

WSR 17-14-090
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed June 30, 2017, 12:28 p.m., effective August 1, 2017]

Effective Date of Rule: August 1, 2017.

Purpose: The department [is] creating new sections, amending existing sections, and repealing sections in chapter 388-829 WAC, Community residential service business training requirements, to clarify language, update policy, and align the chapter with RCW 74.39A.074, 74.39A.341, 74.39A.351, and 18.88B.041.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-829-0070, 388-829-0077, 388-829-0115, 388-829-0120, 388-829-0140, 388-829-0145, 388-829-0150, 388-829-0160, 388-829-0200, 388-829-0205, 388-829-0210, 388-829-0220, 388-829-0225, 388-829-0226, 388-829-0230, 388-829-0235, 388-829-0240, 388-829-0245, 388-829-0246, 388-829-0250, 388-829-0300, 388-829-0305, 388-829-0310, 388-829-0350, 388-829-0360, 388-829-0365, 388-829-0370, 388-829-0380, 388-829-0385, 388-829-0390, 388-829-0395, 388-829-0400, 388-829-0420 and 388-829-0425; and amending WAC 388-829-0001, 388-829-0005, 388-829-0010, 388-829-0015, 388-829-0025, 388-829-0030, 388-829-0040, 388-829-0045, 388-829-0050, 388-829-0055, 388-829-0060, 388-829-0065, 388-829-0075, 388-829-0080, 388-829-0100, 388-829-0105, and 388-829-0130.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 74.39A.074, 74.39A.341, 74.39A.351, 18.88B.041.

Adopted under notice filed as WSR 17-10-036 on April 26, 2017.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 407-1581, fax (360) 407-0955, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 17, Repealed 34.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 17, Repealed 34.

Date Adopted: June 30, 2017.

Bill Moss
Acting Secretary

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0001 What is the purpose of this chapter? The purpose of this chapter is to describe the ~~((following))~~:

(1) Training ~~((and certification))~~ requirements that apply to the developmental disabilities administration's (DDA's) community residential ((service businesses (CRSB) RCW 74.39A.009)) providers beginning on January 1, 2016;

(2) ~~((Curricula and instructor))~~ Approval process and other requirements for instructors; and

(3) ~~((Curricula and instructor))~~ Approval process and other requirements for curricula.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0005 ((To whom)) Who do the training ((and certification)) requirements in this chapter apply to? (1) ~~((Long-term care workers (LTCW) and volunteers working for community residential service businesses (CRSB), including supported living services, DDA group homes, group training homes, and licensed staffed residential homes must follow the training requirements of this chapter))~~ The training requirements in this chapter apply to community residential service businesses as defined in RCW 74.39A.-009, alternative living as defined in chapter 388-829A WAC, and companion homes as defined in chapter 388-829C WAC. In this chapter, the term service providers refers to all service providers within the scope of this chapter, which include:

(a) Supported living service providers;

(b) DDA group homes;

(c) Licensed staffed residential homes;

(d) Alternative living providers; and

(e) Companion home providers.

(2) DDA group homes ~~((, also))~~ licensed as adult family homes or assisted living facilities ~~((;))~~ must ~~((also))~~ meet ~~((home care aide certification))~~ the training requirements ((described in WAC 246-980-080. LTCW in all other CRSB settings must comply with the training and curricula requirements of)) in this chapter ((;)) and the home care aide certification requirements described in chapter 388-112 WAC. All other service providers listed in subsection (1) of this section must meet the training requirements in this chapter but are exempt from home care aide certification through the department of health.

~~((3) DDA group homes must follow certification requirements described in chapter 388-112 WAC.))~~

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0010 What definitions apply to this chapter? The following definitions apply to this chapter:

~~((("Activities of daily living (ADL)" means the same as defined in WAC 388-106-0010.))~~

"Agency orientation" is training provided to introduce a new employee to the agency.

"AL TSA" refers to the aging and long-term support administration.

"**Approved training**" is training ~~((that has been))~~ submitted to and approved by DSHS as evidenced by a curriculum number.

~~((**"Attestation"** means to bear witness to the authenticity of a document or documents by signing one's name to it to affirm it is genuine.))~~

"Basic training" ~~((includes))~~ is seventy hours of required training~~((:))~~ that includes forty hours of DDA residential ~~((training))~~ services curriculum and thirty hours of additional topics outlined in ((WAC 388-829-0100 (1)(b))) this chapter.

~~((**"Certified home care aide"** means a person who has a current home care aide certification through the department of health.~~

~~((**"Challenge test"** means a competency test taken for training without first taking the class for which the test is designed.))~~

"Client-specific training" prepares the LTCW to provide individual support services to the client served by the community residential service business (CRSB).

~~((**"Community residential service business"** ((CRSB)) or **"CRSB"** has the same meaning as defined in RCW 74.39A.009.~~

"Competency" or "core competency" means the integrated knowledge, skills, or behavior expected of a LTCW after completing the training in a required topic area. Learning objectives are associated with each competency.

~~((**"Competency testing"** including challenge testing, is evaluating a student to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning objectives of a particular course.))~~

~~((**"DD"** refers to developmental disability.))~~

"DDA" refers to the developmental disabilities administration.

~~((**"Direct care"** services rendered by direct support professionals which includes not only those services defined by "personal care services", but also those which promote habilitation and further life-long independence, growth, and development opportunities for individuals.))~~

"DDA community residential setting" within the scope of this chapter refers to any setting where supported living, DDA group home, group training home, licensed staffed residential, companion home, or alternative living services occur.

"DSHS-approved trainer" means an individual approved by DSHS to sign the seventy-five hour certificate.

"Direct support professional" or "DSP" means ~~((a paid individual who provides direct, personal, care services and support to one or more persons with developmental disabilities requiring long-term care. This term is more commonly accepted in CRSBs than LTCW))~~ any person who supports an individual with a developmental disability to implement the individual's individual support plan/person-centered service plan (ISP/PCSP). This includes staff who provide instruction and support services (ISS).

~~((**"Direct supervision"** means oversight by a person who has demonstrated competency in the basic training (and specialty training if required), or has been exempted from the~~

~~basic training requirements, is on the premises, and is quickly available to the direct support professional.))~~

"DOH" refers to the department of health.

"DSHS" or "department" refers to the department of social and health services.

~~((**"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a worker to thoroughly learn the course content and skills. Enhancements can include new student materials such as, videos or DVDs, online materials, and/or additional student activities.~~

"Entity representative" means the individual designated by a CRSB provider who is or will be responsible for the daily operations of a CRSB.

"Guardian" means a legal representative as defined in chapter 11.88 RCW.))

"Habilitation" means services defined to assist participants in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.

~~((**"Home"** means the place where a person lives.))~~

"Home care ((aid-certified (HCA-C)) aide-certified" or "HCA-C" means a person who has ~~((holds a current certificate issued by the DOH))~~ been certified by the department of health as a home care aide.

~~((**"Indirect supervision"** means oversight by a person who has demonstrated competency in the basic training, or who has been exempted from the basic training requirements, and who is quickly and easily available to the LTCW, but not necessarily on-site.~~

"Individual" means a person who has a developmental disability as defined in RCW 71A.10.020(5) who also has been determined eligible to receive services by the division under chapter 71A.16 RCW. Other terms commonly used include "client" and "resident."

"Individual specific" means topics that are unique to an individual.

~~((**"Learning objectives"** means measurable, written statements that clearly describe what a LTCW must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.))~~

"Letter of exemption" means a letter ~~((provided during the calendar year 2015 which exempts CRSB staff))~~ that exempts DDA community residential staff from the seventy-five hours of training as required ((by Initiative 1163)) under chapter 74.39A RCW for staff hired prior to January 1, 2016.

"Long-term care worker ((LTCW))" or "LTCW" ~~((includes all persons providing paid, personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff providing home or community-based services to the elderly~~

or persons with functional disabilities or developmental disabilities:

The following persons are not long-term care workers:

(1) Persons who are:

(a) Providing personal care services to individuals who are not receiving state-funded services; and
 (b) The person is not employed by an agency or facility that is licensed by the state.

(2) Persons employed by:

(a) Nursing homes licensed under chapter 18.51 RCW;
 (b) Facilities certified under 42 C.F.R. Part 483;
 (c) Residential habilitation centers under chapter 71A.20 RCW;

(d) Hospitals or other acute care settings;

(e) Hospice agencies licensed under chapter 70.127 RCW;

(f) Adult day care centers or adult day health centers.

(3) Persons whose services are exclusively limited to assistance with "instrumental activities of daily living," as that term is defined in WAC 388-106-0010)) has the same meaning as defined in RCW 74.39A.009.

~~("Mental health specialist" has the same meaning as defined in WAC 388-865-0200.)~~

"Peer coach" means a person who has been trained in twelve hours of coaching skills and who works with new employees to coach them on working with individuals and their support needs. ~~((This coaching is a method of transferring knowledge about the individual to the new employee while building a positive relationship with the new employee and encouraging a positive relationship between the new employee and the individual they support.))~~

~~("Personal care services" means physical or verbal assistance with activities of daily living, and instrumental activities of daily living which is provided to meet an individual's support needs.))~~

"Population-specific" refers to topics ~~((such as developmental disabilities, autism, and gerontology that are))~~ applicable to ~~((a group of people))~~ the unique needs of the population served.

~~("Provider" means any person or entity who is contracted by the department to operate a community residential service business, or certified by the department to provide~~

instruction and support services to meet the needs of persons receiving services under Title 71A RCW.)

~~("Revised fundamentals of care" (RFOC) refers to the basic training curriculum provided by trainers under ALTSA.~~

~~"Routine interaction" means contact with an individual that happens regularly.~~

~~"Support team" means the individual and persons involved in his or her care. The support team may include family, friends, doctors, nurses, LTCWs, social workers and vocational vendors. The role of the support team is to support the well-being of the individual; however, the individual directs the service plan when able.))~~

"Training entity" means ~~((an))~~ a DSHS-contracted organization~~((, including an independent contractor, who is providing or may provide training under this section using approved curriculum.))~~ or independent entity that provides training ~~((entities must only deliver))~~ using DSHS-approved curriculum ~~((to CRSB staff)).~~

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0015 ~~((What are the training certification requirements for LTCWs in a CRSB and volunteers))~~ What training is required for individuals hired or contracted to work in DDA community residential settings as a direct support professional (DSP) or ISS staff on or after January 1, 2016? ~~((The following chart provides a summary of the training and certification requirements. The remainder of the rules under this chapter contains a more detailed description of the requirements))~~ Required training for individuals hired or contracted to work in DDA community residential settings as a direct support professional or ISS staff on or after January 1, 2016 consists of seventy-five hours of training as follows:

(1) Five hours of orientation and safety training as described in WAC 388-829-0045 prior to providing client care or support; and

(2) Seventy hours of basic training as described in WAC 388-829-0050 must be completed within one hundred twenty days of date of hire.

(Who	Agency orientation	LTCW orientation and safety	DDA residential services curriculum	Peer coaching and/or population-specific and/or specialty training	Seventy-five-hour certificate	Specialty training	Continuing education	HCA-C
A LTCW who was employed between January 1, 2015 and January 1, 2016 with continuous employment from date of hire to 1/1/2016 and has completed the basic training requirements in effect on the hire date, with exemption letter.				R peer coaching			R	
A LTCW who was employed between Jan 1, 2015 and January 1, 2016 with continuous employment from date of hire to 1/1/2016 and has started the basic training requirements in	R			R peer coaching		*	R	

(Who	Agency ori-entation	LTCW ori-entation and safety	DDA resi-dential ser-vices curricu-lum	Peer coaching and/or popula-tion-specifie-and/or specialty-training	Seventy-five hour-certificate	Specialty-training	Continuing-education	HCA-C
effect on the hire date transfer-ring to a different agency , with exemption letter .								
Employed in CRSB hired on or after January 1, 2016 and meets definition of LTCW in WAC 388-829-0005.		R	R	R	R		R	
Employed in CRSB and begins to work for a new agency or moves from an assisted living agency or adult family home, meets the definition of a LTCW and has a HCA certificate .	R					*	R	-R
LTCW with a letter of exemp-tion dated for 2015 with: An intermittent break in ser-vice after 1/1/16 of less than three continuous years' time; Uncompleted CEs (has option to complete all delinquent CE's prior to most recent date of hire within three years of termination of last employment)		R	R *	R	R		R	
LTCW with a letter of exemp-tion dated between 1/1/2012 and 12/31/2015.							R	
An unpaid person providing direct care (volunteer).		R		R	N/A			
Registered nurses, licensed practical nurses, nurse technicians, or advanced registered nurse practitioner under chapter 18.79 RCW; Nursing assistants certified under chapter 18.88A RCW; A home health aide who is employed by a medicare-certified home health agency and has met the requirements of 42 C.F.R., Part 483.35; and An individual with special education training and an endorsement granted by the superintendent of public instruction as described in RCW 28A.300.010.	R *					R *	R	

Key: R means required; blank means not required; * Means see WAC text for information.

Note: Other trainings that may be required and not considered to be part of the seventy-five hour certificate are not listed in tables above. Includes but is not limited to nurse delegation WAC 388-101-3375.)

NEW SECTION

WAC 388-829-0020 What is the seventy-five hour certificate? The seventy-five hour certificate is a combination of orientation, safety, and basic training that when completed adds up to seventy-five hours. The certificate covers:

- (1) Five hours of orientation and safety training as described in WAC 388-829-0045; and
- (2) Seventy hours of basic training as described in WAC 388-829-0050, which includes:
 - (a) Forty hours of DDA-developed residential services curriculum; and
 - (b) Thirty hours of additional training as described in WAC 388-829-0050.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0025 ((When do the training requirements go into effect)) What documentation is required to

show completion of the seventy-five hour training? ((~~1~~) The LTCW training requirements described in this chapter go into effect January 1, 2016.

(2) The LTCW training requirements that were in effect on or before December 31, 2015, apply to those individuals who:

- (a) Were hired on or before December 31, 2015; and
- (b) Complete(d) training requirements in existing rules at time of hire by February 29, 2016)) The documentation required to show completion of the seventy-five hour training is a DSHS seventy-five hour training certificate signed by a DSHS-approved trainer.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0030 ((Who is exempt from the CRSB seventy-five hours of training requirements)) Does an individual's seventy-five hour training certificate transfer to another employer and how long is it valid? ((Exempt individuals as of January 1, 2016, include:

(1) Staff hired January 1, 2015, through December 31, 2015, with no break in service to January 1, 2016, and hold a letter of exemption. Letters of exemption are portable from agency to agency:

- (a) For staff with continuous employment; and
- (b) For staff with intermittent work over a three year period who have completed their annual continuing education credits; or
- (c) For staff who made up the twelve hours of continuing education prior to their date of hire and are current with all required CE credits.

(2) The HCA-C replaces the requirements for the training under the seventy-five hour certificate.

(a) Staff holding a HCA-C must complete agency orientation and individual specific training.

(b) Staff who obtained an HCA-C and took training other than the residential services curriculum prior to January 1, 2016, must also take the eighteen hour DDA specialty training unless they hold a certificate for this training.

(3) A home health aide who is employed by a medicare-certified home health agency and has met the requirements of 42 C.F.R., Part 483.35.

(4) An individual with special education training and an endorsement granted by the superintendent of public instruction as described in RCW 28A.300.010.

(5) Registered nurses, licensed practical nurses, nurse technicians, or advanced registered nurse practitioner under chapter 18.79 RCW; Nursing assistants-certified under chapter 18.88A RCW)) (1) A seventy-five hour training certificate remains valid if the certificate holder changes employers and meets continuing education requirements.

(2) For the purpose of becoming a home care aide-certified (HCA-C) through the department of health, the DDA seventy-five hour training certificate is invalid after two years.

NEW SECTION

WAC 388-829-0035 Who is exempt from the DDA community residential seventy-five hour training

requirement? Beginning January 1, 2016, the following individuals are exempt from the DDA community residential seventy-five hour training requirement:

- (1) DDA community residential staff who have:
 - (a) Been continuously employed since December 31, 2015;
 - (b) Completed training requirements that were in place when he or she was hired;
 - (c) Completed the training requirements by February 29, 2016; and
 - (d) Proof that twelve hours of continuing education were completed during the previous year;
- (2) Under RCW 18.88B.041, an individual with special education training and an endorsement granted by the superintendent of public instruction; and
- (3) Registered nurses, licensed practical nurses, nurse technicians, advanced registered nurse practitioners as defined in chapter 18.79 RCW, and nursing assistants-certified (CAN) as defined in chapter 18.88A RCW.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0040 ((What is the seventy-five hour certificate)) What are the training requirements for exempt individuals hired on or after January 1, 2016? ((The seventy-five hour certificate is a combination of trainings and certifications that when complete add up to seventy-five hours. The certificate covers:

- (1) Five hour LTCW orientation and safety (Section III);
- (2) Forty hour residential services curriculum (Section IV); and

(3) Thirty hours peer coaching, specialty training, population specific training, CPR and bloodborne pathogens/HIV training)) Exempt individuals hired on or after January 1, 2016, must meet the following the training requirements:

(1) Staff hired with a seventy-five hour certificate or letter of exemption must take:

- (a) Agency orientation; and
- (b) Client-specific training.

(2) The hiring or contracting entity must verify that staff hired with an HCA-C from areas outside of DDA have completed the training required in subsection (1) of this section and:

- (a) DDA-developed specialty training; or
- (b) Forty hours of DDA residential services curriculum.

(3) All community residential staff must maintain current CPR and first aid training certificates. This training must be completed in person and within sixty days of hire.

(4) All community residential staff must complete twelve hours of continuing education per year.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0045 ((Who must complete the seventy-five hour basic training)) May training entities use their own orientation and safety content? ((The following people must complete the seventy-five hours of training as described:-

(1) ~~Nonexempt employees hired as a new employee to work for CRSB agencies as a LTCW.~~

(2) ~~Anyone who wants to complete the home care aid certification process))~~ (1) Training entities must not develop their own curriculum for the five hour orientation and safety course.

(2) DDA community residential five-hour orientation and safety training is developed by DSHS.

(3) For children's staffed residential settings refer to chapters 388-826 and 388-145 WAC.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0050 What is ~~((orientation))~~ basic training? ~~((There are two types of orientation training: LTCW orientation training and agency orientation training.~~

(1) LTCW orientation.

~~Orientation is two hours of DDA developed and approved training regarding the LTCW's role and the applicable terms of employment as described in WAC 388-829-0055. DDA's curriculum is the only approved LTCW training for CRSB. There is no test for this training.~~

(2) Agency orientation.

~~Agency orientation is of varied length and provides basic introductory information appropriate to the residential care setting and population served and covers agency specific information. The department does not approve this specific orientation program, materials, or trainers, and there is no test for this orientation.~~

~~This orientation must include:~~

~~(a) Current individual instruction and support plans of each client with whom the employee works;~~

~~(b) Emergency procedures for clients;~~

~~(c) The reporting requirements for abuse and neglect under chapter 74.34 RCW; and~~

~~(d) Client confidentiality))~~ Basic training is seventy hours of required training that must include:

(1) Forty hours of DDA residential services curriculum, which includes:

(a) Blood-borne pathogen requirements under WAC 296-823-12005; and

(b) DDA specialty training requirements; and

(2) Thirty hours of additional topics related to:

(a) Population-specific training;

(b) Capable caregiver training under chapter 388-112 WAC related to mental health or dementia;

(c) CPR and first aid training and certification as described in WAC 388-829-0040; or

(d) On-the-job training hours, including client-specific training, when the instructor is a trained peer coach as described in WAC 388-829-0060.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0055 ~~((What content must be included in LTCW orientation))~~ How are training entities and instructors for DDA community residential settings approved? ~~((For those individuals working in a CRSB:~~

~~(1) LTCW orientation must be taught by an approved trainer and follow the DDA approved two hour orientation curriculum which includes the following topics:~~

~~(a) The care setting and the agency mission;~~

~~(b) The characteristics and special needs of the population served;~~

~~(c) Fire and life safety, including:~~

~~(i) Emergency communication (including phone system if one exists);~~

~~(ii) Evacuation planning (including fire alarms and fire extinguishers);~~

~~(iii) Ways to handle individual injuries, falls or other accidents; and~~

~~(iv) Potential risks to individuals or staff (for instance, aggressive individual behaviors and how to handle them).~~

~~(d) The location of home policies and procedures.~~

~~(e) Communication skills and information, including:~~

~~(i) Methods for supporting effective communication among the individual/guardian/family, staff, and DDA staff;~~

~~(ii) Use of verbal and nonverbal communication; and~~

~~(iii) Review of written communication and/or documentation required for the job, including the individual's ISP.~~

~~(f) Expectations about communication with other direct support staff;~~

~~(g) Whom to contact about problems and concerns.~~

~~(h) Proper body mechanics;~~

~~(i) What staff should do if they are ill;~~

~~(j) Individual rights, including:~~

~~(i) The individual's right to confidentiality of information about the individual;~~

~~(ii) The individual's right to participate in making decisions about the individual's care, and to refuse care;~~

~~(iii) Staff's duty to protect and promote the rights of each individual, and assist the individual to exercise his or her rights;~~

~~(iv) How and to whom staff should report any concerns they may have about an individual's decision concerning the individual's care;~~

~~(v) Staff's duty to report any suspected abuse, abandonment, neglect, or exploitation of an individual;~~

~~(vi) Advocates that are available to help individuals (LTC ombudsmen, organizations);~~

~~(vii) Complaint lines, hot lines, and individual grievance procedures; and~~

~~(viii) Working in an individual's home compared to working in agency facility or adult family home.~~

~~(2) LTCW orientation is the first part of the five hour certificate))~~ The training entities and instructors for DDA community residential settings are approved as follows:

(1) Supported living and group home providers are approved as training entities through a contract exhibit.

(2) Supported living and group home providers must ensure their employed or contracted instructors meet the instructor criteria described in this chapter and in:

(a) Chapter 388-112 WAC for DDA community residential instructors to teach the DDA forty-hour residential training; and

(b) RCW 74.39A.112 for five-hour orientation and safety training and thirty hours of client-specific training.

(3) Other training entities must be approved by DDA or AL TSA and entities must ensure their instructors meet the criteria described in chapter 388-112 WAC.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0060 ~~((Who must take LTCW orientation))~~ **What are the qualifications for on-the-job training, including client-specific training?** ~~((All staff must take LTCW orientation prior to working with clients when:~~

(1) People hired to work in a CRSB who do not have a valid seventy-five hour certificate; or

(2) LTCWs who were exempt in 2012 or 2015 with a break in service of three or more years will be treated as a new hire and will require the full seventy-five hours of training; and

(3) Volunteers who will have indirect supervision during direct support duties)) Instructors who provide on-the-job training, including client-specific training, must:

(1) Meet the instructor qualifications for basic training described in chapter 388-112 WAC; and

(2) Complete at least twelve hours of department approved peer coaching.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0065 ~~What ((content must be included in the agency orientation for LTCWs who begin working for a new agency)) are the requirements for DDA community residential instructors to teach the DDA forty-hour residential training?~~ ~~((The purpose of this training is to orient the staff to the agency. Some topics of agency orientation may be covered in LTCW orientation but due to individual support needs, must be trained outside of LTCW orientation.~~

~~Agency orientation must include but is not limited to:~~

~~(1) The setting and the agency mission;~~

~~(2) The characteristics and special needs of the population served;~~

~~(3) Fire and life safety, including:~~

~~(a) Emergency communication (including phone system if one exists);~~

~~(b) Evacuation planning (including fire alarms and fire extinguishers);~~

~~(c) Ways to handle individuals' injuries, falls and other accidents; and~~

~~(d) Potential risks to individuals or staff (for instance, aggressive individual behaviors and how to handle them);~~

~~(4) The location of policies and procedures;~~

~~(5) Communication skills and information, including:~~

~~(a) Methods for supporting effective communication among the individual/guardian/family, staff, and DDA staff;~~

~~(b) Use of verbal and nonverbal communication; and~~

~~(c) Review of written communications and/or documentation required for the job, including the individual's HSP;~~

~~(6) Expectations about communication with other home staff;~~

~~(7) Whom to contact about problems and concerns;~~

~~(8) Rules for working in someone's home as opposed to agency facility; and~~

~~(9) Respect for individual's property including their food, home, water, electricity or anything paid for out of the individual's account))~~ DDA community residential instructors who want to instruct staff on the DDA forty-hour residential training curriculum must:

(1) Meet the instructor qualifications described in chapter 388-112 WAC;

(2) Complete the train the trainer course using DDA-developed curriculum;

(3) Be approved as an instructor and receive an instructor code through DDA; and

(4) Use the forty-hour DDA residential services curriculum to teach the course.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0075 ~~What is ((safety training, who must complete it and when must it be completed))~~ **nurse delegation core training?** ~~((Safety training is part of the LTCW requirements and must be provided by approved instructors. It is three hours of training developed by DDA and includes basic safety precautions, emergency procedures, and infection control. There is no test for safety training))~~ Nurse delegation core training is described in chapter 388-112 WAC.

