is present or not.

(f) Alcohol may not be consumed in any room where any person present is under twenty-one years old.

(g) Alcohol may not be consumed in any area designated as alcohol-free housing.

(h) Residents in Brewster Hall, who are at least twenty-one years old, may have alcohol in their individual room but not in their common room areas if any of their suitemates are under twenty-one.

(i) Vendors may not deliver alcohol to residence halls or any other campus area except as provided for in WAC 172-64-090.

(j) Alcohol must not be visible to the public when carried into a residence hall.

(k) Alcohol containers may not be used as decorative pieces in residence halls.

(l) Students shall comply with reasonable requests by university staff to provide identification, proof of age, and/or show contents of a container when requested.

(m) Possession and consumption of alcohol in the privacy of individual residence hall rooms must not infringe on the privacy and peace of other individuals.

(n) Residence hall or housing funds may not be used to purchase alcoholic beverages.

~~(4) ((Roommate preference. A student planning to live in a residence hall may indicate their preference for a roommate who drinks alcohol or one who does not. Whenever possible, such requests will be honored by university housing officials.~~

~~(5))~~ Alcohol-free housing. Per RCW 28B.10.575, the university shall notify all students applying for student housing of the availability of housing where all alcoholic beverage use is prohibited. The university shall accommodate student requests for alcohol-free housing.

~~((6))~~ (5) Awareness.

~~((a) Each residence hall will hold a quarterly meeting for hall residents for the express purpose of discussing university rules regarding possession and consumption of alcohol.~~

~~(b) These rules, and related laws, ordinances, and university policies, will be conspicuously posted in each residence hall.)~~ The university shall distribute to students in university residence halls the process for reporting violations and complaints of alcohol and illegal drug use, the policies and procedures for investigating such complaints, and sanctions that may be applied for violations of the institution's alcohol and illegal drug use policies.

AMENDATORY SECTION (Amending WSR 14-24-037, filed 11/24/14, effective 12/25/14)

WAC 172-64-040 Alcohol use at ~~((on or off campus)) on-campus events and events off-campus that are sponsored by the university.~~ (1) Applicability. This section establishes rules for possessing, consuming, selling, and/or serving alcoholic beverages:

(a) At events on university-owned or operated property, regardless of whether the event is sponsored by the university and regardless of whether event sponsors are affiliated with the university; and

(b) At off-campus events that are sponsored, in whole or in part, by the university.

(2) An event is considered to be sponsored by the university when the event is organized and/or staffed by university

students or employees or when the event is funded, in whole or in part, by the university.

(3) Sponsor requirements. Sponsors of an event, as described in subsection (1) of this section, where alcohol is to be possessed, sold, served and/or consumed, must comply with the following requirements:

(a) Obtain written permission from the appropriate official(s):

(i) Student clubs and organizations must obtain permission from the student activities office;

(ii) For all other requests, sponsors must obtain permission from the vice-president for business and finance or designee;

(b) Contact event planning to request a banquet permit or a special occasion license per WAC 172-64-070;

(c) Comply with all Washington state laws, chapter 172-64 WAC, all other university rules and policies; and any additional instructions provided to the event/activity sponsor as a condition of approval;

(d) Ensure Washington state alcohol serving requirements are enforced:

(i) Event sponsors must ensure that all persons designated to serve alcohol are at least twenty-one years old and have received alcohol server training.

(ii) Event sponsors must ensure that servers check ID and do not serve alcohol to any person who is under twenty-one years old or who appears intoxicated;

(e) Prohibit serving alcohol during normal, university business hours unless an exception has been granted as part of the request under (a) of this subsection;

(f) Prohibit persons from bringing alcoholic beverages into the event unless specifically authorized by the banquet permit or special occasion license;

(g) Prohibit persons from taking alcoholic beverages outside of the approved alcohol use area, except for beer/wine in the original unopened container that is sold or auctioned for off-premises consumption as specifically authorized by a special occasion license;

(h) Provide food or snacks and nonalcoholic beverages at the same place as alcoholic beverages and feature nonalcoholic beverages at least as prominently as alcoholic beverages; and

(i) For an event on university owned or operated property, inform university police of the event and consult with the university police about appropriate security measures as provided for in subsection (5) of this section.

~~((3))~~ (4) Publicity and advertising.

(a) Events conducted under a banquet permit are by invitation only and may not be advertised to the public.

(b) All announcements and advertisements concerning an event including, but not limited to, flyers, notices, posters, banners, tee-shirts and newspaper and radio announcements, must:

(i) Note the availability of nonalcoholic beverages at least as prominently as the availability of alcoholic beverages;

(ii) State that proper identification is required in order to be served or sold alcoholic beverages; and

(iii) Not make reference to the amount of alcoholic beverages available at the event.

(c) All announcements and advertisements, as well as any promotions of specific alcoholic beverage brands at the event:

(i) Must not make reference to any form of drinking contest. Drinking contests and similar activities which encourage the rapid and/or excessive consumption of alcoholic beverages are prohibited;

(ii) Must not portray drinking as a solution to personal or academic problems or as necessary to social, sexual, or academic success; and

(iii) Must not encourage any form of alcohol abuse or place emphasis on quantity or frequency of consumption.

~~((4))~~ (5) Gifts, awards, and rewards. Alcoholic beverages may not be provided as gifts or awards to any person as part of any event conducted under a special occasion license.

~~((5))~~ (6) Security measures. The university police shall determine appropriate security measures to be taken for on-campus events where alcohol is to be possessed, consumed, sold, and/or served. University police shall coordinate with the events' sponsor and appropriate university personnel to assist in compliance with state laws and university rules.

AMENDATORY SECTION (Amending WSR 14-24-037, filed 11/24/14, effective 12/25/14)

WAC 172-64-050 Alcohol use during group ~~((field))~~ trips. (1) This section applies to the possession and consumption of alcoholic beverages by university employees and/or students when participating in a university sponsored or supported group ~~((field))~~ trip including, but not limited to, group attendance at conferences, conventions, seminars, training, field trips, etc.

(2) ~~((During a field trip,))~~ Unless an exception has been granted per subsection (3) of this section, during supervised periods of a group trip (e.g., when work, instruction, or official business is being conducted) employees and students shall not(=

~~((a))~~ possess or consume alcohol(=

~~((b) Transport alcoholic beverages in any vehicle, including personal and rental vehicles, used in support of a field trip)).~~

(3) Exceptions may be granted if the ~~((field))~~ trip involves attending a ~~((social))~~ function where the consumption of alcohol is a cultural or social expectation. Examples of such functions include, but are not limited to, receptions, cultural exchanges, and professional gatherings. Requests for exceptions must be made to the ~~((provost (for academic related events), or to the vice president for business and finance (for all other events))~~ appropriate vice-president. For approved requests, participants must:

(a) Comply with all applicable local laws; and

(b) Comply with all additional requirements and/or instructions provided as a condition of the approval.

(4) Notwithstanding any other rules or exceptions under this policy, university employees and students shall not:

(a) Consume alcohol during any period of time when they are responsible for the care and/or transportation of other group members:

(b) Transport alcoholic beverages in any vehicle, including personal and rental vehicles, used in support of a group trip.

WSR 15-14-078

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed June 29, 2015, 10:22 a.m., effective July 30, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapter 172-121 WAC, Eastern Washington University student conduct code, this revision modifies the violations covered under this rule to exclude acts of academic dishonesty which shall be subsequently governed by chapter 172-90 WAC, Student academic integrity.

Citation of Existing Rules Affected by this Order: Amending chapter 172-121 WAC.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Adopted under notice filed as WSR 15-11-089 on May 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 26, 2015.

Trent Lutey
University Policy Administrator

AMENDATORY SECTION (Amending WSR 14-24-039, filed 11/24/14, effective 12/25/14)

WAC 172-121-200 Violations. The following are defined as offenses which are subject to disciplinary action by the university.

(1) Acts of academic dishonesty. University policy regarding academic dishonesty is governed by the university academic integrity policy. ~~((However, repeated violations, as described in the academic integrity policy, are subject to action under the student conduct code. Academic dishonesty includes, but is not limited to, any of the following activities:~~

~~(a) Plagiarism: Representing the work of another as one's own work;~~

~~(b) Preparing work for another that is to be used as that person's own work;~~

~~(c) Cheating by any method or means;~~

~~(d) Knowingly and willfully falsifying or manufacturing scientific or educational data and representing the same to be the result of scientific or scholarly experiment or research; or~~

~~(e) Knowingly furnishing false information to a university official relative to academic matters.))~~

(2) Acts of social misconduct.

(a) Abuse. Physical abuse, verbal abuse, and/or other conduct which threatens or endangers the health or safety of any person.

(b) Bullying. Bullying is behavior that is:

(i) Intentional;

(ii) Targeted at an individual or group;

(iii) Repeated;

(iv) Objectively hostile or offensive; and

(v) Creates an intimidating and/or threatening environment which produces a risk of psychological and/or physical harm.

(c) Domestic violence and dating violence.

(i) Domestic violence means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

(B) Sexual assault of one family or household member by another; or

(C) Stalking of one family or household member by another family or household member.

(ii) Dating violence is a type of domestic violence, except the acts specified above are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. In determining whether such a relationship exists, the following factors are considered:

(A) The length of time the relationship has existed;

(B) The nature of the relationship; and

(C) The frequency of interaction between the parties involved in the relationship.

(d) Harassment, gender-based harassment, and sexual harassment.

(i) Harassment is conduct by any means that is sufficiently severe, pervasive, or persistent, and objectively offensive so as to threaten an individual or limit the individual's ability to work, study, participate in, or benefit from the university's programs or activities.

(ii) Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes. Gender-based harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(iii) Sexual harassment is unwelcome conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

In determining whether any of the above-listed types of harassment are severe, pervasive, or persistent, the university shall consider all relevant circumstances from both an objective and subjective perspective, including the type of harassment (verbal or physical); the frequency and severity of the conduct; the age, sex, and relationship of the individuals involved; the degree to which the conduct affected the victim; the setting and context in which the harassment occurred; whether other incidents have occurred at the university; and other relevant factors.

(e) Retaliation. Any actual or threatened retaliation or any act of intimidation intended to prevent or otherwise obstruct the reporting of a violation of this code is prohibited and is a separate violation of this code. Any actual or threatened retaliation or act of intimidation directed towards a person who participates in an investigation or disciplinary process under this code is prohibited and is a separate violation of this code.

(f) Sexual misconduct. Sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion, are types of sexual misconduct. Sexual violence is sexual intercourse or sexual contact with a person without his or her consent or when the person is incapable of giving consent. Consent means actual words or conduct indicating freely given agreement to the sexual act. Consent cannot be inferred from silence, passivity, or lack of active resistance. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. Sexual activity is nonconsensual when the victim is incapable of consent by reason of mental incapacity, drug/alcohol use, illness, unconsciousness, or physical condition. Sexual misconduct also includes, but is not limited to, indecent liberties, indecent exposure, sexual exhibitionism, sex-based cyber-harassment, prostitution or the solicitation of a prostitute, peeping or other voyeurism, or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the nonconsensual recording of sexual activity.

(g) Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for their health and/or safety or the health/safety of others; or

(ii) Suffer substantial emotional distress.

(h) Unauthorized use of electronic or other devices: Making an audio or video recording of any person while on university premises without the person's prior knowledge or without their effective consent, when such a recording is of a private conversation or of images taken of a person(s) at a time and place where the person would reasonably expect privacy and where such recordings are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view.

(3) Property violations. Theft of, damage to, or misuse of another person's or entity's property.

(4) Weapons. Possession, carrying, discharge or other use of any weapon is prohibited on property owned or con-

trolled by Eastern Washington University, except as permitted in (a) through (d) of this subsection. Examples of weapons under this section include, but are not limited to: Explosives, chemical weapons, shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, stun guns, electroshock weapons, and any item that can be used as an object of intimidation and/or threat, such as replica or look-a-like weapons.

(a) Commissioned law enforcement officers may carry weapons, which have been issued by their respective law enforcement agencies, while on campus or other university controlled property, including residence halls. Law enforcement officers must notify the university police of their presence on campus upon arrival.

(b) A person may possess a personal protection spray device, as authorized by RCW 9.91.160, while on property owned or controlled by Eastern Washington University.

(c) A person may bring a weapon onto campus for display or demonstration purposes directly related to a class or other educational activity, provided that they obtain prior authorization from the university police department. The university police department shall review any such request and may establish conditions to the authorization.

(d) Weapons that are owned by the institution for use in organized recreational activities or by special groups, such as EWU ROTC or university-sponsored clubs or teams, must be stored in a location approved by the university police department. These weapons must be checked out by the advisor or coach and are to be used only in organized recreational activities or by legitimate members of the club or team in the normal course of the club or team's related activity.

(5) Failure to comply.

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus;

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so;

(c) Failure to attend any medical treatment or evaluation program when directed to do so by the dean of students or other authorized university official.

(6) Trespassing/unauthorized use of keys.

(a) Trespass. Entering or remaining on university property without authorization.

(b) Unauthorized use of keys. Unauthorized possession, duplication, or use of university keys or access cards.

(7) Deception, forgery, fraud, unauthorized representation.

(a) Knowingly furnishing false information to the university.

(b) Forgery, alteration, or misuse of university documents, records, or instruments of identification. This includes situations of identity theft where a person knowingly uses or transfers another person's identification for any purpose.

(c) Forgery or issuing a bad check with intent to defraud.

(d) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(8) Safety.

- (a) Intentionally activating a false fire alarm.
- (b) Making a bomb threat.
- (c) Tampering with fire extinguishers, alarms, or safety equipment.
- (d) Tampering with elevator controls and/or equipment.
- (e) Failure to evacuate during a fire, fire drill, or false alarm.

(9) Alcohol, drugs, and controlled substances.

(a) Alcohol and substance violations. Use, possession, distribution, or sale of alcoholic beverages (except as permitted by university policy and state law) is prohibited. Under no circumstances may individuals under the age of twenty-one use, possess, distribute, manufacture or sell alcoholic beverages. Public intoxication is prohibited.

(b) Drugs and paraphernalia.

(i) Use, possession, distribution, manufacture, or sale of marijuana, drug paraphernalia and/or illegal drugs, narcotics or controlled substances, is prohibited.

(ii) Being under the influence of marijuana or an illegal substance, while on property owned or operated by the university, is prohibited. Being under the influence of a controlled substance, except when legally prescribed by a licensed medical practitioner, is also prohibited while on property owned or operated by the university.

(10) Hazing. Any act which, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization:

(a) Endangers the mental or physical health or safety of any student or other person;

(b) Destroys or removes public or private property; or

(c) Compels an individual to participate in any activity which is illegal or contrary to university rules, regulations or policies.

The express or implied consent of any participant is not a defense. A person who is apathetic or acquiesces in the presence of hazing violates this rule.

(11) Disruptive conduct/obstruction.

(a) Disruptive conduct. Conduct which unreasonably interferes with any person's ability to work or study, or obstructs university operations or campus activities.

(b) Disorderly conduct. Conduct that is disorderly, lewd, indecent or a breach of peace.

(c) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

(d) Demonstration. Participation in a campus demonstration which violates university regulations.

(12) Violations of other laws, regulations and policies.

(a) Violation of a local, county, state, or federal law.

(b) Violation of other university policies, regulations, or handbook provisions.

(13) Assisting/attempts. Soliciting, aiding, abetting, concealing, or attempting conduct in violation of this code.

(14) Acts against the administration of this code.

(a) Initiation of a complaint or charge knowing that the charge was false or with reckless disregard of its truth.

(b) Interference with or attempt to interfere with the enforcement of this code, including but not limited to, intimidation or bribery of hearing participants, acceptance of

bribes, dishonesty, or disruption of proceedings and hearings held under this code.

(c) Knowing violation of the terms of any disciplinary sanction or attached conditions imposed in accordance with this code.

(15) Other responsibilities:

(a) Guests. A student, student group or student organization is responsible for the conduct of guests on or in university property and at functions sponsored by the university or sponsored by any recognized university organization.

(b) Students studying abroad. Students who participate in any university sponsored or sanctioned foreign country study program shall observe the following rules and regulations:

(i) The laws of the host country;

(ii) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(iii) Any other agreements related to the student's study program in the foreign country; and

(iv) The student conduct code.

(16) Student organization and/or group offenses. Clubs, organizations, societies or similarly organized groups in or recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

WSR 15-14-079

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed June 29, 2015, 10:22 a.m., effective July 30, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Revising chapter 172-90 WAC, Student academic integrity at Eastern Washington University, to update rules and associated procedures related to academic integrity violations by students at Eastern Washington University. These revisions are needed to update university standards and processes concerning the administration of academic integrity processes.

Citation of Existing Rules Affected by this Order: Amending chapter 172-90 WAC.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Adopted under notice filed as WSR 15-11-088 on May 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 7, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 26, 2015.

Trent Lutey
University Policy Administrator

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-010 General. These rules establish standards for student academic integrity at Eastern Washington University (EWU). EWU expects the highest standards of academic integrity of its students. Academic integrity is the responsibility of both students and instructors. The university supports the instructor in setting and maintaining standards of academic integrity. Academic integrity is the foundation of a fair and supportive learning environment for all students. Personal responsibility for academic performance is essential for equitable assessment of student accomplishments. Charges of violations of academic integrity are reviewed through a process that allows for student learning and impartial review.

These rules apply to all EWU instructors, staff, and students admitted to the university, including conditional or probationary admittance, and to all departments and programs, in all locations, including online. These rules provide procedures for resolving alleged violations by students. All academic integrity ((~~review~~)) proceedings are brief adjudicative proceedings and shall be conducted in an informal manner.

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-020 Responsibilities. (1) Vice-provosts: The vice-provosts responsible for undergraduate and graduate education, or their designees, have primary responsibility for the university academic integrity program. The vice-provosts shall:

- (a) Oversee the academic integrity program;
- (b) Appoint the chair and members of the academic integrity board (AIB);
- (c) Maintain a system for academic integrity reporting and recordkeeping;
- (d) Serve as the final authority in administering the academic integrity program;
- (e) Maintain all academic integrity records per Washington state records retention standards;
- (f) Coordinate academic integrity training for instructors and students, as needed or requested; and
- (g) Develop and/or facilitate development of academic integrity program support resources, including guides, procedures, web presence, training materials, presentations, and similar resources.

Throughout this chapter and unless otherwise stated, the term "vice-provost," when used in the singular, shall mean

the vice-provost who is handling the academic integrity case or their designee.

(2) Academic integrity board (AIB): The academic integrity board is a standing committee of the faculty organization. The academic integrity board is responsible for administering and managing academic integrity functions.

(a) The AIB shall:

- (i) Promote academic integrity at EWU;
- (ii) Review academic integrity cases, make determinations as to whether a violation occurred, and impose academic and/or institutional sanctions;

(iii) Conduct academic integrity board hearings;

(iv) Assist vice-provosts in development of academic integrity program support resources;

((~~(iv)~~)) (v) Respond, as appropriate, to campus needs related to the academic integrity program;

((~~(v)~~)) (vi) Coordinate AIB activities with the vice-provosts; and

((~~(vi)~~)) (vii) Continually assess academic integrity process outcomes to ensure equitability of sanctions vis-à-vis violations.

