

WSR 15-13-023
RULES OF COURT
STATE SUPREME COURT

[June 4, 2015]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO SPRC 3—COURT ) NO. 25700-A-1104
REPORTERS; FILING OF NOTES, )
CrR\_—ELECTRONIC RECORDING )
LOG, RAP 9.2—VERBATIM REPORT )
OF PROCEEDINGS, RAP 9.3—NARRA- )
TIVE REPORT OF PROCEEDINGS, )
RAP 9.4—AGREED REPORT OF PRO- )
CEEDINGS, RAP 9.5—FILING AND )
SERVICE OF REPORT OF PROCEED- )
INGS, OBJECTIONS, RAP 9.8— )
TRANSMITTING RECORD ON )
REVIEW, RAP 9.9—CORRECTING OR )
SUPPLEMENTING REPORT OF PRO- )
CEEDINGS—BEFORE TRANSMIT- )
TAL TO APPELLATE COURT )
[RESERVED], RAP 9.10—CORRECT- )
ING OR SUPPLEMENTING RECORD )
AFTER TRANSMITTAL TO APPEL- )
LATE COURT, RAP 10.2—TIME FOR )
FILING BRIEFS, RAP 18.9—VIOLA- )
TION OF RULES, CR 43—TAKING OF )
TESTIMONY, CR 80—COURT )
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RECORDING LOG, ARLJ 13—LIM- )
ITED JURISDICTION COURTS ARE )
REQUIRED TO RECORD ALL PRO- )
CEEDINGS ELECTRONICALLY, RALJ )
5.3—LOG, CRLJ 75—RECORD ON )
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CIAL SUPERIOR COURT TRAN- )
SCRIPTS )

The Court Management Council, having recommended the adoption of the Proposed Amendments to SPRC 3—Court Reporters; Filing of Notes, CrR\_—Electronic Recording Log, RAP 9.2—Verbatim Report of Proceedings, RAP 9.3—Narrative Report of Proceedings, RAP 9.4—Agreed Report of Proceedings, RAP 9.5—Filing and Service of Report of Proceedings, Objections, RAP 9.8—Transmitting Record on Review, RAP 9.9—Correcting or Supplementing Report of Proceedings—Before Transmittal to Appellate Court [Reserved], RAP 9.10—Correcting or Supplementing Record After Transmittal to Appellate Court, RAP 10.2—Time for Filing Briefs, RAP 18.9—Violation of Rules, CR 43—Taking of Testimony, CR 80—Court Reporters, CR\_—Electronic Recording Log, ARLJ 13—Limited Jurisdiction Courts Are Required To Record All Proceedings Electronically, RALJ 5.3—Log, CRLJ 75—Record on Trial De Novo, New GR\_ Official Superior Court Transcripts, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules as shown below are adopted.

(b) That the new rules will be published in the Washington Reports and will become effective on September 1, 2015.

DATED at Olympia, Washington this 4th day of June, 2015.

Johnson, J.
Owens, J.
Fairhurst, J.
Stephens, J.
Madsen, C.J.
Wiggins, J.
Gonzalez, J.
Gordon McCloud, J.
Yu, J.

SUGGESTED AMENDMENT
ADMINISTRATIVE RULES FOR COURTS OF LIMITED JURISDICTION (ARLJ)
RULE 13
LIMITED JURISDICTION COURTS ARE REQUIRED TO RECORD ALL PROCEEDINGS ELECTRONICALLY

(a) Generally. All limited jurisdiction courts shall make an electronic record of all proceedings and retain the record for at least as long as the record retention schedule dictates. The judicial officer shall assure that all case participants identify themselves for the record in keeping with RALJ 5.2(a)

(b) Nonelectronic Record in Emergency. In the event of an equipment failure or other situation making an electronic recording impossible, the court may order the proceeding to be recorded by nonelectronic means. The nonelectronic record must be made at the court's expense, and in the event of an appeal, any necessary transcription of the nonelectronic record must be made at the court's expense.

[Adopted effective October 1, 2002.]

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL RULES (CR)
RULE 43
TAKING OF TESTIMONY

(a) Testimony.

(1) Generally. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

(2) Multiple Examinations. When two or more attorneys are upon the same side trying a case, the attorney conducting the examination of a witness shall continue until the witness is excused from the stand; and all objections and offers of proof made during the examination of such witness shall be made or announced by the attorney who is conducting the examination or cross examination.

(b) and

(c) (Reserved. See ER 103 and 611.)

(d) Oaths of Witnesses.

(1) Administration. The oaths of all witnesses in the superior court

(A) shall be administered by the judge;

(B) shall be administered to each witness individually; and

(C) the witness shall stand while the oath is administered.

(2) *Applicability.* This rule shall not apply to civil ex parte proceedings or default divorce cases and in such cases the manner of swearing witnesses shall be as each superior court may prescribe.

(3) *Affirmation in Lieu of Oath.* Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

**(e) Evidence on Motions.**

(1) *Generally.* When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

(2) *For injunctions, etc.* On application for injunction or motion to dissolve an injunction or discharge an attachment, or to appoint or discharge a receiver, the notice thereof shall designate the kind of evidence to be introduced on the hearing. If the application is to be heard on affidavits, copies thereof must be served by the moving party upon the adverse party at least 3 days before the hearing. Oral testimony shall not be taken on such hearing unless permission of the court is first obtained and notice of such permission served upon the adverse party at least 3 days before the hearing. This rule shall not be construed as pertaining to applications for restraining orders or for appointment of temporary receivers.

**(f) Adverse Party as Witness.**

(1) *Party or Managing Agent as Adverse Witness.* A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association which is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in rule 30 (b)(1) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown in the manner prescribed in rule 26(c), the court may make orders for the protection of the party or managing agent to be examined.

(2) *Effect of Discovery, etc.* A party who has served interrogatories to be answered by the adverse party or who has taken the deposition of an adverse party or of the managing agent of an adverse party shall not be precluded for that reason from examining such adverse party or managing agent at the trial. Matters admitted by the adverse party or managing agent in interrogatory answers, deposition testimony, or trial testimony are not conclusively established and may be rebutted.

(3) *Refusal To Attend and Testify; Penalties.* If a party or a managing agent refuses to attend and testify before the officer designated to take his deposition or at the trial after notice served as prescribed in rule 30 (b)(1), the complaint, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(A) to compel any person to answer any question where such answer might tend to incriminate him;

(B) to prevent a party from using a subpoena to compel the attendance of any party or managing agent to give testimony by deposition or at the trial; nor

(C) to limit the applicability of any other sanctions or penalties provided in rule 37 or otherwise for failure to attend and give testimony.

**(g) Attorney as Witness.** If any attorney offers himself as a witness on behalf of his client and gives evidence on the merits, he shall not argue the case to the jury, unless by permission of the court.

**(h) Report or Transcript as Evidence.** Whenever the testimony of a witness at a trial or hearing which was reported is admissible in evidence at a later trial, it may be proved by the certified transcript thereof ~~duly certified by the person who reported the testimony.~~

**(i) (Reserved. See ER 804.)**

**(j) Report of Proceedings in Retrial of Nonjury Cases.** In the event a cause has been remanded by the court for a new trial or the taking of further testimony, and such cause shall have been tried without a jury, and the testimony in such cause shall have been taken in full and used as the report of proceedings upon review, either party upon the retrial of such cause or the taking of further testimony therein shall have the right, provided the court shall so order after an application on 10 days' notice to the opposing party or parties, to submit said report of proceedings as the testimony in said cause upon its second hearing, to the same effect as if the witnesses called by him in the earlier hearing had been called, sworn, and testified in the further hearing; but no party shall be denied the right to submit other or further testimony upon such retrial or further hearing, and the party having the right of cross examination shall have the privilege of subpoenaing any witness whose testimony is contained in such report of proceedings for further cross examination.

**(k) Juror Questions for Witnesses.** The court shall permit jurors to submit to the court written questions directed to witnesses. Counsel shall be given an opportunity to object to such questions in a manner that does not inform the jury that an objection was made. The court shall establish procedures for submitting, objecting to, and answering questions from jurors to witnesses. The court may rephrase or reword questions from jurors to witnesses. The court may refuse on its own motion to allow a particular question from a juror to a witness.

[Originally effective July 1, 1967; amended effective January 1, 1977; April 2, 1979; September 1, 1988; October 1, 2002; September 1, 2006, September 1, 2010.]

**SUGGESTED AMENDMENT TO  
SUPERIOR COURT CIVIL RULES (CR)  
RULE 80  
COURT REPORTERS**

(a) (Reserved.)

**(b) Electronic Recording.** Except as provided in SPRC 3 regarding capital cases, in a any civil or criminal proceedings may be recorded electronically, electronic or mechanical recording devices approved by the Administrator for the Courts may be used to record oral testimony and other oral proceedings in lieu of or supplementary to causing shorthand or stenographic notes thereof to be taken. In all matters † The

use of such devices shall rest within the sole discretion of the court. If proceedings are recorded electronically, the judicial officer shall assure that all case participants identify themselves for the record.

(c) ~~Recording Proceedings in Superior Court by Means of Videotape.~~ All superior courts that elect to use video equipment to record proceedings shall comply with courtroom procedures published by the Office of the Administrator for the Courts. The judicial officer shall assure that all case participants identify themselves for the record.

[Adopted effective July 1, 1967; amended effective September 1, 1984; May 8, 1987; December 10, 1993.]

**SUGGESTED AMENDMENT  
CIVIL RULES FOR COURTS OF LIMITED JURISDICTION (CRLJ)  
RULE 75  
RECORD ON TRIAL DE NOVO**

(a) **Scope of Rule.** This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) **Transcript; Procedure in Superior Court; Pleadings in Superior Court.** Within 14 days after the notice of appeal has been filed in a civil action or proceeding, including a small claims appeal pursuant to RCW 12.40, the appellant shall file with the clerk of the superior court a transcript of all entries made in the docket of the court of limited jurisdiction relating to the case, together with all the process and other papers relating to the case filed in the court of limited jurisdiction which shall be made and certified by such court to be correct upon the payment of the fees allowed by law therefor, and upon the filing of such transcript the superior court shall become possessed of the cause, and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as provided in these rules. The issue before the court of limited jurisdiction shall be tried in the superior court without other or new pleadings, unless otherwise directed by the superior court.

(c) **Small Claims Appeals; Trial De Novo on the Record.** Small claims appeals pursuant to RCW 12.40 shall be tried by the superior court de novo on the record. Within 14 days after the notice of appeal has been filed in a small claims proceeding, appellant shall ~~cause to be filed with the clerk of the superior court~~ make necessary arrangements with the district court to directly transmit a verbatim electronic recording of the trial ~~of the matter in district court~~ and any exhibits from the trial to the clerk of the superior court. The electronic recording shall be made and certified by the district court to be correct upon the payment of the fees allowed by law therefor.

(d) **Transcript; Procedure on Failure To Make and Certify; Amendment.** If upon an appeal being taken the court of limited jurisdiction fails, neglects or refuses, upon the tender or payment of the fees allowed by law, to make and certify the transcript, the appellant may make application, supported by affidavit, to the superior court and the court shall issue an order directing the court of limited jurisdiction to make and certify such transcript upon the payment of such fees. Whenever it appears to the satisfaction of the superior

court that the return of the court of limited jurisdiction to such order is substantially erroneous or defective it may order the court of limited jurisdiction to amend the same. If the judge of the court of limited jurisdiction fails, neglects or refuses to comply with any order issued under the provisions of this section he may be cited and punished for contempt of court.

[Adopted effective September 1, 1984; amended effective October 30, 2001.]

**SUGGESTED NEW RULE  
SUPERIOR COURT CRIMINAL RULE  
CrR \_\_\_\_\_  
ELECTRONIC RECORDING LOG**

When the proceedings are electronically recorded, the court shall ensure that a written log of the proceedings is created that indicates the time of relevant events.

The judicial officer shall call the case name and cause number of each proceeding and shall assure that all case participants identify themselves for the record.

**SUGGESTED NEW RULE  
GENERAL RULE (GR) \_\_\_\_\_  
NEW RULE - OFFICIAL CERTIFIED SUPERIOR COURT TRANSCRIPTS**

(a) **Definitions.**

(1) "Authorized Transcriptionist" means a person approved by a Superior Court to prepare an official verbatim report of proceedings of an electronically recorded court proceeding in that court.

(2) "Certified Court Reporter" means a person who meets the standards outlined in RCW 18.145.080.

(3) "Mentorship" means a professional relationship between an experienced, authorized transcriptionist or a certified court reporter and another transcriptionist for the purpose of providing guidance, encouragement, and professional advice.

(b) Official court transcripts may be completed and filed by 1) an official court reporter employed by the court or other certified court reporter; or 2) a court employee with job responsibilities to transcribe a report of proceedings; or 3) an authorized transcriptionist who has been approved by the jurisdiction conducting the hearing to be transcribed.

(c) Each court will determine who has the authority to approve transcriptionist for that jurisdiction.

(d) Except as otherwise ordered by the court the minimum qualification to become an authorized transcriptionist in order to complete and file an official certified court transcript from electronically recorded proceedings is certification as a court reporter or certification by AAERT (American Association of Electronic Reporters and Transcribers) or proof of one year of supervised mentorship with a certified court reporter or an authorized transcriptionist. Courts may require additional qualifications at their discretion.

(e) The certified court reporter or authorized transcriptionist shall attach to the official transcript filed with the court a certificate in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. That I am a certified court reporter (or authorized transcriptionist);
2. I received the electronic recording directly from the trial court conducting the hearing;
3. This transcript is a true and correct record of the proceedings to the best of my ability, including any changes made by the trial judge reviewing the transcript;
4. I am in no way related to or employed by any party in this matter, nor any counsel in the matter; and
5. I have no financial interest in the litigation.

(Date and Place) (Signature)"

**SUGGESTED AMENDMENT  
ADMINISTRATIVE RULES FOR COURTS OF LIMITED JURISDICTION  
RALJ 5.3  
LOG**

The judge of the court of limited jurisdiction shall cause a written log to be maintained separate from the recording indicating the location on the electronic record of relevant events in the proceedings, including but not limited to the beginning of the proceeding, the beginning and ending of the testimony of each witness, the decision of the court, and the end of the proceeding. The judicial officer shall assure that all case participants identify themselves for the record.

[Originally effective January 1, 1981.]

**SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE (RAP)  
RULE 9.2  
VERBATIM REPORT OF PROCEEDINGS**

(a) **Transcription and Statement of Arrangements.** If the party seeking review intends to provide a verbatim report of proceedings, the party should arrange for transcription of and payment for an original and one copy of the verbatim report of proceedings within 30 days after the notice of appeal was filed or discretionary review was granted. ~~If the proceeding being reviewed was recorded on videotape, transcription of the videotapes shall be completed by a court-approved transcriber in accordance with procedures developed by the Office of the Administrator for the Courts. Copies of these procedures are available at the court administrator's office in each county where there is a courtroom that videotapes proceedings or through the Office of the Administrator for the Courts.~~ The party seeking review must file with the appellate court and serve on all parties of record and all named court reporters or authorized transcriptionists a statement that arrangements have been made for the transcription of the report and file proof of service with the appellate court. The statement must be filed within 30 days after the notice of appeal was filed or discretionary review was granted. The party must indicate the date that the report of proceedings was ordered, the financial arrangements which have been made for payment of transcription costs, the name of each court reporter or authorized transcriptionist ~~other person authorized to prepare~~ preparing a verbatim report of proceedings ~~who will be preparing the transcript,~~ the hearing dates, and the trial court judge. If the party seeking review does not intend to provide a verbatim report of proceedings, a state-

ment to that effect should be filed in lieu of a statement of arrangements within 30 days after the notice of appeal was filed or discretionary review was granted and served on all parties of record.

(b) **Content.** A party should arrange for the transcription of all those portions of the verbatim report of proceedings necessary to present the issues raised on review. A verbatim report of proceedings provided at public expense will not include the voir dire examination or opening statement unless so ordered by the trial court. If the party seeking review intends to urge that a verdict or finding of fact is not supported by the evidence, the party should include in the record all evidence relevant to the disputed verdict or finding. If the party seeking review intends to urge that the court erred in giving or failing to give an instruction, the party should include in the record all of the instructions given, the relevant instructions proposed, the party's objections to the instructions given, and the court's ruling on the objections.

(c) **Notice of Partial Report of Proceedings and Issues.** If a party seeking review arranges for less than all of the verbatim report of proceedings, the party should include in the statement of arrangements a statement of the issues the party intends to present on review. Any other party who wishes to add to the verbatim report of proceedings should within 10 days after service of the statement of arrangements file and serve on all other parties and the court reporter or authorized transcriptionist a designation of additional parts of the verbatim report of proceedings and file proof of service with the appellate court. If the party seeking review refuses to provide the additional parts of the verbatim report of proceedings, the party seeking the additional parts may provide them at the party's own expense or apply to the trial court for an order requiring the party seeking review to pay for the additional parts of the verbatim report of proceedings.

(d) **Payment of Expenses.** If a party fails to make arrangements for payment of the costs of the verbatim report of proceedings at the time the verbatim report of proceedings is ordered, the party may be subject to sanctions as provided in rule 18.9.

(e) **Title Page and Table of Contents.** The court reporter or other authorized transcriber shall include at the beginning of each volume of the verbatim report of proceedings a title page and a table of contents.

(1) The title page should include the following:

- (A) Case name,
- (B) Trial court and appellate cause numbers,
- (C) Date(s) of hearings,
- (D) Trial court judge(s),
- (E) Names of attorneys at trial,
- (F) Name, business address and telephone number of each court reporter or other authorized transcriber.

(2) The table of contents shall follow the title page and shall indicate, under the headings listed below, the pages where the following appear:

(A) Proceedings. The beginning of each proceeding and the nature of that proceeding;

(B) Testimony. The testimony of each witness, the page where it begins, and the type of examination, i.e., direct, cross, re-direct, re-cross, and the page where the plaintiff rests and the defendant rests;

(C) Exhibits. The admission into evidence of exhibits and depositions;

(D) Argument. The pages where opening statements occur, except as otherwise provided in rule 9.2(b) for verbatim reports of proceedings provided at public expense, and the pages where closing arguments occur;

(E) Instructions. All instructions proposed and given. Any other events should be listed under a suitable heading which would help the reviewing court locate separate parts of the verbatim report of proceedings.

(F) Multiple Days. If a volume includes hearings from more than one day, there shall be a separate table of contents for each day.

**(f) Form.**

(1) Generally. The verbatim report of proceedings shall be on 8-1/2-by 11-inch paper. Margins shall be lined 1-3/8 inches from the left and 5/8 inches from the right side of each page. Indentations from the left lined margin should be: 1 space for "Q" and "A"; 5 spaces for the body of the testimony; 8 spaces for commencement of a paragraph; and 10 spaces for quoted authority. Typing should be double spaced except that comments by the reporter should be single spaced. The page should have 25 lines of type. Type must be pica type or its equivalent with no more than 10 characters an inch.

(A) Witnesses Designated/Examination. Indicate at the top or bottom of each page the name of the witness and whether the examination is on direct, cross, re-direct, re-cross, or rebuttal.

(B) Jury In/Out. Indicate when the jury is present, when the jury leaves, and when the jury returns.

(C) Bench/Side Bar Conferences. Designate whether a bench/side bar conference is on or off the record.

(D) Chamber Conferences. If the conference is recorded, note the presence or absence of persons participating in chamber conferences.

(E) Speaker/Event Identification. Identify speakers and events that occur throughout the proceedings in capital letters centered on the appropriate line. For example: recess/court reconvene; direct examination, cross examination, re-direct examination, re-cross examination, plaintiff rests; defendant's evidence: direct examination, cross examination, re-direct examination, re-cross examination, defense rests; instructions, conference, closing arguments: for plaintiff, for defense, and rebuttal.

**(2) Volume and Pages.**

(A) Pages in each volume of the verbatim report of proceedings shall be numbered consecutively and be arranged in chronologic order by date of hearing(s) requested in the statement of arrangements.

(B) Each volume of the verbatim report of proceedings shall include no more than 200 pages. The page numbers in the first volume should start with page 1 and continue to 200, as needed, regardless of how many hearing dates are included in the volume. In the second volume of the verbatim report of proceedings and subsequent volume page numbers should start with the next page number in sequence where the previous volume ended. The volumes shall be either bound or fastened securely.

(3) Copies. The verbatim report of proceedings should be legible, clean and reproducible.

[Originally effective July 1, 1976; amended effective July 2, 1976; September 1, 1985; September 1, 1993; December 10, 1993; September 1, 1994; September 1, 1998; December 24, 2002; September 1, 2010.]

**References**

Form 15, Statement of Arrangements; Title 6, Acceptance of Review.

**SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RULE 9.3  
NARRATIVE REPORT OF PROCEEDINGS**

The party seeking review may prepare a narrative report of proceedings. A party preparing a narrative report must exercise the party's best efforts to include a fair and accurate statement of the occurrences in and evidence introduced in the trial court material to the issues on review. A narrative report should be in the same form as a verbatim report, as provided in rule 9.2 (e) and (f). If any party prepares a verbatim report of proceedings, that report will be used as the report of proceedings for the review. A narrative report of proceedings may be prepared if ~~either~~ the court reporter's notes or the electronic recording ~~the videotape~~ of the proceeding being reviewed ~~are~~ is lost or damaged.

[Adopted effective July 1, 1976; amended effective December 10, 1993.]

**SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RAP 9.4  
AGREED REPORT OF PROCEEDINGS**

The parties may prepare and sign an agreed report of proceedings setting forth only so many of the facts averred and proved or sought to be proved as are essential to the decision of the issues presented for review. The agreed report of proceedings must include only matters which were actually before the trial court. An agreed report of proceedings should be in the same form as a verbatim report, as provided in rule 9.2 (e) and (f). An agreed report of proceedings may be prepared if ~~either~~ the court reporter's notes or the electronic recording ~~videotape~~ of the proceeding being reviewed ~~are~~ is lost or damaged.

[Adopted July 1, 1976; amended effective December 10, 1993.]

**SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RAP 9.4  
AGREED REPORT OF PROCEEDINGS**

The parties may prepare and sign an agreed report of proceedings setting forth only so many of the facts averred and proved or sought to be proved as are essential to the decision of the issues presented for review. The agreed report of proceedings must include only matters which were actually before the trial court. An agreed report of proceedings should be in the same form as a verbatim report, as provided in rule 9.2 (e) and (f). An agreed report of proceedings may be pre-

pared if either the court reporter's notes or the electronic recording videotape of the proceeding being reviewed are lost or damaged.

[Adopted July 1, 1976; amended effective December 10, 1993.]

**SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RAP 9.5  
FILING AND SERVICE OF REPORT OF PROCEEDINGS —  
OBJECTIONS**

(a) **Generally.** The party seeking review must file an agreed or narrative report of proceedings with the clerk of the trial appellate court within 60 days after the statement of arrangements is filed. The court reporter or person authorized—transcriptionist ~~authorized to prepare~~ preparing the a verbatim report of proceedings must file it in the appellate court within 60 days after the statement of arrangements is filed and all named court reporters or authorized transcriptionists are served. ~~If the proceeding being reviewed was recorded on videotape, the transcript must be filed by the transcriber with the clerk of the trial court within 60 days after the statement of arrangements is filed and all named court reporters are served. The court reporter or authorized transcriptionist shall promptly serve notice of filing on all parties, and shall provide a copy of the report of proceedings to the party who arranged for transcript.~~

(1) A party filing a brief must promptly forward a copy of the verbatim report of proceedings with a copy of the brief to the party with the right to file the next brief. If more than one party has the right to file the next brief, the parties must cooperate in the use of the report of proceedings. The party who files the last brief should return the copy of the report of proceedings to the party who paid for it.

(2) ~~If the transcript was computer-generated, one diskette or compact disk (using ASCII format with hard page returns) A searchable PDF electronic copy of the verbatim report of proceedings shall be filed with the original verbatim report of proceedings, with a copy and a second diskette or compact disk shall be provided to the party who receives caused the verbatim report of proceedings to be filed. The report of proceedings may be electronically filed with the appellate court in accordance with the court's filing procedures. The party who files the last brief should return the diskette or compact disk to the party who paid for the verbatim report of proceedings.~~

(b) **Additional Time for Filing and Service of Verbatim Report of Proceedings.** If a verbatim report of proceedings cannot be completed within 60 days after the statement of arrangements is filed and served, the court reporter or authorized ~~person~~ transcriptionist shall, no later than 10 days before the report of proceedings is due to be filed, submit an affidavit to the party who ordered the report of proceedings stating the reasons for the delay. The party who requested the verbatim report of proceedings should move for an extension of time from the appellate court. The clerk will notify the parties of the action taken on the motion. ~~When the court reporter or authorized person files the verbatim report of proceedings, a copy shall be provided to the party who arranged for transcription and either the reporter or authorized person~~

~~shall serve and file notice of the filing on all other parties and the appellate court. The notice of filing served on the appellate court shall include a declaration that (1) the transcript was computer-generated and an ASCII diskette or compact disc was filed or (2) the transcript was not computer-generated. Failure to timely file the verbatim report of proceedings and notice of service may subject the court reporter or authorized person transcriptionist to sanctions as provided in rule 18.9.~~

(c) **Objections to Report of Proceedings.** A party may serve and file objections to, and propose amendments to, a narrative report of proceedings or a verbatim report of proceedings within 10 days after receipt of the report of proceedings or receipt of the notice of filing of the report of proceedings with the appellate court. If objections or amendments to the report of proceedings are served and filed, any objections or proposed amendments must be heard by the trial court judge before whom the proceedings were held for settlement and approval, except objections to the form of a report of proceedings, which shall be heard by motion in the appellate court. The court may direct ~~a party or a court reporter~~ or authorized ~~transcriber~~ transcriptionists to pay for the expense of any modifications of the proposed report of proceedings. The motion procedure of the court deciding any objections shall be used in settling the report of proceedings.

(d) **Substitute Judge May Settle Report of Proceedings.** If the judge before whom the proceedings were held is for any reason unable to promptly settle questions as provided in section (c), another judge may act in the place of the judge before whom the proceedings were held.

[Originally effective July 1, 1976; amended effective September 1, 1985; September 1, 1990; September 21, 1990; December 10, 1993; September 1, 1994; September 1, 1998; December 24, 2002; September 1, 2007; September 1, 2010.]

**SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE (RAP)  
RULE 9.8  
TRANSMITTING ~~RECORD ON REVIEW~~ CLERK'S PAPERS AND  
EXHIBITS**

(a) **Duty of Trial Court Clerk.** Except as provided in section (b), the clerk of the trial court shall send the clerk's papers and exhibits to the appellate court when the clerk receives payment for the preparation of the documents, ~~and shall send the verbatim report of proceedings to the appellate court at the end of the objection period set forth in rule 9.5.~~ The clerk shall endorse on the face of the record the date upon which the ~~record on review clerk's papers~~ is ~~are~~ transmitted to the appellate court.

(b) **Cumbersome Exhibits.** The clerk of the trial court shall transmit to the appellate court exhibits which are difficult or unusually expensive to transmit only if the appellate court directs or if a party makes arrangements with the clerk to transmit the exhibits at the expense of the party requesting the transfer of the exhibits. No weapons, controlled substances, hazardous items, or currency shall be forwarded unless directed by the appellate court.

(c) **Temporary Transmittal to another Court.** If the record or any part of it is needed in another court while a review is pending, the clerk of the appellate court will, on the

order or ruling of the appellate court, transmit the record or part of it to the clerk of that court, to remain there until the purpose for which it is transmitted has been satisfied or until the clerk of the appellate court requests its return.

[Originally effective July 1, 1976; amended effective July 2, 1976; September 1, 1994; September 1, 1998; September 1, 2010.]

SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RULE 9.9

~~CORRECTING OR SUPPLEMENTING REPORT OF PROCEEDINGS BEFORE TRANSMITTAL TO APPELLATE COURT~~

~~[Reserved.] The report of proceedings may be corrected or supplemented by the trial court on motion of a party, or on stipulation of the parties, at any time prior to the transmission of the report to the appellate court. The trial court may impose the same kinds of sanctions provided in rule 18.9(a) as a condition to correcting or supplementing the report of proceedings after the time provided in rule 9.5.~~

~~[Originally effective July 1, 1976.]~~

SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE (RAP)  
RAP 9.10

~~CORRECTING OR SUPPLEMENTING RECORD AFTER TRANSMITTAL TO APPELLATE COURT~~

If a party has made a good faith effort to provide those portions of the record required by rule 9.2(b), the appellate court will not ordinarily dismiss a review proceeding or affirm, reverse, or modify a trial court decision or administrative adjudicative order certified for direct review by the superior court because of the failure of the party to provide the appellate court with a complete record of the proceedings below. If the record is not sufficiently complete to permit a decision on the merits of the issues presented for review, the appellate court may, on its own initiative or on the motion of a party (1) direct the transmittal of additional clerk's papers and exhibits or administrative records and exhibits certified by the administrative agency, or (2) correct, or direct the supplementation or correction of, the report of proceedings. The appellate court or trial court may impose sanctions as provided in rule 18.9(a) as a condition to correcting or supplementing the record on review. The party directed or permitted to supplement the record on review must file either a designation of clerk's papers as provided in rule 9.6 or a statement of arrangements as provided in rule 9.2 within the time set by the appellate court.

[Originally effective July 1, 1976; amended effective September 1, 1994; September 1, 1998.]

SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RULE 10.2  
TIME FOR FILING BRIEFS

(a) **Brief of Appellant or Petitioner.** The brief of an appellant or petitioner should be filed with the appellate court within 45 days after the report of proceedings is filed in the trial appellate court; or, if the record on review does not

include a report of proceedings, within 45 days after the party seeking review has filed the designation of clerk's papers and exhibits in the trial court.

(b) **Brief of Respondent in Civil Case.** The brief of a respondent in a civil case should be filed with the appellate court within 30 days after service of the brief of appellant or petitioner.

(c) **Brief of Respondent in Criminal Case.** The brief of a respondent in a criminal case should be filed with the appellate court within 60 days after service of the brief of appellant or petitioner.

(d) **Reply Brief.** A reply brief of an appellant or petitioner should be filed with the appellate court within 30 days after service of the brief of respondent unless the court orders otherwise.

(e) [Reserved; see rule 10.10]

(f) **Brief of Amicus Curiae.** Unless the court sets a different date, or allows a later date upon a showing of particular justification, a brief of amicus curiae should be filed as follows.

(1) Supreme Court. A brief of amicus curiae should be received by the court and counsel of record for the parties and any other amicus curiae not later than 45 days before oral argument or consideration of the merits.

(2) Court of Appeals. A brief of amicus curiae should be received by the court and counsel of record for the parties and any other amicus curiae not later than 45 days after the due date for the last brief of respondent permitted under rule 10.2(b).

(g) **Answer to Brief of Amicus Curiae.** A brief in answer to the brief of amicus curiae may be filed with the appellate court not later than the date fixed by the appellate court.

(h) **Service of Briefs.** At the time a party files a brief, the party should serve one copy on every other party and on any amicus curiae, and file proof of service with the appellate court. In a criminal case in which the defendant is the appellant, appellant's counsel shall serve the appellant and file proof of service with the appellate court. Service and proof of service should be made in accordance with rules 18.5 and 18.6.

(i) **Sanctions for Late Filing and Service.** The appellate court will ordinarily impose sanctions under rule 18.9 for failure to timely file and serve a brief.

(Originally effective July 1, 1976; amended effective September 1, 1990; September 1, 1991; September 1, 1994; September 1, 1998; September 1, 1999; December 24, 2002; September 1, 2006; September 1, 2014.)

**References:**

Rule 18.6, Computation of Time, (c) Filing by mail.

SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE  
RULE 10.2  
TIME FOR FILING BRIEFS

(a) **Brief of Appellant or Petitioner.** The brief of an appellant or petitioner should be filed with the appellate court within 45 days after the report of proceedings is filed in the trial appellate court; or, if the record on review does not

include a report of proceedings, within 45 days after the party seeking review has filed the designation of clerk's papers and exhibits in the trial court.

(b) **Brief of Respondent in Civil Case.** The brief of a respondent in a civil case should be filed with the appellate court within 30 days after service of the brief of appellant or petitioner.

(c) **Brief of Respondent in Criminal Case.** The brief of a respondent in a criminal case should be filed with the appellate court within 60 days after service of the brief of appellant or petitioner.

(d) **Reply Brief.** A reply brief of an appellant or petitioner should be filed with the appellate court within 30 days after service of the brief of respondent unless the court orders otherwise.

(e) [Reserved; see rule 10.10]

(f) **Brief of Amicus Curiae.** Unless the court sets a different date, or allows a later date upon a showing of particular justification, a brief of amicus curiae should be filed as follows.

(1) Supreme Court. A brief of amicus curiae should be received by the court and counsel of record for the parties and any other amicus curiae not later than 45 days before oral argument or consideration of the merits.

(2) Court of Appeals. A brief of amicus curiae should be received by the court and counsel of record for the parties and any other amicus curiae not later than 45 days after the due date for the last brief of respondent permitted under rule 10.2(b).

(g) **Answer to Brief of Amicus Curiae.** A brief in answer to the brief of amicus curiae may be filed with the appellate court not later than the date fixed by the appellate court.

(h) **Service of Briefs.** At the time a party files a brief, the party should serve one copy on every other party and on any amicus curiae, and file proof of service with the appellate court. In a criminal case in which the defendant is the appellant, appellant's counsel shall serve the appellant and file proof of service with the appellate court. Service and proof of service should be made in accordance with rules 18.5 and 18.6.

(i) **Sanctions for Late Filing and Service.** The appellate court will ordinarily impose sanctions under rule 18.9 for failure to timely file and serve a brief.

(Originally effective July 1, 1976; amended effective September 1, 1990; September 1, 1991; September 1, 1994; September 1, 1998; September 1, 1999; December 24, 2002; September 1, 2006; September 1, 2014.)

#### References:

Rule 18.6, Computation of Time, (c) Filing by mail.

SUGGESTED AMENDMENT  
RULES OF APPELLATE PROCEDURE (RAP)  
RULE 18.9  
VIOLATION OF RULES

(a) **Sanctions.** The appellate court on its own initiative or on motion of a party may order a party or counsel, or a court reporter or ~~other~~ authorized ~~person~~ transcriptionist preparing a verbatim report of proceedings, who uses these rules for the

purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply or to pay sanctions to the court. The appellate court may condition a party's right to participate further in the review on compliance with terms of an order or ruling including payment of an award which is ordered paid by the party. If an award is not paid within the time specified by the court, the appellate court will transmit the award to the superior court of the county where the case arose and direct the entry of a judgment in accordance with the award.

(b) **Dismissal on Motion of Commissioner or Clerk.** The commissioner or clerk, on 10 days' notice to the parties, may (1) dismiss a review proceeding as provided in section (a) and (2) except as provided in rule 18.8(b), will dismiss a review proceeding for failure to timely file a notice of appeal, a notice for discretionary review, a motion for discretionary review of a decision of the Court of Appeals, or a petition for review. A party may object to the ruling of the commissioner or clerk only as provided in rule 17.7.

(c) **Dismissal on Motion of Party.** The appellate court will, on motion of a party, dismiss review of a case (1) for want of prosecution if the party seeking review has abandoned the review, or (2) if the application for review is frivolous, moot, or solely for the purpose of delay, or (3) except as provided in rule 18.8(b), for failure to timely file a notice of appeal, a notice of discretionary review, a motion for discretionary review of a decision of the Court of Appeals, or a petition for review.

(d) **Objection to Ruling.** A counsel upon whom sanctions have been imposed or a party may object to the ruling of a commissioner or the clerk only as provided in rule 17.7.

[Originally effective July 1, 1976; amended effective September 1, 1990; September 1, 1994; September 1, 1998.]

#### References

Rule 10.7, Submission of Improper Brief.

SUGGESTED AMENDMENT  
SUPERIOR COURT SPECIAL PROCEEDINGS RULES - CRIMINAL (SPRC)  
RULE 3  
COURT REPORTERS; FILING OF NOTES

(a) At the commencement of a capital case, the trial court will designate one or more court reporters for that case. To the extent practical, only designated reporters will report all hearings.

(b) As soon as possible after each hearing, the court reporter's notes, including electronic and nonelectronic stenographic the court reporter will transmit stenographic notes, any audio or video tapes, and any other electronic data medium containing notes of the hearing, will be submitted to the courtroom clerk county clerk's office.

~~(c) The courtroom clerk will index the notes on a records inventory, noting the date of the notes. The courtroom clerk will have the court reporter initial the inventory log as each set of notes is received by the courtroom clerk.~~

~~(d)~~ (c) Court reporter's notes The stenographic notes of the hearing shall be indexed and stored by the county clerk's office, any audio or video tapes, and any other electronic data



~~medium containing notes of any hearing shall be stored by the clerk's office in an exhibit box labeled with the defendant's name and cause number to allow easy retrieval of notes. Sealed notes are to be marked "SEALED" in red ink and maintained in accordance with GR 15.~~

~~(e) (d) Court reporter's notes of the hearing, any audio or video tapes, and any other electronic data medium containing notes of any hearing, sealed or unsealed, shall not be provided to anyone except the court reporter who produced the notes, unless a court order provides otherwise.~~

~~(f) (e) A court reporter may withdraw the stenographic court reporter's notes any video or audio tapes, and any other electronic data medium containing notes of a hearing as required for transcription upon completing a request slip. The stenographic court reporter's notes, any audio or video tapes, and any other electronic data medium containing notes shall be returned to the county clerk's office at the same time the transcript is filed for transmission to an with an appellate court.~~

[Adopted effective December 30, 1997.]

**SUGGESTED NEW RULE  
SUPERIOR COURT CIVIL RULE  
CR \_\_\_\_\_  
ELECTRONIC RECORDING LOG**

When the proceedings are electronically recorded, the court shall ensure that a written log of the proceedings is created that indicates the time of relevant events.

The judicial officer shall call the case name and cause number of each proceeding and shall assure that all case participants identify themselves for the record.

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

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

**WSR 15-13-031  
RULES OF COURT  
STATE SUPREME COURT  
[June 4, 2015]**

IN THE MATTER OF PROPOSED ) ORDER  
AMENDMENTS TO ELC TITLE 15 - ) NO. 25700-A-1112  
IOLTA, AUDITS AND TRUST )  
ACCOUNT DRAFT NOTIFICATION— )  
ELC 3.6—MAINTENANCE OF )  
RECORDS AND ELC 7.2—INTERIM )  
SUSPENSION IN OTHER CIRCUM- )  
STANCES—REGULATIONS 101-106 )

The Washington State Bar Association, having recommended the Proposed Amendments to ELC Title 15 - IOLTA, Audits and Trust Account Draft Notification—ELC 3.6—Maintenance of Records and ELC 7.2—Interim Suspension in Other Circumstances—Regulations 101-106, and

the Court having considered the amendments and comments submitted thereto;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites expeditiously.

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

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than September 30, 2015. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov). Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 4th day of June, 2015.

For the Court

Madsen, C.J.  
CHIEF JUSTICE

**GR 9 COVER SHEET  
Suggested Amendments to  
Rules for Enforcement of Lawyer Conduct (ELC)  
with conforming amendments repealing  
Audit Regulations 101-106**

**A. Proponent**

Washington State Bar Association  
1325 4th Avenue, Suite 600  
Seattle, WA 98101-2539

**B. Spokesperson**

Douglas J. Ende  
Chief Disciplinary Counsel  
Washington State Bar Association  
1325 4th Avenue, Suite 600  
Seattle, WA 98101-2539

**C. Purpose**

These amendments are suggested to revise, update, and clarify various procedures of the Random Examination Program as set forth in Title 15 of the Rules for Enforcement of Lawyer Conduct (ELC) and related ELC. It is also suggested that existing Regulations 101-106 be repealed because the matters formerly addressed by regulation will now be governed exclusively by the ELC. The most significant changes and clarifications suggested herein include the following:

- The suggested amendments to the ELC anticipate the repeal of existing Audit Regulations 101-106. The matters addressed by the regulations will be governed directly in the amended ELC. Regulations 101-105 were adopted prior to 1990, and Regulation 106 (pertaining to the content of the trust account information form) was

added in 1990 under the former Rules for Lawyer Discipline. Other than Regulation 106, which was amended in 2009, these regulations have not been amended to account for the advent of the ELC in 2002 (and extensive ELC amendments in 2014), amendments to RPC 1.15 A & B in 2006, 2007, 2008, 2009, 2011, and 2013, and changes to staffing structures and internal procedures at the Office of Disciplinary Counsel and the Washington State Bar Association. Furthermore, the regulations have never been published alongside other Washington State Court Rules on the Washington Courts website or in widely used private publications such as the Thomson-Reuters *Washington Court Rules—State*. Washington lawyers will benefit from all rules relating to lawyer trust accounts being accessible in one place. With respect to Regulation 106, its repeal is not intended to affect the Washington State Bar Association's authority under ELC 15.5(a) to require disclosure of the information specified in the existing regulation.