NEW SECTION

WAC 388-829-0076 **May nurse delegation core training and specialized diabetes training occur in the same year as basic training?** (1) Nurse delegation core training may occur in the same year as basic training and counts as nine hours of continuing education.

(2) Specialized diabetes training may occur in the same year as basic training and counts as three hours of continuing education.

(3) If nurse delegation core training or specialized diabetes training occurs in the same year as basic training, the provider maximum hours for each training may be applied towards the continuing education requirement for the following year.

(4) Nurse delegation core and specialized diabetes trainings do not apply towards basic training.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0080 ~~What ((content must be included in safety training))~~ **is continuing education?** ~~((Safety training must include:~~

~~(1) Safety planning and accident prevention, including but not limited to:~~

~~(a) Proper body mechanics;~~

~~(b) Fall prevention;~~

~~(c) Fire safety;~~

~~(d) In-home hazards;~~

~~(e) LTCW safety; and~~

~~(f) Emergency and disaster preparedness.~~

~~(2) Standard precautions and infection control, including but not limited to:~~

- (a) Proper hand washing;
- (b) When to wear gloves and how to correctly put them on and take them off;
- (c) Basic methods to stop the spread of infection;
- (d) Protection from exposure to blood and other body fluids;
- (e) Appropriate disposal of contaminated/hazardous articles;
- (f) Reporting exposure to contaminated articles; and
- (g) What to do when the worker or the individual is sick or injured, including to whom to report illness or injury.
- (h) Safe food handling information must be provided to all staff, prior to handling food for individuals.

LTCWs who complete a DSHS-approved safety training meet the four hours of AIDS education as required by the department of health in WAC 246-980-040.

(3) Basic emergency policies and procedures, including but not limited to:

- (a) Medical emergencies;
- (b) Response to fire;
- (c) Natural disasters or other community emergencies;
- (d) Location of any advance directives if available;
- (e) Missing individuals;
- (f) Unmanageable individual behavior; and
- (g) Individuals involved with law enforcement)) Continuing education (CE) is annual training designed to increase a service provider's knowledge and skills on topics relevant to the care, support, and instruction needs of the individuals he or she support.

NEW SECTION

WAC 388-829-0085 How many hours of continuing education must DDA community residential staff complete each year? (1) Effective January 1, 2016, service providers must complete twelve hours of continuing education (CE) each year, except in the calendar year they complete the one-time basic training requirement.

(2) Service providers who are not credentialed through the department of health (DOH) must complete their CE by the end of the calendar year.

(3) Service providers must complete DOH-required CE (such as home care aide certification) by their birth date each year.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0100 ((What is basic training)) May staff repeat courses for continuing education (CE)? ((4) Basic training totals seventy hours of training: Basic training is made up of two components; the forty hour residential training and thirty hours of additional topics as defined by subsection (1)(b) of this section.

- (a) ~~DDA residential training—Forty hours.~~
 - (i) The core competencies and skills that LTCWs need in order to provide services effectively and safely;
 - (ii) Practice and demonstration of skills;
 - (iii) DD history;
 - (iv) Positive behavior support plan;
 - (v) Residential guidelines;

- (vi) Individual instruction and support plan (IISP);
- (vii) Effective communication:
 - (A) Between staff;
 - (B) With family; and
 - (C) With individuals;
- (viii) Nutrition and dietary guidelines;
- (ix) Health care/health management;
- (x) Medication management;
- (xi) Abuse and neglect;
- (xii) Confidentiality;
- (xiii) Emergency procedures;
- (xiv) Staff roles, self care, boundaries; and
- (xv) Grief and loss.

(b) ~~Additional topics—Thirty hours.~~

(i) Peer coaching as defined in RCW 74.39A.331 for on the job training.

(ii) Population specific if appropriate.

(iii) Individual specific.

(2) The core competencies requirement for DDA must be met by completing:

(a) The DDA developed forty hour residential training;

or

(b) The DSHS approved RFOC (or the approved curriculum by DSHS) ~~and~~ the eighteen hour DD specialty training.

(3) Additional training will be required:

(a) Individual specific training; and

(b) If changing agencies, the agency orientation;

(4) The LTCW must be able to ask the instructor questions during the training.

(5) There is no challenge test for subsection (2)(a) or (b)) A service provider must not repeat continuing education (CE) courses except under the following conditions:

(1) The course content changed significantly; or

(2) The service provider has documented evidence justifying the need for retraining.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15)

WAC 388-829-0105 What ((~~topics~~)) information must ((be taught in the core competencies of basic training for LTCWs)) a training entity include on continuing education (CE) certificates? ((Basic training for LTCWs in a CRSB must include the DDA forty hour residential training. Competencies within this DSHS/DDA approved curriculum includes but is not limited to:

(1) Fall prevention;

(2) Food preparation and handling;

(3) Communication skills;

(4) Individual rights and maintaining dignity;

(5) Abuse, abandonment, neglect, financial exploitation and mandatory reporting;

(6) Individual directed care;

(7) Cultural sensitivity;

(8) Body mechanics;

(9) Infection control, bloodborne pathogens, HIV/AIDS;

(10) Skin and body care;

(11) LTCW roles and boundaries;

(12) Supporting activities of daily living;

(13) Medication assistance;

- (14) LTCW self-care;
- (15) Problem solving;
- (16) Grief and loss; and
- (17) Building positive relationships)) Continuing education certificates must contain the following information:
- (1) Name of the student;
- (2) Title of the training;
- (3) Number of hours of the training;
- (4) Assigned curriculum approval code;
- (5) Instructor's printed name and signature;
- (6) Typed or printed name of the training entity giving the training;
- (7) Entity program code; and
- (8) Date(s) of training.

NEW SECTION

WAC 388-829-0125 May DSHS deny or terminate a training contract or rescind its approval of an instructor or training entity? (1) DSHS may deny or terminate a training contract.
 (2) DSHS may rescind approval of an instructor or training entity.

AMENDATORY SECTION (Amending WSR 15-20-045, filed 9/29/15, effective 1/1/16)

WAC 388-829-0130 (~~Who is required to complete basic training, and when~~) May qualified instructors use CE curriculum with a DDA or ALTSA approval code? ((The following individuals must complete basic training requirements:

- ~~(1) LTCWs in CRSB within one hundred twenty days of date of hire. Until basic training has been completed, LTCWs can only provide direct care with indirect supervision.~~
- ~~(2) Exempted employees hired after December 31, 2015, returning to work after a three year break in service must complete the seventy-five hours of training as if a new employee to the field.~~
- ~~(3) Exempted employees hired after December 31, 2015, with intermittent work must:~~
 - ~~(a) Maintain or complete the CEs to meet the annual requirements prior to hiring date; or~~
 - ~~(b) Must complete the seventy-five hours of training as if a new employee to the field.~~
- ~~(4) Volunteers who will provide direct support services with indirect supervision. Family members are not considered to be volunteers)) Qualified instructors may use continuing education (CE) curriculum with a DDA or ALTSA approval code with permission from the curriculum owner.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-829-0070 Who must take a particular agency's orientation?
- WAC 388-829-0077 Who must take agency orientation?

- WAC 388-829-0115 What documentation is required to show completion of the seventy-five hour training?
- WAC 388-829-0120 How long are the training certificates valid?
- WAC 388-829-0140 Who may instruct basic training for a CRSB and what documentation is required by the agency and the instructor?
- WAC 388-829-0145 Who may be certified as a home care aide?
- WAC 388-829-0150 What documentation is required for a LTCW to apply for the home care aide certification or recertification?
- WAC 388-829-0160 What is the population specific training component of basic training?
- WAC 388-829-0200 What is specialty training?
- WAC 388-829-0205 Who is required to take specialty training?
- WAC 388-829-0210 What is nurse delegation core training?
- WAC 388-829-0220 What is CE?
- WAC 388-829-0225 Who is required to complete CE training, and how many hours of CE are required each year?
- WAC 388-829-0226 Can a CRSB employee receive CE credit for training approved by another state agency?
- WAC 388-829-0230 When must a LTCW complete CE?
- WAC 388-829-0235 What topics may be covered in CE?
- WAC 388-829-0240 Can specialty training be used to meet CE requirements?
- WAC 388-829-0245 What are the documentation requirements for CE?
- WAC 388-829-0246 What information must be on certificates for CE?
- WAC 388-829-0250 What is cardiopulmonary resuscitation (CPR) training? When is CPR training required?
- WAC 388-829-0300 Which trainings require department approval of the curriculum and instructor?
- WAC 388-829-0305 What must be submitted to DDA for CE curriculum approval?
- WAC 388-829-0310 What is the curriculum approval process for CE?
- WAC 388-829-0350 What are the training entity's responsibilities?

- WAC 388-829-0360 Must training entities and their instructors be approved by DSHS?
- WAC 388-829-0365 Can DSHS deny or terminate a contract or rescind approval of an instructor or training entity?
- WAC 388-829-0370 What is a guest speaker, and what are the minimum qualifications to be a guest speaker?
- WAC 388-829-0380 What are the minimum qualifications for an instructor for basic, and population specific training?
- WAC 388-829-0385 What are the minimum qualifications for an instructor for agency orientation, LTCW orientation, safety, and CE?
- WAC 388-829-0390 What are the minimum qualifications for instructors for LTCW mental health specialty training?
- WAC 388-829-0395 What are the minimum qualifications for instructors for LTCW dementia specialty?
- WAC 388-829-0400 What are the minimum qualifications for instructors for LTCW developmental disabilities specialty?
- WAC 388-829-0420 What physical resources are required for classroom training and testing?
- WAC 388-829-0425 What standard training practices must be maintained for classroom training and testing?

Statutory Authority for Adoption: RCW 18.06.230, 18.06.160, and 18.06.010.

Adopted under notice filed as WSR 17-07-081 on March 20, 2017.

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 246-803-040 (3), (5), (5)(a) and (c) were revised to remove the phrase "inhaled oxygen and" to make the rule consistent with RCW 70.54.442. Other rule language was clarified without changing its effect.

A final cost-benefit analysis is available by contacting Trina Crawford, Executive Director, Office of Health Professions, East Asian Medicine Practitioner Program, P.O. Box 47852, Olympia, WA 98405-7852 [98504-7852], phone (360) 236-4890, fax (360) 236-2901, email trina.crawford@doh.wa.gov.

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

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

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

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

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

Date Adopted: July 3, 2017.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-030 East Asian medicine. East Asian medicine is a health care service using East Asian medicine diagnosis and treatment to promote health and treat organic or functional disorders. East Asian medicine includes the following:

(1) Acupuncture. Acupuncture includes the use of acupuncture needles or lancets to directly or indirectly stimulate acupuncture points and meridians;

(2) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(3) Moxibustion;

(4) Acupressure;

(5) Cupping;

(6) Dermal friction technique;

(7) Infrared;

(8) Sonopuncture;

(9) Laserpuncture;

(10) Point injection therapy (aquapuncture)((§));

(a) Is defined as meaning the subcutaneous, intramuscular and intradermal injection of substances consistent with the practice of East Asian medicine to stimulate acupuncture

WSR 17-15-006

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 5, 2017, 2:59 p.m., effective July 5, 2017]

Effective Date of Rule: July 5, 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: SHB 2448 (chapter 97, Laws of 2016), requires rules specifying the education and training for an East Asian medicine practitioner to provide point injection therapy by July 1, 2017.

Purpose: WAC 246-803-030 East Asian medicine and 246-803-040 Education and training for point injection therapy. SHB 2488 [2448] requires the department to adopt rules to define point injection therapy, list the substances that may be administered as part of point injection therapy consistent with the practice of East Asian medicine, and specify the education/training necessary to provide point injection therapy.

Citation of Existing Rules Affected by this Order: Amending WAC 246-803-030.

points, AHSHI points, trigger points and meridians. Substances are limited to:

- (i) Saline;
 - (ii) Sterile water;
 - (iii) Herbs specifically manufactured for injection by means of hypodermic needles;
 - (iv) Minerals specifically manufactured for injection by means of hypodermic needles;
 - (v) Vitamins in liquid form specifically manufactured for injection by means of hypodermic needles; and
 - (vi) Homeopathic and nutritional substances specifically manufactured for injection by means of hypodermic needles.
- (b) For the purposes of this section, includes trigger points as a subset of acupuncture points and AHSHI points as recognized in the current practice of East Asian medicine.
- (c) Does not include injection of controlled substances contained in Schedules I through V of the Uniform Controlled Substances Act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300.

(11) Dietary advice and health education based on East Asian medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements.

Health education. Health education is educational information directed to the patient that attempts to improve, maintain, promote and safeguard the health care of the patient. Health education consists of educating the patient on how the mind, body and spirit connect in context of imbalances, emotional patterns and tendencies as defined by and treated in East Asian medicine. Health education does not include mental health counseling;

(12) Breathing, relaxation, and East Asian exercise techniques;

(13) Qi gong;

(14) East Asian massage. East Asian massage means manual techniques having originated in East Asia involving the manipulation of the soft tissues of the body for therapeutic purposes.

(a) East Asian massage consists of:

- (i) Applying fixed or movable pressure;
- (ii) Passive, resistive, and assisted stretching of fascial and connective tissue;
- (iii) Holding or causing movement of the body; or
- (iv) Tapping, compressions or friction.

(b) East Asian massage may be performed with the use of tools common to the practice and aids of superficial heat, cold, water, lubricants, salts, minerals, liniments, poultices, and herbs.

(c) East Asian massage does not include attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force(†).

(15) Tui na. Tui na is a method of East Asian bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(16) Superficial heat and cold therapies.

NEW SECTION

WAC 246-803-040 Education and training for point injection therapy. East Asian medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training.

(1) The education and training for point injection therapy must:

(a) Consist of a minimum total of twenty-four contact hours of training in the topics required in this section;

(b) Include at least eight hours of clinical practical experience; and

(c) Be administered by an instructor that meets the requirements of subsection (4) of this section.

(2) A curriculum for a point injection therapy training program must include:

(a) Review of physical examination, contraindications and universal precautions, and differential diagnosis;

(b) Compounding and administration of the substances authorized for point injection therapy under WAC 246-803-030, including aseptic technique, recordkeeping and storage of substances authorized for use in point injection therapy;

(c) Emergency procedures;

(d) Point injection therapy techniques and contraindication within the East Asian medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 (10)(a)(i) through (vi).

(3) Except for the training in the use of intramuscular epinephrine, the training must be delivered in person and not through webinar or other online or distance learning method.

(4) An instructor for point injection therapy must have:

(a) A health care credential in good standing with a scope of practice that includes point injection therapy; and

(b) At least five years of experience in a health care practice that includes point injection therapy.

(5) In addition to point injection therapy meeting the requirements of subsections (1) and (2) of this section, East Asian medicine practitioners using point injection therapy must complete training in the use of intramuscular epinephrine.

(a) Training in the use of intramuscular epinephrine must be according to RCW 70.54.440(4).

(b) This training may be taken separately from the training in point injection therapy.

(c) Up to two hours of training in the use of intramuscular epinephrine count in meeting the requirement for twenty-four hours of training.

(d) An East Asian medicine practitioner who holds an active credential with a scope of practice that includes the authority to prescribe, dispense or administer epinephrine does not need to meet the requirements of (a) of this subsection.

(6) To qualify under this section, the training program shall provide each successful student with a:

(a) Certificate of successful completion of the program; and

(b) Course syllabus outlining the schedule and curriculum of the program.

(7) The requirements of subsections (1) through (6) of this section do not apply to an East Asian medicine practitioner who has provided point injection therapy prior to July

1, 2017. East Asian medicine practitioners using point injection therapy prior to July 1, 2017, must have completed training and education in point injection therapy.

(8) Any East Asian medicine practitioner performing point injection therapy must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy.

WSR 17-15-014
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed July 6, 2017, 3:10 p.m., effective August 6, 2017]

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

Purpose: The agency is revising this rule to correct a cross reference, and to remove the acronym WAH and replace with apple health.

Citation of Existing Rules Affected by this Order: Amending WAC 182-512-0920.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 17-10-073 on May 3, 2017.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 6, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0920 SSI-related medical—Deeming/allocation of income from nonapplying spouse. The agency considers the income of financially responsible persons to determine if a portion of that income is available to other household members.

(1) A portion of the income of a nonapplying spouse is considered available to meet the needs of a Washington apple health ((WAH)) SSI-related applicant. A nonapplying spouse is defined as someone who is:

(a) Financially responsible for the SSI-related applicant as described in WAC ((182-506-0010)) 182-506-0015 and

182-512-0960. For ((WAH)) apple health institutional and home and community based waiver programs, see WAC 182-513-1315;

(b) Living in the same household with the SSI-related applicant;

(c) Not receiving a needs based payment such as temporary assistance to needy families (TANF) or state-funded cash assistance (SFA); or

(d) Not related to SSI, or is not applying for ((WAH)) apple health coverage including spouses receiving SSI.

(2) An ineligible spouse is the spouse of an SSI cash recipient and is either not eligible for SSI for themselves or who has elected to not receive SSI cash so that their spouse may be eligible. An SSI-related applicant who is the ineligible spouse of an SSI cash recipient is not eligible for ((WAH)) apple health categorically needy (CN) health care coverage and must be considered for health care coverage under the ((WAH)) apple health medically needy (MN) program or for a modified adjusted gross income-based program if the person does not receive medicare.

(3) When determining whether a nonapplying spouse's income is countable, the agency:

(a) Follows the income rules described in WAC 182-512-0600 through 182-512-0780;

(b) Excludes income described in WAC 182-512-0800 (2) through (10), and all income excluded under federal statute or state law as described in WAC 182-512-0860;

(c) Excludes work-related expenses described in WAC 182-512-0840, with the exception that the sixty-five dollars plus one half earned income deduction described in WAC 182-512-0840(2) does not apply;

(d) Deducts any court ordered child support which the nonapplying spouse pays for a child outside of the home (current support or arrears); and

(e) Deducts any applicable child-related income exclusions described in WAC 182-512-0820.

(4) The agency allocates income of the nonapplying spouse to nonapplying children who reside in the home as described in WAC 182-512-0820. Allocations to children are deducted first from the nonapplying spouse's unearned income, then from their earned income.

(a) For ((WAH)) apple health CN medical determinations, allocations to children are not allowed out of the income of the SSI-related applicant, only from the income of the nonapplying spouse.

(b) For ((WAH)) apple health MN medical determinations, allocations to children are allowed from the income of the SSI-related applicant if the applicant is unmarried.

(5) For ((WAH)) apple health SSI-related CN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to one-half of the federal benefit rate (FBR), no income is deemed to the applicant. Compare the applicant's countable income to the one-person SSI categorically needy income level (CNIL) described in WAC 182-512-0010. For health care for workers with disabilities

(HWD) applicants, compare to the one-person HWD standard described in WAC 182-505-0100 (1)(c).

(b) Greater than one-half of the FBR, then the entire non-applying spouse's countable income is deemed to the applicant. Compare the applicant's income to the two-person SSI CNIL. For HWD applicants, compare to the two-person HWD standard described in WAC 182-505-0100 (1)(c).

(6) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(a) of this section:

(a) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's income; and

(b) Compare the net remaining income to the one-person SSI CNIL or the one-person HWD standard.

(7) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount. If there is less than twenty dollars of unearned income, the remainder of the twenty dollar general income exclusion is deducted from earned income.

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount.

(c) Add together the net unearned and net earned income amounts and compare the total to the two-person SSI CNIL described in WAC 182-512-0010 or the two-person HWD standard described in WAC 182-505-0100 (1)(c). If the income is equal to or below the applicable two-person standard, the applicant is eligible for ((WAH)) apple health CN health care coverage.

(8) An SSI-related applicant under the age of sixty-five who is working, whose level of work activity and earnings is determined not to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards, but who is not eligible for ((WAH)) apple health CN coverage under the regular ((WAH)) apple health SSI-related program, may be considered for eligibility under the HWD program. For HWD program rules, see chapter 182-511 WAC.

(9) If the SSI-related applicant's countable income is above the applicable SSI CNIL standard, the agency or its authorized representative considers eligibility under the ((WAH)) apple health MN program or under the HWD program if the person is under the age of sixty-five and working. An SSI-related applicant who meets the following criteria is not eligible for ((WAH)) apple health MN coverage and eligibility must be determined under HWD or under a MAGI-based ((WAH)) apple health program:

(a) The applicant is blind or disabled and under the age of sixty-five;

(b) The applicant's level of work activity and earnings is determined to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards; and

(c) The applicant is not receiving a title II Social Security cash benefit based on blindness or disability.

(10) For SSI-related ((WAH)) apple health MN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to the effective one-person MNIL described in WAC 182-519-0050, no income is deemed to the applicant and a portion of the applicant's countable income is allocated to the nonapplying spouse's income to raise it to the effective MNIL standard.

(b) Greater than the effective MNIL, then the amount in excess of the effective one-person MNIL is deemed to the applicant. Compare the applicant's income to the effective one-person MNIL.

(11) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(a) of this section:

(a) Allocate income from the applicant to bring the income of the nonapplying spouse up to the effective one-person MNIL standard;

(b) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's remaining income;

(c) Allow a deduction for medical insurance premium expenses (if applicable); and

(d) Compare the net countable income to the effective one-person MNIL.

(12) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount (if there is less than twenty dollars of unearned income, the remainder of the twenty dollar general income exclusion is deducted from earned income);

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount;

(c) Add together the net unearned and net earned income amounts;

(d) Allow a deduction for medical insurance premium expenses (if applicable) per WAC 182-519-0100(5); and

(e) Compare the net countable income to the effective one-person MNIL described in WAC 182-519-0050. If the income is:

(i) Equal to or below the effective one-person MNIL, the applicant is eligible for ((WAH)) apple health MN health care coverage with no spenddown.

(ii) Greater than the effective MNIL, the applicant is only eligible for ((WAH)) apple health MN health care coverage after meeting a spenddown liability as described in WAC 182-519-0110.

(13) The ineligible spouse of an SSI-cash recipient applying for ((WAH)) apple health MN coverage is eligible

to receive the deductions and allocations described in subsection (10)(a) of this section.

WSR 17-15-021
PERMANENT RULES
STATE BOARD OF HEALTH

[Filed July 7, 2017, 9:53 a.m., effective August 7, 2017]

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

Purpose: WAC 246-100-197 Rabies—Measures to prevent human disease, the rule incorporates the most current science related to rabies post exposure practice and quarantine periods, updates the National Association of State Public Health Veterinarians Compendium of Animal Rabies Prevention and Control adoption by reference date for procedures related to emergency sheltering of mammals displaced during a disaster, and makes clarifications.