(b) The AIB is appointed by the vice-provosts (jointly), based on recommendations from represented groups (e.g., colleges, library, ASEWU). Board composition or membership may be modified to support university needs with the consent of the vice-provosts and approval of the provost. At a minimum, AIB membership will include:

(i) Two members from each college, one primary and one alternate. Both must hold or have held instructor rank. The primary and alternate must be from different academic departments. The alternate shall serve when a case involves an instructor in the primary member's own department. The alternate may also serve when the primary member is not available. One of the primary members shall also be designated as vice-chair.

(ii) One member representing EWU libraries.

(iii) One student member representing ASEWU.

(iv) One chair (does not vote except to break a tie).

(c) The AIB holds regular meetings every two weeks at fixed times and reviews cases at these meetings. The AIB also conducts AIB hearings, as needed, for academic integrity cases involving possible sanctions of suspension or expulsion. AIB reviews and hearings are held in abeyance during holidays, academic breaks, and other times when no classes are scheduled. AIB reviews and hearings may be canceled in other circumstances with the consent of the AIB chair. Any member who is unavailable shall inform the AIB chair who will arrange for a replacement.

(d) A quorum shall consist of three voting members plus the chair((~~)~~) or vice-chair.

(3) Instructors shall:

(a) Know and follow the academic integrity rules and policies of the university;

(b) Include, in each course syllabus, a reference to university academic integrity standards and a clear statement that suspected violations will be handled in accordance with those standards;

(c) Hold students responsible for knowing these rules;

(d) Foster an environment where academic integrity is expected and respected;

(e) Endeavor to detect and properly handle violations of academic integrity; and

(f) Support and comply with the determinations of the AIB ~~and the vice-provost.~~

(4) Students shall:

(a) Demonstrate behavior that is honest and ethical in their academic work; and

(b) Know and follow the academic integrity rules and policies of the university.

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-060 Continuation in course. A student ~~((may)) is expected to~~ continue to attend and perform all expected ~~((functions)) course work~~ within a course (take tests, submit papers, participate in discussions, and labs, etc.) while a charge of a violation of academic integrity is under review, even if the instructor's recommendation is a failing grade in the course, suspension or expulsion. Full status as an enrollee in a course ~~((may)) is expected to~~ continue until a final sanction is imposed. A student may not continue to attend any course in which a final sanction of a failing grade, suspension, or expulsion has been imposed.

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-100 Violations and sanctions. (1) **Violations:** Violations of academic integrity involve the use or attempted use of any method or technique enabling a student to misrepresent the quality or integrity of any of his or her work. Violations of academic integrity include, but are not limited to:

(a) Plagiarism: Representing the work of another as one's own work;

(b) Preparing work for another that is to be used as that person's own work;

(c) Cheating by any method or means;

(d) Knowingly and willfully falsifying or manufacturing scientific or educational data and representing the same to be the result of scientific or scholarly experiment or research; or

(e) Knowingly furnishing false information to a university official relative to academic matters.

(2) **Classes of violations:**

(a) Class I violations are acts that are mostly due to ignorance, confusion and/or poor communication between instructor and class, such as an unintentional violation of the class rules on collaboration. Sanctions for class I offenses typically include a reprimand, educational opportunity, and/or a grade penalty on the assignment/test.

(b) Class II violations are acts involving a deliberate failure to comply with assignment directions, some conspiracy and/or intent to deceive, such as use of the internet when prohibited, fabricated endnotes or data, or copying answers from another student's test. Sanctions for class II offenses typically include similar sanctions as described for class I violations, as well as a course grade penalty or course failure.

(c) Class III violations are acts of violation of academic integrity standards that involve significant premeditation, conspiracy and/or intent to deceive, such as purchasing or

selling a research paper. Sanctions for class III violations typically include similar sanctions as given for class I and II violations, as well as possible removal from the academic program and/or suspension or expulsion.

(3) **Sanctions:** A variety of sanctions may be applied in the event that a violation of academic integrity is found to have occurred. Sanctions are assigned based primarily on the class of the violation and whether or not the student has previously violated academic integrity rules. ~~((Suspension for violation of academic integrity standards will ordinarily take place immediately-))~~ Absent extenuating circumstances, assigned sanctions are imposed without delay and are not held in abeyance during appeal actions. Sanctions may be combined and may include, but are not limited to:

(a) Verbal or written reprimand;

(b) Educational opportunity, such as an assignment, research or taking a course or tutorial on academic integrity;

(c) Grade penalty for the assignment/test;

(d) Course grade penalty;

(e) Course failure;

(f) Removal from the academic program;

(g) Suspension for a definite period of time; and

(h) Expulsion from the university.

If a student was previously found to have violated an academic integrity standard, the sanction imposed for any subsequent violations should take into account the student's previous behavior. ~~((A subsequent violation may result in either suspension for one or two full terms, excluding summer terms, or permanent expulsion from the university-))~~

(4) **Sanctioning authorities:**

(a) Instructors may impose reprimands, educational opportunities, grade penalties, and/or course failure sanctions and may recommend more severe sanctions.

(b) The academic integrity board has the authority to impose the same sanctions as an instructor, or to modify any sanctions imposed by the instructor. In addition, the AIB may remove a student from ~~((the)) an~~ academic program, with the concurrence of the instructor and the department chair. The AIB may also refer the ~~((student to student rights and responsibilities with a recommendation for suspension or expulsion under the student conduct code.~~

~~((The student disciplinary council may impose suspension or expulsion, subject to the approval of the dean of students and the vice president for student affairs))~~ case for an AIB hearing per WAC 172-90-170 for cases where possible sanctions include suspension or expulsion.

(c) In response to an AIB hearing panel's recommendation to suspend or expel a student, the vice-provost may concur with such recommendations and impose the suspension or expulsion, or may impose one or more lesser sanctions.

(d) In all cases, suspension and expulsion sanctions must also be approved by the provost before such sanction is imposed.

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-120 Initiation. (1) **Reporting:** Each member of the university community is responsible for supporting academic integrity standards. Any person who sus-

pects a violation of these rules is expected to report their suspicion to the course instructor or other appropriate university official. Students are strongly encouraged to report suspected violations to the course instructor, the vice-provost, or other university official.

Throughout this chapter, the term "instructor" shall refer to the instructor or other university official who reports a suspected violation under this chapter.

A person who knowingly makes a false allegation that a violation of these rules has occurred, will be subject to disciplinary action as appropriate.

(2) **Authority:** The primary responsibility for bringing a charge of violating academic integrity standards rests with the instructor. Graduate assistants, teaching assistants, research assistants, student workers, exam proctors, online coordinators and any other persons who assist or support an instructor in teaching should report suspected violations of academic integrity standards to the instructor of record.

Instructors may be represented by their academic department chair in cases where the instructor is unavailable or otherwise unable to actively participate in the process.

(3) **Contact student:** If an instructor suspects that a violation has occurred, the instructor may elect to discuss the matter with the student prior to taking any other action.

(4) **Instructor action:** In response to a report or suspicion of violation of academic integrity standards, the instructor has the following options:

(a) Dismiss the matter: If the instructor concludes that there is no violation of these rules, the matter is over.

(b) Resolve internally (internal resolution): If the instructor believes that the student committed a class I violation of academic rules, the instructor may take one or more of the following actions without entering an official violation per subsection (5) of this section:

(i) Instruct the student on academic integrity standards and explain how the student failed to comply with those standards;

(ii) Allow the student to modify or redo the assignment; and/or

(iii) Provide the student with an educational opportunity to reiterate academic integrity (such as an assignment, research, course or tutorial on academic integrity).

Note: If an instructor intends to impose any sanction that will affect the student's course grade, he/she must initiate the academic integrity process; internal resolution may not be used in such cases.

If the student does not cooperate with the internal resolution, the instructor should initiate the formal academic integrity process by reporting the violation as described in subsection (5) of this section.

(c) Initiate the academic integrity process: If the instructor believes that the student violated academic integrity standards and internal resolution is not appropriate, the instructor shall initiate the academic integrity process by reporting the violation to the vice-provost per institutional practice.

(5) **Report violation:** To initiate an academic integrity action, the instructor provides information regarding the violation to the vice-provost, including:

(a) A description of the alleged violation;

(b) A summary of any conversations the instructor has had with the student regarding the violation;

(c) The sanction(s) imposed and/or recommended by the instructor; and

(d) The method of resolution (~~((chosen))~~) desired by the instructor (i.e., summary process (~~((or))~~), AIB review, or AIB hearing).

When reporting the violation, the instructor may also submit documents (e.g., syllabus, test, essay, etc.) that are pertinent to the violation being reported. Alternatively, the instructor may elect to defer providing such documents unless or until the materials are later requested by the student, vice-provost, or the AIB.

Instructors (~~((must))~~) should initiate this process within seven calendar days after becoming aware of the suspected violation. In cases where the student has agreed to certain conditions to resolve the matter internally, per subsection (4)(b) of this section, and the student has failed to comply with those conditions, the instructor may initiate the process up to seven calendar days after the student has failed to meet a resolution condition.

(6) **Vice-provost review.** After a violation has been reported, the vice-provost will determine whether the summary process (~~((or the))~~), AIB review process, or AIB hearing process will be used.

In cases where the student has any prior violation, the vice-provost must process the case for AIB review under WAC 172-90-160, or AIB hearing under WAC 172-90-170.

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-140 Summary process. (1) Initiation: The summary process may be initiated when:

(a) The instructor and student both agree to the summary process; (~~((and))~~)

(b) The vice-provost agrees that the summary process is appropriate to the circumstances;

(c) The student has no prior violations of academic integrity; and

(d) The alleged behavior would most likely not warrant a sanction of suspension or expulsion.

(2) **Student notification:** The vice-provost will notify the student of the violation, proposed sanctions, and of their response options. Notification will be made to the student's official university e-mail address. If the student is no longer enrolled in the university, the vice-provost shall send the notification to the student's last known address. Notification will include:

(a) All information (~~((and documents))~~) provided by the instructor when the violation was reported and all documents related to the alleged violation. However, information and documents should be redacted to the extent their release would compromise test or examination contents or if the documents include other student's education records;

(b) Documents related to the alleged violation;

(c) A description of the university's academic integrity rules and processes, including a list of possible sanctions;

(~~((or))~~) (d) A description of the student's options; and

~~((d))~~ (e) Contact information for the vice-provost's office where the student can request further information and assistance.

(3) Student response options:

(a) Concur: The student may accept responsibility for the stated violation and accept all sanctions imposed and/or recommended by the instructor. The student indicates their acceptance by following the instructions provided with the notification. The vice-provost will coordinate sanctioning with the instructor and/or the AIB as needed.

(b) Conference: If a conference had not already occurred, the student may ((agree)) request to meet with the instructor in order to discuss the alleged violation and/or proposed sanction(s). If the instructor declines the request, the matter will be referred to the AIB for further review and action. The instructor and student may discuss the matter by any means that is agreeable to both (e.g., in-person, telephonically, or via e-mail). The student shall contact the instructor to arrange a discussion time/method.

(i) In arranging a conference, the instructor shall make a reasonable effort to accommodate the student's preferences, but is not obligated to meet with the student outside of normal "office" hours. If the student and instructor cannot agree on a date/time to meet, the instructor or student may refer the matter to the AIB for review and ~~((board))~~ action.

(ii) During a conference, the instructor and student will attempt to reach an agreement regarding the allegation and sanction(s).

(iii) If the student and instructor come to an agreement, the instructor will inform the vice-provost of the outcome. The vice-provost will coordinate sanctioning with the instructor and/or the AIB as needed.

(iv) If the student and the instructor cannot come to an agreement within seven instruction days, the instructor will inform the vice-provost and the matter will then be referred for AIB review and action.

(c) AIB review: The student may request that the matter be referred to the AIB for review and further action.

(d) Failure to respond: If the student does not respond to the notification within three instruction days, the vice-provost will send another notification to the student. Failure of the student to respond to the second notification within three instruction days will be treated as an admission of responsibility and acceptance of the proposed sanctions. The vice-provost will coordinate with the instructor to impose the appropriate sanction(s).

AMENDATORY SECTION (Amending WSR 14-20-082, filed 9/29/14, effective 10/30/14)

WAC 172-90-160 ((AIB)) Academic integrity board review process. (1) **Initiation:** The AIB review process will be initiated when:

(a) The instructor or student requests AIB review;

(b) The instructor refers the matter to the AIB because the instructor and student could not agree to a conference date/time or did not reach an agreement during a conference; or

(c) The vice-provost ~~((initiates a violation process against a student for repeated violations of academic integrity~~

~~standards))~~ determines that the AIB review process is appropriate to the circumstances.

(2) **Scheduling:** Within five instruction days of determining that an AIB review is in order, the vice-provost shall schedule a review for the next available meeting of the AIB.

(3) **Notification:** The vice-provost will notify the student, instructor, and AIB ~~((members))~~ chair. Notification will include:

(a) All information ~~((and documents))~~ provided by the instructor when the violation was reported and all documents related to the alleged violation. However, any such information and documents that were previously provided to the student are not required to be included in this notification. Also, information and documents should be redacted to the extent their release would compromise test or examination contents or if the documents include other student's education records;

(b) The date/time of the AIB review;

(c) Instructions on how to submit documents, statements, and other materials for consideration by the AIB;

(d) A clear statement that the AIB review is a closed process (no student, instructor or person other than the board is present at the review);

(e) A description of the specific rules governing the AIB review process;

(f) A description of the university's academic integrity rules and processes; and

(g) Contact information for the vice-provost's office where the student and/or instructor can request further information and assistance. Notifications will strongly encourage the student to contact the vice-provost to ensure that the student understands the process, the violation, and the potential sanctions.

(4) **Student and instructor response:** The student must ~~((respond to the AIB review notice within three instructional days. The student responds by submitting a written statement to the review board. The student may also))~~ prepare a written statement and submit the statement to the vice-provost's office within three instruction days after receiving the AIB review notice. The student may include any relevant written documentation, written third-party statements, or other evidence deemed relevant to the student's interests. ((The student may submit materials by submitting them to the vice-provost.

~~The instructor also submits materials to the AIB by providing the materials to the vice-provost. If the instructor has not already done so,))~~ Unless already provided, the instructor should submit the syllabus, the relevant test/assignment, and other materials that are pertinent to the violation to the vice-provost's office.

~~((Neither the student nor the instructor is permitted to attend the AIB review.))~~

(5) **Failure to respond:** If the student does not respond to the notification of the AIB review within three instructional days, the vice-provost will send another notification to the student. Failure of the student to respond to the second notification within three instruction days will be treated as an admission of responsibility and acceptance of the proposed sanctions. The vice-provost will coordinate sanctioning with the instructor and/or the AIB as needed. If a recommended

sanction requires (~~(AIB or)~~) higher level authority to impose, the AIB will proceed with a (~~(review)~~) hearing.

(6) **Proceedings:** The board's responsibility is to review the statements and other materials provided by each party, review other relevant records, information, or materials, and make a determination as to whether the alleged academic integrity violation occurred. The board primarily reviews written evidence. Neither the student nor the instructor is permitted to attend the AIB review. The board may, at its discretion, consult with the instructor, the student or others as deemed appropriate or necessary. All evidence collected in this process will be made available to the student and/or instructor upon request.

(7) **Sanctions:** The board will determine what, if any, sanctions will be imposed. The board may impose the same sanctions assigned and/or recommended by the instructor, or may impose greater or lesser sanctions. If the student has any previous violation(s) of academic integrity standards, the AIB may increase the sanction imposed to account for repeat offenses. ~~((The board may also refer the student to student rights and responsibilities with a recommendation for suspension or expulsion under the student conduct code.))~~ If the board decides to pursue sanctions that include suspension or expulsion, the board shall initiate an AIB hearing per WAC 172-90-170.

(8) **Conclusion:** The board should conclude its review and issue a decision within thirty days after the violation was initially reported. The vice-provost shall notify the student and instructor of the board's decisions, along with the right to request reconsideration.

(9) **Requests for review:** Either the student or the instructor may request reconsideration by the vice-provost by submitting a request in writing to the vice-provost within twenty-one days after the board issues its written decision. The vice-provost shall allow the student and the instructor an opportunity to respond in writing to the (~~(student's)~~) request for review. The student and instructor's responses, if any, must be submitted within five instructional days of the request for review. After reviewing the responses and materials considered by the board, the vice-provost shall issue a decision in writing within twenty days of receipt of the request for review. The decision must include a brief statement of the reasons for the vice-provost's decision and notice that judicial review may be available. All decisions of the vice-provost are final and no appeals are permitted.

NEW SECTION

WAC 172-90-170 Academic integrity board hearing. AIB hearings will only be conducted when the institution is pursuing sanctions that include either suspension or expulsion. The AIB hearing provides the instructor and the student with the opportunity to present evidence and witnesses.

(1) **Scheduling and notification:**

(a) Initiation: The AIB hearing process will be initiated when the vice-provost or the AIB determines that the alleged violation may involve a possible sanction of suspension or expulsion.

(b) Scheduling: Within five instruction days of determining that an AIB hearing is in order, the vice-provost shall

schedule the hearing. The student must receive at least seventy-two hours' notice as to the time and place of the hearing. The vice-provost may coordinate with the parties to facilitate scheduling, but is not required to do so.

(c) Notification: The vice-provost will notify the student, instructor, and AIB hearing panel members. Notification will include:

(i) All information provided by the instructor when the violation was reported and all documents related to the alleged violation. However, any such information and documents that were previously provided to the student are not required to be included in the notification sent to the student. Also, information and documents should be redacted to the extent their release would compromise test or examination contents or if the documents include other students' education records;

(ii) A description of the university's academic integrity rules and processes, including any possible sanctions;

(iii) The date, time, and place of the AIB hearing;

(iv) Instructions on how to submit documents, statements, and other materials for consideration by the AIB hearing panel;

(v) A description of the specific rules governing the AIB hearing process;

(vi) A description of the student's options; and

(vii) Contact information for the vice-provost's office where the student and/or instructor can request further information and assistance. Notifications will strongly encourage the student to contact the vice-provost to ensure that the student understands the process, the violation, and the potential sanctions.

(2) **General provisions:**

(a) All academic integrity board hearings are brief adjudicative proceedings in accordance with WAC 172-108-010 and shall be conducted in an informal manner.

(b) Nonjudicial proceedings: Formal rules of procedure, evidence, and/or technical rules, such as are applied in criminal or civil courts, do not apply to AIB hearings.

(c) Hearing authority: When scheduling an AIB hearing, a member of the AIB will be designated as hearing authority. The hearing authority exercises control over hearing proceedings. All procedural questions are subject to the final decision of the hearing authority.

(d) Hearing panel composition: In addition to the hearing authority, an AIB hearing panel shall consist of three voting members of the AIB.

(e) Closed hearings: All AIB hearings will be closed. Admission of any person, other than the instructor and the student involved, to an AIB hearing shall be at the discretion of the hearing authority.

(f) Consolidation of hearings: In the event that one or more students are charged with an academic integrity violation arising from the same occurrence, the university may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(3) **Appearance:**

(a) Failure to appear: The student is expected to attend the AIB hearing. In cases where proper notice has been given but the student fails to attend an AIB hearing, the hearing

panel shall decide the case based on the information available.