- The suggested amendments clarify that a random examination of a lawyer's trust account is a process distinct from a disciplinary investigation. References to trust account examinations that are conducted as part of a disciplinary investigation of a grievance under ELC 5.3 (sometimes known as a "for-cause audit") are removed from Title 15 in order to eliminate any confusion between the two types of trust account examinations. A clear procedural line is drawn between an investigative examination and a random examination, with action by a Review Committee of the Disciplinary Board being required before a random examination becomes a disciplinary investigation.
  - The responsibility for making a determination following a random examination as to whether a re-examination should be conducted, or whether a disciplinary investigation should be opened, or whether the matter should be dismissed, is transferred from the Disciplinary Board Chair to a Review Committee of the Disciplinary Board. Individualized review and decision-making on routine reports and recommendations of disciplinary counsel is not a typical duty of the Disciplinary Board Chair. By contrast, Review Committees are experienced in reviewing reports and determining whether a recommended action is appropriate. Review of random examination reports and recommendations within the Disciplinary Board's review-committee system will capitalize on existing system efficiencies and enhance the consistency of decision-making.
  - The rules are clarified as to what can be required of a lawyer whose trust account is selected for examination, and a procedure is spelled out to address situations in which lawyers do not comply with the duty to cooperate with a random examination.
  - The interval following a random examination, before which another random examination may be conducted, is extended from two years (as specified by Regulation 105(a)) to seven years. The seven-year minimum interval, based on the RPC 1.15B(a) requirement that trust account records be retained for at least seven years, will avoid random recurrence of a trust account examination within a relatively short time-frame.
  - Random selection will be required by rule, rather than subject to indeterminate methodologies to be established by the Disciplinary Board and the WSBA Board of Governors. Additionally, a mechanism is provided to authorize a Review Committee to consider a challenge to the selection of a lawyer or law firm for random examination.
  - The retention interval for random examination records is changed from 60 days (the period now specified in the regulations) to three years, which is the same period for dismissed disciplinary grievance materials.
- Following are summaries and explanations of each suggested change:
- **ELC 15.1** clarifies that the authorization to conduct random examinations of the trust accounts of lawyers and law firms rests with the Office of Disciplinary Counsel (ODC) rather than ubiquitously with "the Association." All references to trust account examinations conducted as part of a disciplinary investigation are removed. The rule authorizes both initial random examinations and re-examinations and provides specified options at the conclusion of an examination or re-examination as to further action, if any, that may be ordered. The authority of Review Committees to take action based on reports from ODC is set forth, and the rule clarifies that action by a Review Committee is not reviewable.
  - **ELC 15.2** removes references to a lawyer's duty to cooperate with a disciplinary investigation of the trust account, as that is adequately addressed in ELC Title 5 governing grievance investigations and disposition. The rule clarifies that the duty to cooperate with a random examination extends to both individual lawyers and to law firms and to any lawyer employed by or a member of the law firm. The amendments are not intended to alter the existing scope of an examiner's access to records or the duties of the lawyer or law firm to cooperate with an examination. A new provision is added to address situations where a lawyer does not comply with the duty to cooperate with a random examination. The new provision is modeled on ELC 5.3(h), which applies when a lawyer does not cooperate with a disciplinary investigation.
  - **ELC 15.3** is amended to broadly encompass all issues of confidentiality of random-examination information. New provisions for maintaining client confidentiality are added to the rule, modeled on the disciplinary-investigation provisions of ELC 5.4 (b)(2) (as amended in 2014). Similarly, the provisions regarding disclosure are expanded and clarified, modeled on ELC 5.4 (b)(3) (as amended in 2014). The net effect of these changes is to assure the same high degree of protection for client confidentiality as is provided in disciplinary investigations.
  - **ELC 15.4(d)** is changed to reference the "Office of Disciplinary Counsel" rather than the "Office of Disciplinary Counsel of the Association," to conform to the usage throughout the ELC.

- **ELC 15.6** authorizing the promulgation of regulations regarding Title 15 is repealed and the rule number is reserved in order to maintain unchanged the numbering of ELC 15.7 (pertaining to IOLTA and the Legal Foundation of Washington). By this change, the existing regulations approved March 29, 1990 [Order No. 25700-A-499] as revised on July 8, 2009 [Order No. 25700-A-923] will be superseded. A copy of affected Regulations 101-106 is also included as an appendix to these materials.
- **ELC 3.6** is amended to add a new subsection regarding the destruction of random examination files. Other amendments address the existence of (and distinction between) disciplinary grievance records and random examination records.
- **ELC 7.2 (a)(3)** on interim suspensions is conformed to reflect amendments to ELC 15.2 (b)(1) authorizing the interim suspension of a lawyer who fails to cooperate with a random examination.

#### **D. Hearing**

The proponent does not request a public hearing.

#### **E. Expedited Consideration**

The proponent requests expedited consideration so that the amendments can be adopted and made effective as soon as practicable. The existing audit regulations governing random examinations are obsolete or obsolescent in light of post-1990 amendments to the ELC and the RPC and changes to staffing structures and internal procedures at the Office of Disciplinary Counsel and the Washington State Bar Association. Accordingly, prompt amendment of the ELC will facilitate the ability of the Office of Disciplinary Counsel to conduct credible and effective random examinations at the earliest opportunity, as well as provide appropriate safeguards and procedural clarity for lawyer-examinees.

#### **F. Appendix**

The appendix consists of existing Audit Regulations 101-106 with the notation [SUPERSEDED], reflecting the suggested repeal of those regulations. Also appended this Cover Sheet is a Disciplinary Board order dated March 9, 2015, recommending presentation of these amendments, together with the repeal of Regulations 101-106, to the WSBA Board of Governors and the Supreme Court.

#### **SUGGESTED AMENDMENTS TO ELC TITLE 15, ELC 3.6 & ELC 7.2**

#### **Red-Line Version of Suggested Amendments**

#### **TITLE 15 ~~IOLTA~~, TRUST ACCOUNT EXAMINATIONS, OVERDRAFT NOTIFICATION, AND IOLTA**

#### **RULE 15.1 ~~AUDIT AND INVESTIGATION OF BOOKS AND RECORDS~~ RANDOM EXAMINATION OF BOOKS AND RECORDS**

~~The Association has the following authority to examine, investigate, and audit the books and records of any lawyer to ascertain and obtain reports on whether the lawyer has been and is complying with RPC 1.15A:~~

~~(a) **Random Examination.** The Board may authorize examinations of the books and records of any lawyer or law firm selected at random. Only the lawyer or law firm's books~~

~~and records may be examined in an examination under this section.~~

~~(b) **Audit.** After an examination under section (a) or as part of an investigation under rule 5.3, the Association may conduct an appropriate audit of the lawyer's or firm's books and records, including verification of the information in those records from available sources.~~

~~(a) **Authorization.** The Office of Disciplinary Counsel is authorized to examine the books and records of any lawyer or law firm selected at random to determine whether the lawyer or law firm is complying with RPC 1.15A, 1.15B, and other Rules of Professional Conduct referencing RPC 1.15A or RPC 1.15B. As used in this Title, the term law firm has the same meaning as prescribed in RPC 1.0(c).~~

#### ~~(b) **Selection.**~~

~~(1) **Method.** The selection of the lawyers or law firms to be examined will be limited to lawyers on active status and will utilize the principle of random selection by Bar Number of all active status lawyers.~~

~~(2) **Law firms.** If the number drawn is that of a lawyer who is an employee or member of a law firm, the entire law firm will be examined. If the lawyer or law firm has been randomly examined under this rule within seven years preceding the drawing, the lawyer or law firm will not be subject to random examination.~~

~~(3) **Exclusions.** If the number drawn is that of a lawyer employed by the Association, a hearing officer, a conflicts review officer or conflicts review officer pro tem, a member of the Disciplinary Board, a staff attorney or judicial officer of the Supreme Court, or a lawyer who has been assigned a case as an adjunct disciplinary counsel, special disciplinary counsel, or appointed counsel in a disability matter pursuant to rule 8.2 (c)(2), the lawyer will not be subject to random examination.~~

~~(c) **Examination and Re-examination.** An examination denotes the initial review following a lawyer or law firm being selected at random. A re-examination denotes a further examination as may be ordered by a review committee under section (e) of this rule. Examinations and re-examinations under this rule will entail a review and testing of the internal controls and procedures used by the lawyer or law firm to receive, hold, disburse and account for money or property as required by RPC 1.15A, and a review of the records of the lawyer or law firm required by RPC 1.15B. A lawyer or law firm is required to cooperate with the examination or re-examination as set forth in rule 15.2.~~

~~(d) **Conclusion.** At the conclusion of an examination or re-examination, the Office of Disciplinary Counsel may:~~

~~(1) Conclude the examination by issuing a report to the lawyer and/or law firm summarizing the Office of Disciplinary Counsel's findings and taking no further action;~~

~~(2) Issue a report to the lawyer and/or law firm summarizing the Office of Disciplinary Counsel's findings and either:~~

~~(A) report the matter to a review committee with a recommendation to order corrective action by the lawyer and/or law firm and a re-examination of the books and records of the lawyer and/or law firm to commence within one year; or~~

(B) report the matter to a review committee with a recommendation to order a disciplinary grievance be opened under rule 5.3.

**(e) Review Committee Action.** In reviewing matters under this rule, a review committee has the following authority:

(1) In reviewing reports of the Office of Disciplinary Counsel under section (d) of this rule, including any response by a lawyer examined or re-examined under this rule, a review committee may:

(A) dismiss the matter;

(B) order corrective action and a re-examination to commence within one year; or

(C) order that the Office of Disciplinary Counsel open a disciplinary grievance under rule 5.3 regarding the matter.

(2) A review committee may review a challenge to the selection of a lawyer or law firm in section (b) of this rule if review is requested by a lawyer or law firm within 30 days of mailing of the notice of selection.

(3) The action of a review committee under this rule is not reviewable.

#### **RULE 15.2 COOPERATION OF LAWYER AND LAW FIRM**

Any lawyer or firm who is subject to examination, investigation, or audit under rule 5.3 or rule 15.1 must cooperate with the person conducting the examination, investigation, or audit, subject only to the proper exercise of any privilege against self-incrimination, by:

(a) producing forthwith all evidence, books, records, and papers requested for the examination, investigation, or audit;

(b) furnishing forthwith any explanations required for the examination, investigation, or audit;

(c) producing written authorization, directed to any bank or depository, for the person to examine, investigate, or audit trust and general accounts, safe deposit boxes, and other forms of maintaining trust property by the lawyer in the bank or depository.

**(a) Cooperation Required.** Any lawyer or law firm who is subject to examination or re-examination under rule 15.1, and any lawyer employed by or a member of such a law firm, must cooperate with the person conducting the examination or re-examination, subject only to the proper exercise of any privilege against self-incrimination, by:

(1) producing forthwith all evidence, books, records, and papers requested for the examination or re-examination;

(2) furnishing forthwith any explanations required for the examination or re-examination; and

(3) producing written authorization, directed to any bank or depository, for the person to examine or re-examine trust and general accounts, safe deposit boxes, and other forms of maintaining trust property by the lawyer or law firm in the bank or depository.

#### **(b) Failure To Cooperate.**

(1) Noncooperation Deposition. If a lawyer has not complied with any request made under this rule for more than 30 days, the Office of Disciplinary Counsel may notify the lawyer that failure to comply within ten days may result in the lawyer's deposition or subject the lawyer to interim suspension under rule 7.2. Ten days after this notice, disciplinary counsel may serve the lawyer with a subpoena for a deposi-

tion. Any deposition conducted after the ten day period and necessitated by the lawyer's continued failure to cooperate may be conducted at any place in Washington State.

#### (2) Costs and Expenses.

(A) Regardless of the underlying matter's ultimate disposition, a lawyer who has been served with a subpoena under this rule is liable for the actual costs of the deposition, including but not limited to service fees, court reporter fees, travel expenses, and the cost of transcribing the deposition, if ordered by disciplinary counsel. In addition, a lawyer who has been served with a subpoena for a deposition under this rule is liable for a reasonable attorney fee of \$500.

(B) The procedure for assessing costs and expenses is as follows:

(i) The Office of Disciplinary Counsel applies to a review committee by itemizing the cost and expenses and stating the reasons for the deposition.

(ii) The lawyer has ten days to respond to the Office of Disciplinary Counsel's application.

(iii) The review committee by order assesses appropriate costs and expenses.

(iv) Rule 13.9(f) governs Board review of the review committee order.

(3) Grounds for Discipline. A lawyer's failure to cooperate fully and promptly with an examination as required by this rule is also grounds for discipline.

#### **RULE 15.3 DISCLOSURE CONFIDENTIALITY**

The examination or audit report is only available to the Board, disciplinary counsel, and the lawyer or firm examined, investigated, or audited, unless a disciplinary proceeding is commenced in which case the disclosure provisions of title 3 apply.

**(a) Maintaining Client Confidentiality.** In the course of conducting examinations and re-examinations under this Title, the Office of Disciplinary Counsel receives, reviews and holds attorney-client privileged and other confidential client information under and in furtherance of the Supreme Court's authority to regulate the practice of law. Disclosure of information to the Office of Disciplinary Counsel is not prohibited by RPC 1.6 or RPC 1.9, and such disclosure does not waive any attorney-client privilege. Notwithstanding any other provision of these rules, if the lawyer identifies specific client information that is privileged or confidential and requests that it be treated as confidential, the Office of Disciplinary Counsel must maintain the confidentiality of the information unless the client consents to disclosure.

**(b) Disclosure.** All information related to an examination or re-examination under rule 15.1, including any docket maintained under rule 3.6(d), is confidential and is held by the Office of Disciplinary Counsel under the authority of the Supreme Court. Information under rule 15.1 is only available to the Office of Disciplinary Counsel, the lawyer or law firm examined or re-examined, and the Board or any review committee considering the matter under this Title. When a disciplinary grievance is opened under rule 15.1, the disclosure provisions of Title 3 apply to all information related to the examination and/or re-examination that relates to the disciplinary grievance. Nothing in these rules waives or requires

waiver of any lawyer's own privilege or other protection as a client against the disclosure of confidences or secrets.

**RULE 15.4 TRUST ACCOUNT OVERDRAFT NOTIFICATION**

**(a) Overdraft Notification Agreement Required.**

[No Change]

**(b) Overdraft Reports.**

[No Change]

**(c) Costs.**

[No Change]

**(d) Notification by Lawyer.** Every lawyer or law firm who receives notification that any instrument presented against a trust account of the lawyer or law firm that was presented against insufficient funds, whether or not the instrument was honored, must promptly notify the Office of Disciplinary Counsel ~~of the Association~~ of the information required by section (b). The lawyer or law firm must include a full explanation of the cause of the overdraft.

**RULE 15.5 No Change**

[No Change]

**RULE 15.6 REGULATIONS RESERVED**

~~The Disciplinary Board may adopt regulations regarding the powers in this title subject to the approval of the Board of Governors and the Supreme Court.~~

**RULE 15.7**

[No Change]

**RULE 3.6 MAINTENANCE OF RECORDS**

**(a) Permanent Records.** In any matter in which a disciplinary sanction or admonition has been imposed or the lawyer has resigned in lieu of discipline under rule 9.3, the bar file and transcripts of the proceeding are permanent records. Related file materials, including investigative files, may be maintained in disciplinary counsel's discretion. Exhibits may be returned to the party supplying them, but copies should be retained where possible.

**(b) Destruction of Grievance and Investigation Files.**

In any matter in which a grievance or investigation has been dismissed without the imposition of a disciplinary sanction or admonition, whether following a hearing or otherwise, file materials relating to the matter may be destroyed three years after the dismissal first occurred, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. However, file materials on a matter dismissed after a diversion must be retained at least five years after the dismissal. ~~If disciplinary counsel opposes a request by a respondent for destruction of files under this rule, the Board rules on that request.~~

**(c) Retention of Docket.** If a file on a matter has been destroyed under section (b), the Association may retain a docket record of the matter for statistical purposes only. That docket record must not include the name or other identification of the respondent.

**(d) Destruction of Random Examination Files.** In any random examination matter concluded under rule 15.1 without a disciplinary grievance being ordered, the file materials

relating to the matter may be destroyed three years after the matter was concluded, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. In any random examination matter that a review committee directs be made the subject of a disciplinary grievance, the materials related to the random examination will be made part of the disciplinary grievance. A docket, limited to the name of the lawyer and any law firm examined or re-examined under rule 15.1, together with the date the examination or re-examination was concluded, will be maintained for a period of seven years for the purpose of determining prior examinations under rule 15.1(b).

**(e) Review.** If disciplinary counsel opposes a request by a respondent for destruction of files under this rule, the Board rules on that request.

**(df) Deceased Lawyers.** Records and files relating to a deceased lawyer, including permanent records, may be destroyed at any time in disciplinary counsel's discretion.

**RULE 7.2 INTERIM SUSPENSION IN OTHER CIRCUMSTANCES**

**(a) Types of Interim Suspension.**

(1) *Risk to Public.* Disciplinary counsel may petition the Supreme Court for an order suspending the respondent lawyer during the pendency of any proceeding under these rules if:

(A) it appears that a respondent's continued practice of law poses a substantial threat of serious harm to the public and a review committee recommends an interim suspension; or

(B) a review committee orders a hearing on the capacity of a lawyer to practice law under rule 8.2 (d)(1); or

(C) when a hearing officer or the chief hearing officer orders supplemental proceedings on a respondent lawyer's capacity to defend a disciplinary proceeding under rule 8.3.

(2) *Board Recommendation for Disbarment.* When the Board enters a decision recommending disbarment, disciplinary counsel must file a petition for the respondent's suspension during the remainder of the proceedings. The respondent must be suspended absent an affirmative showing that the respondent's continued practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest. If the Board's decision is not appealed and becomes final, the petition need not be filed, or if filed may be withdrawn.

(3) *Failure To Cooperate with Investigation.* When any lawyer fails without good cause to comply with a request under rule 5.3(g) or rule 15.2(a) for information or documents, or with a subpoena issued under rule 5.3(h) or rule 15.2(b), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. A petition may not be filed if the request or subpoena is the subject of a timely objection under rule 5.5(e) and the hearing officer has not yet ruled on that objection. If a lawyer has been suspended for failure to cooperate and thereafter complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

**(b) Procedure.**

(1) *Petition.* A petition to the Court under this rule must set forth the acts of the lawyer constituting grounds for suspension, and if filed under subsection (a)(2) must include a copy of the Board's decision. The petition may be supported by documents or affidavits. The Association must serve the petition by mail on the day of filing. In addition, a copy of the petition must be personally served on the lawyer no later than the date of service of the show cause order.

(2) *Show Cause Order.* Upon filing of the petition, the Chief Justice orders the lawyer to appear before the Court on a date set by the Chief Justice, and to show cause why the petition for suspension should not be granted. Disciplinary counsel must have a copy of the order to show cause personally served on the lawyer at least ten days before the scheduled show cause hearing. Subsection (b)(5) notification requirements must be included in the show cause order.

(3) *Answer to Petition.* The lawyer may answer the petition. An answer may be supported by documents or affidavits. Failure to answer does not result in default or waive the right to appear at the show cause hearing.

(4) *Filing of Answer.* A copy of any answer must be filed with both the Court and disciplinary counsel by the date specified in the show cause order, which will be at least five days before the scheduled show cause hearing.

(5) *Notification.* The lawyer must inform the court no less than 7 days prior to the show cause hearing, whether the lawyer will appear for the show cause hearing, or the hearing will be stricken and the Court will decide the matter without oral argument.

(6) *Application of Other Rules.* If the Court enters an order suspending the lawyer, the rules relating to suspended lawyers, including title 14, apply.

**Clean-Copy Version of Suggested Amendments****TITLE 15 TRUST ACCOUNT EXAMINATIONS, OVERDRAFT NOTIFICATION, AND IOLTA**

[CLEAN COPY]

**RULE 15.1 RANDOM EXAMINATION OF BOOKS AND RECORDS**

**(a) Authorization.** The Office of Disciplinary Counsel is authorized to examine the books and records of any lawyer or law firm selected at random to determine whether the lawyer or law firm is complying with RPC 1.15A, RPC 1.15B, and other Rules of Professional Conduct referencing RPC 1.15A or RPC 1.15B. As used in this Title, the term law firm has the same meaning as prescribed in RPC 1.0(c).

**(b) Selection.**

(1) *Method.* The selection of the lawyers or law firms to be examined will be limited to lawyers on active status and will utilize the principle of random selection by Bar Number of all active status lawyers.

(2) *Law firms.* If the number drawn is that of a lawyer who is an employee or member of a law firm, the entire law firm will be examined. If the lawyer or law firm has been randomly examined under this rule within seven years preceding the drawing, the lawyer or law firm will not be subject to random examination.

(3) *Exclusions.* If the number drawn is that of a lawyer employed by the Association, a hearing officer, a conflicts

review officer or conflicts review officer pro tem, a member of the Disciplinary Board, a staff attorney or judicial officer of the Supreme Court, or a lawyer who has been assigned a case as an adjunct disciplinary counsel, special disciplinary counsel, or appointed counsel in a disability matter pursuant to rule 8.2 (c)(2), the lawyer will not be subject to random examination.

**(c) Examination and Re-examination.** An examination denotes the initial review following a lawyer or law firm being selected at random. A re-examination denotes a further examination as may be ordered by a review committee under section (e) of this rule. Examinations and re-examinations under this rule will entail a review and testing of the internal controls and procedures used by the lawyer or law firm to receive, hold, disburse and account for money or property as required by RPC 1.15A, and a review of the records of the lawyer or law firm required by RPC 1.15B. A lawyer or law firm is required to cooperate with the examination or re-examination as set forth in rule 15.2.

**(d) Conclusion.** At the conclusion of an examination or re-examination, the Office of Disciplinary Counsel may:

(1) Conclude the examination by issuing a report to the lawyer and/or law firm summarizing the Office of Disciplinary Counsel's findings and taking no further action;

(2) Issue a report to the lawyer and/or law firm summarizing the Office of Disciplinary Counsel's findings and either:

(A) report the matter to a review committee with a recommendation to order corrective action by the lawyer and/or law firm and a re-examination of the books and records of the lawyer and/or law firm to commence within one year; or

(B) report the matter to a review committee with a recommendation to order a disciplinary grievance be opened under rule 5.3.

**(e) Review Committee Action.** In reviewing matters under this rule, a review committee has the following authority:

(1) In reviewing reports of the Office of Disciplinary Counsel under section (d) of this rule, including any response by a lawyer examined or re-examined under this rule, a review committee may:

(A) dismiss the matter;

(B) order corrective action and a re-examination to commence within one year; or

(C) order that the Office of Disciplinary Counsel open a disciplinary grievance under rule 5.3 regarding the matter.

(2) A review committee may review a challenge to the selection of a lawyer or law firm in section (b) of this rule if review is requested by a lawyer or law firm within 30 days of mailing of the notice of selection.

(3) The action of a review committee under this rule is not reviewable.