Citation of Existing Rules Affected by this Order: Amending WAC 246-100-197.

Statutory Authority for Adoption: RCW 43.20.050.

Other Authority: RCW 16.70.040.

Adopted under notice filed as WSR 17-10-056 on May 2, 2017.

A final cost-benefit analysis is available by contacting Wayne Clifford, Department of Health, P.O. Box 47825, Olympia, WA 98504-7825, phone (360) 236-3181, email wayne.clifford@doh.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 5, 2017.

Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 11-04-017, filed 1/21/11, effective 1/1/12)

WAC 246-100-197 Rabies—Measures to prevent human disease. (1) The purpose of this rule is to protect the public from rabies, a deadly disease.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:

(a) "Adequate anamnestic response" means paired serum specimens that show a two fold increase in titer between the

first and second specimens, and show the second titer is above 0.5 IU/mL (1:50).

~~(b)~~ "Animal exhibitor" means a person with a valid class C certification as an exhibitor under the Animal Welfare Act, 7 U.S.C. 2131-2159.

~~((b))~~ ~~(c)~~ "Cat" means an animal of the species *Felis domesticus*, and excludes felid hybrid animals.

~~((c))~~ ~~(d)~~ "Certificate of veterinary inspection" means a legible veterinary health inspection certificate on an official form (electronic or paper) from the state of origin or from Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA) executed by a licensed and accredited veterinarian or a veterinarian approved by APHIS, USDA.

~~((d))~~ ~~(e)~~ "Dog" means an animal of the species *Canis familiaris* and excludes canid hybrid animals.

~~((e))~~ ~~(f)~~ "Entry permit" means prior written permission from the director of the department of agriculture.

~~((f))~~ ~~(g)~~ "Euthanize" means to humanely destroy an animal by a method that involves instantaneous unconsciousness and immediate death or by a method that causes painless loss of consciousness and death during the loss of consciousness.

~~((g))~~ ~~(h)~~ "Ferret" means an animal of the species *Mustela furo*.

~~((h))~~ ~~(i)~~ "Hybrid" means any mammal which is the offspring of the reproduction between any species of:

(i) Wild canid or hybrid wild canid and a domestic dog or hybrid wild canid, or is represented by its owner to be a wolf hybrid, coyote hybrid, coy dog or any other kind of wild canid hybrid; or

(ii) Wild felid or hybrid wild felid and a domestic cat or hybrid wild felid or is represented by its owner to be a wild felid hybrid.

~~((i))~~ ~~(j)~~ "Livestock" means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species so designated by statute. Livestock does not mean "wild animals" as defined in RCW 77.08.010.

~~((j))~~ ~~(k)~~ "Owner" means any person legally responsible for the care and actions of a pet animal.

~~((k))~~ ~~(l)~~ "Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or governmental agency; or the authorized agents of these entities.

~~((l))~~ ~~(m)~~ "Prospective serologic monitoring protocol" means the protocol identified in Part I B.5 of the Compendium of Animal Rabies Prevention and Control, 2016.

~~(n)~~ "Research facility" means a person with a valid class R certification as a research facility under the Animal Welfare Act, 7 U.S.C. 2131-2159.

~~((m))~~ ~~(o)~~ "USDA" means the United States Department of Agriculture.

(p) "Vaccination status" means one of the following:

(i) "Currently vaccinated" means a dog, cat, or ferret that has been initially vaccinated and revaccinated against rabies following veterinary and USDA-licensed rabies vaccine manufacturer instructions.

(ii) "Overdue for vaccination" means a dog, cat, or ferret that has not received a booster vaccination against rabies fol-

lowing veterinary and USDA-licensed rabies vaccine manufacturer instructions.

(iii) "Unvaccinated" means a dog, cat, or ferret that has never received a vaccination against rabies.

(q) "Wildlife rehabilitator" means a person with a valid permit as a wildlife rehabilitator under chapter 77.12 RCW.

(r) "Zoological park" means an accredited member of the American Zoo and Aquarium Association (AZA).

(3) An owner of a dog, cat, or ferret shall have it vaccinated (~~(against rabies)~~) and revaccinated against rabies following veterinary and USDA-licensed rabies vaccine manufacturer instructions. This requirement does not apply to animal shelters.

(4) Zoological parks and other types of animal exhibitors shall confine for a minimum of six months all wild-caught mammals susceptible to rabies and intended for public exhibition.

(5) The following restrictions apply to the importation and movement of certain mammals in Washington state.

(a) All persons are prohibited from acquiring, selling, bartering, exchanging, giving, purchasing, distributing, or trapping to retain any bat, skunk, fox, raccoon, or coyote, except a zoological park, animal exhibitor, ~~((or))~~ research facility, or wildlife rehabilitator.

(b) All persons are prohibited from importing into the state any bat, skunk, fox, raccoon, or coyote, except a zoological park, animal exhibitor, or research facility under an entry permit issued by the director of the department of agriculture in consultation with the secretary of the department.

(c) Any person importing a dog internationally that requires confinement according to requirements of 42 C.F.R. 71.51, shall notify the secretary of the department within seventy-two hours of the animal's arrival in the state.

(6) When a local health officer receives a report that a dog, cat, ferret, or hybrid has been exposed to a rabid or suspected rabid animal, the local health officer ~~((may require:~~

(a) Unvaccinated dogs, cats and ferrets be:

(i) Euthanized immediately; or

(ii) Confined in a manner considered appropriate by the local health officer for at least six months from the date of suspected rabies exposure and given rabies vaccine at least thirty days prior to the end of the confinement period.

~~(b) Currently vaccinated dogs, cats, and ferrets be revaccinated immediately with rabies vaccine, kept under the owner's control in a manner considered appropriate by the local health officer, and observed for forty-five days for signs of illness.~~

(c) Hybrids be euthanized)) shall assess the vaccination status of the animal. Based on the species and vaccination status of the animal, the local health officer may require any of the following:

(a) For currently vaccinated dogs, cats, and ferrets:

(i) Immediate veterinary care;

(ii) Immediate revaccination with a USDA-licensed rabies vaccine; and

(iii) The animal be kept under the owner's control and observed for signs of illness in a manner considered appropriate by the local health officer for forty-five days from the date of suspected or known rabies exposure.

(b) For unvaccinated dogs, cats, and ferrets:

(i) Immediate euthanasia; or

(ii) Quarantine;

(A) Immediate veterinary care;

(B) Immediate vaccination with a USDA-licensed rabies vaccine; and

(C) Confinement and observation for signs of illness in a manner considered appropriate by the local health officer for at least four months for dogs and cats, and at least six months for ferrets from the date of suspected or known rabies exposure.

(c) For dogs and cats overdue for vaccination with proof of having received a USDA-licensed rabies vaccine at least once:

(i) Immediate veterinary care;

(ii) Immediate vaccination with a USDA-licensed rabies vaccine; and

(iii) The animal be kept under the owner's control and observed for signs of illness in a manner considered appropriate by the local health officer for forty-five days from the date of suspected or known rabies exposure.

(d) For dogs and cats overdue for vaccination without proof of having received a USDA-licensed rabies vaccine at least once:

(i) Immediate euthanasia; or

(ii) Quarantine;

(A) Immediate veterinary care;

(B) Immediate vaccination with a USDA-licensed rabies vaccine; and

(C) Confinement and observation for signs of illness in a manner considered appropriate by the local health officer for at least four months from the date of suspected or known rabies exposure; or

(iii) An evaluation consistent with the prospective serologic monitoring protocol:

(A) Immediate veterinary care;

(B) Collection of a first blood sample for analysis;

(C) Immediately following collection of the first blood sample, vaccination with a USDA-licensed rabies vaccine;

(D) Collection of a second blood sample for analysis at least five days, but no later than seven days from the first blood sample collection; and

(E) Confinement in a manner considered appropriate by the local health officer until the results of the prospective serologic monitoring protocol are known.

(I) If the prospective serologic monitoring protocol results show the animal has an adequate anamnestic response to the rabies vaccination, the animal must be kept under the owner's control and observed for signs of illness in a manner considered appropriate by the local health officer for forty-five days from the date of the suspected or known rabies exposure.

(II) If the prospective serologic monitoring protocol shows the animal does not have an adequate anamnestic response to the rabies vaccination, the animal must be confined and observed for signs of illness in a manner considered appropriate by the local health officer for at least four months from the date of suspected or known rabies exposure.

(e) For ferrets overdue for vaccination:

(i) Immediate euthanasia; or

(ii) Quarantine:(A) Immediate veterinary care:(B) Immediate vaccination with a USDA-licensed rabies vaccine; and(C) Confinement and observation for signs of illness in a manner considered appropriate by the local health officer for at least six months from the date of suspected or known rabies exposure.(f) For hybrids, euthanize immediately.

(7) The owner or caretaker of a dog, cat, or ferret that is confined or under observation as described in subsection (6) of this section shall report any illness in the animal to the local health officer. If signs suggestive of rabies develop, the local health officer may order the animal to be euthanized and tested for rabies.

(8) When a local health officer receives a report that a mammal has bitten or otherwise potentially exposed a person to rabies, the local health officer may institute any or all of the following:

(a) Order a healthy dog, cat, or ferret to be confined in a manner the local health officer considers appropriate and observed daily for at least ten days with any illness reported to the local health officer, and if signs suggestive of rabies develop, order the animal to be euthanized and tested for rabies;

(b) Order immediate euthanasia and rabies testing of any stray or unwanted dog, cat, or ferret; or

(c) Order euthanasia and rabies testing of any hybrid or other mammal that is not a livestock animal.

(9) When a mammal other than a bat is found to be rabid, the local health officer may institute additional community-wide measures as appropriate including, but not limited to, the following actions:

(a) Issuance of orders to pick up and impound stray and unlicensed dogs, cats, hybrids and ferrets;

(b) Issuance of orders to owners of dogs, cats, and ferrets requiring proof of rabies vaccination following veterinary and USDA-licensed rabies vaccine manufacturer instructions;

(c) Restriction of dogs, cats, hybrids, and ferrets to owners' or caretakers' premises except when on leash; or

(d) Provide public and professional outreach education.

(10) When mammals are displaced during or after a man made or natural disaster and require emergency sheltering, the local health officer may implement and coordinate rabies prevention and control measures as described in Part I B.8., Disaster Response of the *Compendium of Animal Rabies Prevention and Control*, ((2008)) 2016. A copy of this publication is available for review at the department's web site, at www.doh.wa.gov.

(11) A person euthanizing a mammal for the purpose of rabies testing as described in this section shall prepare, package, and transport the specimens to be tested in a manner approved by the local health officer and according to the department's *Guidelines for the Submission of Specimens for Rabies Testing*, ((August 2006)) February 2011. This publication is available from the department at www.doh.wa.gov.

WSR 17-15-024**PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed July 7, 2017, 2:20 p.m., effective August 7, 2017]

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

Purpose: Chapter 246-834 WAC, Midwives, the adopted rules implement RCW 18.50.010 as amended by 2SHB 1443 [1773] (chapter 187, Laws of 2014) expanding the midwifery scope to allow for care for the newborn up to two weeks of age. The rules also update requirements for approved schools, foreign trained applicants and reactivating a license; remove obsolete requirements; and clarify, streamline, and modernize rule language.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-834-070, 246-834-090, 246-834-100, 246-834-110, 246-834-120, 246-834-130, 246-834-150, 246-834-170, 246-834-180, 246-834-190, 246-834-200, 246-834-210, 246-834-220, 246-834-230, 246-834-240, 246-834-260, 246-834-270, 246-834-280, 246-834-290, 246-834-310, 246-834-320, 246-834-330 and 246-834-340; and amending WAC 246-834-101, 246-834-050, 246-834-065, 246-834-080, 246-834-140, 246-834-160, 246-834-400, and 246-834-990.

Statutory Authority for Adoption: RCW 18.50.010, 18.50.040, 18.50.050, 18.50.135.

Other Authority: 2SHB 1443 [1773] (chapter 187, Laws of 2014).

Adopted under notice filed as WSR 17-07-116 on April 5 [March 21], 2017.

A final cost-benefit analysis is available by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4883, fax (360) 236-2901, email kathyn.weed@doh.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 7, Repealed 23.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 8, Repealed 23.

Date Adopted: July 7, 2017.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

WAC 246-834-010 Definitions. ((1) Academic director as used in these rules means the individual who is respon-

sible for planning, organizing and implementing all aspects of the curriculum of a midwifery education program.

(2) Health care provider as used in RCW 18.50.108 means any licensed physician who is engaged in active clinical obstetrical practice.

(3)) The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Active practice" means twenty hours per month in prenatal and postpartum clinical care, or minimum of six births annually as the primary midwife;

(2) "Department" means the Washington state department of health;

(3) "Directly assisted" means the act where a student midwife is learning the skills of a midwife through hands-on clinical experience in gradually increasing degrees of responsibility while under supervision of a licensed midwife or other obstetric provider;

(4) "Lactation care and services" means evaluation, problem identification, treatment, education, and consultation regarding lactation and breastfeeding to mothers and neonates;

(5) "Nursing education" ((as used in these rules)) means completion of courses for credit in a school that is approved to train persons for licensure as registered nurses or licensed practical nurses, or courses in other formal training programs which include instruction in basic nursing skills((-

(4)), excluding nursing assistant training;

(6) "Practical midwifery experience" ((as used in these rules)) means performance ((in)) of tasks within the midwifery ((functions, prior to obtaining a license)) scope of practice, that is verified by affidavit, testimony or other sworn written documentation that verifies that the experience and its documentation is equivalent to that required of ((regularly)) students enrolled in an accepted midwifery ((students

(5) Preceptor. A) education program;

(7) "Preceptor" ((is)) means a licensed ((or legally practicing)) midwife or other obstetric practitioner licensed by their state or jurisdiction to provide maternity care who assumes responsibility for supervising the practical (clinical obstetric) experience of a student midwife((-The preceptor shall be physically present whenever the student is managing a birth, and shall evaluate in writing the student's overall performance.

(6) Supervision means the observation and evaluation of a student midwife's practical performance. A supervisor need not be physically present in nonbirth situations. However, when a student midwife undertakes managing a birth, the supervisor must be physically present.

(7) Survey visit is an information gathering and observational visit intended to provide the basis for the director's assessment of a school's compliance with all aspects of chapter 18.50 RCW.);

(8) "Primary attendant" means a student midwife who acts as primary midwife making intrapartum clinical decisions while under supervision of a licensed midwife or other obstetric provider;

(9) "Secretary" means the secretary of the Washington state department of health;

(10) "Supervision" means the observation and evaluation of a student midwife's practical performance. A supervisor must be physically present on-site and available to intervene when a student midwife performs any clinical care task at births and prenatal and postpartum care exams.

AMENDATORY SECTION (Amending WSR 99-03-064, filed 1/18/99, effective 2/18/99)

WAC 246-834-050 Examination requirements for licensure as a midwife. ~~((This rule provides the minimum examination requirements for licensure as a midwife.))~~ An applicant for midwifery licensure shall successfully pass:

(1) ~~The midwifery examination offered by the North American Registry of Midwives (NARM) ((is the official examination for midwifery licensure. All applicants must complete this examination with a passing score. This examination shall be offered by the department of health midwifery program twice a year. If the applicant passes the examination within two years prior to applying for a Washington license, the department will accept the results.~~

(2) ~~In addition to the NARM examination, all applicants must pass the Washington state specific component examination.);~~

(2) The Washington state licensure examination with a minimum passing score of eighty; and

(3) The midwifery jurisprudence examination with a passing score of one hundred percent, as offered by the department.

NEW SECTION

WAC 246-834-062 Initial or reinstating application for individuals who have not been in the active practice of midwifery. This section applies to applicants for an initial license as a licensed midwife, or reinstatement of a midwifery license, who have not been in the active practice of midwifery prior to initial or reinstatement license application.

(1) Any applicant who has not been engaged in the active practice of midwifery for more than three years but less than five years prior to the date of application shall, in addition to the requirements for licensure as specified in WAC 246-834-060 and 246-834-140:

(a) Provide documentation of a minimum of ten births while acting as a birth assistant under the supervision of a preceptor within the last twelve months; and

(b) Provide documentation of completion of continuing education for the three years prior to application that meets the requirements of WAC 246-834-355.

(2) Any initial or reinstating applicant who has not been engaged in the active practice of midwifery for five or more years prior to the date of application shall, in addition to the requirements for licensure as specified in WAC 246-834-060 and 246-834-140:

(a) Provide documentation of a minimum of fifteen births while acting as a birth assistant under the supervision of a preceptor within the last twelve months;

(b) Provide documentation of completion of continuing education for the three years prior that meets the requirements of WAC 246-834-355; and

(c) If applying for reinstatement, retake and pass the current Washington state midwifery licensure examination.

(3) This section does not apply to any applicant who has been enrolled in a recognized educational program under WAC 246-834-135 or 246-834-065.

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

WAC 246-834-065 Application for examination—~~((Out-of-state education))~~ **Foreign trained.** ~~((1) A midwife not licensed in the state of Washington))~~ An applicant for a midwife license who graduated from a foreign educational institution on midwifery outside of any U.S. jurisdiction may sit for the licensing examination ((without completing the required coursework or the midwife in training program provided the midwife meets the following requirements:

(a) ~~Has completed a program preparing candidates to practice as a midwife provided such program is equivalent to the minimum course requirements of approved midwifery programs in Washington at the time of applicant's program completion. Proof of equivalency shall be submitted by the applicant with the application.~~

(b) ~~The transcript of the applicant's completed midwifery program verifies that:~~

(i) ~~All courses were completed with a grade of C (pass) or better; and~~

(ii) ~~At least fifteen managed births were completed under the preceptorship of an experienced midwife approved by the candidate's educational program.~~

(c) ~~If managed births completed under the preceptorship in (b)(ii) of this subsection are less than fifty, then affidavits of births the applicant has managed must be submitted in a sufficient number to prove that the applicant has managed a total of at least fifty births.~~

~~(2) The applicant shall submit to the department:~~

(i) ~~A complete notarized application with the required fee.~~

(ii) ~~Notarized copies of educational preparation or an official transcript verifying educational preparation or an official transcript verifying educational preparation to practice midwifery.~~

(iii) ~~Declarations of managed births as required in subsection (1)(c) of this section.~~

~~(3) Applicants must demonstrate completion of seven clock hours of AIDS education as provided in chapter 246-12 WAC, Part 8)) provided the applicant completes all requirements in this section:~~

~~(1) Complete application requirements for licensure in WAC 246-834-060;~~

~~(2) Provide proof of a certificate or diploma from a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant graduated. If applicable, the candidates must, at her or his own expense, present with the application a certified translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the certificate or diploma was issued;~~

(3) Submit proof of completing at least three years of midwifery training including the study of basic nursing that meets the requirements under WAC 246-834-140(1);

(4) Submit proof of meeting minimum educational requirements under WAC 246-834-140 (2)(a) and (b);

(5) Submit to the department documentation of attendance at one hundred births that meets the requirements of WAC 246-834-140 (3)(a);

(6) Submit to the department documentation of prenatal care examinations of fifty women and early postpartum care examinations of fifty women that meets the requirements of WAC 246-834-140 (3)(b); and

(7) Demonstrate competency in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professional who, within his or her scope of practice, is qualified in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.

AMENDATORY SECTION (Amending WSR 99-03-064, filed 1/18/99, effective 2/18/99)

WAC 246-834-080 Examination failures. (1) An applicant who has failed ~~((either))~~ the NARM examination or the Washington state ~~((specific component))~~ licensing examination, or both ~~((must)),~~ shall retake and pass the examination(s) which he or she failed.

(2) The applicant who fails the Washington state licensing examination may sit for the ((examination)) reexamination if he or she:

(a) ~~Applies to the department at least ((fifty-six))~~ fourteen days prior to the next scheduled examination; and

(b) Pays ~~((any))~~ the required fee as specified in WAC 246-834-990.

~~((2))~~ (3) An applicant((s)) who fails the ((second retest)) NARM or Washington licensing examination three consecutive times shall ((be required to)) submit evidence to the secretary of completion of an individualized program of study approved ~~((in advance))~~ by the department prior to retaking the examination.

~~((3) Applicants may have their examination hand-scored by submitting a request and appropriate fee directly to NARM within ninety days of the examination administration. A copy of their request must be sent to the department. The department will inform the applicant of the results of the hand-scored examination.))~~

NEW SECTION

WAC 246-834-135 Secretary accredited midwifery programs. The secretary accepts midwifery education programs that meet the Midwifery Education Accreditation Council (MEAC) standards and competencies established in 2014 as accredited and approved courses of instruction.

AMENDATORY SECTION (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

WAC 246-834-140 (~~Curriculum~~) Eligibility for state licensing examination. Candidates for the state licensing examination shall meet the following conditions, unless applying under WAC 246-834-066 Certified professional midwife (CPM) licensure requirements:

(1) (~~The basic curriculum~~) Midwifery training shall be at least three academic years, and shall consist of both didactic and clinical instruction sufficient to meet the educational standards of the school and (~~of chapter 18.50 RCW~~) this section. However, (~~the school may shorten~~) the length of (~~time for the program~~) required training may be shortened, but not to less than two academic years, after consideration of the student's documented education and experience in the required subjects, if the applicant is a registered nurse or practical nurse licensed under chapter (18.88 RCW, a licensed practical nurse under chapter 18.78 RCW,) 18.79 RCW, or has had previous nursing education or practical midwifery experience. (The midwifery training shall not be reduced to a period of less than two academic years. Each student)

(2) The applicant must receive instruction in the following educational areas:

(a) Basic sciences (including biology, physiology, microbiology, anatomy with emphasis on female reproductive anatomy, genetics and embryology), normal and abnormal obstetrics and gynecology, family planning techniques, childbirth education, nutrition both during pregnancy and lactation, breast feeding, neonatology, epidemiology, community care, and medicolegal aspects of midwifery; and

(b) Basic nursing skills and clinical skills including, but not limited to, vital signs, perineal prep, catheterization, aseptic techniques, administration of medications both orally and by injection, local infiltration for anesthesia, venipuncture, administration of intravenous fluids, infant and adult resuscitation, and charting.

(3) The applicant must undertake the care of not less than (fifty women in each of the prenatal, intrapartum and early postpartum periods. The care of up to thirty five women in each of the periods may be undertaken as a part of previous nursing education or practical midwifery experience as defined in WAC 246-834-010(5)) one hundred women in the intrapartum period. No less than fifteen of the one hundred women must be cared for in (each) the intrapartum period while the applicant was enrolled in the school from which the student graduates. (The student need not see the same women throughout each of the periods. A candidate for licensure must observe an additional fifty women in the intrapartum period in order to qualify for licensure. Up to thirty five of these observations may be as a part of previous nursing education or practical midwifery experience as defined in WAC 246-834-010(5). No less than fifteen women must be observed in the intrapartum period while enrolled in the school from which the student graduates.

(2) Each school must ensure that the students receive instructions in the following instruction area:

(a) Instruction in basic sciences (including biology, physiology, microbiology, anatomy with emphasis on female reproductive anatomy, genetics and embryology) normal and

abnormal obstetrics and gynecology, family planning techniques, childbirth education, nutrition both during pregnancy and lactation, breast feeding, neonatology, epidemiology, community care, and medicolegal aspects of midwifery.

(b) Instruction in basic nursing skills and clinical skills, including but not limited to vital signs, perineal prep, enema, catheterization, aseptic techniques, administration of medications both orally and by injection, local infiltration for anesthesia, venipuncture, administration of intravenous fluids, infant and adult resuscitation, and charting.

(c) Clinical practice in midwifery which includes care of women in the prenatal, intrapartum and early postpartum periods, in compliance with RCW 18.50.040.

(3) Provision shall be made for systematic, periodic evaluation of the curriculum.

(4) Any proposed major curriculum revision shall be presented to the secretary at least three months prior to implementation.