(b) **Disruption of proceedings:** Any person, including the student, who disrupts a hearing, may be excluded from the proceedings.

(c) **Alternative methods of appearance.** In the interest of fairness and expedience, the hearing authority may permit any person to appear by telephone, written statement, or other means, as appropriate.

(d) The instructor may attend the hearing but is not required to do so. The instructor's report of the violation and all associated evidence shall constitute the appearance of the instructor.

(4) **Advisors:** The instructor and the student may be assisted by one advisor of their choice, subject to the following provisions:

(a) Any fees or expenses associated with the services of an advisor are the responsibility of the instructor or the student that employed the advisor;

(b) The advisor may be an attorney;

(c) The instructor and the student are responsible for presenting their own case and, therefore, advisors may not speak or participate directly in any AIB hearing proceeding. The instructor and/or the student may, however, speak quietly with their advisor during such proceedings; and

(d) If an attorney is used as an advisor, the person using the attorney shall inform the AIB hearing authority of their intent to do so at least two business days prior to the hearing.

(5) **Review of evidence:** The student and the instructor may request to view material related to the case prior to a scheduled hearing by contacting the vice-provost. To facilitate this process, the party should contact the vice-provost as early as possible prior to the scheduled hearing. The vice-provost shall make a reasonable effort to support the request to the extent allowable by state and federal law.

(6) **Evidence:**

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the hearing panel. However, AIB hearings are not bound by the rules of evidence observed by courts. The hearing authority may exclude incompetent, irrelevant, immaterial or unduly repetitious material.

(b) The student and the instructor have the right to view all material presented during the course of the hearing.

(7) **Standard of proof:** The hearing panel shall determine whether the student violated student academic integrity standards, as charged, based on a preponderance of the evidence.

A preponderance means, based on the evidence admitted, whether it is more probable than not that the student violated academic integrity standards.

(8) **Witnesses:**

(a) The instructor, student, and hearing authority may present witnesses at AIB hearings.

(b) The party who wishes to call a witness is responsible for ensuring that the witness is available and present at the time of the hearing.

(c) The hearing authority may exclude witnesses from the hearing room when they are not testifying. The hearing authority is not required to take the testimony of all witnesses

called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious.

(d) All parties have the right to hear all testimony provided by witnesses during the hearing.

(9) **Questioning:**

(a) The instructor and the student may submit questions to be asked of each other or of any witnesses. Questions shall be submitted, in writing, to the hearing authority. The hearing authority may ask such questions, but is not required to do so. The hearing authority may reject any question which it considers inappropriate, irrelevant, immaterial or unduly repetitious. The hearing authority has complete discretion in determining what questions will be asked during the hearing.

(b) During an AIB hearing, only the hearing authority may pose questions to persons appearing before them.

(c) The hearing authority may ask their own questions of any witness called before them.

(10) **Deliberations and sanctions:**

(a) Within seven days after the hearing, the AIB hearing panel shall meet in closed session, without either of the parties present, and determine by majority vote whether, by a preponderance of the evidence, the accused violated academic integrity standards. If the hearing panel determines that the accused violated academic integrity standards, the panel shall then determine, by majority vote, what sanctions shall be imposed. This session may take place immediately following the hearing or at another time within the seven days following the hearing.

(b) In determining what sanctions shall be imposed, the hearing panel may consider the evidence presented at the hearing as well as any information contained in the student's records.

(11) **Notification:** If the panel determines that suspension or expulsion is appropriate, they will forward that recommendation to the vice-provost. If the panel is not recommending suspension or expulsion, they shall notify the vice-provost of the sanctions to be imposed.

(12) **Vice-provost:**

(a) If the AIB panel recommends suspension or expulsion, the vice-provost may approve the recommendation, subject to the approval of the provost, or may impose lesser sanctions. If the AIB panel does not recommend suspension or expulsion, the vice-provost shall impose the sanctions determined by the AIB panel.

(b) The vice-provost shall notify the student and the instructor of the hearing panel's decision, the sanctions to be imposed, and of the right to appeal.

(13) **Appeals of AIB hearing determinations:** Either the student or the instructor may request reconsideration by the provost by submitting a request in writing to the provost within twenty-one days after the hearing panel issues its decision. The provost shall allow the student and the instructor an opportunity to respond in writing to the request for review. The student and instructor's responses, if any, must be submitted within five instructional days of the request for review. After reviewing the responses and materials considered by the hearing panel, the provost shall issue a decision in writing within twenty days of receipt of the request for review. The decision must include a brief statement of the reasons for the provost's decision and notice that judicial

review may be available. All decisions of the provost are final and no appeals are permitted.

WSR 15-14-080
PERMANENT RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 29, 2015, 10:26 a.m., effective July 30, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule filing is necessary to update incorrect cross-citations, agency names, and programs referenced in this chapter.

Citation of Existing Rules Affected by this Order: Amending WAC 182-511-1000, 182-511-1050, 182-511-1100, 182-511-1150, and 182-511-1250.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-09-045 on April 10, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: June 29, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

WAC 182-511-1000 Health care for workers with disabilities (HWD)—Program description. This section describes the health care for workers with disabilities (HWD) program.

(1) The HWD program provides categorically needy (CN) scope of care as described in WAC ((~~388-501-0060~~)) 182-501-0060.

(2) The ((~~department~~)) medicaid agency approves HWD coverage for twelve months effective the first of the month in which a person applies and meets program requirements. See WAC ((~~388-475-1100~~)) 182-511-1100 for "retroactive" coverage for months before the month of application.

(3) A person who is eligible for another medicaid program may choose not to participate in the HWD program.

(4) A person is not eligible for HWD coverage for a month in which the person received medicaid benefits under the medically needy (MN) program.

(5) The HWD program does not provide long-term care (LTC) services described in chapters ((~~388-513 and 388-515~~)) 182-513 and 182-515 WAC. LTC services include institutional, waived, and hospice services. To receive LTC services, a person must qualify and participate in the cost of care according to the rules of those programs.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

WAC 182-511-1050 Health care for workers with disabilities (HWD)—Program requirements. This section describes requirements a person must meet to be eligible for the health care for workers with disabilities (HWD) program.

(1) To qualify for the HWD program, a person must:

(a) Meet the general requirements for a medical program described in WAC ((~~388-503-0505~~)) 182-503-0505 (3)(a) through (f);

(b) Be age sixteen through sixty-four;

(c) Meet the federal disability requirements described in WAC ((~~388-475-1150~~)) 182-511-1150;

(d) Have net income at or below two hundred twenty percent of the federal poverty level (FPL) (see WAC ((~~388-478-0075~~)) 182-511-1060 for FPL amounts for medical programs); and

(e) Be employed full or part time (including self-employment) as described in WAC ((~~388-475-1200~~)) 182-511-1200.

(2) To determine net income, the ((~~department~~)) medicaid agency applies the following rules to total gross household income in this order:

(a) Deduct income exclusions described in WAC ((~~388-475-0800, 388-475-0820, 388-475-0840, and 388-475-0860~~)) 182-512-0800, 182-512-0820, 182-512-0840, and 182-512-0860; and

(b) Follow the CN income rules described in:

(i) WAC ((~~388-475-0600~~)) 182-512-0600, SSI-related medical—Definition of income;

(ii) WAC ((~~388-475-0650~~)) 182-512-0650, SSI-related medical—Available income;

(iii) WAC ((~~388-475-0700~~)) 182-512-0700 (1) through (5), SSI-related medical—Income eligibility;

(iv) WAC ((~~388-475-0750~~)) 182-512-0750, SSI-related medical—Countable unearned income; and

(v) WAC ((~~388-506-0620~~)) 182-512-0960, SSI-related medical clients.

(3) The HWD program does not require an asset test.

(4) Once approved for HWD coverage, a person must pay ((~~his/her~~)) the monthly premium in the following manner to continue to qualify for the program:

(a) The ((~~department~~)) agency calculates the premium for HWD coverage according to WAC ((~~388-475-1250~~)) 182-511-1250;

(b) If a person does not pay four consecutive monthly premiums, the person is not eligible for HWD coverage for the next four months and must pay all premium amounts owed before HWD coverage can be approved again; and

(c) Once approved for HWD coverage, a person who experiences a job loss can choose to continue HWD coverage through the original twelve months of eligibility, if the following requirements are met:

- (i) The job loss results from an involuntary dismissal or health crisis; and
- (ii) The person continues to pay the monthly premium.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

WAC 182-511-1100 Health care for workers with disabilities (HWD)—Retroactive coverage. This section describes requirements for retroactive coverage provided under the health care for workers with disabilities (HWD) program.

(1) Retroactive coverage refers to the period of up to three months before the month in which a person applies for the HWD program. The ~~((department))~~ medicaid agency cannot approve HWD coverage for a month that precedes January 1, 2002.

(2) To qualify for retroactive coverage under the HWD program, a person must first:

(a) Meet all program requirements described in WAC ~~((388-475-1050))~~ 182-511-1050 for each month of the retroactive period; and

(b) Pay the premium amount for each month requested within one hundred twenty days of being billed for such coverage.

(3) If a person does not pay premiums in full as described in subsection (2)(b) for all months requested in the retroactive period, the ~~((department))~~ agency denies retroactive coverage and refunds any payment received for those months.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

WAC 182-511-1150 Health care for workers with disabilities (HWD)—Disability requirements. This section describes the disability requirements for the two groups of individuals that may qualify for the health care for workers with disabilities (HWD) program.

(1) To qualify for the HWD program, a person must meet the requirements of the Social Security Act in section 1902 (a)(10)(A)(ii):

- (a) (XV) for the basic coverage group (BCG); or
- (b) (XVI) for the medical improvement group (MIG).

(2) The BCG consists of individuals who:

(a) Meet federal disability requirements for the supplemental security income (SSI) or Social Security Disability Insurance (SSDI) program; or

(b) Are determined by the ~~((division of disability determination services (DDDS)))~~ developmental disabilities administration (DDA) to meet federal disability requirements for the HWD program.

(3) The MIG consists of individuals who:

(a) Were previously eligible and approved for the HWD program as a member of the BCG; and

(b) Are determined by DDDS to have a medically improved disability. The term "medically improved disability"

refers to the particular status granted to persons described in subsection (1)(b).

(4) When completing a disability determination for the HWD program, ~~((DDDS))~~ DDA will not deny disability status because of employment.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

WAC 182-511-1250 Health care for workers with disabilities (HWD)—Premium payments. This section describes how the ~~((department))~~ medicaid agency calculates the premium amount a person must pay for health care for workers with disabilities (HWD) coverage. This section also describes program requirements regarding the billing and payment of HWD premiums.

(1) When determining the HWD premium amount, the ~~((department))~~ agency counts only the income of the person approved for the program. It does not count the income of another household member.

(2) When determining countable income used to calculate the HWD premium, the ~~((department))~~ agency applies the following rules:

(a) Income is considered available and owned when it is:

(i) Received; and

(ii) Can be used to meet the person's needs for food, clothing, and shelter, except as described in WAC ~~((388-475-0600(5), 388-475-0650, and 388-475-0700(1)))~~ 182-512-0600(5), 182-512-0650, and 182-512-0700(1).

(b) Loans and certain other receipts are not considered to be income as described in 20 C.F.R. Sec. 416.1103, e.g., direct payment by anyone of a person's medical insurance premium or a tax refund on income taxes already paid.

(3) The HWD premium amount equals a total of the following (rounded down to the nearest whole dollar):

(a) Fifty percent of unearned income above the medically needy income level (MNIL) described in WAC ~~((388-478-0070))~~ 182-519-0050; plus

(b) Five percent of total unearned income; plus

(c) Two point five percent of earned income after first deducting sixty-five dollars.

(4) When determining the premium amount, the ~~((department))~~ agency will use the current income amount until a change in income is reported and processed.

(5) A change in the premium amount is effective the month after the change in income is reported and processed.

(6) For current and ongoing coverage, the ~~((department))~~ agency will bill for HWD premiums during the month following the month in which coverage is approved.

(7) For retroactive coverage, the ~~((department))~~ agency will bill the HWD premiums during the month following the month in which coverage is requested and necessary information is received.

(8) If initial coverage for the HWD program is approved in a month that follows the month of application, the first monthly premium includes the costs for both the month of application and any following month(s).

(9) As described in WAC ~~((388-475-1050))~~ 182-511-1050 (4)(b), the ~~((department))~~ agency will close HWD cov-

erage after four consecutive months for which premiums are not paid in full.

(10) If a person makes only a partial payment toward the cost of HWD coverage for any one month, the person remains one full month behind in the payment schedule.

(11) The ~~((department))~~ agency first applies payment for current and ongoing coverage to any amount owed for such coverage in an earlier month. Then it applies payment to the current month and then to any unpaid amount for retroactive coverage.

WSR 15-14-087

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Behavioral Health and Service Integration Administration)

[Filed June 29, 2015, 3:35 p.m., effective July 30, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending this rule to meet the requirements of the Washington supreme court decision in *In re the Detention of D.W., et al.*, No. 90110-4. WAC 388-865-0526 contains the department's rules for single bed certification which allows for the inpatient treatment of adults and children in facilities that are not certified as inpatient evaluation and treatment facilities. The amendment: (1) Allows residential treatment facilities, psychiatric hospitals, hospitals with a psychiatric unit, and hospitals that can provide timely and appropriate mental health treatment to be recognized for single bed certification; (2) requires that any facility which is the site of a proposed single bed certification confirm that it is willing to provide treatment services; (3) articulates standards that facilities must meet while operating under a single bed certification; and (4) clarifies that the regional support networks retain responsibility for ensuring that the rights of patients are protected while in single bed certifications. The permanent rule will replace the current emergency rule filed under WSR 15-09-122 and effective April 21, 2015.

Citation of Existing Rules Affected by this Order: Amending WAC 388-865-0526.

Statutory Authority for Adoption: RCW 71.05.560, 71.24.035, 71.34.380, and chapter 71.05 RCW.

Adopted under notice filed as WSR 15-11-085 on May 19, 2015.

A final cost-benefit analysis is available by contacting Kathy Sayre, 4500 10th Avenue S.E., Lacey, WA 98503, phone (360) 725-1342, fax (360) 725-2280, e-mail kathy.sayre@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 26, 2015.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-02-030, filed 12/30/08, effective 1/30/09)

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

(1) The regional support network (RSN) or its designee must submit a written request for a single bed certification to the ~~((mental health division prior to the commencement of the order))~~ department. In the case of a child, the facility must submit the written request ~~((directly))~~ to the ~~((mental health division))~~ department. The request must be submitted and approved by the department for a facility to accept an individual for timely and appropriate treatment under this section. If the ~~((DHS secretary))~~ department has assumed the duties assigned to a nonparticipating ~~((regional support network))~~ RSN, ~~((a single bed certification may be requested by a mental health division designee contracted to provide inpatient authorization or designated crisis response services))~~ an entity designated by the department will perform the functions described in this section.

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

(3) A single bed certification may be issued to the facility for timely and appropriate mental health treatment when the following requirements are met in each instance where such certification is sought for an individual:

(a) The facility that is the site of the proposed single bed certification confirms that it is willing and able to provide directly, or by direct arrangement with other public or private agencies, timely and appropriate mental health treatment to the consumer for whom the single bed certification is sought; and

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

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

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

(ii) The consumer can receive appropriate mental health treatment in a residential treatment facility, as defined in WAC 246-337-005, and the single bed certification will be only to that facility; or

(iii) The consumer can receive appropriate mental health treatment in a hospital with a psychiatric unit, or a hospital that is willing and able to provide timely and appropriate mental health treatment, or a psychiatric hospital, and the single bed certification will apply only to that facility.

(3) In order to provide timely and appropriate mental health treatment, the facility receiving the single bed certification, or the public or private agency the facility has a direct arrangement with to provide mental health treatment, must:

(a) Implement standards for administration that include written procedures to assure that a mental health professional, as defined in RCW 71.05.020 or WAC 388-865-0150, and licensed physicians are available for consultation and communication with both the consumer and the direct patient care staff;

(b) Use a plan of care/treatment. The medical or clinical record must contain documentation that:

(i) An individualized mental health treatment plan was developed, when possible, collaboratively with the consumer. If the consumer is unwilling or unable to participate in development of the plan, documentation must be made in the record. Development of this plan may include participation of a multidisciplinary team, a mental health professional, as defined in RCW 71.05.020 or WAC 388-865-0150, or collaboration with members of the consumer's support system as identified by the consumer.

(ii) A mental health professional, as defined in RCW 71.05.020 or WAC 388-865-0150, has had contact with each involuntarily detained consumer at least daily for the purposes of:

(A) Observation and evaluation; and

(B) Assessing whether the consumer is appropriate for release from involuntary commitment to accept treatment on a voluntary basis.

(c) Have standards for administration and monitoring of medication, including psychiatric medications. Consumers have a right to make an informed decision regarding the use of antipsychotic medication consistent with RCW 71.05.215.

(4) If a consumer requires medical services that are not generally available at a facility certified under this chapter, or at a state psychiatric hospital when a court has ordered a ninety- or one hundred eighty-day inpatient commitment, or at a facility that meets the requirements of subsections (2) and (3) of this section, a single bed certification may be issued to that facility for the consumer as follows:

(a) The single bed certification request must adequately describe why the consumer requires medical services that are not available at a facility certified under this chapter, or at a

state psychiatric hospital when a court has ordered a ninety- or one hundred eighty-day inpatient commitment, or at a facility that meets the requirements of subsections (2) and (3) of this section;

(b) The facility that is the site of the requested single bed certification must confirm that it is willing and able to provide the medical services; and

(c) The facility has documented that one of the following has been met:

(i) With the authorization of the hospital, and consistent with any applicable hospital policies and procedures, the RSN assigns a mental health professional to provide the consumer appropriate mental health treatment at the facility, including observation and evaluation, during the period of time the consumer is provided medical services; or

(ii) The hospital provides medical services and a plan that addresses the consumer's mental health treatment needs until the consumer is medically stable and the RSN or its designee identifies an appropriate facility for the consumer that is one of the following:

(A) The hospital providing services;

(B) A facility that is certified as an evaluation and treatment (E & T) facility; or

(C) A facility that can meet the consumer's needs under the single bed certification criteria in this section.

(d) If a qualified medical professional determines that mental health treatment for the consumer is not clinically indicated, the requirements in (c) of this subsection do not apply. When the consumer is determined to be medically stable, the facility must ensure the requirements in (c) of this subsection are met.

~~(5) The ((mental health division director or the director's designee)) department makes the decision and gives written notification to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal ((law)) or state ((statute)) law.~~

~~((5))~~ (6) A consumer who receives services under a single bed certification under this section must be transferred to an evaluation and treatment facility if on a seventy-two hour detention or fourteen-day commitment, or to a state hospital if on a ninety- or one hundred eighty-day inpatient commitment, as soon as the attending physician considers the consumer medically stable and a bed becomes available, unless the treating facility consents to continue treatment and continued treatment in the current setting is consistent with the best clinical interests of the consumer.

~~(7) The ((mental health division)) department may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the ((mental health division)) department determines that the violation places consumers in imminent jeopardy, immediate revocation of this exception can occur.~~

~~((6))~~ (8) The RSN retains the responsibility for ensuring due process required by RCW 71.24.300 (6)(b).