[CLEAN COPY]

**RULE 15.2 COOPERATION OF LAWYER AND LAW FIRM**

**(a) Cooperation Required.** Any lawyer or law firm who is subject to examination or re-examination under rule 15.1, and any lawyer employed by or a member of such a law firm, must cooperate with the person conducting the examination or re-examination, subject only to the proper exercise of any privilege against self-incrimination, by:

(1) producing forthwith all evidence, books, records, and papers requested for the examination or re-examination;

(2) furnishing forthwith any explanations required for the examination or re-examination; and

(3) producing written authorization, directed to any bank or depository, for the person to examine or re-examine trust and general accounts, safe deposit boxes, and other forms of maintaining trust property by the lawyer or law firm in the bank or depository.

**(b) Failure To Cooperate.**

(1) Noncooperation Deposition. If a lawyer has not complied with any request made under this rule for more than 30 days, the Office of Disciplinary Counsel may notify the lawyer that failure to comply within ten days may result in the lawyer's deposition or subject the lawyer to interim suspension under rule 7.2. Ten days after this notice, disciplinary counsel may serve the lawyer with a subpoena for a deposition. Any deposition conducted after the ten day period and necessitated by the lawyer's continued failure to cooperate may be conducted at any place in Washington State.

(2) Costs and Expenses.

(A) Regardless of the underlying matter's ultimate disposition, a lawyer who has been served with a subpoena under this rule is liable for the actual costs of the deposition, including but not limited to service fees, court reporter fees, travel expenses, and the cost of transcribing the deposition, if ordered by disciplinary counsel. In addition, a lawyer who has been served with a subpoena for a deposition under this rule is liable for a reasonable attorney fee of \$500.

(B) The procedure for assessing costs and expenses is as follows:

(i) The Office of Disciplinary Counsel applies to a review committee by itemizing the cost and expenses and stating the reasons for the deposition.

(ii) The lawyer has ten days to respond to the Office of Disciplinary Counsel's application.

(iii) The review committee by order assesses appropriate costs and expenses.

(iv) Rule 13.9(f) governs Board review of the review committee order.

(3) Grounds for Discipline. A lawyer's failure to cooperate fully and promptly with an examination as required by this rule is also grounds for discipline.

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**RULE 15.3 CONFIDENTIALITY**

**(a) Maintaining Client Confidentiality.** In the course of conducting examinations and re-examinations under this Title, the Office of Disciplinary Counsel receives, reviews and holds attorney-client privileged and other confidential client information under and in furtherance of the Supreme Court's authority to regulate the practice of law. Disclosure of information to the Office of Disciplinary Counsel is not prohibited by RPC 1.6 or RPC 1.9, and such disclosure does not waive any attorney-client privilege. Notwithstanding any other provision of these rules, if the lawyer identifies specific client information that is privileged or confidential and

requests that it be treated as confidential, the Office of Disciplinary Counsel must maintain the confidentiality of the information unless the client consents to disclosure.

**(b) Disclosure.** All information related to an examination or re-examination under rule 15.1, including any docket maintained under rule 3.6(d), is confidential and is held by the Office of Disciplinary Counsel under the authority of the Supreme Court. Information under rule 15.1 is only available to the Office of Disciplinary Counsel, the lawyer or law firm examined or re-examined, and the Board or any review committee considering the matter under this Title. When a disciplinary grievance is opened under rule 15.1, the disclosure provisions of Title 3 apply to all information related to the examination and/or re-examination that relates to the disciplinary grievance. Nothing in these rules waives or requires waiver of any lawyer's own privilege or other protection as a client against the disclosure of confidences or secrets.

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**RULE 15.4 TRUST ACCOUNT OVERDRAFT NOTIFICATION**

**(a) Overdraft Notification Agreement Required.**

[No Change]

**(b) Overdraft Reports.**

[No Change]

**(c) Costs.**

[No Change]

**(d) Notification by Lawyer.** Every lawyer or law firm who receives notification that any instrument presented against a trust account of the lawyer or law firm that was presented against insufficient funds, whether or not the instrument was honored, must promptly notify the Office of Disciplinary Counsel of the information required by section (b). The lawyer or law firm must include a full explanation of the cause of the overdraft. [CLEAN COPY]

**RULE 15.5** [No Change]

[CLEAN COPY]

**RULE 15.6 RESERVED**

[CLEAN COPY]

**RULE 15.7** [No Change]

[CLEAN COPY]

**RULE 3.6 MAINTENANCE OF RECORDS**

**(a) Permanent Records.** In any matter in which a disciplinary sanction or admonition has been imposed or the lawyer has resigned in lieu of discipline under rule 9.3, the bar file and transcripts of the proceeding are permanent records. Related file materials, including investigative files, may be maintained in disciplinary counsel's discretion. Exhibits may be returned to the party supplying them, but copies should be retained where possible.

**(b) Destruction of Grievance and Investigation Files.**

In any matter in which a grievance or investigation has been dismissed without the imposition of a disciplinary sanction or admonition, whether following a hearing or otherwise, file

materials relating to the matter may be destroyed three years after the dismissal first occurred, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. However, file materials on a matter dismissed after a diversion must be retained at least five years after the dismissal.

**(c) Retention of Docket.** If a file on a matter has been destroyed under section (b), the Association may retain a docket record of the matter for statistical purposes only. That docket record must not include the name or other identification of the respondent.

**(d) Destruction of Random Examination Files.** In any random examination matter concluded under rule 15.1 without a disciplinary grievance being ordered, the file materials relating to the matter may be destroyed three years after the matter was concluded, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. In any random examination matter that a review committee directs be made the subject of a disciplinary grievance, the materials related to the random examination will be made part of the disciplinary grievance. A docket, limited to the name of the lawyer and any law firm examined or re-examined under rule 15.1, together with the date the examination or re-examination was concluded, will be maintained for a period of seven years for the purpose of determining prior examinations under rule 15.1(b).

**(e) Review.** If disciplinary counsel opposes a request by a respondent for destruction of files under this rule, the Board rules on that request.

**(f) Deceased Lawyers.** Records and files relating to a deceased lawyer, including permanent records, may be destroyed at any time in disciplinary counsel's discretion.

[CLEAN COPY]

#### **RULE 7.2 INTERIM SUSPENSION IN OTHER CIRCUMSTANCES**

##### **(a) Types of Interim Suspension.**

(1) *Risk to Public.* Disciplinary counsel may petition the Supreme Court for an order suspending the respondent lawyer during the pendency of any proceeding under these rules if:

(A) it appears that a respondent's continued practice of law poses a substantial threat of serious harm to the public and a review committee recommends an interim suspension; or

(B) a review committee orders a hearing on the capacity of a lawyer to practice law under rule 8.2 (d)(1); or

(C) when a hearing officer or the chief hearing officer orders supplemental proceedings on a respondent lawyer's capacity to defend a disciplinary proceeding under rule 8.3.

(2) *Board Recommendation for Disbarment.* When the Board enters a decision recommending disbarment, disciplinary counsel must file a petition for the respondent's suspension during the remainder of the proceedings. The respondent must be suspended absent an affirmative showing that

the respondent's continued practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest. If the Board's decision is not appealed and becomes final, the petition need not be filed, or if filed may be withdrawn.

(3) *Failure To Cooperate with Investigation.* When any lawyer fails without good cause to comply with a request under rule 5.3(g) or rule 15.2(a) for information or documents, or with a subpoena issued under rule 5.3(h) or rule 15.2(b), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. A petition may not be filed if the request or subpoena is the subject of a timely objection under rule 5.5(e) and the hearing officer has not yet ruled on that objection. If a lawyer has been suspended for failure to cooperate and thereafter complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

##### **(b) Procedure.**

(1) *Petition.* A petition to the Court under this rule must set forth the acts of the lawyer constituting grounds for suspension, and if filed under subsection (a)(2) must include a copy of the Board's decision. The petition may be supported by documents or affidavits. The Association must serve the petition by mail on the day of filing. In addition, a copy of the petition must be personally served on the lawyer no later than the date of service of the show cause order.

(2) *Show Cause Order.* Upon filing of the petition, the Chief Justice orders the lawyer to appear before the Court on a date set by the Chief Justice, and to show cause why the petition for suspension should not be granted. Disciplinary counsel must have a copy of the order to show cause personally served on the lawyer at least ten days before the scheduled show cause hearing. Subsection (b)(5) notification requirements must be included in the show cause order.

(3) *Answer to Petition.* The lawyer may answer the petition. An answer may be supported by documents or affidavits. Failure to answer does not result in default or waive the right to appear at the show cause hearing.

(4) *Filing of Answer.* A copy of any answer must be filed with both the Court and disciplinary counsel by the date specified in the show cause order, which will be at least five days before the scheduled show cause hearing.

(5) *Notification.* The lawyer must inform the court no less than 7 days prior to the show cause hearing, whether the lawyer will appear for the show cause hearing, or the hearing will be stricken and the Court will decide the matter without oral argument.

(6) *Application of Other Rules.* If the Court enters an order suspending the lawyer, the rules relating to suspended lawyers, including title 14, apply.

#### **GR 9 Cover Sheet - Appendix**

**REGULATIONS 101 - 106 [Adopted effective March 29, 1990. Amended effective July 8, 2009. Superseded by amendment to Rule for Enforcement of Lawyer Conduct 15.6 effective \_\_\_\_\_.]**



REGULATION 101. DEFINITIONS

As used in these Regulations the following definitions shall apply:

(a) An "active member" shall mean any person licensed to practice law in the State of Washington as an active member of the Washington State Bar Association.

(b) The "Board" shall mean the Disciplinary Board established pursuant to RLD 2.3.

(c) The term "Chairperson" shall mean the chairperson of the Board.

(d) The term "firm" means any attorney or group of attorneys practicing law in the State of Washington, regardless of the form or legal entity under which such practice is conducted.

(e) The "Auditor" shall mean the person or accounting firm conducting the audits and examinations specified in RLD Title 13.

(f) The "Association" shall mean the Washington State Bar Association.

(g) The "Director" shall mean the Executive Director of the Association.

(h) "Examination" shall mean a review and testing by the audit of the internal controls and procedures used by an attorney or firm to receive, hold, disburse and account for money or property in which a client or other person has an interest using generally accepted auditing standards, to the extent they apply, without, however, making outside confirmations. In order to conduct such review and testing, the auditor shall have access to all of the internal books and records kept by the attorney or firm of attorneys which comprise the attorney's or firm's financial records showing financial transactions involving the receipt of client's funds for fees, costs or other purposes, either from the client or third persons and all expenditures by the firm or attorney for the firm or attorney, for clients or third persons and all distributions to the attorney or attorneys including but not necessarily limited to all journals, ledgers, books of account, cancelled checks, deposit slips, bank statements, check registers, cash accounts, receipts, correspondence, records of accounts receivable, income and expense statements, balance sheets, tax returns of all types, federal, state, county, and city excepting, however, income tax returns.

(i) "Audit" shall encompass "examination" but in addition may include positive or negative confirmation from external sources.

REGULATION 102. PERSONS AUTHORIZED TO CONDUCT AUDITS

(a) The Director may from time to time select such person or persons or accounting firm as the Director deems qualified to conduct the audits and examinations specified in RLD Title 13. The selection of the auditor or auditors shall be subject to confirmation by the Board of Governors.

(b) The auditor need not be a Certified Public Accountant but must be qualified under the laws of the State of Washington to practice public accountancy. The auditor may be an accounting firm or individual or individuals.

(c) The auditor or auditors may, but need not be, in the employ of the Association. If the auditor is the employee of the Association the auditor need not be qualified under the

laws of the State of Washington to practice public accountancy.

(d) If the Director selects as auditor or auditors person who are independent contractors, they may be hired to perform all or some examinations or audits or solely for the performance of a particular examination or audit. No auditor shall perform an audit or examination of a firm or attorney for whom the auditor has performed accounting work in the two (2) years preceding the date of the proposed examination or audit. The auditor, as a condition of employment, shall agree that neither the auditor nor any accounting firm with which the auditor is associated, will perform accounting work for any attorney or firm which the auditor audits or examines for a period of not less than two years (2) years following the date of said audit or examination, whichever is later; however, this shall not preclude performances of accounting work for clients of the attorney or firm, nor preclude the auditor from being a lay or expert witness on behalf of a client of the attorney or firm.

(e) Compensation of the auditor or auditors shall be as determined by the Director subject to confirmation by the Board of Governors.

REGULATION 103. EXAMINATION AND AUDIT REPORTS

(a) The auditor shall furnish a written report of each examination or audit to the Board.

(b) The report shall contain the date of the audit or examination, the name of the firm or attorney, and a statement of the scope of the examination or audit. In respect to each examination, it shall include a statement to the effect that either (i) as a result of the examination, an audit or further examination is indicated or, (ii) during the course of the examination, the auditor has not observed anything which would indicate a need for further examination or audit at this time. In respect to each audit, the report shall state either (i) as a result of the audit, the auditor concludes that RPD 1.14 has not been complied with (stating the particulars), or (ii) as a result of the audit, the auditor has not observed anything which would indicate RPC 1.14 has not been complied with. The auditor shall further state an opinion, whether the attorney or firm has cooperated as required by RLD 13.2, giving particulars if lack of cooperation is claimed.

(c) Upon request by the Chairperson, the auditor shall make available the working papers in respect to particular examinations or audits, for review by the Board and shall consult with the Board in respect to particular examinations and audits. Upon request the auditor shall similarly make available the working papers to and consult with the Board of Governors.

(d) Upon conclusion of the examination or audit, the auditor shall make available to the attorney or firm a copy of the audit report.

(e) The auditor shall preserve inviolate all confidences and secrets of clients of the examined attorney or firm. No client name or information which would permit identification of a particular client shall be revealed in working papers or the report of the auditor, except that the name or names of clients who have filed complaints with the Association may be released. As a condition of the auditor's employment, the

Association shall require such undertakings of the auditor as may be required to insure compliance with this regulation.

(f) When the audit is concluded, if it is determined pursuant to Reg. 104(a) that no further investigation, examination or action is appropriate, the Association's copies of the audit report, working papers or other materials relating to the audit shall be destroyed, except that the Association shall maintain a record showing the identity of any attorney or firm audited and the dates of the audit to ensure that the restrictions of Reg. 105(a) are complied with.

REGULATION 104. DETERMINATION THAT FURTHER EXAMINATION AND AUDIT OR OTHER ACTIONS ARE WARRANTED.

(a) The Chairperson or a delegate shall review all reports of the auditor. After such review and upon such further investigation, which the Chairperson may direct, and after such consultation, if any, as the Chairperson deems appropriate with the Board, Director, Board of Governors, or Association counsel, the Chairperson shall make such order in respect to further examination and audit as the Chairperson deems appropriate, consistent with RLD 13.1. In addition, the Chairperson may order other actions by the attorney as are necessary to insure that the attorney's handling of client funds complies with the requirements of the Rules of Professional Conduct.

(b) In any case where the Chairperson orders the attorney to make payments in order to insure that the attorney's handling of client funds during the examination period complied with the Rules of Professional Conduct and the amount to be paid exceeds \$1,500, the attorney may appeal the order requiring payment to a subcommittee of the Disciplinary Board consisting of three lawyers who are members of the Board appointed by the Chairperson. The subcommittee shall review the auditor's report, and any other materials submitted by the attorney and the auditor and shall have the authority to change or modify the Chairperson's order as a majority of the subcommittee deems appropriate. The subcommittee's order shall be final.

REGULATION 104A. AUDITOR'S OPINIONS ADVISORY ONLY.

(a) The opinions expressed in the report of the Auditor shall be advisory only. They shall not in and of themselves constitute findings of fact in any disciplinary proceedings against any attorney unless so stipulated by the attorney or the attorney's counsel.

REGULATION 105. METHOD OF SELECTION OF ATTORNEYS AND FIRMS TO BE EXAMINED.

(a) At such time and from time to time as the Board of Governors after consultation with the Board shall determine, random examination of attorneys or firms shall be conducted. Procedures shall be established by the Board, in consultation with the Board of Governors, for the selection of the attorneys or firms to be examined which (1) will utilize the principle of random selection and (2) will distribute the examinations among the congressional districts of the state substantially in the ratio that the number of attorneys in each district bears to the total number of active attorneys in the state. For example, the Board may (i) determine the total number of examinations which can be made during the time period in

question by the auditor or auditors, (ii) allocate the number of examinations to each district substantially in the same ratio that the number of active attorneys therein bears to all active attorneys in the state and (iii) select attorneys by random within each group. If the number drawn is that of an attorney who is an employee or member of a firm, the firm shall be examined. If the number is that of an active member who is a sole proprietor, such active member shall be examined. If the number is that of an attorney who, either as an individual or as a firm member, has been audited in the twenty-four (24) months immediately preceding the drawing, the Chairperson may in the Chairperson's discretion excuse such attorney or firm from examination.

(b) Upon consent of an active member, the attorney's books and records or those of a firm may be examined even though the active member's number has not been selected randomly.

(c) The Chairperson may at all time upon receipt of information that a particular attorney or firm may not be in compliance with RPC 1.14 authorize an examination.

REGULATION 106. CONTENTS OF LAWYER TRUST ACCOUNT INFORMATION FORM

Annually, each active member must provide a trust account information form prescribed by the Association by the date specified by the Association. The information form shall be certified by the member, in such a manner as the Association prescribes, stating that the information is true and correct. The Association may require disclosure of the following information:

(i) Name, current address and bar number of the active member.

(ii) Whether the member (or firm) maintains either an IOLTA account or other client trust account(s) for the deposit of client funds received in connection with representations undertaken using the member's Washington license.

(iii) The name of the financial institution(s) and branch(es) where client funds are held, and the account numbers for each account.

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

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

**WSR 15-15-001**

**AGENDA**

**NOXIOUS WEED CONTROL BOARD**

[Filed July 1, 2015, 12:05 p.m.]

Following is the state noxious weed control board's semi-annual rules development agenda for the period of July 1 through December 31, 2015. This document is being sent in compliance with RCW 34.05.314.

The board may undertake additional rule-making activity as conditions warrant. If you have any questions, please contact Alison Halpern at (360) 902-2053 or e-mail ahalpern@agr.wa.gov.

**Semi-Annual Rules Agenda  
July 1 - December 31, 2015  
P.O. Box 42560  
Olympia, WA 98504-2560**

| WAC Number | Rule Title  | Agency Contact  | Tentative Timeline |           |          | Subject of Rule Making  |
|------------|---|---|--------------------|-----------|----------|---|
|            |   |   | CR-101             | CR-102    | CR-103   |   |
| 16-750     | State noxious weed list and schedule of monetary penalties. | Alison Halpern<br>Executive Secretary<br>Phone (360) 902-2053 | June               | September | November | Possible changes to noxious weed list and state weed board by-laws. |

Alison Halpern  
Executive Secretary

**WSR 15-15-004  
AGENDA  
FOREST PRACTICES BOARD**  
[Filed July 1, 2015, 1:11 p.m.]

**Semi-Annual Rule-Making Agenda for  
Publication in the Washington State Register Pursuant to  
RCW 34.05.314  
July - December 2015**

The forest practices board's (FPB) mandate is to adopt rules to protect the state's public resources while maintaining a viable forest products industry. The following rule proposals are under development or are anticipated during this time period. There may be additional rule-making activity not on the agenda as conditions warrant.

1. **Riparian Management Zone Clarification.** The board may consider rule making to clarify rules in chapter 222-30 WAC related to riparian management zones.

2. **Road Maintenance.** The board may consider rule making to amend road maintenance planning requirements.

Contact Person: Patricia Anderson, FPB Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, fax (360) 902-1428, e-mail patricia.anderson@dnr.wa.gov.

**WSR 15-15-006  
PUBLIC RECORDS OFFICER  
DEPARTMENT OF AGRICULTURE**  
(Dry Pea and Lentil Commission)  
[Filed July 1, 2015, 3:24 p.m.]

Pursuant to RCW 42.56.580, the public records officer for the Washington dry pea and lentil commission is Michael Shelton, 2780 West Pullman Road, Moscow, ID 83843, phone (208) 882-3023, fax (208) 882-6406, e-mail mshelton@pea-lentil.com.

Tim McGreevy  
CEO

**WSR 15-15-011  
AGENDA  
DEPARTMENT OF  
ENTERPRISE SERVICES**  
[Filed July 1, 2015, 4:59 p.m.]

Listed below is the department of enterprise services' semi-annual rules development agenda for publication in the Washington State Register. This list identifies rules that the department of enterprise services has under development, and rules that the agency anticipates starting some rule-making action on during the next six months.

This agenda also is available on our web site at [www.des.wa.gov/about/LawsRules](http://www.des.wa.gov/about/LawsRules). The information on our web site is continually updated as rule-making notices are filed. If the agency starts rule-making activities that are not listed on this agenda or stops listed rule-making activities, that information also will be posted.

Jack Zeigler is available if you have questions about this agenda at e-mail [jack.zeigler@des.wa.gov](mailto:jack.zeigler@des.wa.gov) and phone (360) 407-9209.