(a) The applicant shall submit to the department documentation of attendance at one hundred births of which:

(i) At least thirty births where the applicant was the primary attendant under supervision of a qualified attendant;

(ii) At least twenty births where the applicant directly assisted;

(iii) At least fifty births that the applicant observed in addition to births counted in (d)(i) and (ii) of this subsection; and

(iv) Documentation for (a)(i) through (iii) of this subsection must include at least the date, client identifier, the applicant's role at each birth, and the signature or initials of the qualified attendant at the birth of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant shall submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.

(b) The applicant shall submit to the department documentation of prenatal care examinations of fifty women and early postpartum care examinations of fifty women. The same women need not be seen for both examinations.

(i) No less than fifteen women must be cared for in the prenatal and postpartum periods while enrolled in the school from which the student graduates.

(ii) Documentation must include at least the date, client identifier, and the signature or initials of the qualified attendant at the care examination of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant must submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.

(4) The applicant shall demonstrate competency in the use and administration of legend drugs and devices described in WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professional who, within his or her scope of practice, is qualified in the use and admin-

istration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.

AMENDATORY SECTION (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

WAC 246-834-160 Student midwife permit. (1) A student midwife permit may be issued to any individual who has:

(a) Successfully completed an accredited midwifery program as specified in WAC 246-834-135, or is foreign trained as specified in ((RCW 18.50.040 (2)(a) and (b); and

(b) Undertaken)) WAC 246-834-065(1);

(b) Obtained a minimum period of midwifery training of at least three academic years as required by WAC 246-834-140;

(c) Met the minimum education requirements required in WAC 246-834-140 (2)(a) and (b);

(d) Documentation of undertaking the care of not less than fifty women in each of the prenatal, intrapartum and early postpartum periods as required by RCW 18.50.040 (2)(c) ((and by these rules; and

(e));

(e) Satisfactorily completed the ((licensing)) NARM examination required by ((RCW 18.50.060)) WAC 246-834-050; and

((d)) (f) Filed a completed application for student midwife permit under WAC 246-834-060 and accompanied by a nonrefundable fee as specified in WAC 246-834-990.

(2) The student midwife permit authorizes the individuals to practice and observe ((fifty)) women in the intrapartum period under the supervision of a licensed midwife(~~licensed physicians or CRN~~(~~)~~) under 18.50 RCW, an allopathic physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW or certified nurse midwife(()) under chapter 18.79 RCW.

(3) Once all application requirements including clinical components are completed the applicant may be eligible to sit for the Washington state licensure examination.

NEW SECTION

WAC 246-834-255 Elements of care for the newborn.

The customary scope of care of a newborn up to two weeks of age by a licensed midwife includes, but is not limited to, clinical assessment, treatment, education, support and referral as described in this section. Newborn care shall not go beyond the scope of the midwife's education, training and experience.

(1) Immediate newborn care includes, but is not limited to:

(a) Appearance, pulse, grimace, activity and respiration (APGAR) assessment;

(b) Stabilization and monitoring of the newborn for a minimum of two hours postpartum;

(c) Early initiation and facilitation of breast or bottle feeding;

(d) Complete physical examination;

(e) Education for parents regarding care and monitoring of the normal newborn; and

(f) Physician consultation, referral and/or transfer of care in the event of significant deviations from normal.

(2) Other support may include:

(a) Neonatal resuscitation; and

(b) Legend drugs and devices allowed in RCW 18.50-115 and WAC 246-834-250.

(3) Subsequent care may include, but is not limited to:

(a) Evaluating the newborn for well-being such as jaundice, weight loss, and adequate feeding and elimination patterns;

(b) Newborn metabolic screening per RCW 70.83.020;

(c) Critical congenital heart disease screening per RCW 70.83.090;

(d) Lactation care and services; and

(e) Consultation and/or referral to pediatric care for any significant deviation from normal.

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

WAC 246-834-400 Expired license. (1) If ~~((the))~~ a midwife's license under this chapter has expired for three years or less, to reinstate the license the practitioner ((must)) shall meet the requirements of chapter 246-12 WAC, Part 2.

(2) If ~~((the license has expired for over three years, the practitioner must:~~

~~((a) Demonstrate competence to the standards established by the secretary;))~~ a midwife's license under this chapter has expired and the practitioner has been engaged in the active practice of midwifery, to reinstate the license the practitioner shall:

(a) Submit verification of active practice; and

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(3) If a midwife's license under this chapter has been expired for more than three years but less than five years at time of application, and the practitioner has not been actively engaged in midwifery, the practitioner shall:

(a) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of ten births; and

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(4) If a midwife's license under this chapter has been expired for more than five years at time of application, and the practitioner has not been actively engaged in midwifery, the practitioner shall:

(a) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of fifteen births;

(b) Retake and successfully pass the Washington state licensing examination; and

(c) Meet the requirements of chapter 246-12 WAC, Part 2.

(5) A proposed preceptor shall:

(a) Hold an active license without restriction, current discipline, or conditions as a midwife under chapter 18.50 RCW, a certified nurse midwife under chapter 18.79 RCW, an allopathic physician under chapter 18.71 RCW, or an osteopathic physician under chapter 18.57 RCW;

- (b) Have actively practiced at least three consecutive years or attended at least one hundred fifty births; and
- (c) Have demonstrated ability and skill to provide safe, quality care.

NEW SECTION

WAC 246-834-450 Inactive license. (1) A licensed midwife may obtain an inactive license. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) An inactive license must be renewed every year on the midwife's birthday according to WAC 246-12-100 and by paying the fee required under WAC 246-834-990.

(3) A midwife with an inactive license may return to active status.

(a) A midwife with an inactive license for three years or less who wishes to return to active status must meet the requirements of chapter 246-12 WAC, Part 4.

(b) A midwife with an inactive license for more than three years, who has been in active practice and wishes to return to active status must:

- (i) Submit verification of active practice; and
- (ii) Meet the requirements of chapter 246-12 WAC, Part 4.

(c) A midwife with an inactive license for more than three years but less than five, who has not been in active practice and wishes to return to active status must:

(i) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of ten births; and

(ii) Meet the requirements of chapter 246-12 WAC, Part 4.

(d) A midwife with an inactive license for more than five years who has not been in active practice and wishes to return to active status must:

(i) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of fifteen births;

(ii) Retake and successfully pass the Washington state licensing examination; and

(iii) Meet the requirements of chapter 246-12 WAC, Part 4.

(4) A proposed preceptor shall:

(a) Hold an active license without restriction, current discipline, or conditions as a midwife under chapter 18.50 RCW, a certified nurse midwife under chapter 18.79 RCW, an allopathic physician under chapter 18.71 RCW, or an osteopathic physician under chapter 18.57 RCW;

(b) Have actively practiced at least three consecutive years or attended at least one hundred fifty births; and

(c) Have demonstrated ability and skill to provide safe, quality care.

AMENDATORY SECTION (Amending WSR 12-19-088, filed 9/18/12, effective 11/1/12)

WAC 246-834-990 Midwifery fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$500.00
((National examination administration (initial/retake)	103.00)
State examination (initial/retake)	155.00
Renewal	500.00
Late renewal penalty	250.00
Duplicate license	25.00
Certification of license	25.00
((Application fee—Midwife in-training program	978.75)
Expired license reissuance	300.00
UW online access fee (HEAL-WA)	16.00
<u>Student midwife permit</u>	<u>175.00</u>
<u>Inactive credential</u>	<u>250.00</u>

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-834-070 Release of examination results.
- WAC 246-834-090 Purpose of accreditation of midwifery educational programs.
- WAC 246-834-100 Philosophy, purpose and objectives of an accredited midwifery educational program.
- WAC 246-834-110 Advisory body.
- WAC 246-834-120 Learning sites.
- WAC 246-834-130 Staffing and teacher qualifications.
- WAC 246-834-150 Students.
- WAC 246-834-170 Reports to the department of health by accredited midwifery educational programs.
- WAC 246-834-180 Application for accreditation.
- WAC 246-834-190 School survey visits.
- WAC 246-834-200 Appeal of department of health decisions.
- WAC 246-834-210 Closure of an accredited school of midwifery.
- WAC 246-834-220 Midwife-in-training program, credit toward educational requirements for licensure.
- WAC 246-834-230 Midwife-in-training (MIT) program—Preceptor qualifications.
- WAC 246-834-240 Trainee permit for midwife-in-training program.
- WAC 246-834-260 General provisions.
- WAC 246-834-270 Mandatory reporting.

- WAC 246-834-280 Health care institutions.
- WAC 246-834-290 Midwifery associations or societies.
- WAC 246-834-310 Health care service contractors and disability insurance carriers.
- WAC 246-834-320 Professional liability carriers.
- WAC 246-834-330 Courts.
- WAC 246-834-340 State and federal agencies.

WSR 17-15-054
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket A-170015, General Order R-589—Filed July 13, 2017, 8:56 a.m., effective August 13, 2017]

In the matter of amending and adopting several rules in Title 480 WAC relating to adoption-by-reference date revisions.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 17-07-106 for an expedited rule making, filed with the code reviser on March 21, 2017. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 The commission adopts these rules to incorporate by reference federal rules and national standards pertaining to companies the commission regulates. There are no differences between the text of the proposed rules as published in the register and the text of the rules as adopted. The commission did not receive any comments on the proposed rules.

6 REFERENCE TO AFFECTED RULES: This order amends the following sections of the Washington Administrative Code:

Proposed Rule Changes Adoption by Reference Date Changes and Other Changes Docket A-170015			
Action	WAC No.	Rule Title	Changes
Chapter 480-14 WAC, Motor carriers, excluding household goods carriers and common carrier brokers.			
Amend	480-14-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 Code of Federal Regulations (C.F.R.), amends the effective date of adoption to December 31, 2016, for the following: <ul style="list-style-type: none"> - Part 171 - General Information, Regulations and Definitions. - Part 172 - Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans. - Part 173 - Shippers-General Requirements for Shipments and Packagings.
Chapter 480-15 WAC, Household goods carriers.			
Amend	480-15-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to December 31, 2016, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Drivers of Commercial Vehicles. - Part 393 - Parts and Accessories for Safe Operation. - Part 395 - Hours of Service of Drivers.

Proposed Rule Changes Adoption by Reference Date Changes and Other Changes Docket A-170015			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials. Adoption by reference text changed as follows: <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2016. No significant changes - new edition of previously adopted reference.
Chapter 480-30 WAC, Passenger transportation companies.			
Amend	480-30-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to December 31, 2016, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Driver of Commercial Vehicles. - Part 393 - Parts and Accessories for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials. Adoption by reference text changed as follows: <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2016. No significant changes - new edition of previously adopted reference.
Chapter 480-31 WAC, Private, nonprofit transportation providers.			
Amend	480-31-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to December 31, 2016, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Driver of Commercial Vehicles. - Part 393 - Parts and Accessories for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials. Adoption by reference text changed as follows: <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2016. No significant changes - new edition of previously adopted reference.

Proposed Rule Changes Adoption by Reference Date Changes and Other Changes Docket A-170015			
Action	WAC No.	Rule Title	Changes
Chapter 480-62 WAC, Railroad companies—Operations.			
Amend	480-62-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to December 31, 2016, for the following: <ul style="list-style-type: none"> - Part 171 - General Information, Regulations, and Definitions. - Part 172 - Emergency Response Information, Training Requirements, and Security Plans. - Part 173 - Shippers General Requirements for Shipments and Packages. - Part 174 - Carriage by Rail. - Part 178 - Specifications for Packaging's. - Part 179 - Specifications for Tank Cars. - Part 209 - Railroad Safety Enforcement Procedures. - Part 211 - Rules of Practice - no changes made since last adoption date. - Part 212 - State Safety Participation Regulations - no changes made since last adoption date. - Part 213 - Track Safety Standards. - Part 214 - Railroad Workplace Safety. - Part 217 - Railroad Operating Rules. - Part 218 - Railroad Operating Practices. - Part 219 - Control of Alcohol and Drug Use. - Part 220 - Railroad Communications. - Part 221 - Rear-end Marking Device. - Part 225 - Railroads Accidents/Incidents. - Part 228 - Hours of Service of Railroad Employees. - Part 234 - Grade Crossing Signal System Safety. - Part 239 - Passenger Train Emergency Preparedness. - Part 240 - Qualification and Certification of Locomotive Engineers. - Part 570 - Vehicle In Use Inspection Standards - no changes made since last adoption.
Chapter 480-70 WAC, Solid waste and/or refuse collection companies.			
Amend	480-70-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 40 C.F.R., amends the effective date of adoption to December 31, 2016. • 49 C.F.R., amends the effective date of adoption to December 31, 2016, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 171 - General Information, Regulations and Definitions. - Part 172 - Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans. - Part 173 - Shippers-General Requirements for Shipments and Packagings. - Part 174 - Carriage by Rail. - Part 175 - Carriage by Aircraft. - Part 176 - Carriage by Vessel. - Part 177 - Carriage by Public Highway. - Part 178 - Specifications for Packagings.

Proposed Rule Changes Adoption by Reference Date Changes and Other Changes Docket A-170015			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> - Part 179 - Specifications for Tank Cars. - Part 180 - Continuing Qualification and Maintenance of Packagings. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Driver of Commercial Vehicles. - Part 393 - Parts and Accessories for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials. <p>Adoption by reference text changed as follows:</p> <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria amends the effective date to April 1, 2016. No significant changes - new edition of previously adopted reference.
Chapter 480-75 WAC, Hazardous liquid pipelines—Safety.			
Amend	480-75-999	Adoption by reference	<p>Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • Title 49 C.F.R., the effective date of these amendments is October 1, 2015. Immediate compliance with these amendments is authorized. The incorporation by reference by certain publications listed in the rule is approved by the director of the Federal Register as of March 6, 2015, for the following: <ul style="list-style-type: none"> - Part 195 - Transportation of Hazardous Liquids by Pipeline. - Part 198 - Regulations for Grants to Aid State Pipeline Safety Programs. - Part 199 - Drug and Alcohol Testing - no changes since last edition.
Chapter 480-90 WAC, Gas companies—Operations.			
Amend	480-90-999	Adoption by reference	<p>Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • Title 18 C.F.R., amends the effective date of adoption to December 2, 2016, for 18 C.F.R. Part 260. <p>Adoption by reference text changed as follows:</p> <ul style="list-style-type: none"> • Title 18 C.F.R., amends subsection (1)(d) to rephrase the availability of the resource at Government Publishing Office and include "It is also available for inspection at the commission branch of the state library." • Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities, amends subsection (2)(c) to include the internet address for the National Association of Regulatory Utility Commissioners (NARUC) publications store http://www.naruc.org/Store and add "It is also available for inspection at the commission branch of the state library."
Chapter 480-93 WAC, Gas companies—Safety.			
Amend	480-93-999	Adoption by reference	<p>Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to March 6, 2015, for the following: <ul style="list-style-type: none"> - Part 191 - Report Forms - no change since last edition. - Part 192 - Transportation of Natural and Other Gas by Pipeline. - Part 193 - Liquefied Natural Gas and Facilities - no change since last edition.

Proposed Rule Changes Adoption by Reference Date Changes and Other Changes Docket A-170015			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> - Part 198 - Regulations for Grants to Aid State Pipeline Safety Programs - See Note 3. - Part 199 - Drug and Alcohol Testing - no change since last edition.
Chapter 480-100 WAC, Electric companies.			
Amend	480-100-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 18 C.F.R., amends the effective date of adoption to April 1, 2015, for the entire chapter. • The National Electrical Code (NEC), amends the effective date of adoption to 2017. Adoption by reference text changed as follows: <ul style="list-style-type: none"> • Title 18 C.F.R., amends subsection (1)(d) to rephrase the availability of the resource at Government Publishing Office. • Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities, amends subsection (2)(c) to include the internet address for NARUC publications store http://www.naruc.org/Store and add "It is also available for inspection at the commission branch of the state library." • NEC, amends subsection (3)(a) to include "errata 70-17-1 published September 29, 2016, 70-17-2 published December 16, 2016, and 70-14-3 published January 11, 2017." • The American National Standard for Electric Meters: Code for Electricity Metering, amends subsection (4)(c) to provide the internet addresses to purchase ANSI C12.1: http://webstore.ansi.org/ (PDF) and https://global.ihc.com/ (PDF or print).
Chapter 480-107 WAC, Electric companies—Purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers.			
Amend	480-107-999	Adoption by reference	Adoption by reference text changed as follows. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publication, effective date, reference within this chapter, and availability of the resources are as follows: <ul style="list-style-type: none"> • Public Utilities Regulatory Policies Act of 1978 (PURPA), Title II, Sections 201 and 210, cited as 16 U.S.C. § 796 and 824a-3, including all amendments is published by the United States Government Publishing Office. No changes. (a) The commission adopts the version in effect on August 8, 2005. (b) This publication is reference[d] in WAC 480-107-001 Purpose and scope. (c) Copies of U.S.C. are available from the United States Government Printing Office in Washington, D.C. or online at http://www.gpo.gov/. • Title 18 C.F.R. Part 292, cited as 18 C.F.R. § 292, including all appendices and amendments is published by the United States Government Publishing Office. No changes.
Chapter 480-108 WAC, Electric companies—Interconnection with electric generators.			
Amend	480-108-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • NEC, amends the effective date to 2017. No significant changes - new edition of previously adopted reference. • Underwriters Laboratories (UL) UL Standard 1741, amends the effective date to January 28, 2010. No significant changes - new edition of previously adopted reference. • Occupational Safety and Health Administration Standard at 29 C.F.R. 1910.269, amends the effective date to January 17, 2017. No significant changes - new edition of previously adopted reference.

Proposed Rule Changes Adoption by Reference Date Changes and Other Changes Docket A-170015			
Action	WAC No.	Rule Title	Changes
Chapter 480-109 WAC, Electric companies—Acquisition of minimum quantities of conservation and renewable energy as required by the Energy Independence Act.			
Amend	480-109-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Northwest Power and Conservation Council's Regional Technical Forum, amends the effective date of adoption to 2016 for the seventh version of Northwest Conservation and Electric Power Plan.
Chapter 480-110 WAC, Water companies.			
Amend	480-110-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • The <i>Uniform System of Accounts for Water Utilities</i> is published by NARUC. <ul style="list-style-type: none"> (1) No date change to current rule. • The <i>Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities</i> is published by NARUC. <ul style="list-style-type: none"> (a) No date change to current rule.
Chapter 480-120 WAC, Telephone companies.			
Amend	480-120-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • American National Standards for Telecommunications - "Network Performance Parameters for Dedicated Digital Services - Specifications" - (ANSI 01510) - as of December 29, 1999, and reaffirmed 2013 - The current rule had reflected that this publication had been reaffirmed in 2008, but this has now been updated to show that has also been reaffirmed in 2013. • The Institute of Electrical and Electronic Engineers Standard Telephone Loop Performance Characteristics - as of 2005. No date change to current rule - the note is for clarification only. • National Electrical Safety Code. No date change to current rule. • Title 47 C.F.R., except Sections 64.2003 through 64.2009. Amends the publication date to October 1, 2016. • Title 47 C.F.R., Sections 64.2003 through 64.2009. Amends the publication date to October 1, 2016.
Chapter 480-123 WAC, Universal service.			
Amend	480-123-999	Adoption by reference	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • The Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service. Amends the effective date to January 1, 2017. • Title 47 C.F.R., Part 54, amends the publication date to October 1, 2016.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: A preproposal statement of inquiry is not required under RCW 34.05.353 for an expedited rule making.

8 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-105) on March 21, 2017, at WSR 17-07-106. The notice informed interested persons that the commission was proposing rules under an expedited rule-making process as required by RCW 34.05.353. The commission provided notice of its expedited rule making to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.353, and to all persons affected by the adoption-by-reference rule proposal. The notice provided interested persons the opportunity to submit written comments to the commission no later than June 19, 2017. The commission posted the relevant rule-mak-

ing information on its internet web site at www.utc.wa.gov/170015.

9 COMMENTERS (WRITTEN COMMENTS): The commission did not receive any received [written] comments on the proposed rules.

10 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the CR-105 at WSR 17-07-106.

11 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-14-999, 480-15-999, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-108-999, 480-109-999, 480-110-999, and 480-120-999 should be amended to read as set forth in Appendix A, as the rules of the Washington utili-

ties and transportation commission, to take effect pursuant to RCW 34.05.380(2), on the thirty-first day after filing with the code reviser.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 14, Repealed 0.

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

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

ORDER

12 THE COMMISSION ORDERS:

13 (1) WAC 480-14-999, 480-15-999, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-108-999, 480-109-999, 480-110-999, and 480-120-999 are amended to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

14 (2) This order and the rules set out in Appendix A, after being recorded in the order register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, July 13, 2017.

Washington Utilities and Transportation Commission

David W. Danner, Chairman
Ann E. Rendahl, Commissioner
Jay M. Balasbas, Commissioner

Appendix A

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-14-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publication, effective dates, references within this chapter, and availability of the resource is within Title 49 Code of Federal Regulations (C.F.R.), including all appendices and amendments is published by the United States Government Printing Office.

(1) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016, for 49 C.F.R. Parts 171, 172 and 173.

(2) This publication is referenced in WAC 480-14-250 (Insurance requirements).

(3) Copies of Title 49 C.F.R. are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-15-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2015~~) 2016.

(b) This publication is referenced in WAC 480-15-560 (Equipment safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-15-560 (Equipment safety requirements) and WAC 480-15-570 (Driver safety requirements).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-30-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2015~~) 2016.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements) and WAC 480-30-226 (Intrastate medical waivers).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-31-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **North American Standard Out-of-Service Criteria** (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2015~~) 2016.

(b) This publication is referenced in WAC 480-31-120 (Equipment—Inspection—Ordered for repairs).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-31-100 (Equipment—Safety), WAC 480-31-120 (Equipment—Inspection—Ordered for repairs), and WAC 480-31-130 (Operation of motor vehicles).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-62-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-62-160 (Compliance policy), WAC 480-62-200 (Roadway worker safety and operating rules and statutes), WAC 480-62-205 (Track safety standards), WAC 480-62-210 (Crossing signal circuitry), WAC 480-62-215 (Hazardous materials regula-

tions), WAC 480-62-235 (Flaggers), and WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(2) **Manual on Uniform Traffic Control Devices**, cited as Manual on Uniform Traffic Control Devices, or MUTCD, is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-62-230 (Traffic control devices) and WAC 480-62-235 (Flaggers).

(c) Copies of the MUTCD are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **ANSI Z308.1 - 2015 American National Standard for Minimum Requirements for Workplace First Aid Kits** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of ANSI Z308.1 - 2015 American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies are available from IHS Global Engineering Documents in Englewood, Colorado.

(4) **ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on (~~October 6, 2015~~) December 31, 2016.

(b) This publication is referenced in WAC 480-62-235 (Flaggers).

(c) Copies of ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests are available from IHS Global Engineering Documents in Englewood, Colorado.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-70-999 Adoption by reference. In this chapter, the commission adopts by reference all, or portions of, regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **The North American Standard Out-of-Service Criteria** is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2015~~) 2016.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 40 Code of Federal Regulations**, cited as 40 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((October 6, 2015))~~ December 31, 2016.

(b) This publication is referenced in WAC 480-70-041 (Definitions, general).

(c) Copies of Title 40 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((October 6, 2015))~~ December 31, 2016.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements), WAC 480-70-431 (Biomedical waste, adoption of federal regulations), and WAC 480-70-486 (Hazardous waste, adoption of federal regulations).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-75-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., Parts 195, 198, and 199 including all appendices and amendments except for 49 C.F.R. Sections 195.0 and 195.1, and 49 C.F.R. Sections 199.1 and 199.2, published by the United States Government Printing Office.

(a) The commission adopts the version in effect on March 6, 2015.