~~(9) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding single bed certification decisions by ((mental health division)) department staff.~~

Reviser's note: The typographical 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.

WSR 15-14-092
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Hearing and Speech)

[Filed June 29, 2015, 4:11 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: EHB 2108 (chapter 189, Laws of 2014) requires an option for a nine-month certificate program for hearing aid specialist licensure be implemented by July 1, 2015.

Purpose: Chapter 246-828 WAC, the rules implement EHB 2108 which changed the name of the hearing instrument fitter/dispenser credential to hearing aid specialist and added a route to licensure that includes a practical exam and a nine-month certificate. The rules also make housekeeping, exam, continuing education (CE), and sexual misconduct updates; add CE requirements for speech-language pathology assistants; and add temporary practice permits for military spouses.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-828-360 and 246-828-605; and amending WAC 246-828-020, 246-828-025, 246-828-040, 246-828-045, 246-828-04503, 246-828-04505, 246-828-075, 246-828-080, 246-828-090, 246-828-095, 246-828-100, 246-828-105, 246-828-112, 246-828-220, 246-828-270, 246-828-290, 246-828-305, 246-828-320, 246-828-330, 246-828-350, 246-828-370, 246-828-510, 246-828-570, 246-828-600, 246-828-610, 246-828-615, 246-828-617, 246-828-620 and 246-828-625; and new section WAC 246-828-315.

Statutory Authority for Adoption: EHB 2108, RCW 18.35.161, 18.130.062, and 18.130.020.

Adopted under notice filed as WSR 15-09-112 on April 21, 2015.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-828-100 (3)(e), removed the "M.A." before "audiologist."; WAC 246-828-112, renumbered for clarity; WAC 246-828-510(1), removed "in the categories below" and renumbered within the subsection; added subsection (2) "Continuing education is defined as any of the following activities."; and renumbered the remaining subsections.

A final cost-benefit analysis is available by contacting Janette Benham, Department of Health, P.O. Box 47852, Olympia, WA 98504, phone (360) 236-4857, fax (360) 236-2901, e-mail janette.benham@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 12, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 18, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 30, Repealed 2.

Date Adopted: May 27, 2015.

James E. Deal
Chair

AMENDATORY SECTION (Amending WSR 03-21-114, filed 10/20/03, effective 11/20/03)

WAC 246-828-020 Examinations. ~~((1) The examination required of hearing instrument fitter/dispenser license applicants shall be the International Institute for Hearing Instrument Studies (IHIS) including a passing score according to standards established by the International Hearing Society.~~

~~Applications for examinations shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.~~

~~(2) The examination required of audiology license applicants shall be the National Examination in Audiology (NESPA), including a passing examination score of six hundred or greater.~~

~~(3) The examination required of speech language pathologist license applicants shall be the National Examination in Speech Language Pathology (NESPA), including a passing examination score of six hundred or greater.)~~ (1) All hearing aid specialist credential applicants are required to take the written International Licensing Exam developed by the International Hearing Society or other entity approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(2) Hearing aid specialist credential applicants who have completed a board-approved nine-month certificate program are required to take the practical examination approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(3) Audiology credential applicants are required to take the Praxis audiology exam or other entity approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(4) Speech-language pathologist credential applicants are required to take the Praxis speech-language pathology exam or other entity approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(5) All credential applicants are required to take and pass a jurisprudence examination approved by the board. The

passing score on the jurisprudence examination is one hundred percent.

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-025 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Board-approved institution of higher education" means:

(a) An institution offering a program in audiology or speech-language pathology leading to a master's degree(;) or its equivalent, or a doctorate degree or its equivalent, that has been accredited by the council on academic accreditation in audiology and speech-language pathology, or an equivalent program.

(b) An institution offering a speech-language pathology assistant program or a speech, language, and hearing program approved by the state board for community and technical colleges, the higher education coordinating board, or an equivalent body from another state or province. This program must lead to an associate of arts or sciences degree, certificate of proficiency, or bachelor of arts or sciences degree.

(c) A board-approved institution (~~shall~~) must integrate instruction in multicultural health as part of its basic education preparation curriculum under RCW 43.70.615.

(2) "Direct supervision" means the supervisor is on-site and in view during the procedures or tasks.

(3) "Indirect supervision" means the procedures or tasks are performed under the supervising speech-language pathologist's, audiologist's, or hearing aid specialist's overall direction and control and the supervisor is accessible, but the supervisor's presence is not required during the performance of procedures or tasks.

(4) "Place or places of business" means a permanent address open to the public, which may include an "establishment" as defined in RCW 18.35.010(6), where a licensee engages in the fitting and dispensing of hearing instruments.

(5) "Postgraduate professional work experience" means a supervised full-time professional experience, or the part-time equivalent, as defined in these rules, involving direct (~~patient/client~~) patient or client contact, consultations, recordkeeping, and administrative duties relevant to a bona fide program of clinical work.

(a) "Full-time professional experience" means at least 30 hours per week over 36 weeks. Postgraduate professional work experience must be obtained over a period of at least 36 weeks. Applicants who obtain an Au.D. at a board-approved institution of higher education are considered to have met the postgraduate professional work experience requirement.

(b) "Part-time equivalent" means any of the following:

- (i) 15-19 hours per week over 72 weeks;
- (ii) 20-24 hours per week over 60 weeks;
- (iii) 25-29 hours per week over 48 weeks.

~~((3)) "Supervising speech-language pathologist" means a licensed speech-language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction.~~

~~(4) "Direct supervision of a speech-language pathology assistant" means the supervising speech-language pathologist is on-site and in view during the procedures or tasks.~~

~~(5) "Indirect supervision of a speech-language pathology assistant" means the procedures or tasks are performed under the speech-language pathologist's overall direction and control, but the speech-language pathologist's presence is not required during the performance of the procedures or tasks.)~~

~~(6) "Purchaser" or "buyer" means a patient, client, or legally authorized representative.~~

AMENDATORY SECTION (Amending WSR 95-19-017, filed 9/7/95, effective 10/8/95)

WAC 246-828-040 Examination review and appeal procedures—Hearing aid specialist. (1) ~~((Each applicant who takes the examination for licensure and does not pass any part of the examination shall be provided information indicating the area of the examination in which the applicant was deficient with the notice of the examination results.~~

~~((2))) Any applicant who does not pass ((a part of)) the examination may request an informal review by the board of ((his or her)) the examination results. This request must be in writing and must be received by the department within thirty days of the ~~((postmark of the notice of examination results))~~ date the examination results were transmitted to the applicant.~~

~~((3))) (2) The procedure for the informal review is as follows:~~

(a) An applicant submitting a written request for an informal review by the deadline described in subsection ~~((2))) (1) of this section ((shall)) will be contacted by the department to arrange an appointment to appear ((personally in the Olympia office)) in person at a time and place determined by the department to review the ~~((part or parts of the examination failed))~~ examination.~~

(b) The applicant ~~((shall)) will be provided a form to complete ((in the Olympia office)) in defense of the applicant's examination answers ((and/or examination performance)) at the time of the examination review.~~

(c) The applicant ~~((shall)) will be identified only by applicant number for the purpose of this procedure. Letters of reference or requests for special consideration ((shall)) will not be read or considered by the board.~~

(d) ~~((That)) The applicant may bring textbooks or published material for use in completing the informal review, but such material must be retained by the ((Olympia office)) department until the board has completed the informal review ~~((request submitted by the applicant)).~~~~

(e) The applicant ~~((shall)) will not be allowed to take any notes or materials from the ((office upon leaving)) review location.~~

(f) The information submitted to the board for its consideration in the informal review must state the specific reason or reasons why the results of the examination should be changed. The board ~~((shall)) will not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The board ((shall)) will not consider a challenge to the examina-~~

tion unless the total revised score including the questions or sections to be reviewed could result in a passing score in the examination.

(g) The board (~~shall~~) will schedule a closed session meeting to conduct the informal review of the material submitted by the applicant.

(h) The applicant (~~shall~~) will be notified in writing of the results of the informal review.

~~((4) Any applicant who is not satisfied with the result of the examination review may request that a formal hearing be held before the board pursuant to the Administrative Procedure Act. Such a hearing request must be received by the department within thirty days of postmark of the notification of the result of the board's informal review of the applicant's examination results. The request must be in writing and must state the specific reasons why the results of the examination should be changed. The board shall not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The board shall not consider a challenge to the examination unless the total revised score including the questions or sections to be reconsidered could result in a passing score in the examination.~~

(5) The hearing shall not be scheduled until the applicant and the state's attorney have appeared before an administrative law judge for a prehearing conference to consider the following:

- (a) The simplification of issues;
- (b) The necessity of amendments to the notice of specific reasons for the examination result modification;
- (c) The possibility of obtaining stipulations, admission of facts and documents;
- (d) The limitation of the number of expert witnesses;
- (e) A schedule for completion of all discovery; and,
- (f) Such other matters as may aid in the disposition of the proceeding.

(6) The administrative law judge shall enter an order which recites the actions taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.

(7) Applicants shall receive at least twenty days notice of the time and place of the formal hearing. The hearing shall be restricted to the specific reasons the applicant has identified as the basis for a change in the examination score.)

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-045 Interim permit—Audiologist and speech-language pathologist. (1) The department (~~shall~~) will issue an interim permit to any audiologist or speech-language pathologist applicant who has shown to the satisfaction of the department that the applicant:

(a) Has completed the academic course work and clinical practicum as required in RCW 18.35.040.

(b) Is supervised by a speech-language pathologist or audiologist who is licensed and in good standing under chapter 18.35 RCW (~~(, in good standing for at least two years)~~) unless otherwise approved by the board.

(c) Has paid the application and permit fee as required by WAC 246-828-990.

(2) (~~RCW 18.35.030, 18.35.110, 18.35.120 apply to interim permit holders. An audiology interim permit holder may engage in the fitting and dispensing of hearing instruments.~~

~~(3))~~ The interim permit must contain the name and title of the supervisor licensed under chapter 18.35 RCW.

~~((4) A licensed audiologist or speech-language pathologist under chapter 18.35 RCW may supervise up to four interim permit holders concurrently.)~~ (3) The interim permit expires one year from the date it is issued. The board may extend the interim permit an additional twenty-four months to accommodate part-time postgraduate professional work experience or upon request of the interim permit holder due to illness or extenuating circumstances.

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-04503 Postgraduate professional work experience—Audiologist and speech-language pathologist. (1) The interim permit period must consist of at least thirty-six weeks of full-time postgraduate professional work experience or its part-time equivalent.

(a) Postgraduate professional work experience of less than fifteen hours per week does not meet the requirement and may not be counted toward the postgraduate professional work experience. Experience of more than thirty hours per week may not be used to shorten the postgraduate professional work experience to less than thirty-six weeks.

(b) The supervisor must submit to the department, on a form provided by the department, documentation of supervision and progress during the postgraduate professional work experience, at the end of each three-month period.

(2) The supervisor must cosign all purchase agreements in the fitting and dispensing of hearing instruments.

~~((3) The interim permit expires one year from the date it is issued. The board may extend the interim permit an additional twenty-four months to accommodate part-time postgraduate professional work experience or upon request of the interim permit holder due to illness or extenuating circumstances.)~~

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-04505 Supervisor delegation for audiologist and speech-language pathologist interim permit holders. (1) The supervisor may delegate portions of the supervisory activities to another qualified supervisor of the same discipline in another facility. Before delegating supervision responsibility the supervisor must (~~seek~~) obtain department approval.

(2) The department may approve ~~((transfer of an interim permit holder to another eligible))~~ a qualified supervisor upon the written request of ~~((either))~~ the supervisor or the interim permit holder.

~~(3) ((The interim permit holder must immediately report the termination of the supervisor to the department in writing. The interim permit holder may only resume practice after the supervisor is approved by the department.~~

~~(4))~~ The supervisor of an interim permit holder who desires to terminate the responsibility as supervisor must immediately notify the department in writing of the termination. The supervisor is responsible for the interim permit holder until the notification of termination is received by the department.

(4) The interim permit holder must immediately report the termination of a supervisor to the department in writing. The interim permit holder may only practice with an approved supervisor.

(5) An audiologist or speech-language pathologist licensed and in good standing under chapter 18.35 RCW may supervise up to four interim permit holders concurrently.

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-075 Supervisors of students. (1) Students enrolled in a board approved program may perform ~~((the duties of a))~~ hearing ~~((instrument fitter/dispenser))~~ aid specialist, audiologist, speech-language pathologist, or speech-language pathology assistant duties in the course of their training under ~~((appropriate))~~ supervision.

(a) A speech-language pathology student~~((s))~~ must be supervised by a speech-language pathologist licensed and in good standing under chapter 18.35 RCW~~((, in good standing for at least two years))~~.

(b) An audiology student~~((s))~~ must be supervised by an audiologist licensed in good standing under chapter 18.35 RCW~~((, in good standing for at least two years))~~.

(c) A hearing ~~((instrument fitter and dispenser))~~ aid specialist student~~((s))~~ must be supervised by ~~((either))~~ a hearing ~~((instrument fitter/dispenser or a licensed))~~ aid specialist or an audiologist licensed and in good standing under chapter 18.35 RCW~~((, in good standing for at least two years))~~ who has practiced for at least thirty-six of the last forty-eight months immediately preceding the beginning of supervision.

(2) Students may only perform ~~((only))~~ those activities ~~((that are))~~ within the scope of ~~((the profession as defined by the training program in which they are enrolled))~~ practice for which they are adequately trained.

(3) The student ~~((shall))~~ must at all times wear an identification badge readily visible to the public that identifies him or her as a student.

(4) The licensee who is supervising hearing ~~((instrument fitting and dispensing students must be physically present on the premises at all times. The supervisor))~~ aid specialist students must cosign all purchase agreements for the sale of hearing instruments. A supervisor may only be in a supervisor/supervisee relationship with a maximum of three students at a time.

(5) The licensee who is supervising speech-language pathology or audiology students may include simultaneous observations with the student or the submission of written reports or summaries by the student for supervisor monitoring, review and approval. At least fifty percent of each student's time in each diagnostic evaluation, including screening and identification, must be observed directly by a supervisor. The observations may take place on site or by closed-circuit television.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-080 Minimum standards of equipment. Minimum equipment in the fitting and dispensing of hearing instruments ~~((shall))~~ must include:

(1) Access to a selection of hearing instrument models, and hearing instrument supplies and services sufficiently complete to accommodate the various ~~((user))~~ patient or client needs.

(2) Facilities for the personal comfort of customers.

(3) A test environment with background noise no greater than current American National Standards Institute (ANSI) specifications ~~((S3.1-1960 (R-1971)))~~ S3.6-1996 plus 15 decibels (dB). When nonstandard environments must be used, appropriate procedures ~~((shall))~~ must be employed and documented.

(4) Pure tone audiometer calibrated in accordance with WAC 246-828-090.

(5) Equipment appropriate for conducting speech audiometry (testing).

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-090 Standards for equipment calibration. (1) All electronic equipment utilized by licensees for the determination of audiometric thresholds for pure tones and for speech ~~((shall))~~ must conform to all current standards of the American National Standards Institute (ANSI). Licensees ~~((shall insure))~~ must confirm that all such audiometric equipment has been evaluated electrically and acoustically at least once each year, adjusted or repaired if necessary, and that conformity with ~~((such))~~ ANSI standards was determined at that time. Licensees must maintain calibration records permanently and ~~((licensees shall))~~ make the records available for inspection by the department at any time. No licensee may certify the calibration of his or her own equipment unless authorized to do so by the department. In addition, all licensees must use routine procedures for the daily inspection of audiometric equipment, or prior to use if used less often than on a daily basis, to generally determine that it is in normal working order.

(2) Hearing instruments, assistive listening devices, and electronic equipment used for assessment ~~((and))~~ or monitoring of auditory and vestibular function must be maintained according to manufacturer's specifications.

(3) All instrumental technology used to diagnose ~~((and))~~ or treat disorders of communication, swallowing, and hearing ~~((shall))~~ must be maintained in proper working order and

be properly calibrated according to ~~((accepted standards))~~ manufacturer's specifications.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-095 Audiology minimum standards of practice. Licensed audiologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, ~~((habilitation))~~ habilitation and rehabilitation, and prevention of auditory and vestibular impairments.

Audiologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Audiologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which audiological services are relevant. Audiologists provide services to individuals of all ages.

Audiologists ~~((must))~~ may engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience.

Standard procedures for providing audiology services may include one or more of the following:

- (1) Case history including:
 - (a) Documentation of referrals.
 - (b) Historical review of the nature, onset, progression and stability of the hearing problem, and associated otic and ~~((or))~~ vestibular symptoms.
 - (c) Review of communication difficulties.
 - (d) Review of medical, pharmacology, vocational, social, and family history pertinent to the etiology, assessment, and management of the underlying hearing disorder.
- (2) Physical examination of the external ear including:
 - (a) Otoscopic examination of the external auditory canal to detect:
 - (i) Congenital or traumatic abnormalities of the external canal or tympanic membrane.
 - (ii) Inflammation or irritation of the external canal or tympanic membrane.
 - (iii) Perforation of the tympanic membrane ~~((and/or))~~ or discharge from the external canal.
 - (iv) A foreign body or impacted cerumen in the external canal.
 - (b) Cerumen management to clean the external canal and to remove excess cerumen for the preservation of hearing.
 - (c) Referral for otologic evaluation and ~~((or))~~ treatment when necessary.
- (3) Identification of audiometry:
 - (a) Hearing screening administered as needed, requested, or mandated for those persons who may be identified as at risk for hearing impairment.
 - (b) Referral of persons who fail the screening for rescreening, audiologic assessment ~~((and/or))~~, or for medical or other examination and services.
 - (c) Audiologists may perform speech and language screening measures for initial identification and referral.
- (4) Assessment of auditory function including:
 - (a) The administration of behavioral and ~~((or))~~ objective measures of the peripheral and central auditory system to

determine the presence, degree, and nature of hearing loss or central auditory impairment, the effect of the hearing impairment on communication, and ~~((or))~~ the site of the lesion within the auditory system. Assessment may also include procedures to detect and quantify nonorganic hearing loss.

(i) When traditional audiometric techniques cannot be employed as in infants, children, or multiple impaired patients or clients, developmentally appropriate behavioral and ~~((or))~~ objective measures may be employed.

(ii) Assessment and intervention of central auditory processing disorders in which there is evidence of communication disorders may be provided in collaboration with other professionals.

(b) Interpretation of measurement recommendations for habilitative ~~((or))~~ or rehabilitative management ~~((and/or))~~ or referral for further evaluation and the counseling of the patient or client and family.

(5) Assessment of vestibular function including administration and interpretation of behavioral and objective measures of equilibrium to detect pathology within the vestibular system, to determine the site of lesion, to monitor changes in balance, and to determine the contribution of visual, vestibular, and proprioceptive systems to balance.

(6) Habilitative ~~((or))~~ and rehabilitation of auditory and vestibular disorders including:

- (a) Aural rehabilitation therapy.
- (b) Fitting and dispensing of hearing instruments and assistive listening devices.
- (c) Habilitative and rehabilitative nonmedical management of disorders of equilibrium.
- (7) Industrial and community hearing conservation programs.