**Semi-Annual Rule-Making Agenda  
July 1, 2015, through January 31, 2015 [2016]**

| <b>WAC Citation</b>   | <b>Subject Matter/Purpose of Rule</b>   | <b>Current Activity/Approximate Filing Date</b>   |
|---|---|---|
| Chapter 200-370 WAC credit, charge, or purchasing cards.                                | <p>Expedited rule making to repeal chapter 200-370 WAC.</p> <p>Under HB [2SHB] 2452 (2012), commonly known as procurement reform, RCW 43.19.185 was repealed. RCW 43.19.185 mandated the development of credit card systems and rules relating to the use of credit cards by state agencies and departments.</p> <p>While the development of credit card policies and standards are required under HB [2SHB] 2452, credit card rules are no longer required.</p> <p>In addition, fully developed and operational credit card systems, controls and policies are in place and widely used and followed by state agencies and departments.</p> <p>Because of this, chapter 200-370 WAC is no longer relevant.</p> | <p>CR-105 filed in December of 2014.</p> <p>Objection period has closed.</p> <p>Final rule adoption anticipated by November 2015.</p> |
| Chapter 200-240 WAC, display of flags.  | <p>Expedited rule making to amend rules to reflect passage of SB [SSB] 5097 in 2002 (RCW 1.20.017) which requires the display of POW/MIA flag[s] at public entities on certain days of the year.</p> <p>Current rule prohibits flags other than the United States flag and the Washington state flag to be flown on the capitol campus.</p>   | <p>Proposed rule filed in June 2015.</p> <p>Final rule adoption anticipated by September 2015.</p>                                    |
| Title 200 WAC, Enterprise services, department of.                                      | <p>Expedited rule making to amend rules to update agency name, locations, and division and program name changes.</p> <p>The existing rules affected are those that were transferred from the former department of general administration, the former department of personnel, and the office of financial management to the department of enterprise services in 2011.</p>  | <p>Proposed rule filed in July 2015.</p> <p>Final rule adoption anticipated by September of 2015.</p>                                 |
| New rule within Title 200 WAC, flying unmanned aircraft systems (drones) on the campus. | <p>New rules are considered necessary to provide for the safety and security of state government as well as visitors to the capitol campus.</p>   | <p>Preproposal filing anticipated in July 2015.</p> <p>Proposed rule filing anticipated by November 2015.</p>                         |
| Chapter 200-100 WAC, self-insurance risk pools.   | <p>This rule making is needed to implement the requirements of SB 5119 by:</p> <p>Rule making will amend and repeal current rules governing the management and operation of self-insurance programs that cover property or liability risks for:</p> <ul style="list-style-type: none"> <li>• Local governments; and</li> <li>• Nonprofit corporations.</li> </ul>   | <p>CR-101 anticipated filing in July 2015.</p> <p>Proposed rules anticipated filing in October 2015.</p>                              |

| WAC Citation                          | Subject Matter/Purpose of Rule   | Current Activity/Approximate Filing Date   |
|---------------------------------------|--|--|
| Chapter 200-305 WAC, debarment fines. | Amend rules to implement SHB 1447 by establishing the process to fine a contractor when a finding for cause is made. | Preproposal filing anticipated in July 2015.<br><br>Proposed rule filing anticipated by November 2015. |

Jack Zeigler  
Rules Manager

**WSR 15-15-014**  
**NOTICE OF PUBLIC MEETINGS**  
**STATUTE LAW COMMITTEE**

[Filed July 6, 2015, 10:08 a.m.]

The statute law committee meeting has been cancelled for Tuesday, July 7, 2015. A meeting will be scheduled for a later date.

Debbie Deibert or K. Kyle Thiessen are the contact persons for information concerning the cancellation and rescheduling of this meeting and can be reached at (360) 786-6777.

**WSR 15-15-016**  
**HEALTH CARE AUTHORITY**

[Filed July 6, 2015, 11:49 a.m.]

**NOTICE**

Title or Subject: Medicaid State Plan Amendment (SPA) 15-0035 Alternative Benefit Plan.

Effective Date: August 1, 2015.

Description: The health care authority intends to submit medicaid state plan amendment (SPA) 15-0035 to align the state's alternative benefit plan (ABP) section of the state plan so it reflects information added to the state plan under recently approved SPAs. This includes:

- The 1915(k) community first choice state plan option for medicaid-eligible persons who have income at or below one hundred fifty percent of the federal poverty level. Services provided under this program are intended to provide care in the least restrictive setting possible and prevent placement in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, an institution providing psychiatric services for individuals under age twenty-one, or an institution for mental diseases for individuals age sixty-five and over.
- Specialized add-on services for certain nursing facility residents, including assistive technology, rehabilitative behavior support and consultation, community access services, community guide services, rehabilitative therapy services, staff/family consultation and training, supported employment services, and transportation to and from rehabilitative services.

The agency does not anticipate this SPA to have an effect on annual aggregate expenditures.

For additional information, contact Gail Kreiger, Health Care Services, 626 8th Avenue S.E., Olympia, WA 98501, phone (360) 725-1681, TDD/TTY 800-848-5429, fax (360) 725-1328, e-mail gailkreiger@hca.wa.gov.

**WSR 15-15-017**  
**HEALTH CARE AUTHORITY**

[Filed July 6, 2015, 12:06 p.m.]

**NOTICE**

Title or Subject: Medicaid State Plan Amendment (SPA) 15-0034.

Effective Date: July 1, 2015.

Description: The health care authority (the agency) intends to submit medicaid state plan amendment (SPA) 15-0034 to update the effective date of the following fee schedules:

- Applied behavior analysis.
- Extended services for pregnant women through ninety days postpartum.
- Infant case management.
- Outpatient rehabilitation (physical therapy, occupational therapy, speech therapy).

The agency anticipates that updating the effective date of the fee schedule will have no effect on annual aggregate expenditures.

The SPA is in the development process; therefore a copy is not yet available for review. To contact the agency for additional information and a copy of the SPA when it becomes available, please contact Jean Bui, Rates Development, 626 [8th] Avenue S.E., Olympia, WA 98501, phone (360) 725-1973, TDD/TTY 800-848-5429, fax (253) 350-6512, e-mail jean.bui@hca.wa.gov.

**WSR 15-15-018**  
**NOTICE OF PUBLIC MEETINGS**  
**LOTTERY COMMISSION**

[Filed July 6, 2015, 3:26 p.m.]

**LOTTERY COMMISSION**  
**MEETING AGENDA**

Thursday, July 9, 2015  
 Lottery Headquarters  
 Olympia, Washington

**WSR 15-15-019**  
**NOTICE OF PUBLIC MEETINGS**  
**LOTTERY COMMISSION**

[Filed July 6, 2015, 3:27 p.m.]

**Meeting Dates and Locations 2015**

Work session meetings will start at 8:30 a.m. Formal meetings will follow the work session after a short break.

|                                 |   |                     |
|---------------------------------|---|---------------------|
| February 26, 2015               | Lottery Headquarters, Drawing Studio  | Olympia, Washington |
| April 23, 2015                  | Lottery Headquarters, Drawing Studio  | Olympia, Washington |
| June 17, 2015                   | Eastern Washington  | Eastern Washington  |
| June 25, 2015                   | Eastern Washington  | Eastern Washington  |
| July 9, 2015<br>Special Meeting | Lottery Headquarters, Director's Conference Room (telephone conference call at 9:00 a.m.)<br>Call (888) 363-4734<br>Participant Code - 503051 | Olympia, Washington |
| August 26, 2015                 | Lottery Headquarters, Drawing Studio  | Olympia, Washington |
| August 27, 2015                 | Lottery Headquarters, Drawing Studio  | Olympia, Washington |
| October 22, 2015                | Lottery Headquarters, Drawing Studio  | Olympia, Washington |

**WSR 15-15-020**  
**NOTICE OF PUBLIC MEETINGS**  
**YAKIMA VALLEY**  
**COMMUNITY COLLEGE**

[Filed July 7, 2015, 8:11 a.m.]

Following is the schedule of regular meetings for Yakima Valley Community College (YVCC) for 2015-2016:

| Date          | Time      | Location                          |
|---------------|-----------|-----------------------------------|
| <b>2015</b>   |           |                                   |
| June 18, 2015 | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus |

| Date               | Time      | Location                                       |
|--------------------|-----------|--|
| July 9, 2015       | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus<br>CANCELLED |
| August 13, 2015    | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus<br>CANCELLED |
| September 10, 2015 | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| October 8, 2015    | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| November 12, 2015  | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| December 10, 2015  | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus<br>CANCELLED |
| <b>2016</b>        |           |  |
| January 14, 2016   | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| February 11, 2016  | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| March 10, 2016     | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| April 14, 2016     | 4:00 p.m. | Library Meeting Room<br>Grandview Campus       |
| May 12, 2016       | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| June 16, 2016      | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| July 14, 2016      | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus<br>CANCELLED |
| August 11, 2016    | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| September 8, 2016  | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |

| Date              | Time      | Location                                       |
|-------------------|-----------|--|
| October 13, 2016  | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| November 10, 2016 | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus              |
| December 8, 2016  | 4:00 p.m. | King Room<br>HUB<br>Yakima Campus<br>CANCELLED |

The Yakima campus is located at South 16th Avenue and Nob Hill Boulevard in the city of Yakima, Washington. The Grandview Campus is at 500 West Main Street in Grandview, Washington.

If you need further information, contact the President's Office, YVCC, P.O. Box 22520, Yakima, WA 98907, (509) 574-4635.

**WSR 15-15-027**  
**NOTICE OF PUBLIC MEETINGS**  
**CHARTER SCHOOL COMMISSION**  
 [Filed July 7, 2015, 1:45 p.m.]

The Washington state charter school commission has cancelled the following meeting: Thursday, July 16, 2015, at 10:00 a.m. - 5:00 p.m., Educational Service District No. 123, Blue Mountain Room, 3918 West Court Street, Pasco, WA 99301.

If you need further information contact Colin Pippin-Timco, 1068 Washington Street, Olympia, WA 98501, P.O. Box 40996, Olympia, WA 98504-0996, (360) 725-5511, colin.pippin-timco@charterschool.wa.gov, www.charterschool.wa.gov.

**WSR 15-15-029**  
**AGENDA**  
**DEPARTMENT OF COMMERCE**  
 [Filed July 7, 2015, 2:28 p.m.]

Following is the department of commerce's semi-annual rules development agenda for publication in the Washington State Register, pursuant to RCW 34.05.314. There may be additional rule-making activity not on the agenda as conditions warrant.

Please contact Nick Demerice if you have questions, nick.demerice@commerce.wa.gov or (360) 725-4010.

Semi-Annual Rule-Making Agenda  
 July through December 2015

| WAC Citation   | Subject Matter/<br>Purpose of Rule  | Current Activity/<br>Approximate Filing Date                 |
|----------------|---|--|
| Not applicable | Implementation of E2SSB 5826 (small business retirement marketplace[]) requires the department to propose rules by January 1, 2016. | Pre-CR-101 with proposed rules published by January 1, 2016. |

Nick Demerice  
 Rules Coordinator

**WSR 15-15-030**  
**ATTORNEY GENERAL'S OFFICE**  
 [Filed July 7, 2015, 3:36 p.m.]

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

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by August 12, 2015. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by e-mail to jeff.even@atg.wa.gov or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeff Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested, information about the attorney general's opinion process, information on how to submit your comments, and a due date by which your comments must be received to ensure that they are fully considered.

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

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

**Opinion Docket No. 15-07-01****Request by Eileen Cody, Representative, District 34****QUESTION:****Is dry needling within a licensed physical therapist's scope of practice as defined in RCW 18.74?****WSR 15-15-031****RULES COORDINATOR  
DEPARTMENT OF  
EARLY LEARNING**

[Filed July 7, 2015, 3:57 p.m.]

Pursuant to RCW 34.05.312, the new rules coordinator for the department of early learning is Saul Olivarez, P.O. Box 40970, Olympia, WA 98504-0970, phone (360) 725-4670, fax (360) 725-586-0333 [725-4925], and e-mail saul.olivarez@del.wa.gov.

Elizabeth M. Hyde, PhD  
Director

**WSR 15-15-032****HEALTH CARE AUTHORITY**

[Filed July 8, 2015, 6:33 a.m.]

**NOTICE**

Title or Subject: Medicaid State Plan Amendment (SPA) 15-0037 Community First Choice.

Program Effective Date: On or after July 1, 2015.

Description: The health care authority and the department of social and health services intend to submit SPA 15-0037 to make a technical change to the community first choice program SPA 15-0002 that was approved by CMS on June 30, 2015. SPA 15-0037 will remove language specifying "sunset" language for training on the home and community-based (HCB) setting requirements in adult family homes and assisted living facilities, providing medicaid participants information on these requirements, and strengthening the survey and data analysis processes to assess for systematic issues. The "sunset" language will be replaced with language to provide more information on the HCB setting rules to participants and providers and to ensure the state has a method for identifying and addressing residential facilities' adherence to the new HCB rules.

SPA 15-0037 is anticipated to have no effect on annual aggregate expenditures.

SPA 15-0037 is in the drafting process; therefore copies are not yet available for review.

For additional information, to receive copies of the proposed changes when they become available, and to submit comments please contact Tracey Rollins, Home and Community Services Division, P.O. Box 45600, phone (360) 725-3216, TDD/TTY 877-905-0454, fax (360) 438-8633, e-mail Rollita@dshs.wa.gov.

**WSR 15-15-035****NOTICE OF PUBLIC MEETINGS  
TRAFFIC SAFETY COMMISSION**

[Filed July 8, 2015, 10:05 a.m.]

Following is the schedule of regular meetings for the Washington traffic safety commission for 2016:

| Date             | Time                   | Location  |
|------------------|------------------------|---|
| January 21, 2016 | 10:30 a.m.-<br>12 noon | Washington Traffic Safety<br>Commission Offices<br>621 8th Avenue S.E.<br>Suite 409<br>Olympia, WA 98504-0944 |
| April 21, 2016   | 10:30 a.m.-<br>12 noon | Washington Traffic Safety<br>Commission Offices<br>621 8th Avenue S.E.<br>Suite 409<br>Olympia, WA 98504-0944 |
| July 21, 2016    | 10:30 a.m.-<br>12 noon | Washington Traffic Safety<br>Commission Offices<br>621 8th Avenue S.E.<br>Suite 409<br>Olympia, WA 98504-0944 |
| October 20, 2016 | 10:30 a.m.-<br>12 noon | Washington Traffic Safety<br>Commission Offices<br>621 8th Avenue S.E.<br>Suite 409<br>Olympia, WA 98504-0944 |

If you need further information, please contact Geri Nelson, (360) 725-9898 or gnelson@wtsc.wa.gov, or see our web site <http://www.wtsc.wa.gov/>.

**WSR 15-15-039****AGENDA****UNIVERSITY OF WASHINGTON**

[Filed July 8, 2015, 11:26 a.m.]

**Semi-Annual Agenda for Rules Under Development  
(Per RCW 34.05.314)  
July 2015**

Rule-making activity not now anticipated may also be added as conditions warrant between semi-annual agendas:

1. Rule making will continue for chapter 478-120 WAC, Student conduct code for the University of Washington, during the second half of 2015 (a CR-101 was filed August 4, 2014, and a CR-103E was filed June 30, 2015).

2. Rule making will continue for chapter 478-168 WAC, Regulations for the University of Washington libraries, during the second half of 2015 (a CR-101 was filed March 18, 2015, and a CR-102 was filed May 6, 2015).

3. Rule making is anticipated for chapter 478-160 WAC, Admission and registration procedures for the University of Washington, during the second half of 2015.

For more information concerning the above rules, please contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Box 351210, Seattle, WA 98195-1210, phone (206) 543-9219, e-mail rules@uw.edu, web [www.washington.edu/rules/](http://www.washington.edu/rules/).



**WSR 15-15-040**  
**AGENDA**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed July 8, 2015, 11:31 a.m.]

**Semi-Annual Rule-Making Agenda**  
**July through December, 2015**

Below is the board of pilotage commissioner's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on this agenda. Refer to our web site for periodic updates.

Please direct any questions about this agenda to Peggy Larson, Rules Coordinator, 2901 Third Avenue, Suite 500, Seattle, WA 98121, (206) 515-3904, fax (206) 515-3906, www.pilotage.wa.gov, e-mail Larsonp@wsdot.wa.gov.

| WAC Citation | Subject Matter  | Current Activity         |   |  |
|--------------|---|--------------------------|---|--|
|              |   | Preproposal<br>(CR-101)  | Proposed<br>(CR-102)                            | Permanent<br>(CR-103P)                               |
| 363-116-010  | Time and place of meeting.  | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-078  | Training program.   | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-080  | Licensing of pilots.  | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-082  | Limitations on new pilots.  | WSR 14-13-114<br>6/18/14 | WSR 14-16-087<br>8/4/14                         | WSR 15-04-136<br>2/4/15                              |
| 363-116-084  | Simulator evaluation review and appeal procedures.                              | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-110  | Details and requirements of annual license fee payment ... for licensed pilots. | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-140  | Limitations.  | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-185  | Grays Harbor pilotage district rates.   | Exempt                   | September filing for public hearing on 11/19/15 | Intended implementation on 1/1/16                    |
| 363-116-200  | Duties of pilots.   | WSR 14-13-114<br>6/18/14 |   |  |
| 363-116-300  | Puget Sound pilotage district rates.  | Exempt                   | WSR 15-08-013<br>3/24/15                        | WSR 15-12-070<br>5/29/15<br>Implementation on 7/1/15 |

**WSR 15-15-041**

**CLEMENCY AND PARDONS BOARD**

[Filed July 8, 2015, 11:59 a.m.]

**Notice of Quarterly Hearing**

The Washington state clemency and pardons board hereby gives notice of its quarterly hearing scheduled for September 11, 2015, at 10:00 a.m., Senate Hearing Room 3, John A. Cherberg Building, Olympia, Washington<sup>1</sup>. The following petitions will be considered by the board<sup>2</sup>:

**Petitioner:**

Royer, Dean A.  
Rashid, Josiah M.  
Rivers, Paul  
Conyers, David C.  
Inlow, Robert  
Sison, Mercedes M.

**Relief Requested:**

Commutation  
Commutation  
Commutation  
Commutation  
Pardon  
Pardon

|                    |                          |
|--------------------|--------------------------|
| <b>Petitioner:</b> | <b>Relief Requested:</b> |
| Fidee, Laurie G.   | Pardon                   |
| Davis, Jaime A.    | Pardon                   |

<sup>1</sup> Please note that all board hearings are recorded by a court reporter, open to the public, and broadcast on the state public affairs network, TVW.  
<sup>2</sup> At the board's discretion, the order of the petitions to be called for hearing is subject to change.

**WSR 15-15-043**  
**POLICY STATEMENT**  
**UNIVERSITY OF WASHINGTON**  
 [Filed July 8, 2015, 1:51 p.m.]

The University of Washington (UW) has recently created or revised the following policy statements, scholastic regulations, orders, and bylaws:

- "Graduate Student Classifications," multiple sections revised effective February 6, 2015 (*Student Governance and Policies*, chapter 103).
- "Continuation or Termination of Students in the Graduate School," revised effective February 6, 2015 (*Student Governance and Policies*, chapter 107, Section 8).
- "Admission to Graduate Standing," revised effective February 9, 2015 (*Student Governance and Policies*, chapter 101, Section 5).
- "Registration," multiple sections revised effective February 9, 2015 (*Student Governance and Policies*, chapter 102).
- "Credit Programs," revised effective February 9, 2015 (*Student Governance and Policies*, chapter 109, Section 3).
- "The Grading System," revised effective February 9, 2015 (*Student Governance and Policies*, chapter 110, Section 1).
- "Degrees, Graduation, and Commencement," multiple sections revised effective February 9, 2015 (*Student Governance and Policies*, chapter 114).
- "Courses," multiple sections revised effective February 9, 2015 (*Student Governance and Policies*, chapter 115).
- "Technology Transfer," revised effective February 13, 2015 (Administrative Policy Statement 59.4).
- "University of Washington Server Policy," effective February 26, 2015 (Administrative Policy Statement 17.1).
- "Serving and Sale of Alcoholic Beverages at University Facilities," revised effective April 13, 2015 (Administrative Policy Statement 13.9).
- "Acceptance of Gifts or Contributions from Representatives of the Alcoholic Beverage Industry," revised effective April 13, 2015 (Administrative Policy Statement 47.5).
- "Resolution of Complaints Against University Employees," revised effective April 17, 2015 (Administrative Policy Statement 46.3).
- "Committees of the Board," revised effective May 14, 2015 (*Board of Regents Governance*, Bylaws, Article IV).

- "Advisory Committees of the Board of Regents," revised effective May 14, 2015 (*Board of Regents Governance*, Standing Orders, chapter 4).
- "Outside Professional Work Policy," revised effective May 20, 2015 (Executive Order No. 57).
- "Oversight Responsibility for Regent-Level Capital Projects," effective June 4, 2015 (Administrative Order No. 8).

To view any item noted above, see the UW policy directory [washington.edu/admin/rules/policies/](http://washington.edu/admin/rules/policies/). For more information regarding these materials contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Box 351210, Seattle, WA 98195-1210, or e-mail [rules@uw.edu](mailto:rules@uw.edu).

**WSR 15-15-045**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Filed July 8, 2015, 4:18 p.m.]

The associated students of Bellingham Technical College will hold a special meeting on Friday, July 10, 2015, at 10:00 a.m., in the Campus Center, room 300 on the Bellingham Technical College campus. The purpose of the meeting will be to discuss; review and approval of minutes, the director of administrative affairs - minutes position, summer trainings, ASBTC shirts, August hang out, executive retreat, summer project list, family concert, vacations, ASBTC tablets, and the status of the wireless network. Action may be taken in open session as a result of discussion. (RCW 42.30.110 (1)(g).) Call 752-8443 for information.