(b) This publication is referenced in WAC 480-75-370 (Design factor (*F*) for steel pipe) and WAC 480-75-660 (Procedural manual for operations, maintenance, and emergencies).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>.

(2) **The American Society of Mechanical Engineers** (ASME) B31.4, 2006 edition, October 20, 2006.

(a) This publication is referenced in WAC 480-75-350 (Design specifications for new pipeline projects), WAC 480-75-440 (Pipeline repairs), and WAC 480-75-450 (Construction specifications).

(b) Copies of ASME B31.4 are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The 2007 edition, July 2007, of **Section IX of the ASME Boiler and Pressure Vessel Code**.

(a) This publication is referenced in WAC 480-75-430 (Welding procedures).

(b) Copies of the 2007 edition, of *Section IX of the ASME Boiler and Pressure Vessel Code* are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(4) The commission adopts **American Petroleum Institute (API) standard 1104** (20th edition 2005, including errata/addendum July 2007 and errata 2 (December 2008)).

(a) This publication is referenced in WAC 480-75-430 (Welding procedures) and WAC 480-75-460 (Welding inspection requirements).

(b) Copies of API standard 1104 (20th edition 2005, including errata/addendum July 2007 and errata December 2008) are available from the Office of API Publishing Services, <http://www.api.org/>. It is also available for inspection at the commission.

~~((5) The commission adopts **API RP standard 1117** Third Edition, July 2008, including errata December 2008 and errata 2 (August 2009).~~

~~(a) This publication is referenced in WAC 480-75-500 (Moving and lowering hazardous liquid pipelines).~~

~~(b) Copies of API standard 1117 Third Edition, July 2008, including errata December 2008 and errata 2 August 2009 are available from API, <http://www.api.org/>. It is also available for inspection at the commission.~~

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-90-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 C.F.R., including all appendices and amendments is published by the United States Government ~~((Printing))~~ Publishing Office.

(a) The commission adopts the version in effect on April 1, 2015.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-90-203 (Accounting system requirements), WAC 480-90-244 (Transferring cash or assuming obligation), WAC 480-90-252 (Federal Energy Regulatory Commission (FERC) Form No. 2), and WAC 480-90-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government ~~((Printing))~~ Publishing Office in Washington, D.C., or online at <http://www.gpo.gov/>, and from various third-party vendors. It is also avail-

able for inspection at the commission branch of the state library.

(2) The **Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 2007.

(b) This publication is referenced in WAC 480-90-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC, in Washington, D.C. or at NARUC publications store online: <http://www.naruc.org/store>. It is also available for inspection at the commission branch of the state library.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-93-999 Adoption by reference. In this chapter, the commission adopts by reference each of the regulations and/or standards identified below. Each regulation or standard is listed by publication, publisher, scope of what the commission is adopting, effective date of the regulation or standard, the place within the commission's rules the regulation or standard is referenced, and where to obtain the regulation or standard.

(1) Parts 191, 192, 193, 198, and 199 of Title 49 Code of Federal Regulations, including all appendices and amendments thereto as published by the United States Government Printing Office.

(a) The commission adopts the version of the above regulations that were in effect on March (~~41, 2015~~) 6, 2016, except the following sections are not adopted by reference: 191.1, 192.1(a), 193.2001(a), 199.1. In addition, please note that in WAC 480-93-013, the commission includes "new construction" in the definition of "covered task," as defined in 49 C.F.R. § 192.801 (b)(2).

(b) This publication is referenced in WAC 480-93-005 (Definitions), WAC 480-93-080 (Welder and plastic joiner identification and qualification), WAC 480-93-100 (Valves), WAC 480-93-110 (Corrosion control), WAC 480-93-124 (Pipeline markers), WAC 480-93-170 (Tests and reports for gas pipelines), WAC 480-93-180 (Plans and procedures), and WAC 480-93-18601 (Leak classification and action criteria—Grade—Definition—Priority of leak repair).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>. It is also available for inspection at the commission.

(2) Section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

(a) The commission adopts the 2007 edition, July 1, 2007, of Section IX of the ASME Boiler and Pressure Vessel Code.

(b) This publication is referenced in WAC 480-93-080.

(c) Copies of Section IX of the ASME Boiler and Pressure Vessel Code (2007 edition, including addenda through July 1, 2005) are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The American Petroleum Institute (API) standard 1104 (20th edition October 2005, including errata/addendum July 2007 and errata 2 (2008)).

(a) The commission adopts the 20th edition 2005, including errata/addendum July 2007 and errata 2 (2008) of this standard.

(b) This standard is referenced in WAC 480-93-080.

(c) Copies of API standard 1104 (20th edition 2005, including errata/addendum July 2007 and errata December 2008) are available from the Office of API Publishing Services, <http://www.api.org/>. It is also available for inspection at the commission.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-100-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 C.F.R., including all appendices and amendments is published by the United States Government (~~(Printing)~~) Publishing Office.

(a) The commission adopts the version in effect on April 1, 2015.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-100-203 (Accounting system requirements), WAC 480-100-244 (Transferring cash or assuming obligation), WAC 480-100-252 (Federal Energy Regulatory Commission (FERC) Form No. 1), and WAC 480-100-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government (~~(Printing)~~) Publishing Office in Washington D.C., or online at <http://www.gpo.gov/>, and from various third-party vendors. It is also available for inspection at the commission branch of the state library.

(2) The **Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 2007.

(b) This publication is referenced in WAC 480-100-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC in Washington, D.C. or at NARUC publications store online: <http://www.naruc.org/store>. It is also available for inspection at the commission branch of the state library.

(3) The **National Electrical Code** is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the edition effective (~~September 3, 2014~~) in 2017, including errata (~~(70-14-1) 70-17-1 published September (16, 2013) 29, 2016, errata ((70-14-2) 70-17-2 published December ((3, 2013, 70-14-3) 16, 2016, and 70-17-3 published ((April 21, 2014, and 70-14-4 published July 29, 2014)) January 11, 2017.~~

(b) This publication is referenced in WAC 480-100-163 (Service entrance facilities).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA at 1 Batterymarch Park, Quincy, Massachusetts 02169, or at internet address <http://www.nfpa.org/>.

(4) The **American National Standard for Electric Meters: Code for Electricity Metering**, ANSI C12.1 is published by the American National Standards Institute.

(a) The commission adopts the version published in (~~2008~~) 2016.

(b) This publication is referenced in WAC 480-100-318 (Meter readings, multipliers, and test constants), WAC 480-100-338 (Accuracy requirements for electric meters), and WAC 480-100-343 (Statement of meter test procedures).

(c) The ANSI C12.1 is a copyrighted document. ANSI C12.1 - (~~2008~~) 2016 is available at American National Standards Institute web site <http://webstore.ansi.org/> (PDF) or at IHS Standards Store web site <https://global.ihs.com/> (PDF and print).

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-107-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified in subsections (1) and (2) of this section. The publication, effective date, reference within this chapter, and availability of the resources are as follows:

(1) **Public Utilities Regulatory Policies Act of 1978 (PURPA), Title II, Sections 201 and 210**, cited as 16 U.S.C. Sec. 796 and 824a-3, including all amendments is published by the United States Government (~~(Printing)~~) Publishing Office.

(a) The commission adopts the version in effect on August 8, 2005.

(b) This publication is reference in WAC 480-107-001 (Purpose and scope).

(c) Copies of U.S. Code are available from the U.S. Government (~~(Printing)~~) Publishing Office in Washington, D.C. or online at <http://www.gpo.gov/>.

(2) **Title 18 Code of Federal Regulations Part 292**, cited as 18 C.F.R. Sec. 292, including all appendices and amendments is published by the United States Government (~~(Printing)~~) Publishing Office.

(a) The commission adopts the version in effect on April 1, 2015.

(b) This publication is referenced in WAC 480-107-001 (Purpose and scope).

(c) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government (~~(Printing)~~) Publishing Office in Washington D.C. or online at <http://www.gpo.gov/>

and from various third-party vendors. It is also available for inspection at the commission branch of the state library.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-108-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) The National Electrical Code is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the edition effective (~~(April 7, 2015, including errata 70-14-1 published September 16, 2013, errata 70-14-2 published December 3, 2013, errata 70-14-3 published April 21, 2014, and errata 70-14-4 published July 29, 2014)) 2017, including errata 70-17-1 published September 29, 2016, errata 70-17-2 published December 16, 2016, and 70-17-3 published January 11, 2017.~~

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA at 1 Batterymarch Park, Quincy, Massachusetts, 02169 or at internet address <http://www.nfpa.org/>.

(2) National Electrical Safety Code (NESC).

(a) The commission adopts the (~~2012~~) 2017 edition.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of the National Electrical Safety Code are available from the Institute of Electrical and Electronics Engineers at <http://standards.ieee.org/nesc>.

(3) Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems.

(a) The commission adopts the version published in 2003 and reaffirmed in 2008, including amendment 1547a-2014, published May 21, 2014.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 1547 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(4) American National Standards Institute (ANSI) Standard C37.90, IEEE Standard for Relays and Relay Systems Associated with Electric Power Apparatus.

(a) The commission adopts the version published in 2005 and reaffirmed in 2011.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard C37.90 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(5) Institute of Electrical and Electronics Engineers (IEEE) Standard 519, Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems.

(a) The commission adopts the version published June 11, 2014.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 519 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(6) Institute of Electrical and Electronics Engineers (IEEE) Standard 141, Recommended Practice for Electric Power Distribution for Industrial Plants.

(a) The commission adopts the version published in (~~(1994)~~) 1993 and reaffirmed in 1999.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 141 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(7) Institute of Electrical and Electronics Engineers (IEEE) Standard 142, Recommended Practice for Grounding of Industrial and Commercial Power Systems.

(a) The commission adopts the version published in 2007.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 142 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(8) Underwriters Laboratories (UL), including UL Standard 1741, Inverters, Converters, Controllers and Interconnection Systems Equipment for Use with Distributed Energy Resources.

(a) The commission adopts the version published January (~~(7, 2015)~~) 28, 2010.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) UL Standard 1741 is available from Underwriters Laboratory at <http://www.ul.com>.

(9) Occupational Safety and Health Administration (OSHA) Standard at 29 C.F.R. 1910.269.

(a) The commission adopts the version published on (~~(October 5, 2015)~~) November 18, 2016, effective January 17, 2017.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of Title 29 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 16-05-035, filed 2/9/16, effective 3/11/16)

WAC 480-109-999 Adoption by reference. In this chapter, the commission adopts by reference all, or portions of, the publications identified below. They are available for inspection at the commission branch of the Washington state library. The publications, publication dates, references within this chapter, and availability of the resources are as follows:

(1) *Northwest Conservation and Electric Power Plan* as published by the Northwest Power and Conservation Council.

(a) The commission adopts the (~~(sixth)~~) seventh version published in (~~(2010)~~) 2016.

(b) This publication is referenced in WAC 480-109-100.

(c) Copies of (~~(Sixth)~~) Seventh Northwest Conservation and Electric Power Plan are available from the Northwest Power and Conservation Council at (~~(<http://www.nwccouncil.org/energy/powerplan/6/plan/>)~~) <https://www.nwccouncil.org/energy/powerplan/7/plan/>.

(2) *Weatherization Manual* as published by the Washington state department of commerce.

(a) The commission adopts the version published in (~~(April 2009, and revised July 2014)~~) July 2015 (with 2016 revisions).

(b) This publication is referenced in WAC 480-109-100.

(c) Copies of *Weatherization Manual* are available from the Washington state department of commerce at (~~(<http://www.commerce.wa.gov/Programs/services/weatherization/Pages/WeatherizationTechnicalDocuments.aspx>)~~) <http://www.commerce.wa.gov/wp-content/uploads/2016/07/ws-manual-2016.pdf>.

(3) The unit energy savings values as published by the Northwest Power and Conservation Council's Regional Technical Forum.

(a) The commission adopts the unit energy savings with status of "Active" or "Under Review" on January 10, 2016.

(b) This information is referenced in WAC 480-109-100.

(c) The spreadsheets containing the unit energy savings values are available for download at (~~(<http://rtf.nwccouncil.org/measures/Default.asp>)~~) <https://rtf.nwccouncil.org/measures/Default.asp>.

(4) The standard protocols as published by the Northwest Power and Conservation Council's Regional Technical Forum.

(a) The commission adopts the standard protocols with status of "Active" or "Under Review" on January 10, 2016.

(b) This information is referenced in WAC 480-109-100.

(c) The spreadsheets containing the standard protocols are available for download at (~~(<http://rtf.nwccouncil.org/protocols/Default.asp>)~~) <https://rtf.nwccouncil.org/standard-protocols>.

AMENDATORY SECTION (Amending WSR 15-08-043, filed 3/26/15, effective 4/26/15)

WAC 480-120-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **American National Standards for Telecommunications** - "*Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications*" (ATIS 0100510) is published by the American National Standards Institute (ANSI).

(a) The commission adopts the version in effect on December 29, 1999, and reaffirmed (~~(2008)~~) 2013.

(b) This publication is referenced in WAC 480-120-401 (Network performance standards).

(c) The American National Standards for Telecommunications "Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications" is a copyrighted document. Copies are available from ANSI in Washington, D.C. and from various third-party vendors.

(2) **The Institute of Electrical And Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics** (ANSI/IEEE Std 820-2005) is published by the ANSI and the IEEE.

(a) The commission adopts the version in effect as published in 2005.

(b) This publication is referenced in WAC 480-120-401 (Network performance standards).

(c) *The IEEE Standard Telephone Loop Performance Characteristics* is a copyrighted document. Copies are available from ANSI and IEEE in Washington, D.C. and from various third-party vendors.

(3) **The National Electrical Safety Code** is published by the IEEE.

(a) The commission adopts the 2012 edition.

(b) This publication is referenced in WAC 480-120-402 (Safety).

(c) *The National Electrical Safety Code* is a copyrighted document. Copies are available from IEEE in Washington, D.C. and from various third-party vendors.

(4) **Title 47 Code of Federal Regulations**, cited as 47 C.F.R., is published by the United States Government Printing Office.

(a) For this publication as referenced in WAC 480-120-359 (Accounting requirements for companies not classified as competitive) and WAC 480-120-349 (Retaining and preserving records and reports), the commission adopts the version of the relevant sections in effect on October 1, ~~((2012))~~ 2016.

(b) For this publication as referenced in WAC 480-120-202 (Customer proprietary network information), WAC 480-120-146 (Changing service providers from one local exchange company to another), and any other reference in chapter 480-120 WAC ~~((except for WAC 480-120-359 and 480-120-349))~~, the commission adopts the version of the relevant sections in effect on October 1, ~~((2011))~~ 2016.

(c) The ~~((2011 and 2012))~~ 2016 version(s) of C.F.R. Title 47 ~~((are))~~ is available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 15-08-043, filed 3/26/15, effective 4/26/15)

WAC 480-123-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

~~((2))~~ (a) The commission adopts the version in effect on January 1, ~~((2014))~~ 2017.

~~((3))~~ (b) This publication is referenced in WAC 480-123-030 (contents of petition for eligible telecommunications carriers).

~~((4))~~ (c) Copies of the CTIA Consumer Code for Wireless Service are available at (~~(http://www.ctia.org))~~ <http://www.ctia.org/initiatives/voluntary-guidelines/consumer-code-for-wireless-service>.

(2) Title 47, Code of Federal Regulations, cited as 47 C.F.R., is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October 1, 2016.

(b) This publication is referenced in WAC 480-123-010 (Federal universal service contracts), WAC 480-123-060 (Annual certification of eligible telecommunications carriers), WAC 480-123-070 (Annual certifications and reports), WAC 480-123-100 (Prerequisites for requesting program support), and WAC 480-123-110 (Petitions for eligibility to receive program support).

(c) The 2016 version of C.F.R. Title 47 is available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**WSR 17-15-056
PERMANENT RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed July 13, 2017, 10:26 a.m., effective August 13, 2017]

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

Purpose: Insert in chapters 170-295 and 170-296A WAC references to new chapter 170-300 WAC and make other revisions to align those chapters with new chapter 170-300 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 170-295-0060, 170-295-0150, 170-295-7031, 170-296A-1250, 170-296A-1275, 170-296A-1400, 170-296A-2000, 170-296A-2750, 170-296A-2800 and 170-296A-4000; and amending WAC 170-295-0030, 170-295-0090, 170-295-1010, 170-295-7010, 170-295-7030, 170-295-7080, 170-296A-0010, 170-296A-1100, 170-296A-1375, 170-296A-1430, 170-296A-1475, 170-296A-5775, 170-296A-5825, 170-296A-8000, 170-296A-8010, 170-296A-8025, 170-296A-8050, 170-296A-8060, and 170-296A-8150.

Statutory Authority for Adoption: RCW 43.215.020, 43.215.060, 43.215.070, and 43.215.201.

Adopted under notice filed as WSR 17-11-137 on May 24, 2017.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 19, Repealed 10.

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

Date Adopted: July 12, 2017.

Ross Hunter
Director

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

WAC 170-295-0030 Eligibility to receive state child care subsidies. To be eligible to receive state child care subsidies for children in their care, individuals, entities and agencies must:

- (1) Be licensed or certified;
- (2) Be a seasonal camp that has a contract with DEL and is certified by the American Camping Association;
- (3) Follow billing policies and procedure in *Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*, revised 2012;
- (4) Bill at the individual's, entity's, or agency's customary rate or the state rate, whichever is less; and
- (5) Keep attendance records as described in WAC 170-295-7030 and invoices for state-paid children on-site for at least five years as provided in WAC ((170-295-7031)) 170-300-0465.

AMENDATORY SECTION (Amending WSR 12-09-060, filed 4/17/12, effective 5/18/12)

WAC 170-295-0090 Initial and nonexpiring full licenses—Licensing fees. The department may issue an initial license to centers that have not yet begun providing care, but are accepting applications for potential clients.

(1) The department may issue an initial license when an applicant can show that he or she is following the rules regarding the child's health and safety.

(2) The department may issue an initial license if an applicant has not yet opened for business, and so is not yet able to show that he or she is complying with the rules pertaining to:

- (a) Staff to child interactions;
- (b) Group size and staff to child ratios;
- (c) Behavior management and discipline;
- (d) Activity programs;
- (e) Child records and information; and
- (f) Other rules that require us to observe the facility's ability to comply with rules.

(3) Applicants must provide the department with a plan to comply with the rules listed in subsection (2)(a) through (f) of this section. The department must approve of that plan.

(4) The department may issue an initial license to an applicant for a period not to exceed six months, renewable for a period not to exceed two years.

(5) When a licensee has an initial license the department evaluates the licensee's ability to comply with all rules contained in this chapter and chapter 170-300 WAC prior to issuing a nonexpiring full license under WAC 170-295-0095.

(6) The department may issue a nonexpiring full license to a licensee operating under an initial license who:

(a) Demonstrates full compliance with the health and safety requirements of this chapter and chapter 170-300 WAC at any time during the period of initial licensure;

(b) Demonstrates substantial compliance with the other requirements of this chapter and chapter 170-300 WAC at any time during the period of initial licensure; and

(c) Meets the requirements for a nonexpiring full license as provided in WAC 170-295-0095.

(7) The department must deny a nonexpiring full license to a licensee operating under an initial license who does not demonstrate the ability to comply with all rules contained in this chapter and chapter 170-300 WAC during the period of initial licensure.

(8) Fees are due with applications for initial licenses or continuations of a nonexpiring full license.

(9) The department does not process an application or continuation until the applicant or licensee, as applicable, has paid the required fee.

(10) Applicants or licensees can pay licensing fees for:

- (a) A minimum of one year; or
- (b) Multiple years.

(11) Applicants and licensees pay their fees by mailing a check or money order for the required amount to the department.

(12) If there is a change in a facility that places the facility in a different fee category, the department prorates the additional fee amount over the remainder of the license period.

(13) If an applicant or licensee withdraws an application before the department denies or issues a license, the fee shall not be refunded.

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

WAC 170-295-7010 Information to be kept in the child's individual file. (1) Licensees must keep current organized confidential records and information about each child in care on the premises as provided in WAC ((170-295-7031)) 170-300-0465, and must make sure that each child's record contains, at a minimum:

- (a) Completed enrollment application signed by the parent;
- (b) Name, birth date, dates of enrollment and termination, and other identifying information;
- (c) Name, address, and home and business telephone number of the parent and other person to be contacted in case of an emergency;
- (d) Health history;
- (e) Individual plan of care when needed for chronic health conditions and life threatening medical conditions;
- (f) Written consent from the parent for the licensee to seek and approve medical care in an emergency situation, a court order waiving the right of informed consent, or the par-

ent's alternate plans for emergency medical and surgical care if the parent can not be reached;

(g) Information on how to contact the parents, especially in emergencies;

(h) Instructions from the parent or health care providers related to medications, specific food or feeding requirements, allergies, treatments, and special equipment or health care needs if necessary;

(i) Written records of any illness or injury that occurs during child care hours and the treatment provided; and

(j) Written records of any medications given while the child is at child care.

(2) Licensees must include the following authorizations in each child's record:

(a) Name, address, and telephone number of the person authorized to remove the child from the center;

(b) Written parental consent for transportation to and from school; and

(c) Written parental consent for transportation provided by the center to and from field trips, including field trip location, date of trip, departure and arrival times and any other additional information on which the parent may need to be advised.

(3) Licensees may use any health history form that the licensee chooses as long as it includes:

(a) The date of the child's last physical exam or the date the child was last seen by a health care provider for reasons other than immunizations;

(b) Allergies, expected symptoms, and method of treatment if necessary;

(c) Health and developmental concerns or issues;

(d) Any life threatening medical condition that requires an individual health plan;

(e) A list of current medications used by the child;

(f) Name, address, and phone number of the child's health care provider; and

(g) Name, address, and phone number of the child's dentist, if the child has a dentist.

(4) The individual records, including the certificate of immunization status, must be kept on the premises:

(a) For each child currently in care; and

(b) For five years after the child leaves enrollment in the licensee's care.

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

WAC 170-295-7030 Attendance records. Licensees must keep daily attendance records.

(1) The parent or other person authorized by the parent to take the child to or from the center must:

(a) Sign in the child on arrival and sign out the child at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the licensee under WAC 170-295-7032;

(2) When the child leaves the center to attend school or participate in ~~((off-site))~~ **off-site** activities as authorized by the parent, the licensee or staff must sign out the child, and sign in the child on return to the center; and

(3) Paper and electronic attendance records and invoices for state subsidized children must be kept on the premises for at least five years after the child leaves the licensee's care as provided in WAC ~~((170-295-7031))~~ **170-300-0465**.

AMENDATORY SECTION (Amending WSR 12-09-060, filed 4/17/12, effective 5/18/12)

WAC 170-295-7080 Materials that must be posted.

Licensees must post the following items so that they are clearly visible to the parent and staff:

(1) The center's child care license issued under this chapter **and chapter 170-300 WAC**;

(2) A schedule of regular duty hours with the names of staff;

(3) A typical activity schedule, including operating hours and scheduled mealtimes;

(4) Meal and snack menus for the month;

(5) Fire safety record and evacuation plans and procedures, including a diagram of exiting routes;

(6) Emergency telephone numbers near the telephone;

(7) Nondiscrimination poster;

(8) For the staff, the licensee must post:

(a) Dietary restrictions and nutrition requirements for particular children;

(b) Handwashing practices;

(c) Diaper changing procedures, if applicable;

(d) Disaster preparedness plan; and

(e) Center policies and procedures.

(9) The licensee must post a notification advising parents that the licensee is required to keep a file on-site for their review containing copies of the most recent child care center monitoring checklist and facility licensing compliance agreement for any deficiencies noted.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 170-295-0060 What are the requirements for applying for a license to operate a child care center?

WAC 170-295-0150 Where can I locate my child care center or facility?