(8) Intraoperative neurophysiologic monitoring.

(9) Standardized and nonstandardized procedures may be employed for assessment ~~((or))~~ and habilitation ~~((or))~~ or rehabilitation of auditory and vestibular disorders. When standardized procedures are employed they must be conducted according to the standardized procedure or exception documented. Nonstandardized measures must be conducted according to established principles and procedures of the profession.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-100 Hearing instrument fitting and dispensing—~~((Minimal))~~ Minimum standards of practice. Minimum procedures in the fitting and dispensing of hearing instruments include:

- (1) Obtaining case history including:
 - (a) ~~((As required by WAC 246-828-280,))~~ Documentation of referrals ~~((, or as otherwise required by this chapter))~~.
 - (b) Historical evaluation including inquiry regarding hearing loss, onset of loss, and any associated symptoms including significant noise in the ears, vertigo, acute or chronic dizziness, nausea, earaches, or other such discomfort which may indicate the presence of medical illness. Specific inquiry should be made to determine if hearing loss has been sudden or rapidly progressive in the past ninety days, if there has been any active drainage or infection in ears during the

past ninety days, and if there are any specific physical problems that may relate to the use of a hearing instrument.

(2) Examining the ears to reasonably determine if any of the following conditions exist:

- (a) Impacted ear wax.
- (b) Foreign body within the ear canal.
- (c) Discharge in the ear canal.
- (d) Presence of inflammation or irritation of the ear canal.
- (e) Perforation of the ear drum.
- (f) Any other abnormality.

(3) Hearing testing to include the following:

(a) Hearing loss, or residual hearing, ~~((shall))~~ must be established for each ear using pure tone threshold audiometry by air and bone conduction with effective masking as required.

(b) Appropriate live voice or recorded speech audiometry by ear phones to determine the following: Speech reception threshold, most comfortable level, uncomfortable level, and ~~((the speech discrimination percent))~~ word recognition score.

(c) Hearing testing ~~((shall))~~ must be conducted in ~~((the appropriate environment as required by))~~ compliance with WAC 246-828-080 ~~((, minimum standards of equipment, or as otherwise required by this chapter))~~ and 246-828-090.

(d) When pure tone audiometry indicates an air-bone gap of 15 ~~((dB))~~ decibels (dB) or more ~~((;))~~ at 500, 1000, and 2000 hertz (Hz) ~~((;))~~ ; the presence of unilateral hearing loss ~~((;))~~ ; or any inconsistent audiometric findings, the patient or client ~~((shall))~~ must be advised of the potential help available through medical treatment. If the patient or client declines medical treatment, has been appropriately treated previously, or has been advised against medical treatment, the licensee ~~((shall))~~ must make an appropriate notation in the patient's or client's record.

(e) In the event a patient or client is referred to a licensee by an ~~((M.A.))~~ audiologist, otologist, otolaryngologist, or by a ~~((fitter/dispenser duly))~~ hearing aid specialist licensed under chapter 18.35 RCW, and the audiometric results obtained within the previous six months are provided to the licensee as a part of this referral, the applicable provisions of WAC 246-828-100 ~~((shall))~~ are not ~~((be))~~ required. However, a confirmatory audiometric examination is recommended.

(4) Medical evaluation requirements:

(a) ~~((If the prospective hearing instrument user is eighteen years of age or older, the hearing instrument dispenser may afford the prospective user an opportunity to waive the medical evaluation requirements of (b) of this subsection if the hearing instrument dispenser:~~

~~((i) Informs the prospective user that the exercise of the waiver is not in the user's best health interest;~~

~~((ii) Does not in any way actively encourage the prospective user to waive the medical evaluation;~~

~~((iii) Offers the prospective user the opportunity to sign the following statement:~~

~~I have been advised by (hearing instrument fitter/dispenser or audiologist name) that the Food and Drug Administration has determined that my best health interest would be~~

~~served if I had a medical evaluation before purchasing a hearing instrument; and~~

~~((iv) Provides the prospective user with a copy of the signed waiver statement.~~

~~((b) Except as provided in (a) of this subsection, a hearing instrument dispenser shall not sell a hearing instrument unless the prospective user has presented to the hearing instrument dispenser a written statement signed by a licensed physician that states that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months))~~ Except as provided in (b) of this subsection, a hearing aid specialist or audiologist may not sell a hearing instrument unless the prospective patient or client has presented a written statement signed by a licensed physician that states that the patient's or client's hearing loss has been medically evaluated and the patient or client may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months.

~~((b) If the prospective patient or client is eighteen years of age or older, the hearing aid specialist or audiologist may afford the prospective patient or client an opportunity to waive the medical evaluation requirements of (a) of this subsection if the hearing aid specialist or audiologist:~~

~~((i) Informs the prospective patient or client that the exercise of the waiver is not in the patient or client's best health interest;~~

~~((ii) Does not in any way actively encourage the prospective patient or client to waive the medical evaluation;~~

~~((iii) Offers the prospective patient or client the opportunity to sign the following statement:~~

~~I have been advised by (hearing aid specialist or audiologist name) the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument; and~~

~~((iv) Provides the prospective patient or client with a copy of the signed waiver statement.~~

(5) Selection and fitting of the hearing instrument includes providing the patient or client:

(a) Information regarding the selection of the most appropriate method and model for amplification for the needs of the patient or client.

(b) The cost of the recommended instruments and services.

(c) ~~((An appropriate))~~ A custom made ear mold, when applicable.

(d) Final fitting of the hearing instrument to ensure physical and operational comfort.

(e) Adequate instructions and appropriate post-fitting adjustments to ensure the most successful use of the hearing instrument.

(6) Keeping records ~~((on))~~ for every patient or client ~~((to whom the licensee/certificate holder renders service))~~ in connection with the dispensing of a hearing instrument. ~~((These records must be preserved for at least three years after the dispensing of the first hearing instrument to the client. If other hearing instruments are subsequently dispensed to that client.))~~ Cumulative records must be ~~((maintained))~~ retained for

all hearing instruments dispensed for at least three years ~~((after the most recent dispensing of an))~~ from the date the last hearing instrument ((to that)) was dispensed to the patient or client. The records must be available for the department inspection and must include:

- (a) Patient's or client's case history.
- (b) Source of referral and ~~((appropriate))~~ documents.
- (c) Medical clearance for the hearing instrument ~~((user))~~ patient or client or the waiver set forth in subsection (4)~~((a))~~ (b)(iii) of this section which has been signed after being fully informed that it is in the best health interest to seek medical evaluation.
- (d) Copies of any contracts and receipts executed in connection with the fitting and dispensing of each hearing instrument provided.
- (e) A complete record of tests, test results, and services provided ~~((except for minor services)).~~
- (f) All correspondence specifically related to the service given ~~((the client))~~ or the hearing ~~((instrument or))~~ instrument(s) dispensed to the patient or client.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-105 Speech-language pathology—Minimum standards of practice. Licensed speech-language pathologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habilitation~~(/)~~ and rehabilitation, of communication disorders and dysphagia. Speech-language pathologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Speech-language pathologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which speech-language pathology services are relevant. Speech-language pathologists provide services to individuals of all ages.

Services ~~((must))~~ may be provided and products dispensed only when benefit can reasonably be expected. All services provided and products dispensed must be evaluated for effectiveness. A ~~((certified))~~ licensed speech-language pathologist must engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience. Speech-language pathologists must provide services appropriate to each individual in his or her care, which may include one or more of the following standard procedures:

- (1) Case history, including:
 - (a) Documentation of referrals.
 - (b) Review of ~~((the))~~ communication, cognitive ~~((and/))~~, or swallowing problems.
 - (c) Review of pertinent medical, pharmacological, social, and educational status.
- (2) Examination of the oral mechanism for the purposes of determining adequacy for speech communication and swallowing.
- (3) Screening to include: Speech and language.
 - (a) Hearing screening, limited to pure-tone air conduction and screening tympanometry.

(b) Swallowing screening. Children under the age of three years who are considered at risk are assessed, not screened;

(4) Assessment may include the following:

- (a) Language may include parameters of phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic, and manual modalities;
- (b) Speech may include articulation, fluency, and voice (including respiration, phonation, and resonance). Treatment ~~((shall))~~ must address appropriate areas;
- (c) Swallowing;
- (d) Cognitive aspects of communication may include communication disability and other functional disabilities associated with cognitive impairment;
- (e) Central auditory processing disorders in collaboration with other qualified professionals;
- (f) Social aspects of communication may include challenging behaviors, ineffective social skills, and lack of communication opportunities;

(g) Augmentative and alternative communication include the development of techniques and strategies that include selecting~~((:))~~ and dispensing of aids and devices (excluding hearing instruments) and providing training to individuals, their families, and other communication partners in their use.

(5) Habilitation~~((/))~~ and rehabilitation of communication and swallowing including:

- (a) Treatment of speech disorders including articulation, fluency, and voice.
- (b) Treatment of language disorders including phonology, morphology, syntax, semantics, and pragmatics~~((:and include))~~, including receptive and expressive communication in oral, written, graphic, and manual modalities.
- (c) Treatment of swallowing disorders.
- (d) Treatment of the cognitive aspects of communication.
- (e) Treatment of central auditory processing disorders in which there is evidence of speech, language, ~~((and/))~~ or other cognitive communication disorders.
- (f) Treatment of individuals with hearing loss, including aural rehabilitation and related counseling.
- (g) Treatment of social aspects of communication, including challenging behaviors, ineffective social skills, and lack of communication opportunities.
- (6) All services must be provided with referral to other qualified resources when appropriate.

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-112 Speech-language pathology assistants—Minimum standards of practice. (1) "Supervising speech-language pathologist" means a licensed speech-language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction.

(2) A speech-language pathology assistant may only perform procedures or tasks delegated by the speech-language

pathologist and must maintain patient/client/student confidentiality as directed by the speech-language pathologist.

~~((2))~~ (3) Speech-language pathology assistants may not represent themselves as speech-language pathologists.

~~((3))~~ (4) The speech-language pathology assistant must be ~~((continually))~~ supervised by the speech-language pathologist while performing procedures or tasks listed in subsections (5) and (6) of this section.

(5) The following procedures or tasks may only be performed under direct supervision and at the speech-language pathologist's discretion:

(a) Participating during parent conferences, case conferences, or interdisciplinary team meetings with the speech-language pathologist present.

(b) Assisting the speech-language pathologist during evaluations~~((t))~~ and assessments of patients/clients/students.

~~((4))~~ (6) The following procedures or tasks may be performed under direct or indirect supervision at the discretion of the supervising speech-language pathologist:

(a) Perform speech-language and hearing screenings for the speech-language pathologist. The speech-language pathology assistant may not interpret the results.

(b) Document patient/client/student performance (such as data, charts, graphs, progress notes, and treatment notes) and report this information to the speech-language pathologist.

(c) Implement treatment plans and protocols including individualized education programs (IEP) or individualized family service plans (IFSP) developed by the speech-language pathologist. These plans, programs, and protocols may include speech, language, augmentative and alternative communication (AAC), assistive technology (AT), and oral-motor therapies.

(d) Perform clerical duties such as preparing materials and scheduling activities as directed by the speech-language pathologist.

(e) Check and maintain equipment as directed by the speech-language pathologist.

(f) Sign treatment notes, progress notes, and other paperwork as directed by the speech-language pathologist.

~~((5))~~ (7) The following procedures and tasks are excluded from the speech-language pathology assistant scope of practice:

(a) Tasks that require diagnosis, evaluation, or clinical interpretation.

(b) Screening and diagnosis of feeding and swallowing disorders.

(c) Development or modification of treatment plans.

(d) Implementation of therapy outside of the treatment plan.

(e) Selection of caseload.

(f) Discharge or exit patients/clients/students.

(g) Referral of patients/clients/students for additional services.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-220 Unfair or deceptive practices, unethical conduct and unfair methods of competition—

Used or rebuilt products. (1) A licensee may not represent, directly or indirectly, that any industry product or part thereof is new, unused, or rebuilt, if it is not.

(2) In the marketing of a hearing instrument which has been used, or which contains used parts, a licensee must fully and nondeceptively disclose that the product or its parts are used in all advertising and promotional literature relating to the product, on the container, box or package in which the product is packed or enclosed and, if the product has the appearance of being new, on the product itself. The required disclosure may be made by use of words such as "used," "secondhand," "repaired," or "rebuilt," whichever most accurately describes the product involved.

(3) A licensee ~~((shall))~~ may not misrepresent the identity of the rebuilder of a hearing instrument. If the rebuilding of a hearing instrument was done by other than the original manufacturer, a licensee ~~((shall))~~ must disclose this fact wherever the original manufacturer is identified.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-270 Personal disclosure. A ~~((licensee))~~ licensed audiologist or hearing aid specialist who contacts a ~~((prospective purchaser))~~ patient or client away from the licensee's place of business must:

(1) When the contact is in person, present the prospective ~~((purchaser))~~ patient or client with written notice of:

(a) ~~((His or her name, the name of his or her business firm, his or her))~~ Licensee's name, business name, business address and telephone number; and

(b) ~~((The))~~ Licensee's department-issued credential number ~~((of his or her license)).~~

(2) When a licensee contacts a patient or client by telephone ~~((contact with prospective purchasers))~~ the licensee must disclose the ~~((name of the licensee,))~~ licensee's name, the name and ~~((location of his or her principal))~~ address of the licensee's establishment, and the purpose of call.

(3) When the contact is through a direct mail piece or other advertising initiated by the licensee, the material must clearly show ~~((on all promotional items the business/establishment))~~ the licensee's establishment name ~~((, the principal))~~ and establishment address ~~((and telephone number, not just the address or telephone number where he/she will be on given days.~~

(4) A principal establishment is one which is bonded under RCW 18.35.240). If in-person or telephone contact is made as a result of the direct mail or other advertising, the prospective patient or client must be offered the licensee's establishment phone number.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-290 Purchaser (~~((rescission))~~ rescission rights. In addition to the receipt and disclosure information required by RCW 18.35.030, 18.35.185, 63.14.040 and 63.14.120, every retail agreement for the sale of hearing instruments ~~((shall))~~ must contain or have attached the following notice to buyer in twelve point ~~((type))~~ font or larger. The language in part 1 under "Notice to Buyer" is intended to

have the same legal effect as the notices required in RCW 63.14.040(2) and 63.14.120(3) and may be substituted for those notices.

The rights summarized in the "Notice to Buyer" must be made known to the purchaser before the contract is executed. The licensee must provide this "Notice to Buyer" in writing to the purchaser. The purchaser must ~~((demonstrate knowledge of these rights by initialing each numbered section))~~ acknowledge receipt of the "Notice to Buyer" ~~((and))~~ by signing his or her name in the ~~((appropriate))~~ designated space following the "Notice to Buyer."

Notice to Buyer

Do not sign this agreement before you read it or if any spaces intended for the agreed terms are blank.

You are entitled to receive a copy of this agreement at the time you sign it.

The seller's business address must be shown on the agreement.

Section 1 CANCELLATION - WITHIN THREE DAYS

~~((Purchaser's Initial~~

You may cancel this agreement within three days, without explaining your reasons, if the seller solicited it in person and you signed it at a place other than the seller's business address.

To cancel this agreement without explaining your reasons, you must notify the seller in writing that you are canceling the agreement. You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be ~~((mailed))~~ postmarked or delivered by midnight of the third business day after you signed this agreement.

Any merchandise you received under this agreement must be in its original condition. You must return it to the ~~((seller))~~ seller's business address or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement.

You will incur no additional liability for canceling the agreement.

Section 2 ~~((RECISSION))~~ RESCISSION - WITHIN THIRTY DAYS

~~((Purchaser's Initial~~

You may rescind (or terminate) the agreement within thirty days, for reasonable cause. This thirty-day period is called the "~~((recission))~~ rescission period."

To rescind this agreement, you must notify the seller in writing that you are rescinding the agreement for reasonable cause pursuant to RCW 18.35.185(1). (Reasonable cause does not include cosmetic concerns or a mere change of mind.) You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be ~~((mailed))~~ postmarked or delivered by midnight of the thirtieth day after delivery of the hearing instrument.

Any merchandise you received under this agreement must be in its original condition, except for normal wear and tear. You must return it to the ~~((seller))~~ seller's business address or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement. However, for each hearing instrument you return, the seller may keep either one hundred fifty dollars or fifteen percent of the total purchase price, whichever is less~~((The seller also may deduct any costs incurred in making traded-in goods ready for resale))~~, plus the price originally charged for custom-made earmolds.

The seller must refund your money and return your traded goods, or have them postmarked and in the mail to you, within ten business days after receiving your notice of ~~((recission))~~ rescission.

You will incur no additional liability for rescinding the agreement.

Section 3 EXTENSION OF ~~((RECISSION))~~ RESCISSION PERIOD

~~((Purchaser's Initial~~

If you notify the seller within the thirty-day ~~((recission))~~ rescission period that your hearing instrument has developed a problem that constitutes reasonable cause to rescind the agreement or that prevents you from evaluating your hearing instrument, the seller must extend the ~~((recission))~~ rescission period. The ~~((recission))~~ rescission period stops running on the date you notify the seller of the problem and starts running again on the date the seller notifies you that your hearing instrument is ready for redelivery.

You and the seller may agree to a ~~((recission))~~ rescission period longer than thirty days.

Whenever the ~~((recission))~~ rescission period is extended, the seller must provide you written notice of the last date upon which you may demand a refund and return of traded goods.

_____	_____
Signature of Purchaser	Date
_____	_____
Signature of Seller	Date
_____	_____
Delivery Acknowledgment - Signature of Purchaser	Date

AMENDATORY SECTION (Amending WSR 10-16-116, filed 8/2/10, effective 9/2/10)

WAC 246-828-305 How to obtain a temporary practice permit while the national background check is completed. Fingerprint-based national background checks may cause a delay in licensing or certification. Individuals who satisfy all other licensing or certification requirements and qualifications may receive a temporary practice permit while the national background check is completed.

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

(a) Holds an unrestricted, active license or certification to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing ~~((instrument fitter/dispenser))~~ aid specialist in another state that has substantially equivalent licensing or certification standards to those in Washington state;

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

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

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

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

(a) The license or certification is granted;

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

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

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

(a) Submit the necessary application, fee(s), and documentation for the license or certification.

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

(c) Provide verification of having an active unrestricted license or certification to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing ~~((instrument fitter/dispenser))~~ aid specialist from another state that has substantially equivalent licensing or certification standards as Washington state.

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

NEW SECTION

WAC 246-828-315 Temporary practice permit—Military spouse. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-320 Minimum standards for fitting and dispensing locations. (1) The hours of business of each hearing instrument establishment ~~((shall))~~ must be prominently ~~((and continuously))~~ displayed and visible to the public at each regular place or places of business owned or operated by that establishment.

(2) Any regular place or places of business or any activities resulting from these locations must meet the minimum standards for facilities and equipment essential for the testing of hearing and the fitting and dispensing of hearing instruments required in WAC 246-828-080 and 246-828-090.