**WSR 15-15-049**  
**NOTICE OF PUBLIC MEETINGS**  
**STUDENT ACHIEVEMENT COUNCIL**  
 [Filed July 9, 2015, 8:18 a.m.]

Following is the schedule of regular meetings for the Washington student achievement council for 2015:

| Date              | Time   | Location  |
|-------------------|--|---|
| August 13, 2015   | 9 a.m. - 4 p.m.  | Walla Walla University<br>Walla Walla, Washington |
| October 15, 2015  | TBD - Please refer to <a href="http://www.wsac.wa.gov/2015-meetings">http://www.wsac.wa.gov/2015-meetings</a> for updated agenda items closer to the meeting date. | University of Puget Sound<br>Tacoma, Washington   |
| November 18, 2015 | TBD - Please refer to <a href="http://www.wsac.wa.gov/2015-meetings">http://www.wsac.wa.gov/2015-meetings</a> for updated agenda items closer to the meeting date. | Centralia College<br>Centralia, Washington        |

If you need further information contact Kristin Ritter, P.O. Box 43430, Olympia, WA 98504, phone (360) 753-7812, fax (360) 753-7808, e-mail [kristinr@wsac.wa.gov](mailto:kristinr@wsac.wa.gov), web site [www.wsac.wa.gov](http://www.wsac.wa.gov).

**WSR 15-15-051**  
**NOTICE OF PUBLIC MEETINGS**  
**LOWER COLUMBIA COLLEGE**

[Filed July 9, 2015, 9:38 a.m.]

The Lower Columbia College board of trustees has revised their meeting schedule for 2016, which includes cancellation of the July 15 workshop and addition of a workshop on August 27, 2015. There are no changes to the rest of the schedule.

If you have any questions, please don't hesitate to contact Christopher C. Bailey, JD.

2015 MEETING SCHEDULE  
 Updated July 6, 2015

The trustees meet on the third Wednesday of each month at 5:00 in the Heritage Room of the Administration Building unless noted differently below.

|                        |                  |   |
|------------------------|------------------|---|
| January 21, 2015       | 5:00 p.m.        | Regular Meeting   |
| February 18, 2015      | 8:30 a.m.        | Workshop (all day)  |
| March 11, 2015         | 5:00 p.m.        | Special Executive Session<br>Admin Building Training Room |
| March 18, 2015         | 5:00             | Regular Meeting   |
| April 15, 2015         | 5:00 p.m.        | Regular Meeting   |
| May 20, 2015           | 5:00 p.m.        | Regular Meeting   |
| June 17, 2015          | 5:00 p.m.        | Regular Meeting   |
| July 15, 2015          | 8:30 a.m.        | Cancelled   |
| <b>August 27, 2015</b> | <b>8:30 a.m.</b> | <b>Workshop (added)</b>                                   |
| September 16, 2015     | 5:00 p.m.        | Regular Meeting   |
| October 21, 2015       | 5:00 p.m.        | Regular Meeting   |
| November 18, 2015      | 5:00 p.m.        | Regular Meeting   |
| December 16, 2015      | 5:00 p.m.        | Regular Meeting   |

**WSR 15-15-054**  
**AGENDA**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed July 9, 2015, 12:42 p.m.]

Rules Development Agenda  
 July to December 2015

| WAC CHAPTER OR SECTION | PURPOSE OF RULE BEING DEVELOPED OR AMENDED  |
|------------------------|---|
| New WAC                | The department of natural resources (DNR) will be developing a new rule to establish policies and procedures for the Washington state committee on geographic names. The new rule will provide guidelines for acceptable geographic names, and establish the process by which the committee will consider and adopt names and conduct meetings. |

| WAC CHAPTER OR SECTION | PURPOSE OF RULE BEING DEVELOPED OR AMENDED  |
|------------------------|---|
| 332-24                 | Rule change to ensure fire protection rules are clearly written and provide appropriate protection regarding regulation of forest operations and spark emitting equipment requirements. The changes will also update references to department of ecology WAC and chapter 70-94 [70.94] RCW. |
| 332-08                 | DNR has the discretion to consider rule-making changes related to insurance and security requirements; the program is currently evaluating whether or not this is necessary.  |
| 332-18-05004           | Amending rule governing fines, base penalties schedule in relation to surface mine reclamation.   |
| New WAC                | A new rule will be written to implement RCW 78.44.087 (5)(c) developing a standardized performance security formula.  |
| 332-30-172             | Rule will establish a geoduck diver safety program that all divers (wildstock fishery only) must complete to be maintained on a DNR plan of operations or issued a license under RCW 77.65.410. Rule making mandated by RCW 43.30.560.  |
| New WAC                | RCW 39.04.155 directs state agencies awarding small works contract[s] to have procedures in place to solicit bids and award contracts.  |

**WSR 15-15-057**  
**OLYMPIC COLLEGE**

[Filed July 10, 2015, 9:40 a.m.]

Pursuant to RCW 42.30.075, Olympic College hereby gives notice that a retreat of the board of trustees of Olympic College, District Three, will be held on Friday, August 28, 2015, beginning at 8:30 a.m. at The Resort at Port Ludlow.

**WSR 15-15-058**

**NOTICE OF PUBLIC MEETINGS  
TACOMA COMMUNITY COLLEGE**

[Filed July 10, 2015, 9:40 a.m.]

Pursuant to RCW 42.30.075, the following is the schedule for District 22 Tacoma Community College board of trustees meetings for 2016:

| Month              | Time        | Comments  |
|--------------------|-------------|---|
| January 13, 2016   | 4:00        | Board meeting                                     |
| January 29, 2016   | 8:00 - 5:00 | Winter board retreat                              |
| February 17, 2016  | 4:00        | Board meeting                                     |
| March 9, 2016      | 4:00        | Board meeting                                     |
| March 16, 2016     | 1:00 - 5:15 | Tenure interviews                                 |
| April 13, 2016     | 4:00        | Board meeting<br>Gig Harbor campus                |
| May 5, 2016        | 3:30 - 5:00 | Ellen Pinto interviews                            |
| May 11, 2016       | 4:00        | Board meeting                                     |
| June 8, 2016       | 4:00        | Board meeting                                     |
| June 17, 2016      | 8:00 - 5:00 | Summer board retreat<br>location to be determined |
| July 2016          |             | No board meeting                                  |
| August 2016        |             | No board meeting                                  |
| September 14, 2016 | 4:00        | Board meeting                                     |
| October 12, 2016   | 4:00        | Board meeting                                     |
| November 9, 2016   | 4:00        | Board meeting                                     |
| December 14, 2016  | 4:00        | Board meeting                                     |

All meetings of the board of trustees except April 13 and June 17 will be held at Tacoma Community College, 6501 South 19th Street, Tacoma, WA, and will begin at 4:00 p.m. unless otherwise noted.

If you need any other information, you may call Cathie Bitz at (253) 566-5101 or e-mail [cbitz@tacomacc.edu](mailto:cbitz@tacomacc.edu).

**WSR 15-15-059**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF HEALTH**

[Filed July 10, 2015, 10:33 a.m.]

**NOTICE OF ADOPTION OF AN INTERPRETIVE OR POLICY STATEMENT**

Title of Interpretive or Policy Statement: Releasing Records with Differences.

Issuing Entity: Disease control and health statistics, center for health statistics.

Subject Matter: Releasing birth certificates when there are differences between the information provided in the application and the records on file.

Effective Date: July 16, 2015.

Contact Person: Jean Remsbecker, [jean.remsbecker@doh.wa.gov](mailto:jean.remsbecker@doh.wa.gov) or (360) 236-4330.

**WSR 15-15-060**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH**

(Board of Nursing Home Administrators)

[Filed July 10, 2015, 10:34 a.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedures [Procedure] Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of nursing home administrators, for the year 2015. The board of nursing home administrators meetings are open to the public, and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via listserv and the department of health web site (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the board of nursing home administrators reserves the right to change or amend agendas at the meeting.

| Date             | Time      | Location  |
|------------------|-----------|---|
| February 6, 2015 | 9:00 a.m. | Department of Health<br>310 Israel Road S.E.<br>Tumwater, WA 98501  |
| May 1, 2015      | 9:00 a.m. | Department of Health<br>310 Israel Road S.E.<br>Tumwater, WA 98501  |
| August 7, 2015   | 9:00 a.m. | Eastern Washington University<br>526 5th Street<br>Cheney, WA 99004 |
| October 30, 2015 | 9:00 a.m. | Department of Health<br>310 Israel Road S.E.<br>Tumwater, WA 98501  |

If you need further information, please contact Kendra Pitzler, Health Service Consultant 3, Washington Department of Health, Board of Nursing Home Administrators, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4723, fax (360) 236-2901, e-mail [kendra.pitzler@doh.wa.gov](mailto:kendra.pitzler@doh.wa.gov), web [www.doh.wa.gov](http://www.doh.wa.gov).

Please be advised the board of nursing home administrators is required to comply with the Public Disclosure Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

## WSR 15-15-075

## AGENDA

DEPARTMENT OF  
LABOR AND INDUSTRIES

[Filed July 13, 2015, 4:05 p.m.]

Pursuant to RCW 34.05.314, following is the department of labor and industries' semi-annual rules development agenda for July 1 through December 31, 2015.

There may be additional rule-making activities not on the agenda as conditions warrant.

Please contact Maggie Leland at (360) 902-4504 or [maggie.leland@lni.wa.gov](mailto:maggie.leland@lni.wa.gov) if you have any questions.

## Semi-Annual Rules Development Agenda

July 1 - December 31, 2015

| WAC CHAPTER(S)                        | RULE SUBJECT   | AGENCY CONTACT   | PROPOSED TIMELINE |         |  | BRIEF DESCRIPTION OF CHANGES  |
|---------------------------------------|--|--|-------------------|---------|--|---|
|                                       |  |  | CR-101            | CR-102  | CR-103                                       |   |
| <b>Division: Financial Management</b> |  |  |                   |         |  |   |
| 296-30, 296-31, 296-33                | Rules for the administration of the crime victims' compensation program.             | Maty Brimmer<br>(360) 902-6707                                     | TBD               | TBD     | TBD  | Administrative updates to crime victims' compensation program based on review of rules as outlined in SSB 5679.   |
| <b>Division: Insurance Services</b>   |  |  |                   |         |  |   |
| 296-17, 296-17B                       | 2016 Workers' compensation premium rates.  | Jo Anne Attwood<br>(360) 902-4777                                  | 6/16/15           | 9/22/15 | 12/1/15                                      | Set rates for 2016 workers' compensation insurance.   |
| 296-17, 296-17A                       | Workers' compensation classification for taxi drivers.                               | Jo Anne Attwood<br>(360) 902-4777                                  | 5/19/15           | 7/21/15 | Emergency<br>7/24/15<br>Permanent<br>9/15/15 | Amend reporting and classification rules to implement changes from ESSB 5550 which repeals mandatory coverage for taxi, for-hire, limousine and exempts TNC drivers.  |
| 296-17A                               | Workers' compensation classifications for schools and churches.                      | Dick Bredeson<br>(360) 902-4985                                    | TBD               | TBD     | TBD  | Consider creating separate classifications for schools and churches. Presently they are subclassifications of the same basic classification.  |
| 296-17A                               | Workers' compensation classification for fraternities/sororities.                    | Dick Bredeson<br>(360) 902-4985                                    | TBD               | TBD     | TBD  | Amend classification rule to move fraternities and sororities from classification 6509 with assisted living facilities to the club classification 6205.   |
| 296-17A                               | Workers' compensation classifications for retail stores.                             | Dick Bredeson<br>(360) 902-4985                                    | TBD               | TBD     | TBD  | Consider classification changes if supported by insurance principals.   |
| 296-17A                               | Workers' compensation classification for tutoring.                                   | Dick Bredeson<br>(360) 902-4985                                    | TBD               | TBD     | TBD  | Amend classification rules to include tutoring firms (currently are not identified in classification scopes) to classification 5301 Management consulting, NOC.   |
| 296-17, 296-17A                       | General workers' compensation classification rule making with reporting rule option. | Dick Bredeson<br>(360) 902-4985<br>Annie Peeples<br>(360) 902-4723 | 10/20/15          | 1/5/16  | 8/2/16                                       | Consider classification rewrites for clarifying unaddressed issues and plain talking for the following risk classes: 3702; 5201; and 6109.  |
| 296-17, 296-17A                       | Workers' compensation classification for janitorial division of hours.               | Annie Peeples<br>(360) 902-4723                                    | TBD               | TBD     | TBD  | Amends reporting and classification rules to improve clarity regarding the division of hours between classification 6602 and construction classifications, and creates special exception subclassification for preoccupation cleanup. |
| 296-17A                               | Workers' compensation classifications for entertainers.                              | Julia Sweeney<br>(360) 902-4799                                    | TBD               | TBD     | TBD  | Update classifications for reporting entertainers so that they are fair, equitable and easily applied.  |

| WAC CHAPTER(S)                                    | RULE SUBJECT   | AGENCY CONTACT  | PROPOSED TIMELINE |         |          | BRIEF DESCRIPTION OF CHANGES  |
|---|--|---|-------------------|---------|----------|---|
|   |  |   | CR-101            | CR-102  | CR-103   |   |
| 296-17A   | Workers' compensation classifications for merchandising/audio installation.              | Julia Sweeney<br>(360) 902-4799                                   | TBD               | TBD     | TBD      | Correct possible inconsistencies with some subclassifications to insure businesses with similar operations are classified together.   |
| 296-20, 296-23                                    | Medical aid conversion factors, physical therapy rules, and occupational therapy rules.  | Dave Overby<br>(360) 902-6791<br>Tom Davis<br>(360) 902-6687      | 12/1/15           | 2/16    | 4/16     | This rule making is to update conversion factors used to determine payments to medical providers, and to update the maximum daily fees payable to physical and occupational therapists.   |
| 296-14, 296-20, 296-21                            | Psychiatric services and the DSM-5.  | Jami Lifka<br>(360) 902-4941                                      | 8/5/14            | 6/2/15  | 9/1/15   | Three rules will be amended so that they are consistent with implementing the American Psychiatric Association's Fifth Edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5).  |
| 296-20  | Interchangeable biological products.   | Jaymie Mai<br>(360) 902-6792<br>Jami Lifka<br>(360) 902-4941      | TBD               | TBD     | TBD      | ESB 5935 "Concerning biological products" passed during the 2015 legislative session. This bill authorizes pharmacists to substitute FDA-approved "interchangeable biological products," similar to generics, for brand biologicals. WAC 296-20-03011 will need to be amended to reflect this change.   |
| 296-16  | Worker reemployment incentives.  | Laurinda Grytness<br>(360) 902-6362                               | 8/4/15            | TBD     | TBD      | Changes needed to implement SHB 1496. Employers participating in the preferred worker program could receive financial incentives similar to the existing stay at work program. They could also receive a new "durable employment" bonus, and the premium discount would be extended to include the employer of injury.  |
| 296-19A   | Option 2 vocational benefits.  | Laurinda Grytness<br>(360) 902-6362                               | 8/4/15            | TBD     | TBD      | Changes needed to implement SHB 1496. Increases the vocational award to an amount equal to nine months of temporary total disability benefits, allows up to ten percent of retraining funds to be used for vocational assistance, and gives option 1 participants the ability to switch to option 2 through the first academic quarter or three months of training. |
| 296-17B   | Retrospective rating for workers' compensation insurance—Common ownership.               | Julie Osterberg<br>(360) 902-5819<br>Tim Smolen<br>(360) 902-4835 | TBD               | TBD     | TBD      | Pilot rule making to consider/allow exceptions to the retroactive rating program's current common ownership rule (WAC 296-17B-770) as written.  |
| 296-17B   | Retrospective rating for workers' compensation insurance—Retro insurance tables updates. | Debbie Sanders<br>(360) 902-5256<br>Tim Smolen<br>(360) 902-4835  | 8/19/14           | 12/1/15 | TBD      | Implement changes in response to actuarial study of retrospective rating program's insurance tables (WAC 296-17B-910 through 296-17B-990).  |
| 296-15  | Self-insurance audit governance committee.   | James Nylander<br>(360) 902-6907                                  | TBD               | TBD     | TBD      | The purpose of this rule making is to formalize the function and role of the new self-insurance audit governance committee.   |
| <b>Division: Field Services and Public Safety</b> |  |   |                   |         |          |   |
| 296-150M  | Factory assembled structures—Manufactured homes.   | Alicia Curry<br>(360) 902-6244                                    | 7/21/15           | 9/22/15 | 11/17/15 | The factory assembled structures (FAS) program is considering rule amendments to chapter 296-150M WAC for manufactured homes. The   |

| WAC CHAPTER(S)   | RULE SUBJECT  | AGENCY CONTACT                  | PROPOSED TIMELINE |         |        | BRIEF DESCRIPTION OF CHANGES   |
|--|---|---------------------------------|-------------------|---------|--------|--|
|  |   |                                 | CR-101            | CR-102  | CR-103 |  |
|  |   |                                 |                   |         |        | proposed rules will adopt the latest safety code requirements and industry standards for manufactured and mobile homes, align the rules with statutory requirements, update and clarify the existing rules, correct references and grammatical errors, and housekeeping changes.   |
| <b>Division: Fraud Prevention and Labor Standards</b>              |   |                                 |                   |         |        |  |
| 296-127  | Prevailing wage.  | Beverly Clark<br>(360) 902-6272 | TBD               | TBD     | TBD    | Review prevailing wage rules, which have not gone through a comprehensive review since the early 90s. Amendments will: <ul style="list-style-type: none"> <li>• Reflect court decisions;</li> <li>• Integrate administrative policies;</li> <li>• Streamline current processes;</li> <li>• Create consistency with the statute; and</li> <li>• Make housekeeping changes.</li> </ul> |
| 296-127  | Prevailing wage—Scope of work descriptions for dredge workers, truck drivers, and ready mix truck drivers.    | Beverly Clark<br>(360) 902-6272 | TBD               | TBD     | TBD    | Adopt scope of work descriptions for dredge workers, truck drivers, and ready mix drivers.   |
| 296-127  | Prevailing wage—Scope of work description for fabricated precast concrete products.                           | Beverly Clark<br>(360) 902-6272 | TBD               | TBD     | TBD    | The department is currently working with the prevailing wage advisory committee on the scope of work definition for fabricated precast concrete products.  |
| 296-127  | Prevailing wage—Scope of work descriptions for utilities construction and laborers in utilities construction. | Beverly Clark<br>(360) 902-6272 | 8/16/10           | TBD     | TBD    | Repeal scope of work definitions for utilities construction and laborers in utilities construction.  |
| 296-200A   | Contractor certificate of registration renewals—Security—Insurance.   | Beverly Clark<br>(360) 902-6272 | TBD               | TBD     | TBD    | Make housekeeping changes and update language for clarity and consistency with industry practices. Clarify definitions.  |
| 296-200A   | Contractor certificate of registration renewals—Security—Insurance.   | Beverly Clark<br>(360) 902-6272 | TBD               | TBD     | TBD    | Make housekeeping changes and update language for clarity and consistency with industry practices. Clarify definitions.  |
| 296-400A   | Plumber certification rules.  | Beverly Clark<br>(360) 902-6272 | 6/16/15           | 8/18/15 | 9/15   | Make housekeeping changes and update language for clarity and consistency with industry practices.   |
| <b>Division: Division of Occupational Safety and Health (DOSH)</b> |   |                                 |                   |         |        |  |
| 296-62   | General occupational health standards—Hazardous drugs.  | Chris Miller<br>(360) 902-5516  | 5/6/14            | TBD     | TBD    | Amending sections of chapter 296-62 WAC relating to hazardous drugs for increased clarification, streamlining and conforming to the federal global harmonization rule requirements.  |
| 296-54   | Safety standards—Logging operations.  | Chris Miller<br>(360) 902-5516  | 11/16/10          | TBD     | TBD    | Resuming rule-making efforts initiated in 2010 based on a petition from the logging industry.  |
| 296-78   | Safety standards for sawmills and woodworking operations—Lockout-tagout for sawmills.                         | Chris Miller<br>(360) 902-5516  | 4/22/14           | 6/30/15 | 10/15  | Repealing the existing lockout-tagout language under WAC 296-78-71503 and adding a reference requiring compliance with chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).  |

| WAC CHAPTER(S)  | RULE SUBJECT  | AGENCY CONTACT                 | PROPOSED TIMELINE |          |          | BRIEF DESCRIPTION OF CHANGES   |
|---|---|--------------------------------|-------------------|----------|----------|--|
|   |   |                                | CR-101            | CR-102   | CR-103   |  |
| 296-45  | Safety standards for electrical workers (helicopters/high voltage). | Chris Miller<br>(360) 902-5516 | 3/5/13            | 10/15    | TBD      | Updating the safety requirements in chapter 296-45 WAC that relate to electrical work with helicopter assistance.  |
| 296-45  | Safety standards for electrical workers.                            | Chris Miller<br>(360) 902-5516 | 12/2/14           | 10/15    | TBD      | Revising chapter 296-45 WAC to comply with changes in OSHA 29 C.F.R. Parts 1910 Electric Power Generation, Transmission and Distribution and 1926 Subpart V Power Transmission and Distribution. |
| 296-32  | Safety standards for telecommunications.                            | Chris Miller<br>(360) 902-5516 | 8/6/13            | 12/15    | TBD      | Updating current telecommunications standard and bringing it up to date with industry standards. DOSH has been working with a stakeholder group to develop draft language.                       |
| 296-36, 296-155, Part Q   | Safety standards—Compressed air work (tunnels).                     | Chris Miller<br>(360) 902-5516 | 9/18/12           | 12/15    | TBD      | Updating current rules related to compressed air work based on industry developments and technology.   |
| 296-807, 296-817, 296-823, 296-826, 296-865, 296-869, 296-870, 296-874  | eRules reformatting, Phase 2.                                       | Chris Miller<br>(360) 902-5516 | 7/22/14           | 2/3/15   | 5/19/15  | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |
| 296-56, 296-806, 296-809, 296-828, 296-860, 296-864   | eRules reformatting, Phase 3.                                       | Chris Miller<br>(360) 902-5516 | 8/19/14           | TBD      | TBD      | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |
| 296-24  | eRules reformatting, Phase 4.                                       | Chris Miller<br>(360) 902-5516 | 3/17/15           | 7/21/15  | 10/19/15 | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |
| 296-155   | eRules reformatting, Phase 5.                                       | Chris Miller<br>(360) 902-5516 | 6/2/15            | 8/18/15  | 11/23/15 | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |
| 296-27, 296-54, 296-65, 296-301, 296-303, 296-304, 296-803, 296-811, 296-816, 296-818, 296-824, 296-835, 296-841, 296-842, 296-863, 296-900 | eRules reformatting, Phase 6.                                       | Chris Miller<br>(360) 902-5516 | 7/21/15           | 9/4/15   | 12/21/15 | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |
| 296-305, 296-800, 296-802, 296-833, 296-839, 296-843, 296-848, 296-849, 296-855, 296-856  | eRules reformatting, Phase 7.                                       | Chris Miller<br>(360) 902-5516 | 9/4/15            | 11/10/15 | 1/4/16   | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |
| 296-32, 296-36, 296-37, 296-45, 296-52, 296-59, 296-63, 296-67, 296-78, 296-79, 296-99, 296-155   | eRules reformatting, Phase 8.                                       | Chris Miller<br>(360) 902-5516 | 12/21/15          | TBD      | TBD      | Reformatting safety and health rules to make them easier to read, comprehend, reference and access electronically from a mobile device.  |

Maggie Leland  
Senior Policy Advisor  
and Rules Coordinator



**WSR 15-15-080**  
**NOTICE OF PUBLIC MEETINGS**  
**COLUMBIA BASIN COLLEGE**  
 [Filed July 14, 2015, 9:52 a.m.]

The Columbia Basin board of trustees' meetings will be held on the second Monday of every month with the exception of its annual meeting/retreat on August 20, 2015. The next regularly scheduled meeting will be on September 14, 2015, at 4:00 p.m. All board of trustees meetings will be held in the CBC Beers Board Room.