WAC 170-295-7031 Recordkeeping—Records available to the department.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-1010 Who can be the director of a child care center? If you apply for a license to operate a child care center, you may be the director yourself, or you can hire a director. The director is responsible for the overall management of the center's facility and operation and ensures that the center follows the minimum licensing requirements. The director must:

(1) Be at least ~~((twenty-one))~~ **eighteen** years of age or older;

(2) Have knowledge of child development as evidenced by professional reference, education, experience, and on-the-job performance;

(3) Have written proof of education including:

(a) A current child development associate certificate (CDA); or

(b) The following minimum number of college quarter* credits or combination of college quarter credits and department-approved clock hours (ten clock hours equals one college credit) in early childhood education or child development:

If your center is licensed for this number of children:	Then the director must have completed at least this number of college quarter credits in early childhood education:	Of the total credits required, the minimum number that must be college quarter credits is:	And of the total credits required, the maximum number that can be department-approved clock hours is:
(i) Twelve or less	10	7	30 (replacing 3 college quarter hours)
(ii) Thirteen through 24	25	17	80 (replacing 8 college quarter hours)
(iii) Twenty-five or more	45	30	150 (replacing 15 college quarter hours)

*Note: One college semester credit equals one and one half (1.5) college quarter hours.

(4) Have at least two years experience working with children the same age level as the center serves;

(5) Not let the provision of child care interfere with management or supervisory responsibilities;

(6) Be on the premises for the majority of the hours that care is provided and designate a person to be in charge that meets the qualifications of a lead teacher when not present; and

(7) Meet the STARS requirement and be listed in the state training and registry system (STARS).

AMENDATORY SECTION (Amending WSR 14-13-056, filed 6/12/14, effective 7/13/14)

WAC 170-296A-0010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise. Certain definitions appear in the section the term is used if the definition applies only to a specific section or sections:

"Accessible to children" means areas of the facility and materials that the children can easily get to on their own.

"Agency" as used in this chapter, has the same meaning as in RCW 43.215.010 (1)(c).

"Available" means accessible and ready for use or service.

"Bathroom" means any room containing a built-in flush-type toilet.

"Capacity" means the maximum number of children the licensee is authorized by the department to have in care at any given time.

"Child" means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

"Child abuse or neglect" has the same meaning as "abuse or neglect" under RCW 26.44.020 and chapter 388-15 WAC.

"Child care" means the developmentally appropriate care, protection, and supervision of children that is designed to promote positive growth and educational experiences for children outside the child's home for periods of less than twenty-four hours a day.

"Clean" or **"cleaning"** means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. Cleaning is the first step in the process of sanitizing or disinfecting a surface or item.

"Confidential" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

"Denial of a license" means an action by the department to not issue a child care license to an applicant for an initial license, or to a licensee operating under an initial license seeking a nonexpiring full license, based on the applicant's or initial licensee's inability or failure to meet the requirements of chapter 43.215 RCW or requirements adopted by the department pursuant to chapter 43.215 RCW.

"Department" or **"DEL"** means the Washington state department of early learning.

"Developmentally appropriate" means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" or **"disinfecting"** means to eliminate virtually all germs on a surface by the process of cleaning and rinsing, followed by:

(a) A chlorine bleach and water solution of one tablespoon of chlorine bleach to one quart of cool water, allowed to stand wet for at least two minutes; or

(b) Other disinfectant product if used strictly according to the manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled safe for food contact surfaces.

"DOH" means the Washington state department of health.

"DSHS" means the Washington state department of social and health services.

"Enforcement action" means a department issued:

(a) Denial, suspension, revocation or modification of a license;

(b) Probationary license;

(c) Civil monetary penalty (fine); or

(d) Disqualification from having unsupervised access to children in care.

"Family home child care" means a facility licensed by the department where child care is provided for twelve or

fewer children in the family living quarters where the licensee resides as provided in RCW 43.215.010 (1)(c).

"Family living quarters" means a licensee's or license applicant's residence and other spaces or buildings on the premises that meet the facility requirements of this chapter and are approved by the department for child care.

"Fine" has the same meaning as "civil monetary penalty," "civil fines," or "monetary penalty" under chapter 43.215 RCW.

"Inaccessible to children" means an effective method or barrier that reasonably prevents a child's ability to reach, enter, or use items or areas.

"Infant" means a child age birth through eleven months of age.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Licensee" for the purposes of this chapter, means the individual listed on a family home child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapters 170-300 WAC and ((chapter)) 43.215 RCW.

"Licensor" means an individual employed by the department and designated by the director to inspect and monitor an agency or other child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW.

"MERIT" means the managed education registry information tool used to track professional development for early learning professionals. See also "STARS."

"Modification of a license" means department action to change the conditions identified on a current license.

"Nonexpiring full license" or **"nonexpiring license"** means a full license that is issued to a licensee following the initial licensing period as provided in WAC 170-296A-1450.

"Nonprescription medication" means any of the following:

- (a) Nonaspirin fever reducers or pain relievers;
- (b) Nonnarcotic cough suppressants;
- (c) Cold or flu medications;
- (d) Antihistamines or decongestants;
- (e) Vitamins;
- (f) Ointments or lotions specially intended to relieve itching;
- (g) Diaper ointments and talc free powders specially used in the diaper area of children;
- (h) Sun screen;
- (i) Hand sanitizer gels; or
- (j) Hand wipes with alcohol.

"One year of experience" means at least twelve months of early learning experience as demonstrated by a resume and references:

- (a) In a supervisory role in a child care setting where the individual was responsible for supervising staff and complying with licensing standards; or
- (b) As a Washington state:
 - (i) Child care center or school age center director, program supervisor, or lead teacher as defined in chapters 170-151 and 170-295 WAC; or

(ii) Family home child care licensee or qualified primary staff person.

"Overnight care" means child care provided for a child anytime between the hours of eight o'clock at night and six o'clock in the morning that includes a sleep period for the child.

"Personal needs" means an individual's hygiene, toileting, medication, cleansing, eating or clothing needs. "Personal needs" does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

"Physical restraint" means the practice of rendering a child helpless or keeping a child in captivity.

"Poison" for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed or unlicensed space at the licensed address including, but not limited to, buildings, land and residences.

"Preschool age child" means a child age thirty months through six years of age who is not attending kindergarten or elementary school.

"Primary staff person" means a staff person other than the licensee who has been authorized by the department to care for and have unsupervised access to children in care.

"RCW" means Revised Code of Washington.

"Revocation" or **"revoke"** means the formal action by the department to close a child care business and take the license due to the licensee's failure to comply with chapter 43.215 RCW or requirements adopted pursuant to chapter 43.215 RCW.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

- (a) Cleaning and rinsing, followed by using:
 - (i) A chlorine bleach and water solution of three-quarters teaspoon of chlorine bleach to one quart of cool water, allowed to stand wet for at least two minutes; or
 - (ii) Another sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as safe for food contact surfaces; or
- (b) For laundry and dishwasher use only, "sanitize" means use of a bleach and water solution or temperature control.

"School age child" means a child not less than five years of age through twelve years of age who is attending kindergarten or school.

"Screen time" means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices.

"Sleeping equipment" includes a bed, cot, mattress, mat, crib, bassinet, play yard or "pack and play." "Sleeping equipment" does not include any car seat or infant swing.

"**Staff**" unless referring specifically to a "primary staff person," means any primary staff person, assistant, or volunteer helping to provide child care, or a household member acting in the capacity of a primary staff person, assistant or volunteer, whether compensated or not compensated.

"**STARS**" means the state training and registry system.

"**Suspension of a license**" means a formal department action to stop a license pending a department decision regarding further enforcement action.

"**Toddler**" means a child age twelve months through twenty-nine months of age.

"**Unlicensed space**" means the indoor and outdoor areas of the premises, not approved as licensed space by DEL, that the licensee must make inaccessible to the children during child care hours.

"**Unsupervised access**" has the same meaning as "unsupervised access" in WAC 170-06-0020.

"**WAC**" means the Washington Administrative Code.

"**Weapons**" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1100 Tribal or military regulated or operated child care—Certification for payment. (1) A family home child care that is regulated by an Indian tribe or the federal Department of Defense is exempt from licensing.

(2) A tribe or a child care regulated by the federal Department of Defense may request certification:

(a) For subsidy payment only; or

(b) As meeting licensing standards of this chapter and chapter 170-300 WAC.

(3) A child care seeking certification under this section must be located on the premises over which the tribe or federal Department of Defense has jurisdiction.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1375 Private septic system—Inspection and maintenance. (1) If the licensed premises is served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local health jurisdiction.

(2) The licensee must follow the local health jurisdiction's requirements for periodic septic system inspection and maintenance.

(3) If there are no local health jurisdiction's requirements for periodic septic system inspections the licensee must:

(a) Have the system inspected by a septic system inspector certified by the local health jurisdiction:

(i) Within six months prior to submitting a license application under WAC 170-296A-1250; and

(ii) Every three years after an initial license is issued to the license applicant under this chapter and chapter 170-300 WAC.

(b) Maintain the septic system as required by the inspection report.

(4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1430 Initial license. An applicant who demonstrates compliance with health and safety requirements of this chapter and chapter 170-300 WAC, but may not be in full compliance with all requirements, may be issued an initial license.

(1) An initial license is valid for six months from the date issued.

(2) At the department's discretion, an initial license may be extended for up to three additional six-month periods not to exceed a total of two years.

(3) The department may limit the number of children or ages of children that the licensee may care for (capacity) under an initial license based on the licensee's child care experience.

(4) The department must evaluate the licensee's ability to follow all of the rules contained in this chapter and chapter 170-300 WAC during the initial license period.

(5) The department may issue a nonexpiring full license to a licensee operating under an initial license who:

(a) Demonstrates full compliance with the health and safety requirements of this chapter and chapter 170-300 WAC at any time during the period of initial licensure;

(b) Demonstrates substantial compliance with other requirements of this chapter and chapter 170-300 WAC at any time; and

(c) Meets the requirements for a nonexpiring full license as provided in WAC 170-296A-1450(1).

(6) The department must deny a nonexpiring full license to a licensee operating under an initial license who does not demonstrate the ability to comply with all the rules contained in this chapter and chapter 170-300 WAC during the period of initial licensure.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1475 Moves. If the licensee moves the child care to a different residence than currently licensed, even if located on the same premises, the department must inspect the new location and must approve that it meets the requirements of this chapter and chapter 170-300 WAC.

(1) The licensee must:

(a) Notify the department of a proposed move and the date the licensee plans to move;

(b) Submit an application before the move, as soon as the licensee plans to move and has an identified address, but not more than ninety days before moving; and

(c) Not operate more than two weeks following the move as provided by statute without a department inspection of the new location.

(2) If the licensee moves and does not notify the department, or submits an application after a move, the license

becomes invalid and is closed by the department effective on the date of the move. If the license is closed, the licensee must submit a new application for licensure under WAC ((~~470-296A-1250~~) 170-300-0400) to reinstate the license.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-5775 Licensee absence. (1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to:

- (a) A staffing plan to include:
 - (i) That a qualified primary staff person will be present and in charge at all times during the licensee's absence;
 - (ii) Staff roles and responsibilities;
 - (iii) How staff-to-child ratios will be met; and
 - (iv) How staff will meet the individual needs of children in care;
 - (b) How parents will be notified in writing of the licensee's absence described in WAC 170-296A-5810(1), closures, or staffing changes;
 - (c) Responsibility for meeting the requirements of this chapter and chapters 170-300 WAC and ((~~chapter~~) 43.215 RCW);
 - (d) Emergency contact information for the licensee; and
 - (e) Licensee's expected outside work schedule if applicable.
- (2) Prior to engaging in outside employment or ongoing activities outside the child care during operating hours, the licensee must inform the department in writing.
- (3) The department must approve the licensee's policy and procedure for licensee absence. The department may require modifications to the proposed policy and procedure if it does not meet licensing requirements.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-5825 Licensee absence—Retraining for staff if standards are violated. (1) The licensee must provide an orientation to all staff on licensing standards in this chapter and chapter 170-300 WAC, including the licensee's policies and procedures, and document when the training occurred and identify staff that received the training.

(2) If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee's absence, the licensee must:

- (a) Retrain the staff on the licensing standards in this chapter and chapter 170-300 WAC; and
- (b) Document that the retraining occurred.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-8000 Facility licensing compliance agreements. At the department's discretion, when a licensee is in violation of this chapter, chapter 170-300 WAC, or ((~~chapter~~) 43.215 RCW), a facility licensing compliance

agreement may be issued in lieu of the department taking enforcement action.

(1) The facility licensing compliance agreement contains:

- (a) A description of the violation and the rule or law that was violated;
- (b) A statement from the licensee regarding the proposed plan to comply with the rule or law;
- (c) The date the violation must be corrected;
- (d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date; and
- (e) Signature of the licensor and licensee.

(2) The licensee must return a copy of the completed facility license compliance agreement to the department by the date indicated when corrective action has been completed.

(3) The licensee may request a supervisory review regarding the violation of rules or laws identified on the facility license compliance agreement.

(4) A facility license compliance agreement is not subject to appeal under chapter 170-03 WAC.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-8010 Nonreferral status. In addition to or in lieu of an enforcement action under this chapter and chapter 170-300 WAC, the department may place a family home child care on nonreferral status as provided in RCW 43.215.300(4).

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-8025 Time period for correcting a violation. The length of time the licensee has to make the corrections depends on:

- (1) The seriousness of the violation;
- (2) The potential threat to the health, safety and well-being of the children in care; and
- (3) The number of times the licensee has violated rules in this chapter, chapter 170-300 WAC, or requirements under chapter 43.215 RCW.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-8050 Civil monetary penalties (fines). A civil monetary penalty (fine) may be imposed when the licensee violates a rule in this chapter, chapter 170-300 WAC, or a requirement in chapter 43.215 RCW.

- (1) A fine of one hundred fifty dollars per day may be imposed for each violation.
- (2) The fine may be assessed and collected with interest for each day a violation occurs.
- (3) A fine may be imposed in addition to other action taken against the license including probation, suspension, revocation or denial of a license renewal.

(4) At the department's discretion, a fine may be withdrawn or reduced if the licensee comes into compliance during the notification period in WAC 170-296A-8075.

(5) When a fine is assessed the licensee has the right to a hearing under chapter 170-03 WAC. The fine notice will include information about the licensee's hearing rights and how to request a hearing.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-8060 When fines are levied. The department may base a fine for violation of a rule under this chapter, chapter 170-300 WAC, or a requirement in chapter 43.215 RCW, according to whether the licensee:

- (1) Has allowed the existence of any condition that creates a serious safety and health risk;
- (2) Or any staff person or household member uses corporal punishment or humiliating methods of control or discipline;
- (3) Or any staff person fails to provide the required supervision;
- (4) Fails to provide required light, ventilation, sanitation, food, water, or heating;
- (5) Provides care for more than the highest number of children permitted by the license; or
- (6) Repeatedly fails to follow the rules in this chapter, chapter 170-300 WAC, or the requirements in chapter 43.215 RCW. As used in this section, "repeatedly" means a violation that has been the subject of a facility license compliance agreement that occurs more than once in a twelve-month time period.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-8150 Denial, suspension, revocation, modification, or noncontinuation of a license. A license may be denied, suspended, modified, revoked, or not continued when the licensee fails to comply with the requirements in this chapter, chapter 170-300 WAC, or any provisions of chapter 43.215 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-------------------|--|
| WAC 170-296A-1250 | Initial license application packet—Contents. |
| WAC 170-296A-1275 | Initial license application processing. |
| WAC 170-296A-1400 | Private well and water system. |
| WAC 170-296A-2000 | Recordkeeping—Records available to the department. |
| WAC 170-296A-2750 | House numbers. |
| WAC 170-296A-2800 | Access for emergency vehicles. |

WAC 170-296A-4000 Lead, asbestos, arsenic and other hazards.

WSR 17-15-061 PERMANENT RULES HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed July 13, 2017, 2:53 p.m., effective August 13, 2017]

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

Purpose: The agency is amending this rule to make it consistent with the current medicaid application process and to align with Washington Healthplanfinder web site changes.

Citation of Existing Rules Affected by this Order: Amending WAC 182-503-0005.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 17-09-058 on April 18, 2017.

Changes Other than Editing from Proposed to Adopted Version:

Revised WAC 182-503-0005(2) as follows to clarify MAGI and specify the application form referenced in the rule:

(2) For apple health ~~based on modified adjusted gross income (MAGI), which includes coverage~~ for children, pregnant people, adults age sixty-four and under without medicare, parents and caretaker relatives (modified adjusted gross income (MAGI)) ~~adults, pregnant women, or kids without premiums:~~

(2)(b)(i) Contact the Washington Healthplanfinder customer support center number listed on the application for health care coverage form (HCA 18-001P); or ...

Revised WAC 182-503-0005(3) as follows:

(3) If you seek ~~For~~ apple health and have a disability or are blind, age sixty-five or older, eligible for medicare, or need long-term services and supports (non-MAGI), you ~~that is not based on MAGI~~, may apply: ...

Revised WAC 182-503-0005 (3)(b) to clarify that the application form is not just for long-term care and (3)(c) to reference CSO and HCS offices, as follows:

(b) By completing the application for ~~long-term care~~ aged, blind, disabled/long-term care coverage ...

(c) In person at a local DSHS CSO or home and community services (HCS) office.

Revised WAC 182-503-0005(4) as to clarify who may apply and (4)(d) to include the correct term for long-term services and supports, as follows:

(4) For apple health that is not based on MAGI, you may apply if you are ~~Nonmodified adjusted gross income (MAGI) based populations include people:~~ ...

(d) Applying for long-term ~~care~~ services and supports: or ...

Revised WAC 182-503-0005 (5)(a) to reference CSO and HCS offices:

(a) Visiting a local DSHS CSO or HCS office; or ...

Revised WAC 182-503-0005(7) to add in the following reference:

(7) For the confidential pregnant minor program under WAC 182-505-0117 and for minors living independently, you must complete a separate application directly with us (the medicaid agency). More information on how to give us an application may be found at the agency's web site: <http://www.hca.wa.gov>.

Revised WAC 182-503-0005 (10)(a) as follows:

(10) We help you with your application or renewal in a manner that is accessible to you if you:

(a) Are a person with disabilities, impairments, or other limitations and may need equal access services described in WAC 182-503-0110.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 13, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-503-0005 Washington apple health—How to apply. (1) You may apply for Washington apple health ~~((WAH) by giving us (the medicaid agency or its designee) an application as follows:~~

~~(a) For WAH for)) at any time.~~

(2) For apple health for children, pregnant people, adults age sixty-four and under without medicare, parents and caretaker relatives ~~((, adults, pregnant women, or kids (with or without premiums)))~~ (modified adjusted gross income (MAGI)):

(a) You may apply:

(i) Online via the Washington Healthplanfinder at <http://www.wahealthplanfinder.org>;

(ii) By calling the Washington Healthplanfinder customer support center number and completing an application by telephone;

(iii) By ~~((mail to Washington Healthplanfinder, the agency or its designee))~~ completing the application for health care coverage (HCA 18-001P) and mailing or faxing to Washington Healthplanfinder; or

(iv) ~~((By fax to Washington Healthplanfinder))~~ Through a department of social and health services (DSHS) community services office (CSO).

~~(b) ((For WAH medical programs for persons age)) If you need help filing a MAGI-based apple health application, you may:~~

~~(i) Contact the Washington Healthplanfinder customer support center number listed on the application for health care coverage form (HCA 18-001P); or~~

~~(ii) Contact a navigator, health care authority community assistor, or broker.~~

~~(3) If you seek apple health and have a disability or are blind, age sixty-five or older, eligible for medicare, or need long-term services and supports (non-MAGI), you may apply:~~

~~(a) Online via Washington Connection at <http://www.WashingtonConnection.org>;~~

~~(b) By completing the application for aged, blind, disabled/long-term care coverage (HCA 18-005) and mailing or faxing to DSHS; or~~

~~(c) In person at a local DSHS CSO or home and community services (HCS) office.~~

~~(4) For apple health that is not based on MAGI, you may apply if you are:~~

~~(a) Age sixty-five or older((, persons on));~~

~~(b) Eligible for medicare((, persons));~~

~~(c) Applying for health care based on blindness or disability((, or persons));~~

~~(d) Applying for long-term ((care)) services((;~~

~~(i) Online via Washington Connection at <http://www.waconnection.org>;~~

~~(ii) By mail to community services division of the department of social and health services (DSHS); or~~

~~(iii) At a local DSHS office.~~

~~(e) For)) and supports; or~~

~~(e) Applying for assistance with medicare premiums.~~

~~(5) You may receive help filing an application by:~~

~~(a) Visiting a local DSHS CSO or HCS office; or~~

~~(b) Calling the DSHS community services customer service contact center.~~

~~(6) You must apply directly with the service provider for the following programs:~~

~~(a) The breast and cervical cancer treatment program ((see)) WAC 182-505-0120((;));~~

~~(b) The TAKE CHARGE program ((see)) under chapter 182-532 WAC((;)); and~~

~~(c) The kidney disease program ((e)) under chapter 182-540 WAC((, complete a separate application directly with a program provider)).~~

~~((d)) (7) For the confidential pregnant minor program ((see)) under WAC 182-505-0117((;)) and for minors living independently, you must complete a separate application directly with ((the agency)) us (the medicaid agency).~~

More information on how to give us an application may be found at the agency's web site: <http://www.hca.wa.gov>.

~~((2)) (8) As the primary applicant or head of household, you may start an application for ((WAH)) apple health by:~~

~~(a) Providing ((the)) your:~~

~~(i) Full name ((of the primary applicant or head of household));~~

~~((b) Providing birth dates;~~

~~(e) Providing your address and/or telephone number; and~~

~~(d)) (ii) Date of birth; and~~

(iii) Physical and mailing addresses (if different).

(b) Signing the application.

~~((3))~~ (9) To complete an application for ((WAH)) apple health, you must also give us all of the other information requested on the application ((form-

~~(4) If you need help filing an application, you can:~~

~~(a) For WAH for parents and caretaker relatives, adults, pregnant women, or kids (with or without premiums):~~

~~(i) Contact the Washington Healthplanfinder customer support center number listed on the application form or medical eligibility determination services at the number provided on the agency's web site, <http://www.hca.wa.gov>; or~~

~~(ii) Contact an application assister, certified application counselor or navigator.~~

~~(b) For WAH medical programs for persons age sixty-five or older, persons on medicare, persons applying for health care based on blindness or disability, or persons applying for long-term care services:~~

~~(i) Visit a local DSHS office; or~~

~~(ii) Call the DSHS community services division customer service contact center.~~

~~(c) Have an authorized representative apply on your behalf as described in WAC 182-500-0010.~~

~~(5) We will help you with the application or renewal process in a manner that is accessible to persons with disabilities as described in WAC 182-503-0120 and in a manner that is accessible to those who are limited-English proficient as described in WAC 182-503-0110).~~

(10) We help you with your application or renewal in a manner that is accessible to you if you:

(a) Are a person with disabilities, impairments, or other limitations and may need equal access services as described in WAC 182-503-0120; or

(b) Have limited-English proficiency as described in WAC 182-503-0110.

WSR 17-15-068

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed July 14, 2017, 9:51 a.m., effective August 18, 2017]

Effective Date of Rule: August 18, 2017.

Purpose: The University of Washington's student conduct code contains amendments concerning disciplinary proceedings based on changes to federal laws and guidance and interpretation of state law. Major changes to the chapter include the following:

- Revised the appeal and administrative review processes and related roles.
- Created a new chapter, which allowed for reformatting the rules into identified "parts" to better clarify both the brief and full adjudicative proceedings.