~~((3) The term "place or places of business" means a location where a licensee engages or intends to engage in the fitting and dispensing of hearing instruments at a permanent address(es) open to the public on a regular basis.))~~

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-330 Notice of availability and location of follow-up services. Every licensee ~~((shall))~~ must provide to a hearing instrument purchaser, in writing prior to the signing of the contract, notice of availability of services. The notice ~~((shall))~~ must include the specific location of the follow-up service, including date and time if applicable.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-350 Reasonable cause for ~~((rescission))~~ rescission. RCW 18.35.190(2) allows the purchaser of the hearing instrument(s) to rescind the purchase and recover moneys for reasonable cause. The term "reasonable cause" includes:

(1) Any material misstatement of fact or misrepresentation by the licensee regarding the hearing instrument(s) or fitting and dispensing services to be provided which the purchaser relied on or which induced the purchaser into making the agreement;

(2) Failure by the licensee to provide the purchaser with the hearing instrument(s) and fitting and dispensing services which conform to those specified in the purchase agreement between the parties;

(3) Diagnosis of a medical condition unknown to the purchaser at the time of purchase, which precludes the purchaser from using the hearing instrument(s);

(4) Failure by the licensee to remedy a significant material defect of the hearing instrument(s) within a reasonable period of time in accordance with RCW 18.35.190 (2)(c);

(5) The hearing instrument(s) ~~((and))~~ or fitting and dispensing services would not be in accordance with accepted practices of the industry; and

(6) Failure by the licensee to meet any standard of conduct prescribed in the laws regarding the fitting and dispensing of hearing instruments and this failure adversely affects in any way the transaction which the purchaser seeks to rescind.

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

WAC 246-828-370 ~~((AIDS))~~ HIV/AIDS prevention and information education requirements. Applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

AMENDATORY SECTION (Amending WSR 07-07-065, filed 3/15/07, effective 4/15/07)

WAC 246-828-510 Continuing education. The ~~((ultimate aim of))~~ purpose of continuing education is to ensure the highest quality professional care. The objectives are to improve and increase the ability of the hearing ~~((instrument fitter/dispenser))~~ aid specialist, audiologist ~~((and))~~, speech-language pathologist, and speech-language pathology assistant to deliver the highest possible quality professional care and keep the professional abreast of current developments.

Continuing education consists of educational activities designed to review existing concepts and techniques and to convey information and knowledge about advances in hearing instrument ~~((fitting/dispensing))~~ fitting and dispensing, audiology, and speech-language pathology fields as applied to the work setting.

(1) Continuing education requirement. ~~((Licensees))~~ A credential holder must complete a minimum of thirty hours of continuing education every three years ~~((in the following categories:~~

~~((a) At least one hour on infection control)).~~

~~((b))~~ (a) At least one hour of the continuing education must be on infection control.

(b) Multicultural education aimed at removing barriers to access to care may count for up to five hours of continuing education.

(c) At least twenty-five hours of continuing education must be related to profession specific skills and competencies.

(2) Continuing education is defined as any of the following activities:

(a) Courses, seminars, workshops and postgraduate programs offered by accredited educational institutions. These educational activities ~~((shall))~~ must be recorded on an official transcript or ~~((certificate))~~ by documentation stating the number of continuing education ~~((units))~~ hours completed.

~~((c))~~ (b) Courses, seminars and workshops offering continuing clock or continuing educational units offered by profession-related organizations or industries. These ~~((units shall))~~ activities will be accepted with ~~((proof of completion))~~ documentation of the number of continuing education hours completed.

~~((d))~~ (c) Attendance at a continuing education program having a featured speaker(s) or panel, which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. This activity will be accepted with documentation of the number of continuing education hours completed.

~~((e))~~ (d) Participation as a speaker or panel member in a continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. A maximum of eight hours, including preparation time, may be applied to the total three-year requirement.

~~((f))~~ (e) Completion of a written, video, internet, or audio continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. Only programs in which proof of completion is provided or with tests that are ~~((independently graded-shall))~~ not self-graded will be accepted.

~~((2))~~ General information.

~~((a))~~ The effective date of the continuing education requirement shall be three years after the licensee's 2007 renewal date.

~~((b))~~ The board shall not grant credit for preparation time, except as provided in subsection (1)(c) of this section.

(3) The board may grant an exception for continuing education requirements under certain circumstances including, but not limited to, severe illness. The ~~((licensee))~~ credential holder must submit a written request for exception to the board for review ~~((, a written request for exception)).~~ The board will approve or deny the request.

~~((4))~~ (This section incorporates by reference the requirements of) A credential holder may be randomly audited for continuing education compliance as specified in chapter 246-12 WAC, Part 7.

AMENDATORY SECTION (Amending WSR 93-17-044, filed 8/12/93, effective 9/12/93)

WAC 246-828-570 Adjudicative proceedings. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

AMENDATORY SECTION (Amending WSR 06-10-025, filed 4/26/06, effective 5/27/06)

WAC 246-828-600 Approval of programs for ~~((two-year degree in hearing instrument fitter/dispenser))~~ hearing aid specialist instruction. ~~((The))~~ (1) Minimum educational requirements for licensure to practice as a hearing ~~((instrument fitter/dispenser))~~ aid specialist in Washington ~~((is))~~ are:

(a) Satisfactory completion of a two-year degree program in hearing ~~((instrument/fitter dispenser))~~ aid specialist instruction approved by the board. The board will consider for approval any program which meets the requirements as outlined in this ~~((chapter-~~

~~((1))~~ section; or

(b) A two-year or four-year degree in a field of study approved by the board from an accredited institution and satisfactory completion of a nine-month certificate program in hearing aid specialist instruction approved by the board. Two-year and four-year degrees must be completed prior to enrolling in a nine-month certificate program. The board will consider for approval any program which meets the requirements as outlined in this section.

Acceptable prerequisite degrees for entry into nine-month certificate programs are baccalaureate or associate degrees from accredited institutions in any field of study which include five credits each of 100 level or greater English composition, basic math, and humanities.

(2) Procedure for approval of two-year degree programs in hearing aid specialist instruction:

(a) An authorized representative of an institution may apply for approval from the board.

~~((2))~~ (b) The application for approval must be submitted on forms provided by the department.

~~((3))~~ (c) The authorized representative of the program may request approval of the program as of the date of the application or retroactively to a specified date.

~~((4))~~ (d) The program application for approval must include, but may not be limited to, documentation required by the board pertaining to ~~((the))~~ curriculum standards as set in WAC 246-828-615 ~~((two-year-degree-in-hearing-instrument-fitter/dispenser-instruction-standards))~~.

~~((5))~~ (e) A program must be fully recognized by the appropriate accreditation body in that jurisdiction.

~~((6))~~ (f) The board will evaluate the application and may conduct a site inspection of the program prior to granting approval by the board.

~~((7))~~ (g) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification of the application.

~~((8) The)~~ (h) An authorized representative of an approved program ~~((shall))~~ must notify the board of significant changes with respect to information provided on the application within sixty days of change.

~~((9) The board may inspect an approved program at reasonable intervals for compliance. Refer to WAC 246-828-605 Site review procedures for initial and continuing approval of program for two-year degree in hearing instrument fitter/dispenser instruction. The board may withdraw its approval if it finds the program has failed to comply with requirements of law, administrative rules, or representations in the application.)~~ (3) Procedure for approval of nine-month certificate programs in hearing aid specialist instruction:

(a) An authorized representative of a program may apply for approval from the board.

(b) The application for approval must be submitted on forms provided by the department.

(c) The authorized representative of the program may request approval of the program as of the date of the application or retroactively to a specified date.

(d) The program application for approval must include, but may not be limited to, documentation required by the board pertaining to curriculum standards as set in WAC 246-828-615.

(e) The board will evaluate the application and may conduct a site inspection of the program prior to granting approval by the board.

(f) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification of the application.

(g) An authorized representative of an approved program must notify the board of significant changes with respect to information provided on the application within sixty days of change.

(4) The board may inspect a currently approved program or a program requesting approval. These inspections may be at any reasonable time during the normal business hours of the program. The board may withdraw its approval if it finds the program has failed to comply with requirements of law, administrative rules, or representations in the application.

AMENDATORY SECTION (Amending WSR 06-10-025, filed 4/26/06, effective 5/27/06)

WAC 246-828-610 Process for denying or rescinding approval of a program for ~~((two-year-degree-in-hearing-instrument-fitter/dispenser))~~ hearing aid specialist instruction. ~~((In the event))~~ If the board ~~((denies))~~ issues a notice of intent to deny an application, rescind ~~((s))~~ approval, or grant ~~((s))~~ conditional approval, the authorized representative of the applicant's program may request a review within thirty days ~~((of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party must submit a new application to be considered for review)).~~ Failure to request a review will result in the notice of intent becoming a final decision of the board. A program aggrieved by a final decision of the board affecting its approval status may appeal the board's decision in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, or submit a new application to be considered for review.

AMENDATORY SECTION (Amending WSR 06-10-025, filed 4/26/06, effective 5/27/06)

WAC 246-828-615 Standards for ~~((approval of program for two-year degree in hearing instrument fitter/dispenser instruction))~~ hearing aid specialist programs. The curriculum of the program ~~((shall))~~ must include the components listed in this ~~((chapter))~~ section.

(1) The standards in this section are intended as minimum components of a curriculum, and are not intended as an exact description of program curricula. To ~~((assure))~~ ensure a graduate or certificate holder is competent and can function on his or her own, the curriculum should be designed to ~~((assure))~~ ensure proficiency in all ~~((these fields))~~ curriculum components through extensive practical work experience in addition to ~~((classroom teaching))~~ academic instruction. All ~~((the))~~ necessary instruments and laboratories based on industry standards are a prerequisite.

(2) Minimum ~~((areas of standard))~~ requirements for two-year degree programs:

(a) **Supervised practicum:** Including hands-on experience with patients.

(i) The supervised practicum must consist of a minimum of five hundred twenty hours.

(ii) Two hundred sixty of the five hundred twenty hours must be directly supervised. The remaining hours may be directly or indirectly supervised.

(b) **English composition:** Written presentations.

(c) **Occupational communications:** Oral presentations, documentation of professional activities.

(d) **Occupational human relations:** Code of professional ethics, interpersonal skills, teamwork.

(e) ~~((Basic math and computers))~~ **Acoustics:** The physics of sound ~~((;))~~ and basic acoustics ~~((; methods of programming hearing instruments, calculating pricing, costs and other business-related math skills)).~~

(f) **Hearing instrument sciences:** Basic electronics, circuit designs of hearing instruments, testing methodology of instruments, test standards, familiarity with all major types of

instruments on the market, basic signal processing, programming of digital instruments using computers.

(g) **Hearing physiology and anatomy:** Anatomy and physiology of the human auditory system.

(h) **Pathophysiology of auditory system:** Introductory level study of genetic disorders and infectious diseases of the auditory system.

(i) **Psychological aspects of hearing loss:** Curricula should be designed so the student understands:

(i) How hearing loss affects patients and others close to them;

(ii) How to follow up with patients after initial fitting; and

(iii) Methods of ~~((teaching))~~ instruction on effective communication ((skills to the hearing-impaired)) strategies for individuals with hearing impairments.

(j) **Audiometrics:** Performing pure tone and speech audiometry and interpretation, measuring output of instruments both in the lab and in the ear.

(k) **Earmolds:** Emphasis on ~~((practical skills and safety))~~ impression-taking techniques, practical skills, safety, selection, and modification. Direct supervision is required for all earmold impressions.

(l) **Instrument selection:** Recommending the best technology according to the patient's or client's needs from ((conventional)) basic through advanced ((digital/programmable)) analog and digital instruments, including referrals for ((medical)) medically implantable devices.

(m) **Health care and business:** Laws governing the profession, insurance aspects, health care management, advertising, marketing, purchase agreements, and sales.

(n) **Introduction to speech-language pathology and audiology.**

(o) **Overview of ~~((cochlear implants))~~ medically implantable devices,** including criteria for referral~~((s for medical implantable devices))~~.

(3) Minimum requirements for nine-month certificate programs:

(a) **Supervised practicum:** Including hands-on experience with patients.

(i) The supervised practicum must consist of a minimum of five hundred twenty hours.

(ii) Two hundred sixty of the five hundred twenty hours must be directly supervised. The remaining hours may be directly or indirectly supervised.

(iii) Methods of instruction on effective communication strategies for individuals with hearing impairments.

(b) **Occupational communications:** Documentation of professional activities.

(c) **Occupational human relations:** Code of professional ethics.

(d) **Acoustics:** The physics of sound and basic acoustics.

(e) **Hearing instrument sciences:** Basic electronics, circuit designs of hearing instruments, testing methodology of instruments, test standards, familiarity with all major types of instruments on the market, basic signal processing, programming of digital instruments using computers.

(f) **Hearing physiology and anatomy:** Anatomy and physiology of the human auditory system.

(g) **Pathophysiology of auditory system:** Introductory level study of genetic disorders and infectious diseases of the auditory system.

(h) **Psychological aspects of hearing loss:** Curricula should be designed so the student understands:

(i) How hearing loss affects patients and others close to them;

(ii) How to follow up with patients after initial fitting; and

(iii) Methods of instruction on effective communication strategies for individuals with hearing impairments.

(i) **Audiometrics:** Performing pure tone and speech audiometry and interpretation, measuring output of instruments both in the lab and in the ear.

(j) **Earmolds:** Emphasis on impression-taking techniques, practical skills, safety, selection, and modification. Direct supervision is required for all earmold impressions.

(k) **Instrument selection:** Recommending the best technology according to the patient's or client's needs from basic through advanced analog and digital instruments, including referrals for medically implantable devices.

(l) **Health care and business:** Laws governing the profession, insurance aspects, health care management, advertising, marketing, purchase agreements, and sales.

(m) **Introduction to speech-language pathology and audiology.**

(n) **Overview of medically implantable devices,** including criteria for referral.

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-617 Requirements for speech-language pathology assistant certification. An applicant for certification as a speech-language pathology assistant must have the following minimum qualifications:

(1) An associate of arts or sciences degree, or a certificate of proficiency, with transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology course work and transcripts showing forty-five quarter hours or thirty semester hours of general education credit from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must reflect, or applicant must demonstrate, one hundred hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least fifty of those hours under direct supervision; or

(2) A bachelor of arts or bachelor of sciences degree with transcripts from a speech, language, and hearing program from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must reflect, or applicant must demonstrate, one hundred hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least fifty of those hours under direct supervision~~((; or~~

~~(3) A completed work experience verification form and competency checklist form developed by the board and submitted as part of the application verifying 600 hours of super-~~

~~vised experience within three years of application. Both forms must be submitted by July 1, 2011, to qualify for certification under this subsection. The competency checklist form shall indicate and verify that the applicant has demonstrated competencies in all the following categories:~~

- ~~(a) Interpersonal skills;~~
- ~~(b) Understanding of critical supervision issues;~~
- ~~(c) Administering treatment protocols;~~
- ~~(d) Maintaining clinical documentation and communication;~~
- ~~(e) Upholding ethical behavior and maintaining confidentiality;~~
- ~~(f) Following health and safety precautions;~~
- ~~(g) Foundational knowledge of the profession).~~

AMENDATORY SECTION (Amending WSR 07-09-093, filed 4/18/07, effective 5/19/07)

WAC 246-828-620 Definitions—Sexual misconduct.

The following definitions are applicable to the sexual misconduct rule, WAC 246-828-625:

(1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed in a profession listed in chapter 18.35 RCW: Hearing ~~((instrument fitter/dispensers))~~ aid specialists, audiologists, and speech-language pathologists, and speech-language pathology assistants.

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

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the health care provider.

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

AMENDATORY SECTION (Amending WSR 07-09-093, filed 4/18/07, effective 5/19/07)

WAC 246-828-625 Sexual misconduct. (1) A health care provider ~~((shall))~~ may not engage, or attempt to engage, in sexual misconduct with a current patient, client, or ~~((with a))~~ key party ~~((of a current client or patient))~~, inside or outside the health care setting. Sexual misconduct ~~((shall))~~ constitutes grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

~~((g))~~ (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

~~((h))~~ (i) Dressing or undressing in the presence of the patient, client or key party;

~~((i))~~ (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

~~((j))~~ (k) Encouraging masturbation or other sex act in the presence of the health care provider;

~~((k))~~ (l) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;

~~((l))~~ (m) Suggesting or discussing the possibility of a dating ((or beginning a)) sexual or romantic relationship ~~((before))~~ after the professional relationship ends;

~~((m))~~ (n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client or key party;

(p) Discussing the sexual history, preferences or fantasies of the health care provider;

~~((n))~~ (q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

~~((o))~~ (r) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

~~((p))~~ (s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

~~((q))~~ (t) Photographing or filming the body or any body part or pose' of a patient, client, or key party, other than for legitimate health care purposes; and

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

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(3) A health care provider ~~((shall))~~ may not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

~~((3) After a health care provider has terminated providing services to the client or patient,))~~ (4) A health care pro-

vider (~~((shall))~~) may not engage, or attempt to engage, in ((dat- ing or beginning a sexual or romantic relationship)) the activ- ities listed in subsection (1) of this section with a former ((client or) patient, client or key party ((of a former client or patient if:)) within two years after the provider-patient/client relationship ends.

(5) After the two-year period of time described in sub- section (3) of this section, a health care provider may not engage, or attempt to engage, in the activities listed in subsec- tion (1) of this section if:

(a) There is a significant likelihood that the (~~((former))~~) patient, client or key party will seek or require additional ser- vices from the health care provider; or

(b) There is an imbalance of power, influence, opportu- nity (~~((and/))~~) or special knowledge (~~((held or acquired by the health care provider related to))~~) of the professional relation- ship.

~~((4))~~ (6) When evaluating whether a health care pro- vider is prohibited from engaging, or attempting to engage, in sexual misconduct, the board of hearing and speech will con- sider factors, including but not limited to:

(a) Documentation of a formal termination and the cir- cumstances of termination of the provider-patient relation- ship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services ren- dered and commencement of the personal relationship;

(f) Extent to which the patient's or the client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vul- nerability;

(i) Normal revisit cycle for the profession and service; and

~~((7))~~ (7) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsi- bility.

~~((5))~~ (8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

REPEALER

The following sections of the Washington Administra- tive Code are repealed:

WAC 246-828-360 Procedure for declaratory ruling.

WAC 246-828-605 Site review procedures for initial and continuing approval of program for two-year degree in hearing instrument fitter/dispenser instruction.

WSR 15-14-093

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed June 29, 2015, 4:19 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The board of physical therapy (board) and the department of health must begin implementing rules under ESHB 2160 (chapter 116, Laws of 2014) no later than July 1, 2015.

Purpose: Chapter 246-915 WAC, Physical therapists (PT) and physical therapist assistants (PTA). The PT board is adopting rules to identify the qualifications required for a licensed PT to receive a spinal manipulation endorsement, and the duties of a clinical supervisor. The PT board is also amending rules to identify a one-time, three hour training for suicide screening and referral, and the standards a program must meet to qualify as a suicide prevention training pro- gram.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-085.

Statutory Authority for Adoption: RCW 18.74.023 and 43.70.442.

Adopted under notice filed as WSR 15-09-110 on April 21, 2015.

Changes Other than Editing from Proposed to Adopted Version:

WAC 246-915-085(2) Continuing competency and 246-915-086 (1)(a) Suicide assessment training standards (new section):

Proposed language: WAC 246-915-085(2) delete "risk assessment," a term used to describe all elements of suicide prevention training per ESHB 2315 (2014) as well as ESHB 1424 (2015).