If you have any questions, please contact Lupe Perez at (509) 542-4802.

**WSR 15-15-081**  
**NOTICE OF PUBLIC MEETINGS**  
**GUARANTEED EDUCATION**  
**TUITION PROGRAM**  
 [Filed July 14, 2015, 10:44 a.m.]

In accordance with RCW 28B.95.020 and WAC 14-276-030, the advanced college tuition program, known as the guaranteed education tuition program, has added the following meeting on Tuesday, August 18, 2015, at 1:00 p.m. - 4:00 p.m., at the J. A. Cherberg Building, Capitol Campus, Senate Hearing Room 4, Olympia, Washington 98504.

Please contact Katie Gross at (360) 753-7839 if you need additional information.

**WSR 15-15-085**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Filed July 14, 2015, 4:09 p.m.]

Following is the schedule of regular meetings for the associated students of Bellingham Technical College executive team for August 2015. Meetings are held Fridays in Campus Center Room 300 unless otherwise designated:

| Date      | Time               |
|-----------|--------------------|
| August 7  | 10:00 - 12:00 p.m. |
| August 14 | 10:00 - 12:00 p.m. |
| August 21 | 10:00 - 12:00 p.m. |
| August 28 | 10:00 - 12:00 p.m. |

If you need further information contact Melisa Nelson at (360) 752-8443 or e-mail [mnelson@btc.ctc.edu](mailto:mnelson@btc.ctc.edu).

**WSR 15-15-086**  
**NOTICE OF PUBLIC MEETINGS**  
**EVERETT COMMUNITY COLLEGE**  
 [Filed July 14, 2015, 4:27 p.m.]

The board of trustees of Everett Community College has canceled their regularly scheduled meeting of July 21, 2015. Please call (425) 388-9572 for information.

**WSR 15-15-089**  
**INTERPRETIVE STATEMENT**  
**DEPARTMENT OF REVENUE**  
 [Filed July 15, 2015, 6:58 a.m.]

**INTERPRETIVE STATEMENT ISSUED**

The department of revenue has reissued the following excise tax advisory (ETA):

**ETA 3133.2015 - Withdrawal of Published Determinations**

This ETA announces the withdrawal of certain published determinations, or Washington tax decisions (WTD), that should no longer be followed. The latest WTDs to be withdrawn directly impact Washington Indian tribes. Det 13-0389R, 34 WTD 147 (2015) is being withdrawn because the department failed to consult with the tribes before publication in accordance with the department's tribal consultation policy under RCW 43.376.020. Det 13-0307R, 31 WTD 7 (2012) is being withdrawn because the department intends to issue an ETA providing guidance on the issues addressed in the determination.

A copy of this document is available via the internet at Recent Rule and Interpretive Statements, Adoptions, and Repeals.

Kevin Dixon  
 Tax Policy Manager  
 ETAs and Special Projects

**WSR 15-15-095**  
**AGENDA**  
**HEALTH CARE AUTHORITY**  
 [Filed July 15, 2015, 11:38 a.m.]

**Semi-Annual Rule-Making Agenda**  
**July through December, 2015**

The following is the Washington health care authority's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If you have questions about this rule-making agenda, please contact Wendy Barcus, Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, phone (360) 725-1306, e-mail [wendy.barcus@hca.wa.gov](mailto:wendy.barcus@hca.wa.gov).

| WAC Citation   | Subject Matter  | Current Activity                |  |                               |
|--|---|---------------------------------|--|-------------------------------|
|  |   | CR-101                          | CR-102<br>or<br>CR-105                   | CR-103E                       |
| 182-08, 182-12, 182-16   | PEBB program rules.   | WSR 15-10-080<br>Filed 5/4/15   |  |                               |
| 182-55   | Health technology assessment program.   | WSR 14-10-070<br>Filed 5/6/14   |  |                               |
| 182-61-0005  | Records including health care information.  | WSR 14-20-040<br>Filed 11/24/14 |  |                               |
| 182-500-0015, 182-500-0025, 182-500-0070, 182-500-0085, 182-500-0105   | Medical definitions - B, D, M, P, T.  | WSR 15-09-051<br>Filed 4/10/15  |  |                               |
| 182-500-0020, 182-500-0050, 182-500-0100   | Medical definitions - C, I, S.  | WSR 15-09-085<br>Filed 4/16/15  | CR-102<br>WSR 15-14-047<br>Filed 6/24/15 |                               |
| 182-501-0160   | Exception to rule.  | WSR 15-12-078<br>Filed 5/29/15  |  |                               |
| 182-501-0070, 182-531-0200   | Gender dysphoria treatment program; physician related services requiring prior authorization; health care coverage—Noncovered services. | WSR 14-08-048<br>Filed 3/27/14  | WSR 15-08-100<br>Filed 4/1/15            |                               |
| 182-502-0160, 182-550-2900, 182-533-0400, 182-531-0150   | Elective deliveries; medical assistance definitions - E.  | WSR 15-07-045<br>Filed 3/12/15  |  |                               |
| 182-503-0050   | Verification of eligibility for Washington apple health.  | WSR 15-12-121<br>Filed 6/3/15   |  |                               |
| 182-503-0130, 182-500-0010   | Washington apple health—Authorized representative; medical definitions - A.   | WSR 14-17-123<br>Filed 8/20/14  | CR-102<br>WSR 15-09-136<br>Filed 4/22/15 |                               |
| 182-504-0005   | Washington apple health retroactive certification period—Fixing incorrect citation.   |                                 | CR-105<br>WSR 15-09-059<br>Filed 4/14/15 |                               |
| 182-504-0125   | Washington apple health—Effect of reported changes.   | WSR 15-08-049<br>Filed 3/26/15  |  |                               |
| 182-504-0130, 182-504-0135   | Washington apple health—Continued coverage pending an appeal; reinstated coverage pending an appeal.                                    | WSR 15-07-047<br>Filed 3/12/15  |  |                               |
| 182-505-0120   | Breast and cervical cancer treatment.   | WSR 15-04-092<br>Filed 2/2/15   | CR-102<br>WSR 15-12-076<br>Filed 5/29/15 |                               |
| 182-505-0210   | Washington apple health eligibility for children—Housekeeping changes.  |                                 | CR-105<br>WSR 15-11-007<br>Filed 5/7/15  |                               |
| 182-506-0010   | Medical assistance units.   | WSR 15-04-084<br>Filed 2/2/15   |  |                               |
| 182-507-0125, 182-513-1301, 182-513-1305, 182-513-1315, 182-513-1316, 182-513-1317, 182-513-1318, 182-513-1319, 182-513-1325, 182-513-1330, 182-513-1340, 182-513-1350, 182-513-1363, 182-513-1364, 182-513-1365, 182-513-1366, 182-513-1367, 182-513-1380, 182-513-1395, 182-513-1400, 182-513-1405, 182-513-1415, 182-513-1425, 182-513-1430, 182-513-1450, 182-513-1455, 182-515-1500, 182-515-1505, 182-515-1506, 182-515-1507, 182-515-0508, 182-515-1509, 182-515-1510, 182-515-1511, 182-515-1512, 182-515-1513, 182-515-1514 | Long-term care eligibility rules.   | WSR 14-21-024<br>Filed 10/2/14  |  | WSR 15-15-002<br>Filed 7/1/15 |

| WAC Citation   | Subject Matter  | Current Activity                |  |                                |
|--|---|---------------------------------|--|--------------------------------|
|  |   | CR-101                          | CR-102<br>or<br>CR-105                   | CR-103E                        |
| 182-509-0360   | MAGI income.  | WSR 15-08-050<br>Filed 3/26/15  |  |                                |
| 182-511-1000, 182-511-1050, 182-511-1100, 182-511-1150, 182-511-1250 | Workers with disabilities— Housekeeping.  |                                 | CR-105<br>WSR 15-09-045<br>Filed 4/10/15 |                                |
| 182-514  | Long-term care.   | WSR 15-05-025<br>Filed 2/9/15   |  |                                |
| 182-517, 182-502-0110  | Medicare-related medical eligibility.   | WSR 15-11-024<br>Filed 5/12/15  |  |                                |
| 182-519-0050, 182-519-0100, 182-519-0110                             | Medical [medically] needy program.  |                                 | CR-105<br>WSR 15-12-098<br>Filed 6/2/15  |                                |
| 182-520  | Fraud referrals and overpayments.   | WSR 14-21-147<br>Filed 10/21/14 |  |                                |
| 182-526  | Administrative hearing rules for medical services programs.   | WSR 14-20-062<br>Filed 3/9/15   |  |                                |
| 182-527  | Estate recovery and predeath liens.   | WSR 15-14-062<br>Filed 6/26/15  |  |                                |
| 182-527-2742   | Services subject to recovery.   |                                 |  | WSR 15-14-111<br>Filed 6/30/15 |
| 182-533-0600   | Planned home births.  | WSR 15-12-012<br>Filed 5/21/15  |  |                                |
| 182-530-2000, 182-530-2100, 182-530-3200                             | Pharmacy—Smoking cessation for pregnant women, minimum days' supply required when dispensing contraceptives, and requesting authorization for emergency fill. | WSR 14-21-096<br>Filed 10/14/14 |  |                                |
| 182-531A-0800, 182-531A-1200   | Applied behavior analysis.  | WSR 15-08-102<br>Filed 4/1/15   |  | WSR 15-08-101<br>Filed 4/1/15  |
| 182-531-0250, 182-531-1900   | Payment of services provided by, or in conjunction with, a resident physician.  | WSR 15-08-053<br>Filed 3/27/15  | CR-102<br>WSR 15-14-047<br>Filed 6/26/15 |                                |
| 182-531-0950, 182-531-1500, 182-551-0400                             | Immunizations given in a health department and adding coverage for unattended sleep studies.  | WSR 15-07-081<br>Filed 3/17/15  |  |                                |
| 182-531-1730   | Telemedicine.   | WSR 13-17-107<br>Filed 8/21/13  |  | WSR 15-09-113<br>Filed 4/21/15 |
| 182-537  | School-based health care.   | WSR 14-22-032<br>Filed 10/28/14 |  |                                |
| 182-538  | Managed care.   | WSR 15-05-024<br>Filed 2/9/15   |  |                                |
| 182-538A   | Physical behavioral health integration.   | WSR 15-09-072<br>Filed 4/15/15  |  |                                |
| 182-539-0200, 182-539-0300, 182-539-0350                             | HIV/AIDS related services— Housekeeping.  |                                 | CR-105<br>WSR 15-12-011<br>Filed 5/21/15 |                                |
| 182-540-022  | Kidney disease program—Exempt COLAs to SSI benefits.  | WSR 15-13-051<br>Filed 6/10/15  |  | WSR 15-13-052<br>Filed 6/10/15 |
| 182-545-400, 182-545-900, 182-551-2110                               | Habilitative services—Complying with service requirements of the Affordable Care Act.   | WSR 14-02-089<br>Filed 12/30/13 |  | WSR 15-09-115<br>Filed 4/21/15 |
| 182-546-0001 through 182-546-4000                                    | Emergency medical transportation—Ambulance program policy.  | WSR 14-03-080<br>Filed 1/15/14  |  |                                |

| WAC Citation   | Subject Matter  | Current Activity                |   |                                |
|--|---|---------------------------------|---|--------------------------------|
|  |   | CR-101                          | CR-102<br>or<br>CR-105                                | CR-103E                        |
| 182-550-1000, 182-550-1100, 182-550-1300, 182-550-1350, 182-550-1400, 182-550-1500, 182-550-1600, 182-550-1900, 182-550-2100, 182-550-2200, 182-550-2301, 182-550-2400, 182-550-2431, 182-550-2500, 182-550-2501, 182-550-2531, 182-550-2541, 182-550-2561, 182-550-2565, 182-550-2575, 182-550-2580, 182-550-2585, 182-550-2590, 182-550-2595, 182-550-2596, 182-550-2598, 182-550-2600, 182-550-3470, 182-550-4200, 182-550-4550, 182-550-4690, 182-550-4700, 182-550-4925, 182-550-4935, 182-550-5000, 182-550-5130, 182-550-5200, 182-550-5210, 182-550-5220, 182-550-5410, 182-550-5425, 182-550-5500, 182-550-5550, 182-550-5600, 182-550-5700, 182-550-5800, 182-550-6000, 182-550-6100, 182-550-6150, 182-550-6200, 182-550-6250, 182-550-6300, 182-550-6400, 182-550-6450, 182-550-6500, 182-550-6600 | Hospital services—Housekeeping to correct agency names, program names, rule numbers. No changes to policy.                            |                                 | CR-102<br>WSR 15-15-090<br>Filed 7/15/15              |                                |
| 182-550-1300, 182-550-1350, 182-550-1400, 182-550-1500, 182-550-1600   | Hospital services—Updating revenue code descriptions and providing additional instructions on how to use revenue codes appropriately. | WSR 14-17-043<br>Filed 8/14/14  |   |                                |
| 182-550-3840 (new), 182-550-2900, 182-550-3000   | Payment adjustment for potentially preventable readmissions.  | WSR 15-07-046<br>Filed 3/12/15  |   |                                |
| 182-553-100, 182-553-400   | Home infusion therapy—Housekeeping.   |                                 | CR-105<br>WSR 15-11-014<br>Filed 5/8/15               |                                |
| 182-554-500  | Covered enteral nutrition products, equipment and related supplies—Orally administered—Clients twenty years of age and younger only.  | WSR 15-02-038<br>Filed 12/31/14 |   | WSR 15-10-042<br>Filed 8/27/15 |
| 182-557  | Health homes.   | WSR 14-08-039<br>Filed 3/26/14  | CR-102 Supplemental<br>WSR 15-14-106<br>Filed 6/30/15 |                                |

Wendy Barcus  
Rules Coordinator

**WSR 15-15-097**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH  
(Veterinary Board of Governors)**

[Filed July 15, 2015, 11:53 a.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedures [Procedure] Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, veterinary board of governors for the year 2015. The board meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

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

| Date          | Time      | Location  |
|---------------|-----------|---|
| March 9, 2015 | 9:00 a.m. | Department of Health<br>111 Israel Road S.E.<br>Town Center<br>Building Two<br>Room 145<br>Tumwater, WA 98501 |

| Date             | Time      | Location   |
|------------------|-----------|--|
| June 8, 2015     | 9:00 a.m. | Red Lion Hotel at the Quay<br>100 Columbia Street<br>Vancouver, WA 98660                                       |
| October 5, 2015  | 9:00 a.m. | Department of Health<br>Creekside Two at Center Point<br>20425 72nd Avenue South<br>Room 307<br>Kent, WA 98032 |
| December 7, 2015 | 9:00 a.m. | Creekside Two at Center Point<br>20425 72nd Avenue South<br>Room 309<br>Kent, WA 98032                         |

If you need further information, please contact Lorelei Walker, Program Manager, Washington Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4947, fax (360) 236-2901, e-mail [loralei.walker@doh.wa.gov](mailto:loralei.walker@doh.wa.gov), web <http://www.doh.wa.gov>.

Please be advised the veterinary board of governors is required to comply with the Public Disclosure Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

**WSR 15-15-100**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**

[Filed July 15, 2015, 12:37 p.m.]

The following scheduled commission meeting has changed to a conference call meeting: July 23, 2015, at 9:30 a.m., conference call, 711 South Capitol Way, Suite 402, Olympia, WA 98504.

**WSR 15-15-103**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**

[Filed July 16, 2015, 7:35 a.m.]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for Thursday, August 20, 2015, has been cancelled. Call 752-8334 for information.

**WSR 15-15-112**  
**NOTICE OF PUBLIC MEETINGS**  
**RECREATION AND CONSERVATION**  
**OFFICE**

(Habitat and Recreation Lands Coordinating Group)  
[Filed July 16, 2015, 11:44 a.m.]

The habitat and recreation lands coordinating Group is changing the **date** of the regular quarterly meeting scheduled for September 10, 2015:

From: September 10, 2015, from 9:00 a.m. to 12:00 p.m. Room 172  
Natural Resources Building  
1111 Washington Street S.E.  
Olympia, WA

To: October 7, 2015, from 9:00 a.m. to 12:00 p.m. Room 172  
Natural Resources Building  
1111 Washington Street S.E.  
Olympia, WA

For further information, please contact Wendy Brown, 1111 Washington Avenue S.E., P.O. Box 40917, Olympia, WA 98504-0917, [wendy.brown@rco.wa.gov](mailto:wendy.brown@rco.wa.gov), phone (360) 902-3021, fax (360) 902-3026.

The meeting materials and agenda will be made available on the recreation and conservation office (RCO) web site [http://www.rco.wa.gov/boards/hrlcg\\_meetings.shtml](http://www.rco.wa.gov/boards/hrlcg_meetings.shtml). For further information, please contact Wendy Brown at (360) 902-3021 or [wendy.brown@rco.wa.gov](mailto:wendy.brown@rco.wa.gov).

The RCO schedules all public meetings at barrier free sites. Persons who need special assistance may contact Leslie Frank at (360) 902-0220 or by e-mail [leslie.frank@rco.wa.gov](mailto:leslie.frank@rco.wa.gov).

**WSR 15-15-114**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed July 16, 2015, 12:38 p.m.]

**Notice of Interpretive or Policy Statement**

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

**Aging and Long-Term Support Administration (AL TSA)**  
**Division of Home and Community Services (HCS)**

Document Title: Public Notice.  
Subject: Amendment to COPES and New Freedom waivers.

Effective Date: October 1, 2015, and January 2016.

Document Description: HCS, a division of AL TSA, intends to submit waiver amendments with the federal Centers for Medicare and Medicaid Services (CMS) for the following three waivers: Community options program entry system (COPES) waiver (#WA.0049), New Freedom (#WA.0443) and residential support waiver (#WA.1086).

1. All three waivers will be amended to indicate that initial assessments will be completed within forty-five days of intake instead of thirty days. The proposed effective date will be October 1, 2015.

2. COPEs and residential support waiver will be amended to remove performance measures related to the state monitoring service plan development in accordance with its policies and procedures. These measures are no longer required by CMS. The proposed effective date will be October 1, 2015.

3. New Freedom and COPEs waivers will be amended to modify language to reflect that all assessments will continue to be conducted through an in-person interview. In addition, case managers will be required to make at least one other contact during the service plan year. A home visit is also necessary if the initial assessment was not conducted in the home where services are provided. The proposed effective date is October 1, 2015.

4. Amendments for New Freedom and COPEs waivers will also include language regarding implementation of the new payment system for individual providers of personal care and respite services which is called individual ProviderOne. This system will allow providers to make claims through a secure web-based system and will allow providers to be paid twice a month rather than once a month. AL TSA clients will not experience any changes to their services or providers. The proposed effective [date] is January 2016.

A draft of the waiver amendments for #1, #2 and #3 above will be posted for review and comment from August 5, 2015, through 5 p.m. September 5, 2015. The draft amendments for #4 will be posted for review and comment from August 17 through 5 p.m. September 18, 2015. During these time periods the amendments can be found at [www.dshs.wa.gov/altsa/stakeholders/home-and-community-based-services-rules](http://www.dshs.wa.gov/altsa/stakeholders/home-and-community-based-services-rules). Comments may be provided by e-mail or letter to the contact person listed below.