Citation of Existing Rules Affected by this Order: Repealing WAC 478-120-010, 478-120-012, 478-120-014, 478-120-016, 478-120-020, 478-120-024, 478-120-026, 478-120-030, 478-120-032, 478-120-034, 478-120-036, 478-120-038, 478-120-040, 478-120-065, 478-120-075, 478-120-085,

478-120-095, 478-120-100, 478-120-105, 478-120-115, 478-120-125, 478-120-135, 478-120-137, 478-120-140 and 478-120-145; and amending WAC 478-108-010, 478-108-060, 478-116-335, 478-124-030, and 478-140-024.

Statutory Authority for Adoption: RCW 28B.20.130.

Adopted under notice filed as WSR 17-09-073 on April 18, 2017.

Changes other than editing from proposed to adopted version: No substantive changes; three sections received minor editing changes.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 97, Amended 5, Repealed 25.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 97, Amended 5, Repealed 25.

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

Date Adopted: July 13, 2017.

Barbara Lechtanski
Director of
Rules Coordination

AMENDATORY SECTION (Amending WSR 16-05-097, filed 2/17/16, effective 3/28/16)

WAC 478-108-010 Matters subject to brief adjudication. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Appeals from residency classifications under RCW 28B.15.013 as established in chapter 478-160 WAC;
- (2) Appeals from traffic and parking violations, and skateboard impoundment, as provided for in chapters 478-116, 478-117 and 478-118 WAC;
- (3) Challenges to contents of educational records as provided for in chapter 478-140 WAC;
- (4) Proceedings under the animal control policy as detailed in chapter 478-128 WAC;
- (5) Requests for reconsideration of admission decisions as provided for in WAC 478-160-060;
- (6) Appeals of library charges as provided in chapter 478-168 WAC;
- (7) Reviews of denials of public records requests as provided in chapter 478-276 WAC;
- (8) Federal financial aid appeals as provided for by federal law;
- (9) Collection of outstanding debts owed by students or employees; and

(10) (~~(Disciplinary)~~) Student conduct proceedings (~~(before a university disciplinary committee as provided in)~~) when designated as a brief adjudicative proceeding under chapter (~~(478-120)~~) 478-121 WAC.

AMENDATORY SECTION (Amending WSR 90-15-005, filed 7/6/90, effective 8/6/90)

WAC 478-108-060 Student conduct code. All adjudicative proceedings applicable to student conduct at the University of Washington shall be governed exclusively by the provisions of the student conduct code (chapter (~~(478-120)~~) 478-121 WAC), as they may be amended from time to time, except that any additional procedural protections for adjudicative proceedings in applicable sections of the Washington Administrative Procedure Act shall be available to students through the university processes.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-335 Payment of citation fines. (1) All fines must be paid as designated on the citation within twenty calendar days from the date of the citation. If a parking citation is paid within twenty calendar days, the citation fine shall be discounted according to the amounts listed in WAC 478-116-325.

(2) Fines for parking citations must be delivered in person to the transportation services' office, paid online, or mailed and postmarked on or before the due date specified in these rules to avoid additional penalties.

(3) Fines for traffic citations associated with violations of this chapter must be delivered in person to the UWPD office, or mailed and postmarked on or before the due date specified in these rules to avoid additional penalties.

(4) If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the university shall impose an additional fine as specified in WAC 478-116-325 or 478-116-331 and may:

(a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid;

(b) Delay registration for the following quarter;

(c) Impound or immobilize the violator's vehicle after providing notice of nonpayment to the permit holder and/or registered owner;

(d) Deny future parking privileges to the violator; or

(e) Refer outstanding balances associated with unpaid fines for collection in accordance with applicable statutes and university procedure.

(5) An accumulation of traffic and parking violations by a student may be cause for discipline under the student conduct code of the university (see chapter (~~(478-120)~~) 478-121 WAC).

(6) In addition to any other penalty which may be imposed as a result of actions described in this chapter, campus parking privileges shall be suspended until all such debts are paid.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 478-120-010 Student conduct code—Authority.

WAC 478-120-012 Preamble.

WAC 478-120-014 Definitions.

WAC 478-120-016 Statement of jurisdiction.

WAC 478-120-020 Standards of conduct.

WAC 478-120-024 Prohibited conduct.

WAC 478-120-026 Reporting violations of the student conduct code and initiating conduct proceedings.

WAC 478-120-030 General procedures for disciplinary sanctions.

WAC 478-120-032 Participation of advisors and attorneys.

WAC 478-120-034 Service of notices and orders and time limits.

WAC 478-120-036 Standard and burden of proof.

WAC 478-120-038 Interim measures.

WAC 478-120-040 Disciplinary sanctions.

WAC 478-120-065 Informal disciplinary hearings.

WAC 478-120-075 Appeals.

WAC 478-120-085 The university disciplinary committees.

WAC 478-120-095 Hearings before the university disciplinary committees.

WAC 478-120-100 Faculty appeal board.

WAC 478-120-105 Administrative review by the faculty appeal board.

WAC 478-120-115 Formal hearings before the faculty appeal board.

WAC 478-120-125 Review by the president of the university.

WAC 478-120-135 Reconsideration of final orders.

WAC 478-120-137 Supplementary provisions regarding sexual misconduct.

WAC 478-120-140 Emergency authority of the president and chancellors of the university.

WAC 478-120-145 Recording and maintenance of records.

Chapter 478-121 WAC

STUDENT CONDUCT CODE FOR THE UNIVERSITY
OF WASHINGTON

PART I

AUTHORITY, APPLICATION, AND DEFINITIONS

NEW SECTION

WAC 478-121-010 Statement of authority. Pursuant to chapter 34.05 RCW and the authority granted by RCW 28B.20.130, the board of regents of the University of Washington has established rules regarding student conduct and student discipline (code) that are set forth in chapter 478-121 WAC. The university has also developed agency-level policies and procedures regarding the code pursuant to chapter 34.05 RCW. See *Student Governance and Policies*, chapters 209 and 210.

NEW SECTION

WAC 478-121-020 General application of the student conduct code. This conduct code applies to all students from the time of admission through the actual conferral of a degree, including any period between terms of enrollment.

The disciplinary sanctions specified in WAC 478-121-210, up to and including suspension or dismissal, may be imposed on any student or student organization found responsible for prohibited conduct set forth in WAC 478-121-100 through 478-121-173 and as described in relevant university policies.

NEW SECTION

WAC 478-121-030 Application of student conduct code to research misconduct. Research misconduct, as defined in WAC 478-121-145, is a form of prohibited conduct under this code. Federal rules and policies, however, regulate the handling of research misconduct matters when university research is supported by federal funding. These federal requirements are incorporated into the university's Executive Order No. 61, Research Misconduct Policy, which governs the handling of research misconduct allegations against students participating in research on behalf of the university, as is further explained in that executive order. The disciplinary sanction provisions of this code, WAC 478-121-210 through 478-121-213, apply if there has been a finding of research misconduct against a student under Executive Order No. 61. The administrative review provisions of this code, WAC 478-121-320 through 478-121-345, apply to the extent such review is permitted by Executive Order No. 61.

NEW SECTION

WAC 478-121-040 Jurisdiction of the university. (1) The scope of the university's jurisdiction includes reports that prohibited conduct occurred:

(a) On any university premises or in connection with any university-sponsored program or activity, regardless of the location of the program or activity; or

(b) Off campus (i.e., conduct that does not occur on university premises or in the context of a university-sponsored program or activity) where: The university reasonably determines that the conduct adversely affects a university interest or, has continuing adverse effects or may create a hostile environment on university premises or in the context of a university-sponsored program or activity.

(2) Nothing in this conduct code shall be construed to limit academic action that may be taken by schools, colleges, or programs against a respondent based on an established violation of this conduct code that demonstrates a failure to meet the academic and/or professional standards of the school, college, or program.

(3) If a respondent withdraws from the university (or fails to reenroll) while a conduct proceeding is pending, the university may move forward with the conduct proceeding and, if so, the respondent will be provided with a continued opportunity to participate.

NEW SECTION

WAC 478-121-045 Severability. If any provision or clause of this chapter 478-121 WAC, or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application and, to this end, the provisions of these rules are declared to be severable.

These rules are additional to any others duly promulgated by the university.

NEW SECTION

WAC 478-121-050 Definitions. For the purposes of this conduct code, the following definitions apply:

(1) **Attorney.** Attorney is a person permitted to practice law in Washington state.

(2) **Complainant.** A complainant is the person who is the subject of the prohibited conduct, whether or not that person made a report that a violation of the code had been committed against them.

(3) **Conduct hold.** A conduct hold refers, collectively, to administrative notes on a student's record, such as registration holds, degree holds, and transcript holds, that enable the conduct officer to monitor the registration and enrollment status of a student for the purpose of administering this code.

(4) **Conduct officer.** Conduct officer is an individual who has the authority to initiate conduct proceedings under this code, including initiating conduct proceedings, completing fact finding, and issuing initial orders. A conduct officer under this code is considered a "presiding officer" under chapter 34.05 RCW for the purpose of conducting a brief adjudicative proceeding.

(5) **Conduct proceedings.** Conduct proceedings refers to brief adjudicative proceedings and full adjudicative proceedings, collectively, under chapter 34.05 RCW.

(6) **FERPA.** FERPA refers to the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and its implementing regulations (34 C.F.R. Part 99).

(7) **Full hearing.** Full hearing refers to the hearing that occurs when a matter is designated as being appropriate for a full adjudicative proceeding, consistent with WAC 478-121-400 through 478-121-427 of this code.

(8) **Hearing officer.** A hearing officer is a "presiding officer" in a full hearing for the purpose of conducting a full adjudicative proceeding under chapter 34.05 RCW.

(9) **Presiding officer.** Presiding officer refers to conduct officers and hearing officers collectively.

(10) **Respondent.** A respondent is any student or student organization reported to have engaged in or charged with prohibited conduct under the conduct code.

(11) **Review coordinator.** A review coordinator is an individual who may be appointed to a review panel as a non-voting member who manages the administrative review process.

(12) **Review panel.** Review panel is a panel of reviewing officers selected from the pool of reviewing officers appointed to conduct administrative reviews under WAC 478-121-320 through 478-121-345 and 478-121-430 through 478-121-445. The review panel may also include a "review coordinator."

(13) **Reviewing officers.** Reviewing officers are those who conduct administrative reviews for the purpose of full adjudicative proceedings or brief adjudicative proceedings under chapter 34.05 RCW.

(14) **Student.** A student is any person enrolled in or taking courses at or through the university, either full-time or part-time, including credit, noncredit, online, and nondegree courses, and any person who has been notified of acceptance for admission by the university. A student who withdraws from a course or from the university, graduates, or completes courses after the date of an alleged violation, or who is not enrolled for a particular quarter or quarters, but has a continuing relationship with the university, is still considered a student for purposes of this conduct code.

(15) **Student organization.** Student organization is a group of students that has complied with the requirements for university recognition or who is otherwise granted any rights or privileges by the university as a university affiliate. Student organizations include, but are not limited to, athletic teams or clubs, registered student organizations (RSOs), university service clubs, and sororities and fraternities.

(16) **University community.** The university community includes all university students, employees, guests of and visitors to the University of Washington, and other individuals affected by the conduct of a university student.

(17) **University official.** University official means employees of the University of Washington performing their assigned administrative, professional, or paraprofessional duties.

(18) **University premises.** University premises includes all of the University of Washington's campus buildings, grounds, and facilities, all of its extension and research locations, and all other university-leased, -owned, or -managed buildings, grounds, and facilities, including its global learning centers and study abroad program sites, as well as university-sponsored and/or -hosted online platforms.

PART II

PROHIBITED CONDUCT

NEW SECTION

WAC 478-121-100 General application. Prohibited conduct under this code includes, but is not limited to, the prohibited conduct described in WAC 478-121-100 through 478-121-173 and relevant university policies. For additional interpretation of prohibited conduct, see *Student Governance and Policies*, chapter 210, student conduct policy for discriminatory and sexual harassment, intimate partner violence, sexual misconduct, stalking, and retaliation and chapter 209, student conduct policy for academic misconduct and behavioral misconduct.

NEW SECTION

WAC 478-121-103 Abuse of others. Abuse of others includes assault and other forms of physical abuse of any person, or any conduct intended to threaten bodily harm or to endanger the health or safety of any person.

NEW SECTION

WAC 478-121-105 Abuse of the student conduct process. (1) Abuse of the student conduct process includes:

- (a) Attempting to influence the impartiality or participation of any presiding officer or any reviewing officer;
- (b) Influencing or attempting to influence another person to commit an abuse of the student conduct process; or
- (c) Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in the conduct process.

(2) This provision does not apply to reports made or information provided in good faith, even if the respondent is ultimately found not responsible in that conduct proceeding.

NEW SECTION

WAC 478-121-107 Academic misconduct. Academic misconduct includes:

- (1) "Cheating" which includes, but is not limited to:
 - (a) The use of unauthorized assistance in taking quizzes, tests, or examinations, or completing assignments;
 - (b) The acquisition, use, or distribution of unpublished materials created by another student without the express permission of the original author(s);
 - (c) Using online sources, such as solution manuals, without the permission of the instructor to complete assignments, exams, tests, or quizzes; or
 - (d) Requesting, hiring, or otherwise encouraging someone to take a course, exam, test, or complete assignments for a student.
- (2) "Falsification," which is the intentional use or submission of falsified data, records, or other information including, but not limited to, records of internship or practicum experiences or attendance at any required event(s), or scholarly research.

(3) "Plagiarism," which is the submission or presentation of someone else's words, composition, research, or expressed ideas, whether published or unpublished, without attribution. Plagiarism includes, but is not limited to:

(a) The use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment; or

(b) The unacknowledged use of materials prepared by another person or acquired from an entity engaging in the selling of term papers or other academic materials.

(4) Unauthorized collaboration.

(5) Engaging in behavior specifically prohibited by an instructor in the course of class instruction or in a course syllabus.

(6) Multiple submissions of the same work in separate courses without the express permission of the instructor(s).

(7) Taking deliberate action to destroy or damage another's academic work in order to gain an advantage for oneself or another.

(8) The recording of instructional content without the express permission of the instructor(s), unless approved as a disability accommodation, and/or the dissemination or use of such unauthorized records.

NEW SECTION

WAC 478-121-110 Acts of dishonesty. Acts of dishonesty include:

(1) Knowingly furnishing false information to any university official;

(2) Impersonating, or providing false information in the name of, any university official;

(3) Forging, altering, or misusing any university document or record, or instrument of identification;

(4) Falsely claiming an academic credential; and

(5) Providing dishonest or misleadingly incomplete information or answers on application forms or in response to other official university requests for information.

NEW SECTION

WAC 478-121-113 Aiding, assisting, and attempting. Students may be found responsible for prohibited conduct if they:

(1) Aid or assist another student or student organization in the commission of prohibited conduct;

(2) Request, hire, or incite another person to commit prohibited conduct, either intending that the other person commit the prohibited conduct or with the knowledge that the other person intends to commit the prohibited conduct; or

(3) Attempt to commit prohibited conduct.

NEW SECTION

WAC 478-121-115 Alcohol violations. The unlawful possession, use, distribution, or manufacture of alcohol.

NEW SECTION

WAC 478-121-117 Computer abuses. Computer abuses include, but are not limited to:

(1) Unauthorized use of university computer resources;

(2) Use of another person's university user name and/or password;

(3) Use of university computing facilities and resources to interfere with the work of another student, an instructor, or other university official;

(4) Use of university computing facilities or resources to send intimidating, harassing, or threatening messages;

(5) Use of a computer or software to interfere with normal operations of the university's computing systems;

(6) Use of the university's computing facilities or resources in violation of any law, including copyright laws; and

(7) Any violation of the university's computer use policies.

NEW SECTION

WAC 478-121-120 Creating a public nuisance in neighboring communities. In furtherance of the university's interest in maintaining positive relationships with its surrounding communities, the university shall have the authority to hold students accountable under this conduct code for misconduct within any residential or commercial communities adjacent to a university campus. Conduct proceedings may be initiated if the university is made aware that a student or student organization has been contacted by a law enforcement agency regarding, and is determined to have engaged in, conduct that is in violation of a state statute or municipal ordinance and has a direct quality of life impact on community residents or businesses, including, but not limited to, creating a public nuisance due to noise, residential disturbance, intentional destruction of property, urinating in public, or criminal trespass.

NEW SECTION

WAC 478-121-123 Discriminatory harassment. Discriminatory harassment includes verbal, physical, electronic, or other conduct based on an individual's race, color, creed, religion, national origin, citizenship, sex, age, pregnancy, marital status, sexual orientation, gender identity or expression, disability, or veteran status when one of the conditions outlined in subsection (1) or (2) of this section is present:

(1) Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any university program, activity, or benefit, or is used as a basis for evaluation in making academic or personnel decisions; or

(2) Such conduct creates a hostile environment, which is created when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's academic or work performance, ability to participate in or benefit from the university's programs, services, opportunities, or activities, or the receipt of legitimately requested services when viewed through both a subjective and objective standard.

NEW SECTION

WAC 478-121-125 Disruption or obstruction. Disruption or obstruction includes materially and substantially obstructing or disrupting, through words or conduct, the teaching or learning environment of any university educational setting, or any university functions or activities.

An instructor has the authority to exclude a student from any individual class session or other academic activity in which the student is materially disruptive or obstructive and may also make a report in accordance with this code and university policy.

NEW SECTION

WAC 478-121-127 Drug violations. The possession, use, distribution, or manufacture of controlled substances (as defined in chapter 69.50 RCW or 21 U.S.C. Sec. 802) on university premises or during university-sponsored activities where such possession, use, distribution, or manufacture is illegal under federal, state, or local law is prohibited. This includes the possession, use, distribution, or growing of marijuana in all forms during university-sponsored activities or on university premises, including university housing.

NEW SECTION

WAC 478-121-130 Failure to comply. Failure to comply includes, but is not limited to:

- (1) Any failure to comply with the directions of any university officials acting in the performance of their duties;
- (2) Any failure to identify oneself to university officials when requested to do so; or
- (3) Any failure to comply with the rules, regulations, procedures, policies, standards of conduct, or any order or directive of the university or any of its schools, colleges, and departments.

NEW SECTION

WAC 478-121-133 Harassment or bullying. Harassment or bullying is language or conduct that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the university's programs, services, opportunities, or activities, when viewed through both an objective and subjective standard. This includes harassment or bullying that occurs through electronic means, such as electronic media, the internet, social networks, blogs, cell phones, or text messages.

NEW SECTION

WAC 478-121-135 Hazing. Hazing includes any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious

mental or emotional harm, to any student or other person. Hazing activities may include, but are not limited to, encouraging or promoting the abuse of alcohol; striking another person whether by use of any object or any part of one's body; causing someone to experience excessive fatigue or physical and/or psychological shock; or causing someone to engage in degrading or humiliating games or activities that create a risk of serious mental, emotional, and/or physical harm. Consent of a victim or victims is not a defense to an allegation of hazing.

NEW SECTION

WAC 478-121-137 Indecent exposure. Indecent exposure includes the exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm, or is against generally accepted standards of decency. Breastfeeding or expressing breast milk is not indecent exposure.

NEW SECTION

WAC 478-121-140 Intimate partner violence. Intimate partner violence includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate partner violence may include any form of prohibited conduct under this code, including sexual assault, stalking, and physical abuse of others.

Abuse of others includes assault and other forms of physical abuse of any person, or any conduct intended to threaten bodily harm or to endanger the health or safety of any person.

Intimate partner violence may also include forms of economic or emotional abuse, including behaviors that are intended to intimidate, manipulate, humiliate, or isolate someone.

NEW SECTION

WAC 478-121-143 Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons. (1) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons includes unauthorized possession of firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on university premises, unless specifically authorized by the university president or delegee.

(2) Firearms include, but are not limited to, what are commonly known as air guns or rifles, BB guns, and pellet guns, and any instrument used in the propulsion of shot, shell, bullets, or other harmful objects by the:

- (a) Action of gunpowder or other explosives;
- (b) Action of compressed air; or
- (c) Power of springs or other forms of propulsion.

(3) This includes the exhibition or display of a replica of a dangerous weapon prohibited under this subsection if done in a manner and at a time or place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

NEW SECTION

WAC 478-121-145 Research misconduct. "Research misconduct" is fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, as is further set forth in the university's Executive Order No. 61.

NEW SECTION

WAC 478-121-147 Retaliation. Retaliation includes engaging or attempting to engage in any action, directly or indirectly, including through a third party, that is intended to harass, intimidate, threaten, harm or improperly influence any person because they:

- (1) Make, or intend to make, a report, complaint, grievance, or allegation of prohibited conduct under any university policy or rule, or under any law;
- (2) Participate in and/or cooperate with conduct proceedings; or
- (3) Appear as a witness.

NEW SECTION

WAC 478-121-150 Sexual assault. Sexual assault includes sexual contact with another person without, or that exceeds, that person's consent.

For the purposes of this subsection, "sexual contact" includes:

- (1) Any intentional touching of the intimate parts of another person's clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast;
- (2) Causing another person to touch their own or another's body in the manner described above; or
- (3) Any penetration, no matter how slight, of the vagina or anus with any body part or object, or oral-genital contact.

For the purposes of this subsection, "consent" means that at the time of and throughout the sexual contact, there are words or conduct that reasonably communicate freely given agreement between or among the parties to engage in the sexual contact. In addition:

- (4) Consent cannot be obtained when force or threat is used to gain consent;
- (5) Consent cannot be obtained where the respondent knew or reasonably should have known that the other person was incapacitated; or
- (6) Consent cannot be given or granted by a person who is under the statutory age of consent in accordance with the criminal code of Washington, chapter 9A.44 RCW, Sex offenses.

A respondent's use of alcohol or drugs is not a valid defense to a charge of sexual assault, and a respondent will be held to the standard of a reasonable sober person in evaluating whether the respondent knew or reasonably should have known that the complainant was incapacitated.

NEW SECTION

WAC 478-121-153 Sexual exploitation. Sexual exploitation involves taking nonconsensual or abusive

advantage of another for the purposes of sexual arousal or gratification, financial gain, or other personal benefit. Examples of sexual exploitation include:

- (1) Transmitting, distributing, publishing, or threatening to transmit, distribute, or publish photos, video, or other recordings or images of a private and sexual nature, including consensual sexual activity, without the consent of the subject(s);
- (2) Taking, making, sharing, or directly transmitting photographs, films, or digital images of the private body parts of another person without that person's consent;
- (3) Prostituting another person; or
- (4) Knowingly allowing another to surreptitiously watch otherwise consensual sexual activity.

NEW SECTION

WAC 478-121-155 Sexual harassment. Sexual harassment is unwelcome sexual advances, requests for sexual favors or other verbal, physical, or electronic conduct of a sexual nature when one of the conditions outlined in subsection (1) or (2) of this section is present:

(1) Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any university program, activity, or benefit, or is used as a basis for evaluation in making academic or personnel decisions; or

(2) Such conduct creates a hostile environment, which is created when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's academic or work performance, ability to participate in or benefit from the university's programs, services, opportunities, or activities, or the receipt of legitimately requested services when viewed through both a subjective and objective standard.

NEW SECTION

WAC 478-121-157 Stalking. (1) Stalking means engaging in a course of conduct directed at another person that would cause a reasonable person to:

- (a) Fear for the person's safety or safety of others; or
- (b) Suffer substantial emotional distress.

(2) For the purposes of this section, "course of conduct" means two or more acts including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Stalking also includes cyberstalking such as through electronic media, the internet, social networks, blogs, cell phones, or text messages.

(3) For the purposes of this section, "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

NEW SECTION

WAC 478-121-160 Theft. Theft is the taking of property or services without express permission of the owner. This includes, but is not limited to, taking, possessing, or aiding another to take university property or services, or property belonging to members of the university community.

NEW SECTION

WAC 478-121-163 Unauthorized keys, entry, or use. Unauthorized keys, entry, or use includes, but is not limited to:

- (1) Unauthorized possession, duplication, or use of keys (including conventional keys, key cards, or alphanumeric passcodes) to any university premises;
- (2) Unauthorized entry upon or use of university premises or property; or
- (3) Providing keys to an unauthorized person or providing access to an unauthorized person.