WAC 246-915-086 (1)(a) delete "risk assessment" a term used referring to all elements of suicide prevention training per ESHB 2315 (2014) as well as ESHB 1424 (2015).

Adopted language: WAC 246-915-085(2), the term, "risk assessment" was deleted. It reads as, "Physical thera- pists are required to complete a one-time training in suicide assessment that includes screening and referral elements appropriate for this profession."

WAC 246-915-086 (1)(a), the term, "risk assessment" was deleted. It reads as, "Be an empirically supported train- ing in suicide assessment that includes screening and refer- al;"

The board received feedback to remove the term "risk assessment" when describing the training elements required of PTs and PTAs by ESHB 2315 (2014) and ESHB 1424

(2015). The board agreed to remove the term "risk assessment" since PTs and PTAs are only required to do a three-hour, one-time training that is to include screening and referral elements only. Making this change was deemed to provide clarity and meet the intent of the statute.

WAC 246-915-085(2) Continuing competency:

Proposed language: WAC 246-915-085(2), replace 2014 legislation terminology as stated in the CR-102 proposed amendment language with 2015 legislation terminology that pertains to when providers are required to complete their one-time training. Delete "A physical therapist or physical therapy assistant must complete a one-time training required by this section during the first full continued competency reporting period after initial licensure, whichever occurs later," and replace with, "A physical therapist or physical therapy assistant must complete a one-time training by the end of the first full continued competency reporting period after January 1, 2016, or during the first full continued competency reporting period after initial licensure, whichever is later."

Adopted language: WAC 246-915-085(2), "A physical therapist or physical therapy assistant must complete a one-time training by the end of the first full continued competency reporting period after January 1, 2016, or during the first full continued competency reporting period after initial licensure, whichever is later." This language is taken from ESHB 1424 from the 2015 legislative session, which replaces language from ESHB 2315 from the 2014 legislative session.

The department received feedback to replace the terminology in the CR-102 proposed rules that referenced ESHB 2315 timeframes with more current timeframes referenced in ESHB 1424 from the 2015 legislative session. The board agreed to add this language since it is in the most recent legislation and statute defining when PTs and PTAs may take the one-time training.

WAC 246-915-381 (1)(d)(ii) Spinal manipulation—Endorsement:

Proposed language: WAC 246-915-381 (1)(d)(ii), delete the term, " ... as defined in RCW 18.74.010" in the sentence that read, "Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor *as defined in RCW 18.74.010.*"

Adopted language: WAC 246-915-381 (1)(d)(ii), the phrase was deleted. The revised sentence reads as, "Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor."

The board received a comment to remove the reference to RCW 18.74.010 in the sentence that read, "Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor *as defined in RCW 18.74.010.*" The board

agreed to remove the term since the board will be undergoing an entire chapter review later in the year and will be adding definitions in which the requirements of RCW 18.74.010 can be addressed in rule at that time.

WAC 246-916-382 Spinal manipulation—Clinical supervisor:

Proposed language: WAC 246-915-382, delete the entire first paragraph under WAC 246-915-382 that was in the CR-102 proposed rule language. The paragraph in the CR-102 language reads as, "To qualify as a clinical supervisor under WAC 246-915-380 (1)(d)(i)(C), a person must be a licensed physical therapist who holds an endorsement or advanced certification for which the training requirements are commensurate with the training requirements in WAC 246-915-380 (1)(a) through (d). A clinical supervisor must provide direct and close supervision per the definitions in RCW 18.74.010, and the clinical supervisor under WAC 246-915-380 (1)(d)(i)(C) must have at least one of these credentials." Also add to the section title, "Effective July 1, 2015, until June 30, 2020."

Adopted language: WAC 246-915-382, some sentences within the first paragraph were removed. The adopted language reads as, "To qualify as a clinical supervisor under WAC 246-915-380 (1)(d)(i)(C), a person must be a licensed physical therapist who holds an endorsement or advanced certification for which the training requirements are commensurate with the training requirements in WAC 246-915-380 (1)(a) through (d) and have at least one of the following credentials.["] The following information was also added to the section title, "Effective July 1, 2015, until June 30, 2020."

The board received a comment to remove the entire first paragraph under WAC 246-915-382 Spinal manipulation, because language in the proposed CR-102 rules is confusing the difference between qualification for the applicant to qualify as a clinical supervisor versus the requirement for being a clinical supervisor. The board agreed to remove some of the sentences in the first paragraph - not the entire paragraph. Finally, the board agreed to add reference to the effective date of this section for clinical supervisor in the title of the section. The board cited these revisions comply with the intent of the law and provide clarity regarding clinical supervisor requirements.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4847, fax (360) 236-2901, e-mail Kris.waidely@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 1, Repealed 0.

Date Adopted: June 1, 2015.

Robert Schmidt, PT, DPT, Chair
Board of Physical Therapy

AMENDATORY SECTION (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

WAC 246-915-085 Continuing competency. Licensed physical therapists and physical therapist assistants must provide evidence of continuing competency in the form of continuing education and employment related to physical therapy every two years.

(1) ~~((Education—))~~ Licensed physical therapists and physical therapist assistants must complete 40 hours of continuing education every two years ~~((as required in chapter 246-12 WAC, Part 7.~~

~~((a))~~.

(2) Physical therapists and physical therapist assistants are required to complete a one-time training in suicide assessment that includes screening and referral elements appropriate for this profession. The training must be at least three hours in length and must meet the requirements for training per WAC 246-915-086.

A physical therapist or physical therapist assistant must complete a one-time training by the end of the first full continued competency reporting period after January 1, 2016, or during the first full continued competency reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section will be accepted as meeting the one-time training requirements.

(3) Acceptable continuing education specifically relating to the practice of physical therapy~~((;~~

~~((b))~~ includes, but is not limited to, the following:

(a) Participation in a course with specific goals and objectives relating to the practice of physical therapy;

~~((c))~~ (b) Audio or video recordings or other multimedia devices, and/or book/article review. A maximum of ten hours may be used for books/articles reviewed;

~~((d))~~ (c) Correspondence course work completed.

~~((e))~~ (4) A physical therapist with a spinal manipulation endorsement must complete at least ten hours of continuing education per continuing competency reporting period directly related to spinal manipulation. At least five hours of the training must be related to procedural technique and application of spinal manipulation.

(5) In addition to the ~~((requirements in subsection (1) of this section,))~~ required continuing education hours, physical therapists and physical therapist assistants must complete 200 hours involving the application of physical therapy knowledge and skills, which may be obtained as follows:

(a) In the clinical practice of physical therapy; or

(b) In nonclinical activities that involve the direct application of physical therapy skills and knowledge, examples of which include, but are not limited to:

(i) Active service on boards or in physical therapy school or education program accrediting bodies;

(ii) Physical therapy teaching or presentations on:

(A) Patient/client management, prevention and wellness;

(B) Physical therapy ethics and standards of practice;

(C) Professional advocacy/involvement;

(ii) Developing course work in physical therapy schools or education programs or physical therapy continuing education courses;

(iv) Physical therapy research as a principal or associate researcher; and

(v) Physical therapy consulting.

~~((3—Licensees))~~ (6) Licensed physical therapists and physical therapist assistants shall maintain records of all activities relating to continuing education and professional experience for a period of four years. Acceptable documentation shall mean:

(a) Continuing education. Certificates of completion, course sponsors, goals and objectives of the course, credentials of the presenter as a recognized authority on the subject presented, dates of attendance and total hours, for all continuing education being reported.

(b) Audio or video recordings or other multimedia devices, and/or book/article review. A two-page synopsis of each item reviewed must be written by the licensee.

(i) For audio or video recordings or other multimedia devices, a two-page double-spaced synopsis for every one to four hours of running time must be written by the licensee. Time spent writing a synopsis is not reportable.

(ii) For book/article review, a two-page double-spaced synopsis on each subject reviewed must be written by the licensee. Time spent writing a synopsis is not reportable.

(c) Correspondence course work completed. Course description and/or syllabus and copies of the completed and scored examination must be kept on file by the licensee.

(d) Physical therapy employment. Certified copies of employment records or proof acceptable to the board of physical therapy employment for the hours being reported.

NEW SECTION

WAC 246-915-086 Suicide assessment training standards. (1) A qualifying training in suicide assessment must:

(a) Be an empirically supported training in suicide assessment that includes screening and referral;

(b) Be provided by a single provider and must be at least three hours in length which may be provided in one or more sessions.

(2) The hours spent completing a training program in suicide assessment under this section count toward meeting any applicable continued competency requirements.

NEW SECTION

WAC 246-915-380 Spinal manipulation—Endorsement. (Effective July 1, 2015, until June 30, 2020.) (1) A physical therapist may perform spinal manipulation only after being issued a spinal manipulation endorsement by the secretary. The secretary, upon approval by the board, shall issue an endorsement to a physical therapist who has at least one year of full-time, orthopedic, postgraduate practice experience that consists of direct patient care, averaging at least thirty-six hours a week, and who provides evidence in a man-

ner acceptable to the board of all of the following additional requirements:

(a) Training in differential diagnosis of no less than one hundred hours outlined within a course curriculum;

(b) Didactic and practical training related to the delivery of spinal manipulative procedures of no less than two hundred fifty hours clearly delineated and outlined in a course curriculum;

(c) Specific training in spinal diagnostic imaging of no less than one hundred fifty hours outlined in a course curriculum; and

(d) At least three hundred hours of supervised clinical practical experience in spinal manipulative procedures. The supervised clinical practical experience must:

(i) Be supervised by a clinical supervisor who:

(A) Holds a spinal manipulation endorsement under this section;

(B) Is a licensed chiropractor or osteopathic physician and surgeon; or

(C) Holds an endorsement or advanced certification the training requirements for which are commensurate with the training requirements as specified in WAC 246-915-382;

(ii) Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor;

(iii) Be completed within eighteen months of completing the educational requirements in (a) through (c) of this subsection, unless the physical therapist has completed the educational requirements in (a) through (c) of this subsection prior to July 1, 2015, in which case the supervised clinical practical experience must be completed by January 1, 2017.

(2) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section shall consult with a health care practitioner, other than a physical therapist, authorized to perform spinal manipulation if spinal manipulative procedures are required beyond six treatments.

(3) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section may not:

(a) Have a practice in which spinal manipulation constitutes the majority of the services provided;

(b) Practice or utilize chiropractic manipulative therapy in any form;

(c) Delegate spinal manipulation; or

(d) Bill a health carrier for spinal manipulation separately from, or in addition to, other physical therapy procedures.

(4) A physical therapist holding a spinal manipulation endorsement under this section shall complete continuing education directly related to spinal manipulation as specified in WAC 246-915-085.

(5) If a physical therapist is intending to perform spinal manipulation on a patient who the physical therapist knows is being treated by a chiropractor for the same diagnosis, the physical therapist shall make reasonable efforts to coordinate patient care with the chiropractor to prevent conflict or duplication of services.

NEW SECTION

WAC 246-915-381 Spinal manipulation—Endorsement. (Effective July 1, 2020.) (1) A physical therapist may perform spinal manipulation only after being issued a spinal manipulation endorsement by the secretary. The secretary, upon approval by the board, shall issue an endorsement to a physical therapist who has at least one year of full-time, orthopedic, postgraduate practice experience that consists of direct patient care and averages at least thirty-six hours a week and who provides evidence in a manner acceptable to the board of all of the following additional requirements:

(a) Training in differential diagnosis of no less than one hundred hours outlined within a course curriculum;

(b) Didactic and practical training related to the delivery of spinal manipulative procedures of no less than two hundred fifty hours clearly delineated and outlined in a course curriculum;

(c) Specific training in spinal diagnostic imaging of no less than one hundred fifty hours outlined in a course curriculum; and

(d) At least three hundred hours of supervised clinical practical experience in spinal manipulative procedures. The supervised clinical practical experience must:

(i) Be supervised by a clinical supervisor who:

(A) Holds a spinal manipulation endorsement under this section; or

(B) Is a licensed chiropractor or osteopathic physician and surgeon;

(ii) Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor.

(iii) Be completed within eighteen months of completing the educational requirements in (a) through (c) of this subsection, unless the physical therapist has completed the educational requirements in (a) through (c) of this subsection prior to July 1, 2015, in which case the supervised clinical practical experience must be completed by January 1, 2017.

(2) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section shall consult with a health care practitioner, other than a physical therapist, authorized to perform spinal manipulation if spinal manipulative procedures are required beyond six treatments.

(3) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section may not:

(a) Have a practice in which spinal manipulation constitutes the majority of the services provided;

(b) Practice or utilize chiropractic manipulative therapy in any form;

(c) Delegate spinal manipulation; or

(d) Bill a health carrier for spinal manipulation separately from, or in addition to, other physical therapy procedures.

(4) A physical therapist holding a spinal manipulation endorsement under this section shall complete continuing education directly related to spinal manipulation as specified in WAC 246-915-085.

(5) If a physical therapist is intending to perform spinal manipulation on a patient who the physical therapist knows is

being treated by a chiropractor for the same diagnosis, the physical therapist shall make reasonable efforts to coordinate patient care with the chiropractor to prevent conflict or duplication of services.

NEW SECTION

WAC 246-915-382 Spinal manipulation—Clinical supervisor. (Effective July 1, 2015, until June 30, 2020.)

To qualify as a clinical supervisor under WAC 246-915-380 (1)(d)(i)(C), a person must be a licensed physical therapist who holds an endorsement or advanced certification for which the training requirements are commensurate with the training requirements in WAC 246-915-380 (1)(a) through (d) and have at least one of the following credentials:

(1) Orthopedic Manual Therapy Fellowship/Fellow American Academy of Orthopedic Manual Physical Therapy designation trained under an American Board of Physical Therapy residencies and Fellowship Education.

(2) Orthopedic Physical Therapy Residency trained under an American Board of Physical Therapy residencies and Fellowship Education credentialed program.

(3) Orthopedic Certified Specialist/Orthopedic Clinical Specialist designation (American Board of Physical Therapy Specialties).

(4) Orthopedic manual physical therapy certification as a:

(a) Certified Functional Manual Therapist at the Institute of Physical Art; or

(b) Certified Manual Physical Therapist at the North American Institute of Orthopaedic Manual Therapy; or

(c) Certified Orthopedic Manual Therapist at the:

(i) Maitland Australian Physiotherapy Seminars; or

(ii) North American Institute of Orthopaedic Manual Therapy; or

(iii) Ola Grimsby Institute; or

(d) Therapist with a Manual Therapy Certification from:

(i) Evidence in Motion; or

(ii) The University of St. Augustine for Health Sciences;

or

(e) Other certifications approved by the board.

WSR 15-14-097

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed June 30, 2015, 8:48 a.m., effective August 1, 2015]

Effective Date of Rule: August 1, 2015.

Purpose: The proposed rule amendment will affect workers participating in a vocational retraining plan. The existing rule excludes workers in vocational retraining from receiving reimbursement for the first fifteen miles of an authorized one-way trip and the first and last fifteen miles of an authorized round trip. The proposed amendment will allow workers who are actively participating in a vocational retraining plan to receive reimbursement for travel associated with the retraining without a reduction of mileage.

Citation of Existing Rules Affected by this Order:
Amending WAC 296-20-1103.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Adopted under notice filed as WSR 15-09-118 on April 21, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 30, 2015.

Joel Sacks

Director

AMENDATORY SECTION (Amending WSR 10-15-105, filed 7/20/10, effective 9/1/10)

WAC 296-20-1103 Travel expense. (1) The department or self-insurer will reimburse travel expense incurred by workers for ~~((the following reasons))~~:

~~((1))~~ (a) Examinations at department's or self-insurer's request;

~~((2))~~ (b) Approved vocational retraining or vocational services at department's or self-insurer's request;

~~((3))~~ (c) Fitting of prosthetic device; ~~(and~~

~~(4))~~ (d) Upon *prior authorization* for treatment ~~((or vocational retraining))~~ when worker must travel more than fifteen miles one-way from the worker's home to the nearest point of adequate treatment ~~((or vocational retraining))~~. Travel expense *is not* payable when adequate treatment is available within fifteen miles of injured worker's home, yet the injured worker prefers to report to an attending provider outside the worker's home area.

(2) Under subsection ~~((s (3) and (4)))~~ (1)(c) and (d) of this section, when travel expense is authorized the first fifteen miles one-way are not payable. The first and last fifteen miles are not payable on an authorized round trip.

(3) Travel expenses will be reimbursed at the current department rate.

(4) Receipts are required for all expenses except parking expenses under ten dollars.

(5) Claims for reimbursement of travel expenses must be received by the department or self-insurer within one year after the date expenses are incurred. Refer to WAC 296-20-125 and to department policy for additional rules.

WSR 15-14-100
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 30, 2015, 9:47 a.m., effective September 1, 2015]

Purpose: The board of boiler rules is adopting amendments to sections of chapter 296-104 WAC, Board of boiler rules—Substantive, for new safety code requirements and to update the existing rules. The boiler rules are reviewed on a regular basis to ensure the rules are consistent with national boiler and unfired pressure vessel safety standards and industry practice.

This rule making will:

- Adopt new definitions for "jacketed steam kettles" and update the existing definition for "places of public assembly";
- Adopt the latest edition of national standards for American Petroleum Institute (API) 510 for boilers and unfired pressure vessels;
- Adopt the latest edition of national standards for TAPPI TIP 0402-16 for pulp or paper machine dryers;
- Clarify the annual internal and external inspection requirements for power boilers;
- Clarify the shutdown requirements for automatically fired boilers, after December 2004;
- Correct references to National Board (NB) 263 and API 510 for continuous adoption of the latest edition of standards; and
- Update the definitions to modern-day terms by replacing the term for "boarding homes" with "assisted living facilities."

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-010, 296-104-050, 296-104-100, 296-104-102, and 296-104-303.

Statutory Authority for Adoption: Chapter 70.79 RCW, Boiler and unfired pressure vessel laws.

Adopted under notice filed as WSR 15-08-073 on March 31, 2015.

Changes Other than Editing from Proposed to Adopted Version: There were minor changes between the proposed and adopted versions. The changes are as follows:

- WAC 296-104-102(1), replaced the NBIC 2013 edition with NBIC "current edition."
- WAC 296-104-303, added the wording "as applicable" in the last sentence of the proposed changes.

A final cost-benefit analysis is available by contacting Alicia Curry, Rules Coordinator, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6244, fax (360) 902-5292, e-mail Alicia.Curry@Lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: June 30, 2015.

Robert Olson, Chair
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 13-10-018, filed 4/23/13, effective 6/1/13)

WAC 296-104-010 Administration—What are the definitions of terms used in this chapter? "Accident" shall mean a failure of the boiler or unfired pressure vessel resulting in personal injury or property loss or an event which renders a boiler or unfired pressure vessel unsafe to return to operation.

"Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

"Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

"Automatic operation of a boiler" shall mean automatic unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

"Board of boiler rules" or **"board"** shall mean the board created by law and empowered under RCW 70.79.010.

"Boiler and unfired pressure vessel installation/reinstallation permit," shall mean a permit approved by the chief inspector before starting installation or reinstallation of any boiler and unfired pressure vessel within the jurisdiction of Washington.