If you would like to receive a paper copy of any of these amendments, please call (360) 725-2531 during the review period and provide your name, telephone number and mailing address. Please specify what amendment you would like to receive.

To receive a copy of the interpretive or policy statements, contact Debbie Johnson, Program Manager, HCS, P.O. Box 45600, phone (360) 725-2531, TDD/TTY (360) 438-2637, fax (360) 586-9727, e-mail [JohnsDA2@dshs.wa.gov](mailto:JohnsDA2@dshs.wa.gov), web site <http://www.dshs.wa.gov/altsa>.

**WSR 15-15-116**  
**NOTICE OF PUBLIC MEETINGS**  
**WINE COMMISSION**

[Filed July 16, 2015, 2:00 p.m.]

The Washington state wine commission has made changes to the regular 2015 meeting schedule:

Meeting cancellation: Friday, September 11, 2015, meeting cancelled.

Meeting added: Friday, November 13, 2015, 9 a.m. to 12:00 p.m., Walter Clore Wine and Culinary Center, 2140 Wine Country Road, Prosser, WA.

If you need further information contact Jayne Cain, 1201 Western Avenue, Suite 450, Seattle, WA 98101-2402, (206) 326-5760, (206) 583-0573, [jcain@washingtonwine.org](mailto:jcain@washingtonwine.org), [www.washingtonwine.org](http://www.washingtonwine.org).

**WSR 15-15-119**  
**RULES COORDINATOR**  
**BIG BEND**  
**COMMUNITY COLLEGE**

[Filed July 16, 2015, 3:34 p.m.]

Big Bend Community College would like to change our agency rules coordinator. Our previous rules coordinator Gail Hamburg has retired. Please assign me as our new agency rules coordinator, my information is Linda Schoonmaker, 7662 Chanute Street N.E., Moses Lake, WA 98837-3293, [LindaS@bigbend.edu](mailto:LindaS@bigbend.edu), phone (509) 793-2002, fax (509) 762-6329.

Linda Schoonmaker  
Vice-President for  
Finance and Administration

**WSR 15-15-130**  
**NOTICE OF PUBLIC MEETINGS**  
**LIFE SCIENCES**  
**DISCOVERY FUND AUTHORITY**

[Filed July 17, 2015, 7:57 a.m.]

Please note life sciences discovery fund's (LSDF) 2015 scheduled board meeting information below. Note as well that we will post our public meeting agenda as appropriate on our web site <http://www.lsdfa.org/about/staff/meetings.html> prior to each meeting.

**2015 Public Board Meeting Dates**  
*(times are approximate and subject to change)*

|                         |  |  |
|-------------------------|--|--|
| Monday,<br>July 27      | 8:30 a.m.-<br>4:30 p.m.<br>8:30 a.m.-<br>2:30 p.m. | LSDF Office<br>1551 Eastlake Avenue East<br>Seattle, WA 98102<br>(first floor Agora Conference Room) |
| Monday,<br>September 28 | 8:30 a.m.-<br>4:30 p.m.                            | LSDF Office<br>1551 Eastlake Avenue East<br>Seattle, WA 98102<br>(first floor Agora Conference Room) |
| Monday,<br>December 14  | 8:30 a.m.-<br>4:30 p.m.                            | LSDF Office<br>1551 Eastlake Avenue East<br>Seattle, WA 98102<br>(first floor Agora Conference Room) |

WSR 15-15-131
RULES OF COURT
STATE SUPREME COURT

[July 16, 2015]

IN THE MATTER OF PROPOSED ) AMENDED ORDER
AMENDMENTS TO GR 14.1—CITA- ) NO. 25700-A-1116
TION TO UNPUBLISHED OPINIONS, )
PROPOSED AMENDMENT TO RAP )
13.4(b)—CONSIDERATIONS GOV- )
ERNING ACCEPTANCE OF REVIEW )

The Rules Committee, having recommended the Proposed Amendments to GR 14.1—Citation to Unpublished Opinions, Proposed Amendment to RAP 13.4(b)—Considerations Governing Acceptance of Review, and the Court having considered the amendments and comments submitted thereto;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provision of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the court's websites in January 2016.

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

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2016. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 16th day of July, 2015.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 Cover Sheet

Suggested Changes to GR 14.1 and RAP 13.4(b)

(A) Name of Proponent: Washington Supreme Court and Washington Court of Appeals.

(B) Spokesperson: Honorable Michael S. Spearman, Chief Judge, Washington Court of Appeals, Division I.

(C) Purpose: The Washington Supreme Court and the Washington Court of Appeals propose amendments to two court rules, GR 14.1 and RAP 13.4. The proponents suggest amending GR 14.1(a) to allow parties to cite unpublished opinions of the Court of Appeals as non-binding authority, to add new subsection GR 14.1(c) stating that Washington appellate courts should not cite or discuss unpublished opinions unless necessary for a reasoned decision, and to add new subsection GR 14.1(d) requiring that a party citing an unpublished opinion include a copy of the opinion as an appendix to the pleading in which the opinion is cited.

The proponents also suggest amending RAP 13.4 (b)(2), to state that a conflict with an opinion of the Court of Appeals is grounds for acceptance of a discretionary petition for review by the Supreme Court only if the conflict is with a published opinion of the Court of Appeals.

1) GR 14.1. A workgroup of the Court of Appeals researched and studied this issue for four years before these suggested rule changes were filed. The workgroup gathered information from Washington attorneys, trial court judges, and judges of the Court of Appeals on the use being made of unpublished opinions by the legal community, sought comment from these stakeholders on whether or not a change in the rules regarding citation should be proposed, and solicited information on what effect such a rule change would have on work processes. The workgroup found there to be significant support in the state's legal community for a rule change. These suggested amendments are the result of that workgroup's efforts.

When RCW 2.06.040 was enacted in 1969, it stated that all opinions of the Court of Appeals were to be published. The statute was amended in 1971 to allow the Court of Appeals to designate opinions as either published or unpublished. In 1971, unpublished opinions were available only in paper, and were not easily researched or available, unlike published opinions. However, the internet and electronic databases have now made all opinions, whether published or unpublished, widely available, both on the court's website and on legal research sites. While some legal research websites are available only by paid subscription, other websites are publicly accessible.

Because of this widespread and easy availability, lawyers, trial court judges, and appellate judges read and make use of the reasoning in unpublished opinions, even though the cases themselves cannot be cited. Allowing these cases to be cited by the parties will bring greater transparency to the legal process, by clearly stating the source of the legal reasoning that is being considered by the parties and the courts, even if that case is only relied upon for its persuasive value.

This change in the rule will also bring greater consistency to the use of unpublished opinions by parties and trial courts. Parties will no longer need to guess whether or not a court is familiar with, and according some weight to, the decision in a relevant unpublished opinion.

Several other jurisdictions allow parties to cite unpublished opinions for precedential or persuasive purposes. For example, Utah allows parties to cite unpublished decisions of its Court of Appeals issued on or after October 1, 1998, for precedential value. Utah R. App. P. 30(f). Wisconsin allows citation of unpublished "authored" opinions issued on or after July 1, 2009, for persuasive value. Wis. Stat. § 809.23 (3)(b) (2015). Virginia permits citation of unpublished opinion as informative, but not as binding authority. VA Sup. Ct. Rules, Rule 5:1(f) and Rule 5A:1(f).

In federal court, parties are permitted to cite to unpublished federal opinions issued after January 1, 2007. There is no restriction on how the opinions may be used as authority. Fed.R.App.P. 32.1. The federal rule change permitting citation to unpublished federal opinions in the federal courts was effective December 1, 2006, and has not been revised since it was adopted.

The suggested rule change states that unpublished opinions may be cited as non-binding authority, only. An opinion is unpublished because a panel of the Court of Appeals has decided that the opinion does not have value as precedent. Treating unpublished opinions as non-binding authority is consistent with the determination of the panel authoring the opinion that it is not precedential.

The suggested new subsection, GR 14(c), is meant to minimize the risk for unpublished opinions to attain precedential status by means of citation in appellate court opinions. The new rule would provide that appellate courts should not cite or discuss unpublished opinions in their opinions, unless necessary for a reasoned decision.

Suggested new GR 14.1(d) requires parties citing to an unpublished opinion to include a copy of the opinion as an appendix to the pleading. This change ensures that all parties and the courts will have immediate access to the opinion.

**2) RAP 13.4(b).** This rule sets out the circumstances under which a petition for review will be accepted by the Supreme Court. The suggested change to subsection (b)(2) makes clear that acceptance of review is only mandatory when the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals.

**(D) Hearing:** None recommended.

**(E) Expedited Consideration:** Expedited consideration is not requested.

**PROPOSED AMENDMENT TO GR 14.1**

**CITATION TO UNPUBLISHED OPINIONS**

**(a) Washington Court of Appeals.** ~~A party may not cite as an authority an unpublished opinion of the Court of Appeals.~~ Unpublished opinions of the Court of Appeals are those opinions not published in the Washington Appellate Reports. Unpublished opinions of the Court of Appeals have no precedential value and are not binding upon any court. However, unpublished opinions of the Court of Appeals may be cited as non-binding authorities, if identified as such by the citing party, and may be accorded such persuasive value as the court deems appropriate.

**(b) Other Jurisdictions.** A party may cite as an authority an opinion designated "unpublished," "not for publication," "non-precedential," "not precedent," or the like that has been issued by any court from a jurisdiction other than Washington state, only if citation to that opinion is permitted under

the law of the jurisdiction of the issuing court. ~~The party citing the opinion shall file and serve a copy of the opinion with the brief or other paper in which the opinion is cited.~~

**(c) Citation of Unpublished Opinions in Subsequent Opinions.** Washington appellate courts should not, unless necessary for a reasoned decision, cite or discuss unpublished opinions in their opinions.

**(d) Copies of Unpublished Opinions.** The party citing an unpublished opinion shall file and serve a copy of the opinion as an appendix to the pleading in which the authority is cited.

**COMMENT**

RCW 2.06.040 provides that all cases having precedential value shall be published as opinions of the court. The statute further provides that each panel shall determine whether a decision has sufficient precedential value to be published, and those which do not shall not be published.

**PROPOSED AMENDMENT TO RAP 13.4(b)**

**Considerations Governing Acceptance of Review**

...  
 (2) If the decision of the Court of Appeals is in conflict with ~~another~~ a published decision of the Court of Appeals; or  
 ...

**WSR 15-15-142**

**AGENDA**

**OFFICE OF**

**INSURANCE COMMISSIONER**

[Filed July 17, 2015, 4:04 p.m.]

**Rule Development Agenda**

July 31, 2015, through January 31, 2016

The commissioner has introduced the following rule makings. Each rule making is currently between the CR-101, CR-102, and CR-103 stage. They are currently under review and there may be further rule-making activity before January 31, 2016. If you have any questions regarding any of these rule makings, please contact Jim Keogh, rulescoordinator@oic.wa.gov or (360) 725-7056.

| WAC | RCW Authority   | Subject   | Current Activity |                       |        |                      |
|-----|---|---|------------------|-----------------------|--------|----------------------|
|     |   |   | CR-103E          | CR-101                | CR-105 | CR-102               |
|     | 48.02.060, 48.21.270, 48.44.380, 48.46.460  | Conversion health plans.  |                  | 12-07-091<br>3/21/12  |        |                      |
|     | 48.02.060, 48.44.050, 48.46.200   | Issuer disclosures, notices, and processes to protect privacy of health care information. |                  | 13-11-144<br>5/22/13  |        |                      |
|     | 48.02.060, 48.83.170, 48.84.030   | Long-term care unintentional lapse notices.   |                  | 14-02-074<br>12/30/13 |        |                      |
|     | 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.43.505, 48.43.510, 48.43.515, 48.43.525, 48.43.530, 48.43.535, 48.44.020, 48.44.050, 48.44.080, 48.46.030, | Network access.   |                  | 14-15-104<br>7/18/14  |        | 15-13-117<br>6/16/15 |



| WAC | RCW Authority  | Subject   | Current Activity |                      |        |        |
|-----|--|---|------------------|----------------------|--------|--------|
|     |  |   | CR-103E          | CR-101               | CR-105 | CR-102 |
|     | 48.46.200, 45 C.F.R. 156.230, 45 C.F.R. 156.235, 45 C.F.R. 156.245                       |   |                  |                      |        |        |
|     | 48.02.060, 48.43.510, 48.165.0301  | Prior authorization of pharmacy benefits.   |                  | 14-22-086<br>11/3/14 |        |        |
|     | 48.21.241, 48.21.320, 48.44.460, 48.44.341, 48.46.291, 48.46.530, 48.43.715              | Designation of base benchmark plan for essential health benefits purposes as well as any necessary supplementation.   |                  | 15-11-083<br>5/19/15 |        |        |
|     | 48.02.060, 48.43.007   | Attestation of transparency tools for consumer information on health care cost and quality.   |                  | 15-11-084<br>5/19/15 |        |        |
|     | 48.02.060, SSB 5023 (chapter 19, 2015 Laws—effective 7/24/15)                            | Adjusting rate and form filing procedures for life and disability insurers to comply with SSB 5023.   |                  | 15-12-107<br>6/2/15  |        |        |
|     | 48.02.060, 48.31B.040  | Amendment of chapter 284-18 WAC, WAC 284-03-030, 284-07-110 and 284-07-600 and the repeal of chapter 284-18A WAC to conform with amendments made to chapter 48.31B RCW (the Holding Company Act) by chapter 122, Laws of 2015.  |                  | 15-13-067<br>6/11/15 |        |        |
|     | 48.02.060, 48.30.010   | Notice of payment of settlements by insurers.   |                  | 15-13-068<br>6/11/15 |        |        |
|     | 48.02.060, 48.17.005   | Rules providing guidance to licensed insurance providers about what may/may not constitute sharing commissions were adopted in August 2014. ESSB 5743, passed in the 2015 legislative session, amended some of the statutes on which the rules were based. The rules now will be brought into conformity with this new legislation. |                  | 15-13-101<br>6/16/15 |        |        |
|     | 48.02.060, sections 7 (1)(b) and (c), (3)(b), (4), (5), and 15, chapter 63, Laws of 2015 | Credit for reinsurance model regulation.  |                  | 15-15-132<br>7/17/15 |        |        |
|     | 48.02.060, 48.18.120(2), 48.20.450, 48.46.200  | Health plan special enrollment rules.   |                  | 15-15-133<br>7/17/15 |        |        |

**Possible Rule Makings:** In addition to the rules listed above, the commissioner continues the effort to update and clarify the code as well as implement recent legislation. In the period before January 31, 2016, subjects that may be considered for rule making in this effort include:

- Annuity marketing and disclosure requirements
- Statistical data reporting
- Carrier submission of IRO decision data
- Coordination of benefits
- Disability insurance loss ratios
- Discontinuation and renewal of health plan coverage
- Discrimination in health plan design
- Electronic filing of state specific reporting
- Electronic notices and document delivery of insurance products
- Essential health benefits—Pharmacy/formulary tiers
- External review of adverse benefit decisions for health plans
- Federal financial reform implementation
- Federal health care reform implementation
- Hearing rules revisions
- Large group filing requirements
- NAIC Model Act implementation (as needed, dependent on legislation)
- Numeric recodification of chapter 284-43 WAC

- OIC emergency powers
- Pregnancy as a qualifying event
- Prior authorization of health care claims form and process requirements
- Repeal of requirement for multiple Washington attendees at continuing education trainings
- Ride-sharing insurance coverage
- Student health plans
- Summary of health insurance benefits coverage
- Trainee requirements for adjuster licensing
- Use of vehicle history in rating
- Wellness programs (health plans)

Mike Kriedler

**WSR 15-15-146**  
**NOTICE OF APPEAL**  
**OFFICE OF THE GOVERNOR**

[Filed July 20, 2015, 1:28 p.m.]

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

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

On June 24, 2015, the Governor's Office received an appeal from Randy Boss relating to the Washington Transportation Commission's denial of a petition to repeal or amend WAC 468-270-070. The Governor's Office denied the Petition on July 9, 2015.

DATE: July 17, 2015  
 Taylor K. Wonhoff  
 Assistant Legal Counsel  
 to the Governor

**WSR 15-15-147**  
**NOTICE OF APPEAL**  
**OFFICE OF THE GOVERNOR**

[Filed July 20, 2015, 1:29 p.m.]

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

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

On June 25, 2015, the Governor's Office received an appeal from Christine Savage relating to the Washington Pharmacy Quality Assurance Commission's denial of a petition to repeal or amend WAC 246-887-040 and WAC 246-886-045. The Governor's Office denied the Petition on July 14, 2015.

DATE: July 17, 2015  
 Taylor K. Wonhoff  
 Assistant Legal Counsel  
 to the Governor

**WSR 15-15-163**  
**DEPARTMENT OF ECOLOGY**

[Filed July 21, 2015, 3:25 p.m.]

**Final General Permit for Biosolids Management**

Notice is hereby given that the Washington state department of ecology (ecology) has issued a final *General Permit for Biosolids Management* (general permit) to replace the expiring general permit. Ecology is located at 300 Desmond Drive S.E., Lacey, WA 98503, phone (360) 407-6000.

The final general permit and associated documents are available at <http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html> or by requesting from ecology.

The general permit applies to all treatment works treating domestic sewage in the state. The majority of these facilities are publicly owned wastewater treatment plants. Other types of facilities subject to the general permit include privately owned wastewater treatment plants that treat only domestic sewage, composting facilities that treat biosolids as a feedstock, biosolids beneficial use facilities, and septage management facilities.

The general permit applies within the boundaries of the state of Washington, including state and federal lands. It does not apply to lands within the boundaries of Indian reservations or lands outside of Indian reservations that are held in trust by the federal government for a tribe.

Three hundred seventy-four facilities have stated they will apply for coverage under the general permit. A list of the facilities is available at <http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html> or by requesting from ecology.

Within ninety days of the effective date of the general permit, each facility seeking coverage must submit a complete permit application as defined in the general permit and comply with any SEPA and public notice requirements. Facilities that have met all the procedural requirements and submitted all required documents will be "provisionally" approved for coverage under the general permit. Ecology will then conduct a full review of each facility's biosolids program before providing "final" approval of coverage.

Ecology published a notice of the draft general permit on May 6, 2015, followed by a forty-nine day public comment period. Public hearings were held on June 16, 2015, in Lacey and June 17, 2015, in Yakima. Ecology prepared a responsiveness summary addressing all comments received during the comment period. The responsiveness summary is available at <http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html> or by requesting from ecology. No substantive changes to the draft general permit were made in response to the comments.

The terms and conditions of the general permit may be appealed. Any appeal must be filed with the pollution control hearings board and served on ecology within thirty days. The basic process for an appeal is outlined in RCW 43.21B.310.

The general permit will become effective on September 4, 2015.

**WSR 15-15-165**  
**NOTICE OF PUBLIC MEETINGS**  
**STATE INDEPENDENT**  
**LIVING COUNCIL**

[Filed July 21, 2015, 4:38 p.m.]

The following is the schedule of Washington state independent living council (WASILC) public hearing meetings regarding the development of the 207-2019 [2017-2019] state plan for independent living (SPIL):

Additional meeting[s] will be summited as they are determined.

| Date            | Time                  | Location   |
|-----------------|-----------------------|--|
| August 25, 2015 | 2:00 p.m. - 4:00 p.m. | St. Luke's Community Health Education Center<br>Bellingham, Washington |

ASL interpreters and real time captioning (CART) will be available. For other accommodation request[s], please contact WASILC at 800-624-4105.

WASILC is appointed by the governor to guide development of and promote access to independent living services for individuals with disabilities statewide. The council works to increase opportunities for self-determination and empowerment of people with disabilities, and to create awareness of people with disabilities as a valuable human resource. We

welcome your feedback concerning your experiences and concerns.

If you need further information contact WASILC at 800-624-4105.

For more information on prevailing wage or a copy of the rates please visit our web site at [www.lni.wa.gov/TradesLicensing/PrevailingWage/](http://www.lni.wa.gov/TradesLicensing/PrevailingWage/) or call (360) 902-5335.

Maggie A. Leland  
 Rules Coordinator  
 Senior Policy Advisor

**WSR 15-15-175**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Board of Massage)  
 [Filed July 22, 2015, 10:42 a.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of massage, for the year 2015. The board of massage meetings are open to the public and access for persons with disabilities may be arranged with advance notice. Please contact the staff person below for more information.

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

| Date               | Time      | Location |
|--------------------|-----------|----------|
| January 9, 2015    | 9:00 a.m. | Kent     |
| March 6, 2015      | 9:00 a.m. | Tumwater |
| May 8, 2015        | 9:00 a.m. | Spokane  |
| July 10, 2015      | 9:00 a.m. | Kent     |
| September 11, 2015 | 9:00 a.m. | Kent     |
| November 6, 2015   | 9:00 a.m. | Tumwater |

If you need further information, please contact Megan Brown, Program Manager, Board of Massage, Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, (360) 236-4945, (360) 236-2901, [megan.brown@doh.wa.gov](mailto:megan.brown@doh.wa.gov), [www.doh.wa.gov](http://www.doh.wa.gov).

Please be advised the board of massage is required to comply with the Public Records Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

**WSR 15-15-177**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed July 22, 2015, 11:47 a.m.]

Pursuant to RCW 39.12.015, 39.12.020 and WAC 296-127-011, on August 3, 2015, the industrial statistician determined and published on the internet the statewide prevailing rates of wage. These rates become effective September 2, 2015.