Owner/user inspection agency's, and Washington specials are exempt from "boiler and unfired pressure vessel installation/reinstallation permit."

"Boilers and/or unfired pressure vessels" - Below are definitions for types of boilers and unfired pressure vessels used in these regulations:

- **"Condemned boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified for further use by legal requirements and appropriately marked by an inspector.
- "Corrosion"** shall mean the destruction or deterioration of a material, that results from a reaction with its environment.

- **"Expansion tank"** shall mean a tank used to absorb excess water pressure. Expansion tanks installed in closed water heating systems and hot water supply systems shall meet the requirements of ASME Section IV, HG-709.

"Historical boilers and unfired pressure vessel" shall mean nonstandard boilers and pressure vessels including steam tractors, traction engines, hobby steam boilers, portable steam boilers, and other such boilers or pressure vessels that are preserved, restored, and maintained only for demonstration, viewing, or educational purposes. They do not include miniature hobby boilers as described in RCW 70.79.070.
- **"Hot water heater"** shall mean a closed vessel designed to supply hot water for external use to the system. All vessels must be listed by a nationally recognized testing agency and shall be protected with an approved temperature and pressure safety relief valve and shall not exceed any of the following limits:
 - * Pressure of 160 psi (1100 kpa);
 - * Temperature of 210 degrees F (99°C).

Additional requirements:

 - * Hot water heaters exceeding 120 gallons (454 liters) must be ASME code stamped;
 - * Hot water heaters exceeding 200,000 Btu/hr (58.58 kW) input must be ASME code stamped.

"Indirect water heater" shall mean a closed vessel appliance used to heat water for use external to itself, which includes a heat exchanger used to transfer heat to water from an external source. The requirements and limits described above shall apply.
- **"Low pressure boiler"** shall mean a steam boiler operating at a pressure not exceeding 15 psig or a boiler in which water is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy. Low pressure boilers open to atmosphere and vacuum boilers are excluded.
- **"Nonstandard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.

"Pool heaters" shall mean a gas, oil, or electric appliance that is used to heat water contained in swimming pools, spas, and hot tubs.
- (a) Pool heaters with energy input equivalent to 399,999 Btu/hr (117.2 kW) or less shall be manufactured and certified to ANSI Z21.56, UL1261, CSA 4.7 or equivalent manufacturing standards, as approved by the chief inspector, and are excluded from the limit and control devices requirements of WAC 296-104-300 through 296-104-303.
 - (b) Pool heaters with energy input of 400,000 Btu/hr and above shall be stamped with an ASME Section IV Code symbol, and the requirements of WAC 296-104-300 through 296-104-303 shall apply.
 - (c) Pool heaters open to the atmosphere are excluded.
 - **"Power boiler"** shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.
 - **"Reinstalled boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.
 - **"Rental boiler"** shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.
 - **"Second hand boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.
 - **"Standard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.
 - **"Unfired pressure vessel"** shall mean a closed vessel under pressure excluding:
 - * Fired process tubular heaters;
 - * Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;
 - * Piping whose primary function is to transport fluids from one location to another;
 - * Those vessels defined as low pressure heating boilers or power boilers.
 - **"Unfired steam boiler"** shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

"Certificate of competency" shall mean a certificate issued by the Washington state board of boiler rules to a person who has passed the tests as set forth in WAC 296-104-050.

"Certificate of inspection" shall mean a certificate issued by the chief boiler inspector to the owner/user of a

boiler or unfired pressure vessel upon inspection by an inspector. The boiler or unfired pressure vessel must comply with rules, regulations, and appropriate fee payment shall be made directly to the chief boiler inspector.

"**Code, API-510**" shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"**Code, ASME**" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with addenda thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"**Code, NBIC**" shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"**Commission**" shall mean an annual commission card issued to a person in the employ of Washington state, an insurance company or a company owner/user inspection agency holding a Washington state certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

"**Department**" as used herein shall mean the department of labor and industries of the state of Washington.

"**Director**" shall mean the director of the department of labor and industries.

"**Domestic and/or residential purposes**" shall mean serving a private residence or an apartment house of less than six families.

"**Existing installations**" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

"**Inspection certificate**" see "certificate of inspection."

"**Inspection, external**" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

"**Inspection, internal**" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels less than 36" inside diameter shall constitute an internal inspection.

"**Inspector**" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

- "**Chief inspector**" shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.
- "**Deputy inspector**" shall mean an inspector appointed under RCW 70.79.120.
- "**Special inspector**" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"**Jacketed steam kettle**" shall mean a pressure vessel with inner and outer walls that is subject to steam pressure

and is used to boil or heat liquids or to cook food. Jacketed steam kettles with a total volume greater than or equal to one and one-half cubic feet (11.25 gallons) shall be ASME code stamped.

(a) "**Unfired jacketed steam kettle**" is one where the steam within the jacket's walls is generated external to itself such as from a boiler or other steam source.

(b) "**Direct fired jacketed steam kettle**" is a jacketed steam kettle having its own source of energy, such as gas or electricity for generating steam within the jacket's walls.

"**Nationwide engineering standard**" shall mean a nationally accepted design method, formulae and practice acceptable to the board.

"**Operating permit**" see "certificate of inspection."

"**Owner**" or "**user**" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"**Owner/user inspection agency**" shall mean an owner or user of boilers and/or pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"**Place of public assembly**" or "**assembly hall**" shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing ((and boarding)) homes and assisted living facilities.

"**Special design**" shall mean a design using nationally or internationally recognized engineering standards other than the codes adopted in WAC 296-104-200.

AMENDATORY SECTION (Amending WSR 14-13-087, filed 6/17/14, effective 8/1/14)

WAC 296-104-050 Administration—What are the requirements for a boiler inspector? Application for examination for a Washington state certificate of competency shall be in writing upon a form to be furnished by the chief inspector stating the school and education of the applicant, a list of employers, period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected.

In order to qualify as a prospective inspector, an applicant shall meet the minimum requirements as set forth in the national board's "Rules for Commissioned Inspectors," NB263, ((Revision 8 (02/07))) (current edition) or API-510 (((ninth))) current edition), as appropriate.

If the applicant's history and experience meet with the approval of the chief inspector based on the board of boiler rules approved criteria, the candidate shall be given the Washington state examination. If the applicant is accepted on the merits of these examinations or as provided for in WAC 296-104-065, and the applicant is in possession of a national board commission or API-510 certification, as appropriate, a Washington state certificate of competency will be issued by the chief inspector.

For those applicants sitting for the national board examination in conjunction with the Washington state examination, a certificate of competency will be issued by the chief inspector upon receipt of a valid national board commission.

Examinations shall be held at locations and times when considered necessary by the chief inspector. The examinations may be offered four times each year, namely, the first Wednesday and following Thursday of the months of March, June, September and December. Special examinations may be held when considered necessary by the chief inspector.

AMENDATORY SECTION (Amending WSR 10-06-049, filed 2/24/10, effective 4/1/10)

WAC 296-104-100 Inspection—How often must boilers and unfired pressure vessels be inspected? In accordance with RCW 70.79.080, 70.79.090, and 70.79.240 the following inspection requirements shall apply:

(1) **Power boilers** shall be inspected:

(a) Externally while under pressure - Annually.

(b) Internally and externally while not under pressure - Annually, except as noted in ~~((the following paragraph))~~ (d) of this subsection.

(c) The required annual "certificate of inspection" will not be issued until both inspections listed in (a) and (b) of this subsection are completed and reported to the jurisdiction.

(d) A power boiler in a national board accredited owner-user inspection program may have the internal inspection intervals extended by the owner-user inspection organization to five years maximum under the following conditions:

(i) The boiler water treatment and specific chemical limits are prescribed and monitored by an individual or company that specializes in the water treatment field;

(ii) Nondestructive examination (NDE) is performed along with the internal inspections;

(iii) The boiler is monitored within a manned operating facility;

(iv) Inspection, maintenance, and water treatment records are maintained;

(v) There is sufficient inspection history for the boiler or a boiler in similar service to justify the increase in the inspection interval; and

(vi) This provision shall not apply to a black liquor recovery boiler or any boiler with an unsuitable corrosion rate, remaining life, and/or repair history.

(2) **Organic vapor boilers** shall be inspected:

(a) Externally while under pressure - Annually.

(b) Internally and externally while not under pressure - Biennially.

(3) **Low pressure boilers** shall be inspected:

(a) Externally while in operation and under pressure - Biennially.

(b) Internally while not under pressure (except where construction does not permit an internal) - Every fourth year.

(c) Internally, all steam heating boilers will have as a minimum, an internal of their low water fuel cut off - Biennially.

(d) Internally, none required for nonvapor boilers using glycol, or adequately treated with corrosion inhibitor.

(4) **Hot water heaters** shall be inspected:

(a) Externally - Biennially.

(b) Internally - None required.

(5) **Unfired pressure vessels** shall be inspected:

(a) Externally - Biennially.

(b) Internally:

(i) When subject to corrosion and construction permits - Biennially, except that expansion tanks, air separators, ammonia storage tanks and hot water storage tanks may have internal inspections at the inspector's discretion. Vessels in an owner-user inspection program may follow intervals established by the NBIC or API-510 (~~((ninth edition with addenda))~~).

(ii) Pulp or paper dryer rolls may be inspected on a five-year basis in accordance with TAPPI TIP 0402-16 (~~((2001 edition))~~) revised 2011, provided the owner has established a written inspection program accepted by the inspector that meets the minimum requirements of TAPPI TIP 0402-16 (~~((2001 edition))~~) revised 2011.

(iii) Vessels not subject to corrosion do not require an internal.

AMENDATORY SECTION (Amending WSR 14-13-087, filed 6/17/14, effective 8/1/14)

WAC 296-104-102 Inspection—What are the standards for in-service inspection? Where a conflict exists between the requirements of the standards listed below and this chapter, this chapter shall prevail. The duties of the in-service inspector do not include the installation's compliance with other standards and requirements (environmental, construction, electrical, undefined industrial standards, etc.), for which other regulatory agencies have authority and responsibility to oversee.

(1) The standard for inspection of nonnuclear boilers, unfired pressure vessels, and safety devices in the National Board Inspection Code (NBIC), (~~((2013))~~) current edition Part 2, excluding Section 6, Supplements 1, 2, 5, 6, and 7 which may be used as nonmandatory guidelines.

(2) The standard for inspection of historical steam boilers of riveted construction preserved, restored, or maintained for hobby or demonstration use, shall be Appendix "C" of the National Board Inspection Code (NBIC) 2004 edition with 2006 addenda.

(3) The standard for inspection of nuclear items is ASME section XI. The applicable ASME Code edition and addenda shall be as specified in the owner in-service inspection program plan.

(4) Where a petroleum or chemical process industry owner/user inspection agency so chooses, the standard for inspection of unfired pressure vessels used by the owner shall be the API-510 Pressure Vessel Inspection Code, (~~((ninth))~~) current edition (~~((with addenda))~~). This code may be used on or after the date of issue.

(5) TAPPI TIP 0402-16, (~~((dated 2006))~~) revised 2011 may be used for both pulp dryers and paper machine dryers when requested by the owner. When requested by the owner, this document becomes a requirement and not a guideline.

AMENDATORY SECTION (Amending WSR 13-10-018, filed 4/23/13, effective 6/1/13)

WAC 296-104-303 Installation—What control and limit devices are required on automatically fired boilers after December 2004? In addition to those requirements listed in WAC 296-104-302, the following are also required with regard to installations or refits of gas, oil, or combinations of gas or oil:

(1) All automatically fired boilers with input greater than 400,000 Btu/hr, including electric boilers with input greater than 117 kW shall have a manually operated remote shutdown switch or circuit breaker. Activation of the emergency shutdown switch or circuit breaker shall immediately shut off the fuel or energy supply and initiate the boiler shutdown sequence in accordance with manufacturer's recommendations where applicable. The shutdown switch should be located just outside the boiler room door and marked for easy identification. Consideration should be given to the type and location of the switch to safeguard against tampering. If the boiler room door is on the building exterior, the switch should be located just inside the door. If there is more than one door to the boiler room, there should be a switch located at each door.

(2) A means shall be provided for testing the operation of hot water heating boiler low-water fuel cutoff(s) without resorting to draining the entire system. Such means shall not render the device(s) inoperable. If the means temporarily isolates the device from the boiler during testing, it shall automatically return to its normal position.

WSR 15-14-126
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 1, 2015, 10:31 a.m., effective August 1, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The office of superintendent of public instruction (OSPI) is changing WAC 392-502-030 to adjust the effective date of the online provider performance targets that rely on the percentage of students meeting standard on the state assessment. The 2015 administration of the smarter balanced assessments will provide a new baseline score. OSPI will adjust the performance targets based on the 2015 results prior to September 1, 2016.

Citation of Existing Rules Affected by this Order: Amending WAC 392-502-030 Approval assurances, criteria, and performance targets.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.250.020.

Adopted under notice filed as WSR 15-11-078 on May 19, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 26, 2015.

Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 14-21-187, filed 10/22/14, effective 11/22/14)

WAC 392-502-030 Approval assurances, criteria, and performance targets. (1) This section sets forth the assurances, criteria, and performance targets that online providers must meet to be approved under this chapter.

(a) To be approved, online providers must provide the following assurances to the superintendent of public instruction:

(i) The online provider is accredited through an accrediting body as defined in WAC 392-502-010 and agrees to maintain accredited status for the duration of the approval period. Online providers may be candidates for accreditation at the time of application for approval provided that the provider earns full accreditation on the standard timeline.

(ii) Each course and program the online provider offers is aligned with at least eighty percent of the current applicable grade/subject area of Washington state standards. For courses with content that is not included in state standards, the online provider's courses are aligned with at least eighty percent of nationally accepted content standards set for the relevant subjects. Online providers must submit information to the superintendent regarding the standards alignment and the standards aligned.

(iii) All instruction delivered to Washington state students is delivered by Washington state certificated teachers who:

(A) Are assigned to instruct courses in a manner which meets the "highly qualified" definition under the No Child Left Behind Act and in a manner which meets the requirements set forth in chapter 181-82 WAC; and

(B) Are evaluated annually using the revised evaluative criteria and four-level rating system established in RCW 28A.405.100.

(iv) For online providers that offer high school courses, the courses offered by the online provider must be eligible for high school credit pursuant to WAC 180-51-050.

(v) All of the online provider's current and future courses in the applicable areas meet the credit/content requirements in chapter 392-410 WAC.

(vi) All advanced placement courses offered by the online provider have been approved in accordance with the college board advanced placement course audit. For

advanced placement courses not yet offered at the time of application, the online provider must assure that those courses will be approved by the college board prior to offering those courses to students.

(vii) The online provider's data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act of 1974, as amended.

(viii) The online provider's web systems and content meet accessibility conformance levels specified in the list of approved provider assurances on the office of superintendent of public instruction's web site.

(ix) The online provider provides all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) The online provider informs the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) The online provider upholds any pertinent federal or state laws, rules or regulations, in the delivery of the online courses or programs.

(xii) The online provider retains responsibility for the quality of courses, web systems, and content offered, regardless of any third-party contractual arrangements, partnerships or consortia, contributing to the content or delivery of the online courses or programs.

(xiii) The online school program complies with the state assessment requirements including, but not limited to, the requirements of chapter 28A.655 RCW and WAC 392-121-182, as applicable.

(xiv) All of the provider's current and future career and technical education (CTE) courses are aligned to Washington state CTE program standards and have been approved by the office of superintendent of public instruction's CTE office. CTE courses must be taught by a Washington certificated teacher who is also CTE-certificated in the subject area of the course.

(xv) The online provider agrees to abide by any additional assurances required by the superintendent of public instruction.

(xvi) The online school program agrees that all programs delivered as alternative learning experiences comply with the requirements of WAC 392-121-182. The online course provider agrees to disclose to OSPI the manner in which it supports the requirements of WAC 392-121-182 for online courses delivered outside of an online school program.

(xvii) Instructional materials used by online school programs in online courses or course work must be approved pursuant to school board policies adopted in accordance with RCW 28A.320.230.

(b) Multidistrict online providers must meet the following initial approval criteria by a preponderance of evidence submitted with the online provider's application:

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the online learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) School-based support incorporating strategies and systems to allow school-based staff to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and online instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

(x) The superintendent may require additional approval criteria pursuant to WAC 392-502-080.

(c) Beginning September 1, 2015, the online school ~~((programs must meet or exceed each of the following annual performance targets:~~

~~(i) The online school))~~ program's course success rate must be greater than seventy percent. Programs with fewer than twenty online enrollments are not subject to this performance target.

~~((+)) (d) Beginning September 1, 2016, online school programs must meet or exceed each of the following annual performance targets:~~

~~(i)~~ The online school program's percentage of students taking online math courses who meet standard on the state math assessments must be greater than forty percent. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online math course and taken the state math assessment.

~~((++)) (ii)~~ The online school program's percentage of students taking online English language arts courses who meet standard on the state English language arts assessments must be greater than fifty percent. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online English language arts course and taken the state English language arts assessment.

~~((+d) Beginning September 1, 2016, online school programs must meet or exceed each of the following annual performance targets:~~

~~(+)) (iii)~~ The online school program's median math student growth percentile for students taking an online math course must be greater than the thirtieth percentile. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online math course and have a math student growth percentile.

((~~(i)~~)) (iv) The online school program's median English language arts student growth percentile for students taking an online English language arts course must be greater than the fortieth percentile. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online English language arts course and have an English language arts student growth percentile.

(e) Beginning September 1, 2015, online course providers' course success rate must be greater than seventy percent. Online providers must supply OSPI with student-level enrollment and performance information. Online course providers must also supply OSPI with a list of each district in the state that they served. An online course provider is not subject to this performance target if they have fewer than twenty online course enrollments.

(2) After review by the online learning advisory committee, the approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site on or before the date the application is made available.

(3) Online provider's application will be reviewed by reviewers selected by the superintendent of public instruction for their experience and expertise. The reviewers will be provided orientations and training to review and score the online provider applications using the approval criteria and scoring protocols.

(4) Single-district provider online programs must incorporate the approval criteria developed by the superintendent of public instruction into the program design.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 1, 2015.

Scott Jarvis
Director

AMENDATORY SECTION (Amending WSR 09-22-050, filed 10/29/09, effective 11/29/09)

WAC 460-80-140 Financial statements. The Franchise Disclosure Document must include financial statements that comply with the instructions for Item 21 of the Franchise Disclosure Document, 16 C.F.R. ((§ 465.5(u))) Sec. 436.5.

WSR 15-14-130
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)

[Filed July 1, 2015, 10:59 a.m., effective August 1, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The securities division is hereby amending WAC 460-80-140 to correct a citation to financial statement requirements contained in the Federal Trade Commission's franchise rule. The amendment adopted changes the citation from 16 C.F.R. § 465.5(u) to 16 C.F.R. § 436.5. The rule, as amended, better coordinates with existing federal and state law governing franchise disclosure requirements.

Citation of Existing Rules Affected by this Order: Amending 1 [WAC 460-80-140].

Statutory Authority for Adoption: RCW 19.100.250, 19.100.040.

Adopted under notice filed as WSR 15-11-011 on May 7, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.