NEW SECTION

WAC 478-121-165 Unauthorized recording. (1) Unauthorized recording includes, but is not limited to:

- (a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy; or
 - (b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.
- (2) When such recordings may fall within WAC 478-121-153 Sexual exploitation, they will be addressed in accordance with that provision and related policies.

NEW SECTION

WAC 478-121-167 Vandalism. Vandalism includes maliciously damaging or misusing university property, or the property of any member of the university community.

NEW SECTION

WAC 478-121-170 Violation of disciplinary sanctions. Violation of disciplinary sanctions includes the violation of any term or condition of any final order issued under this conduct code or the failure to complete a disciplinary sanction in the specified time frame.

NEW SECTION

WAC 478-121-173 Violation of law. Violation of law includes when a student has been convicted of a crime under any federal, state, or local law that adversely affects a university interest.

PART III

CONDUCT PROCEEDINGS, DISCIPLINARY SANCTIONS, AND EVIDENCENEW SECTION

WAC 478-121-200 Form of adjudicative proceeding. All conduct proceedings under this code shall be conducted in accordance with chapter 34.05 RCW, Administrative Procedure Act and constitutional due process. If there is an irresolvable conflict between this code and the Administrative Procedure Act or constitutional due process, the Administrative Procedure Act and constitutional due process shall supersede these rules.

In applying this code, due consideration shall be given to the fact that the conduct process is administrative and not judicial in nature and that the rules of civil procedure only apply to the extent set forth in this code or in chapter 34.05 RCW. In formal proceedings pursuant to RCW 34.05.413 through 34.05.476, the University of Washington adopts the model rules of procedure, chapter 10-08 WAC, Model rules of procedure. In the case of a conflict between the model rules of procedure and these procedural rules, the procedural rules adopted in these rules shall govern.

Informal settlements may be conducted under the authority of RCW 34.05.060.

NEW SECTION

WAC 478-121-203 Brief adjudicative proceeding. When conduct proceedings have been designated as brief adjudication proceedings under this code, they will be conducted in accordance with RCW 34.05.482 through 34.05.494 and the parties will receive notice as set forth in WAC 478-121-235.

NEW SECTION

WAC 478-121-205 Conversion to full adjudicative proceeding. Prior to the conclusion of a brief adjudicative proceeding, the conduct officer shall make any inquiries necessary to ascertain whether the proceeding should be converted to a full adjudicative proceeding under RCW 34.05.-413 through 34.05.476 of the Administrative Procedure Act. If converted, the conduct officer will take steps necessary to initiate a full hearing and a hearing officer will be assigned.

To the extent feasible, the conduct officer's record will be included in the record for the full hearing. The time of commencement of the full hearing shall be considered to be the time of commencement of the original conduct proceeding.

If not converted by the conduct officer, the parties will be given an opportunity to request a full hearing per WAC 478-121-320 through 478-121-345.

NEW SECTION

WAC 478-121-207 Full adjudicative proceeding. If it becomes apparent that a full adjudicative proceeding is necessary, is in the public interest, or is more appropriate to

resolve issues affecting the participants, a full hearing will be held in accordance with WAC 478-121-400 through 478-121-427 that is in compliance with RCW 34.05.413 through 34.05.476. Factors that may be considered as guidelines to determine whether the issues and interests involved warrant the use of a full adjudicative proceeding consistent with this code will be defined in university policy, including *Student Governance and Policies*, chapters 209 and 210.

NEW SECTION

WAC 478-121-210 Disciplinary sanctions. (1) One or more of the following disciplinary sanctions may be imposed for any violation of this conduct code:

(a) Disciplinary reprimand. A respondent may be issued a written disciplinary reprimand.

(b) Disciplinary probation. A respondent may be placed on disciplinary probation (meaning formal conditions are imposed on the respondent's continued attendance). The time period for the disciplinary probation and any conditions shall be specified. Failure to fulfill conditions of the disciplinary probation in a timely manner will extend the probationary period (and the conditions) and may result in additional disciplinary sanctions.

(c) Restitution. A respondent may be required to make restitution for damage or other loss of property and for injury to persons. The university may put a conduct hold in place if the respondent fails to pay or to make in writing university-approved arrangements to pay restitution.

(d) Loss of privileges. A respondent may be denied specified privileges for a designated period of time such as the privilege to participate in a particular campus activity and may be restricted from any or all university premises for a specific duration.

(e) Suspension. A respondent may be suspended (i.e., temporarily separated) from the university for a specified period of time. Conditions of suspension may be imposed and will be specified. Except as otherwise specified in the final order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner will extend the suspension period and any conditions, and may result in additional disciplinary sanctions. The university may put a conduct hold in place during the suspension period.

(f) Dismissal. A respondent may be dismissed (i.e., permanently separated) from the university.

(g) Sanctions for hazing. In addition to other sanctions, a student who is found responsible for participating in hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a specified period of time.

(2) In determining an appropriate sanction for a violation of this code, factors that may be considered include, but are not limited to:

(a) The seriousness, severity, persistence, or pervasiveness of the prohibited conduct;

(b) The nature or violence, if applicable, of the prohibited conduct;

(c) The impact on the complainant and/or university community;

(d) The respondent's past disciplinary record with the university;

(e) Whether the respondent has accepted responsibility for the prohibited conduct;

(f) The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and/or

(g) Any other mitigating, aggravating, or compelling factors that the presiding officer determines to be relevant and admissible.

(3) The use of alcohol or drugs by a respondent will not be considered a mitigating factor in imposing discipline.

(4) If a respondent withdraws from the university (or fails to reenroll) before completing a sanction, the sanction must be completed prior to or upon the respondent's reenrollment, depending on the nature of the sanction. Completion of disciplinary sanctions may be considered in applications for readmission to the university.

NEW SECTION

WAC 478-121-213 Effective date of sanctions. Sanctions will be implemented when a final order becomes effective in the university's conduct proceeding. An initial order that becomes a final order because no administrative review was requested or initiated becomes effective on the day after the period for requesting review has expired.

NEW SECTION

WAC 478-121-215 Authority to initiate conduct proceedings and delegations of authority in conduct proceedings. (1) The following university officials may initiate conduct proceedings under this conduct code:

(a) The vice president for student life at University of Washington Seattle;

(b) The chancellors at University of Washington Bothell and Tacoma;

(c) Deans of a school or college (including the graduate school) at University of Washington Seattle; and

(d) Deans or directors of any school or program at University of Washington Bothell or Tacoma.

(2) The above named university officials may delegate the authority to one or more individuals to initiate conduct proceedings, engage in fact finding, hold hearings, and issue initial orders under this conduct code. They may also establish student or student-faculty-staff hearing bodies to advise or to act for them in conduct proceedings.

(3) For the purpose of completing administrative reviews under WAC 478-121-320 through 478-121-345 and 478-121-430 through 478-121-445 of this code:

(a) The chair of the faculty senate will appoint one or more faculty to be included in a pool of available reviewing officers; and

(b) The president, vice president for student life at University of Washington Seattle, or the chancellors at University of Washington Bothell and Tacoma may appoint one or more students to be included in a pool of available reviewing officers.

(4) Review panels, composed of multiple reviewing officers, may be created to complete administrative reviews under WAC 478-121-320 through 478-121-345 and 478-

121-430 through 478-121-445 of this code. Review panels may also include a review coordinator.

NEW SECTION

WAC 478-121-217 Appointment of reviewing officers. Faculty and students may be appointed to the pool of available reviewing officers at any time by a university official with authority to appoint such individuals. Efforts will be made to ensure the pool includes available reviewing officers representing the University of Washington Seattle, Bothell, and Tacoma campuses. The appointment will be for a specific term, which may be extended at the discretion of a university official with authority to appoint such individuals, and will include any training and other conditions of service. See *Student Governance and Policies*, chapters 209 and 210.

NEW SECTION

WAC 478-121-220 Selection of review panels. For each administrative review, an odd number of available reviewing officers will be selected from the pool, based on availability, to form the review panel. Those selected for the panel will designate a faculty member of the panel to act as chair, with efforts made that the chair be a representative from the campus where the respondent is enrolled.

NEW SECTION

WAC 478-121-223 Disqualification and substitution of presiding officers and reviewing officers. Consistent with RCW 34.05.425, any presiding officer or reviewing officer is subject to disqualification for bias, prejudice, interest, or any other applicable cause. Any party may petition for the disqualification of an individual promptly after receipt of notice indicating that the individual will preside or, if later, promptly upon discovering facts establishing grounds for disqualification. The individual whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination. An appropriate individual will then be substituted as a presiding or reviewing officer.

NEW SECTION

WAC 478-121-225 Initiating conduct proceedings. Conduct proceedings may be initiated when the university receives any direct or indirect report of conduct that may violate this code, which may include, but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal or written report from a complainant, witness, or other third party.

Conduct matters may be initiated under the conduct code regardless of whether or not the incident in question is the subject of criminal or civil proceedings.

NEW SECTION

WAC 478-121-227 Decision not to initiate a conduct proceeding. If the conduct officer decides not to initiate a conduct proceeding when requested by a complainant who,

otherwise, would be a party to the proceeding, the conduct officer will provide the complainant with a written decision, including a brief statement of the reasons and of any other options for review.

NEW SECTION

WAC 478-121-230 Conduct hold on student record. A conduct office or other designated university official may place a conduct hold on the student's record if the student is the respondent in a pending report of prohibited conduct, a pending conduct proceeding under this code, or in conjunction with a disciplinary sanction under this code. A conduct hold may restrict the student from registering for classes, requesting an official transcript, or receiving a degree from the university until the hold has been removed. If the conduct hold is put in place pending or during a conduct proceeding, the student will be notified of the hold and be advised how to raise an objection about the hold or request that it be made less restrictive. The hold will remain in place until lifted by the conduct office or other designated university official with authority to do so.

Implementation of any conduct hold does not assume any determination of, or create any expectation of, responsibility for prohibited conduct under this conduct code.

NEW SECTION

WAC 478-121-233 Parties. The parties to conduct proceedings are typically the university and the respondent. In accordance with *Student Governance and Policies*, chapter 210, student conduct policy for discriminatory and sexual harassment, intimate partner violence, sexual misconduct, stalking, and retaliation, in cases involving discriminatory harassment, indecent exposure, intimate partner violence, sexual assault, sexual exploitation, sexual harassment, stalking, or retaliation, the complainant is also a party. In addition, the university may designate other individuals, such as a complainant, as a party to other types of conduct proceedings, or allow individuals to intervene in conduct proceedings. For additional guidance, see *Student Governance and Policies*, chapter 209, student conduct policy for academic misconduct and behavioral misconduct.

NEW SECTION

WAC 478-121-235 Interim protective measures. After receiving a report of prohibited conduct, the university may implement interim protective measures that impact a respondent at any time prior to the conclusion of a conduct proceeding. When implemented, the respondent will be advised on how to raise an objection about the interim measure or request that it be made less restrictive. Interim measures will remain in place until lifted or modified by a university official with authority to do so.

Implementation of any interim measure does not assume any determination of, or create any expectation of, responsibility for prohibited conduct under this conduct code. A respondent who fails to comply with any interim protective measures may, however, be charged with a "failure to comply" pursuant to WAC 478-121-130.

NEW SECTION

WAC 478-121-237 Emergency authority of the university. If there is reasonable cause to believe that a student's conduct represents a threat to the health, safety, or welfare of the university or any member of the university community, or poses an ongoing threat of substantially disrupting or materially interfering with university activities or operations, the president, the president's delegate, the vice president for student life for the University of Washington Seattle or delegates, and the chancellors of the University of Washington Bothell and Tacoma campuses or delegates, may immediately suspend that student from participation in any or all university functions, privileges, or locations.

In such an emergency situation, the university official placing the student on emergency suspension shall issue a written order to be served upon the student describing the terms of the emergency suspension and the reasons for the emergency suspension. The order shall advise the student how to raise an objection about the emergency suspension or request that it be made less restrictive. The university may also put a conduct hold in place during the emergency suspension period.

The order shall be effective immediately. The proceeding shall then be referred to the appropriate conduct office and the proceeding shall proceed as quickly as feasible. The emergency suspension shall remain in effect until lifted or revised by a university official with authority to do so or until a final order is entered in the proceeding. Once a final order is entered in the proceeding, any emergency suspension shall be lifted and the sanction, if any, will be imposed.

NEW SECTION

WAC 478-121-240 Service of notices, filings, and orders; and time limits. Service of all university notices under this code will be sent by electronic mail (email) addressed to the party's university-issued email address. An alternative email address may be provided to the presiding officers and reviewing officer(s) in writing. Service is complete at the moment the email is sent to the email address. If there is no email on record, service may also be accomplished by personal service or by posting it in the United States mail, properly addressed, and postage prepaid. Service by mail is complete upon deposit in the United States mail.

The parties are permitted to file documents with the presiding officer or reviewing officer(s) via email or other electronic means as determined by the presiding officer or reviewing officer(s). Receipt of such documents will be determined by the date of the email. For documents that must be shared with other parties, the university will be responsible for service of such documents, as above.

In computing any period of time under this conduct code, the day of service of any order, notice, or other document is not counted. The last day of the applicable period of time is counted. If the last day of the applicable period of time falls on a Saturday, Sunday, or official state holiday (which includes the day after Thanksgiving), the period ends on the next business day. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

The time limit for seeking administrative review of an initial order is based upon the date of service of the initial order.

NEW SECTION

WAC 478-121-243 Participation of advisors and attorneys. The parties to conduct proceedings may, at their own expense, be accompanied by an advisor of their choice, including an attorney, throughout the conduct proceedings. In a brief adjudicative proceeding, an advisor may provide support and advice, but an advisor may not speak on behalf of the student or disrupt or interfere with any aspect of the brief adjudicative proceeding, as determined by the conduct officer. In a full adjudicative proceeding, including any prehearing matters, if the party's advisor is an attorney, the attorney may advise and represent the party, but the advisor may not disrupt or interfere with any aspect of the proceeding, as determined by the hearing officer. For additional guidance, see *Student Governance and Policies*, chapters 209 and 210.

NEW SECTION

WAC 478-121-245 Consolidation. If there are multiple conduct proceedings involving common issues or parties, the parties may request, or the presiding officer may decide, to consolidate the proceedings. This decision is within the sole discretion of the presiding officer.

NEW SECTION

WAC 478-121-247 Burden of proof. The burden of proof in conduct proceedings rests with the university.

NEW SECTION

WAC 478-121-250 Evidence in conduct proceedings. The following evidentiary provisions apply to conduct proceedings under this code. In applying this code, due consideration shall be given to the fact that the conduct process is administrative and not judicial in nature and that rules of evidence only apply to the extent set forth in this code or in chapter 34.05 RCW. The university has also developed agency-level guidance regarding its interpretations of these rules, including in *Student Governance and Policies*, chapters 209 and 210.

While brief adjudicative proceedings do not require the application of rules of evidence, the conduct officer will be guided by the principles underlying the Washington state rules of evidence when they do not conflict with the code or relevant university policies.

NEW SECTION

WAC 478-121-253 Relevant evidence, hearsay, and character evidence. (1) Evidence, including hearsay, is admissible if, in the judgment of the presiding officer, it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. In a full hearing, however, the hearing

officer shall not base a finding exclusively on such inadmissible evidence unless the hearing officer determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the initial order.

(2) The presiding officer will determine the admissibility and relevance of all evidence, including that offered by the parties and/or witnesses, and shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude from consideration evidence that is not relevant. The presiding officer may also exclude from consideration evidence that is immaterial or unduly repetitious.

(3) In general, the presiding officer will not consider statements of personal opinion or statements as to any individual's general reputation or any character trait, unless the presiding officer considers such evidence to be relevant and admissible.

(4) The presiding officer may take official notice of some material that was not offered as evidence by the parties. In full adjudicative proceedings, the process for taking official notice is set forth in RCW 34.05.452.

NEW SECTION

WAC 478-121-255 Prior or subsequent conduct of the respondent. Prior or subsequent conduct of the respondent may be considered in determining opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake. The presiding officer will determine the relevance and admissibility of this evidence.

NEW SECTION

WAC 478-121-257 Prior sexual history. The sexual history of the parties or witnesses will not be used to prove character or reputation. Evidence related to the prior sexual history of the parties or witnesses is generally not relevant to the determination of a violation of this code and will be considered only in limited circumstances. The presiding officer will determine the relevance of this evidence.

NEW SECTION

WAC 478-121-260 Experts. Consistent with RCW 34.05.452(5), presiding officers may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. This information will be summarized in the initial order.

Generally, results of polygraph examinations are not considered relevant, even if offered voluntarily.

NEW SECTION

WAC 478-121-263 Self-incriminating evidence. No student shall be compelled to give self-incriminating evidence and a negative inference will not be drawn from a refusal to participate at any stage of the conduct proceeding. The presiding officer may, however, continue with the con-

duct proceeding and reach a finding based on other available and admissible evidence.

NEW SECTION

WAC 478-121-265 Criminal conviction. The presiding officer may accept a conviction of a crime under any federal, state, or local law as the evidentiary basis for establishing prohibited conduct under this code when the elements of that crime establish prohibited conduct under this code that adversely affects a university interest.

PART IV

BRIEF ADJUDICATIVE PROCEEDINGS

NEW SECTION

WAC 478-121-300 Brief adjudicative proceedings—Notice of conduct proceeding and investigative interview. The conduct officer will provide notice to the parties, in writing, of the commencement of conduct proceedings, which will include information on how to petition for disqualification of the conduct officer.

The conduct officer will also schedule an investigative interview with the respondent as part of the fact-finding process.

NEW SECTION

WAC 478-121-305 Brief adjudicative proceedings—Fact finding. Before taking action in a brief adjudication proceeding, the conduct officer shall give each party an opportunity to be informed of the agency's view of the matter and to explain the party's view of the matter. This process includes, without limitation, conducting fact finding and providing the parties with the opportunity to participate in the conduct proceeding by explaining the process to the parties and allowing them to review the allegations, provide evidence, identify witnesses with relevant knowledge, respond to evidence provided by others, and provide the conduct officer with suggested questions for others (collectively, "fact finding").

NEW SECTION

WAC 478-121-310 Brief adjudicative proceedings—Standard of proof. The applicable standard of proof is the "preponderance of evidence" standard. This means that, in order for a respondent to be held responsible for a violation of this conduct code, the conduct officer must conclude, based on all of the evidence in the record, that it is more likely than not that the respondent engaged in an act or acts of conduct prohibited by this code.

NEW SECTION

WAC 478-121-315 Brief adjudicative proceedings—Initial order. At the conclusion of the fact finding, the conduct officer will prepare an initial order. If the respondent is found responsible, the conduct officer will impose a sanction.

The conduct officer will serve the initial order to the parties, simultaneously and in writing. The initial order will include a brief written statement of the reasons for the decision and an explanation of how to request administrative review of the initial order and the time frame to do so.

NEW SECTION

WAC 478-121-320 Brief adjudicative proceedings—Requesting administrative review. A party may request administrative review of the initial order based on the grounds as set forth in WAC 478-121-325.

A request for administrative review must be submitted in writing to the conduct officer within twenty-one days of the date of service of the initial order. The party requesting the review will be provided with an opportunity to explain the reasons for seeking review. If one of the grounds is to consider newly discovered evidence, that evidence must also be provided with the request for review.

If an administrative review is not requested within twenty-one days of service of the initial order, the initial order shall become the final order.

NEW SECTION

WAC 478-121-325 Brief adjudicative proceedings—Grounds for administrative review. A party may request administrative review for any or all of the following reasons:

- (1) To determine whether there was a material error that substantially affected the outcome of the fact finding or sanctioning;
- (2) To consider newly discovered evidence, not reasonably available during the fact finding, that could substantially impact the outcome;
- (3) To determine whether the sanction(s) imposed were appropriate for the violation committed and were not excessively lenient or excessively severe; or
- (4) To determine whether the issue and interests involved warrant a full hearing.

NEW SECTION

WAC 478-121-330 Brief adjudicative proceedings—Notice of administrative review. If administrative review is requested, the university will provide the parties notice, in writing, of the date the administrative review will be initiated and the identities of the reviewing officer(s) selected for the review panel. The parties will also be provided with information on how to petition for disqualification of any reviewing officer(s).

Other parties will be provided with a copy of the request for administrative review and notice of how to submit a written response. Responses must be submitted within five business days of service of the notice of administrative review.

NEW SECTION

WAC 478-121-335 Brief adjudicative proceedings—Procedures for administrative review. (1) When the reviewing officer(s) conducts an administrative review, the review is based on:

- (a) The conduct officer's record and fact finding;
 - (b) Information submitted to the review panel in the request for review or response to request for review; and
 - (c) Newly discovered evidence, if the basis for seeking administrative review is that newly discovered evidence has become available; however the review of newly discovered evidence is limited to determining whether the newly discovered evidence warrants remanding the matter for further proceedings.
- (2) Decisions by a panel of reviewing officers will be determined by majority vote.

NEW SECTION

WAC 478-121-340 Brief adjudicative proceedings—Order from administrative review. (1) Within twenty days after the request is submitted, the review panel will issue an order, which will include the outcome, any sanction, and a brief statement of the reasons for the outcome. All parties will receive simultaneous, written notification of the outcome of the review.

(2) The reviewing officer(s) may reach one of the following results:

- (a) Conclude there is no basis for remand or alteration of sanctions, and issue a final order disposing of the proceeding;
 - (b) Remand for further fact finding or review if newly discovered evidence may have impacted the result or if the record demonstrates material error;
 - (c) Increase or reduce the sanction(s) and issue a final order, if the increased sanction does not warrant a full hearing; or
 - (d) Conclude whether the proceeding should be converted to a full adjudicative proceeding and, if so, take steps necessary to initiate a full hearing.
- (3) If the review panel does not issue an order within twenty days after the request is submitted, the request for review is deemed to be denied.

NEW SECTION

WAC 478-121-345 Brief adjudicative proceedings—Process following remand from administrative review or conversion. If the proceeding is remanded or converted to a full adjudicative proceeding following administrative review, the initial order will be rescinded and the reviewing officer(s) will describe, in writing, the reasons for the remand or conversion.

Following remand, additional proceedings will be conducted as necessary to address the reasons for the remand or conversion and will be conducted in accordance with the relevant sections of this code.

PART V

FULL ADJUDICATIVE PROCEEDINGS AND FULL HEARING

NEW SECTION

WAC 478-121-400 Notice of full hearing. The hearing officer shall set the time and place of the full hearing and give

not less than seven days advance written notice to all parties and to all persons who have filed written petitions to intervene in the matter. The notice will include information on how to petition for disqualification of the hearing officer.

NEW SECTION

WAC 478-121-403 Prehearing conferences. (1) Hearing officers upon their own motion or upon request of a party may direct the parties or their representatives to engage in a prehearing conference or conferences to consider:

- (a) Simplification of issues;
- (b) The necessity or desirability of amendments to the pleadings, if any;
- (c) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (d) Limitations on the number and consolidation of the examination of witnesses;
- (e) Procedural matters;
- (f) Distribution of written testimony and exhibits to the parties prior to the hearing;
- (g) Such other matters as may aid in the disposition or settlement of the proceeding.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by hearing officers.

(3) Following prehearing conferences, hearing officers shall issue an order. Orders are effective when they are served. Hearing officers may, at their discretion, hold more than one prehearing conference and issue orders modifying any prehearing order.

(4) In any full hearing, hearing officers may, in their discretion, conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this rule. Hearing officers shall state on the record the results of such conference.

NEW SECTION

WAC 478-121-405 Discovery. Discovery, including depositions, interrogatories, requests for production, entry onto land for inspection or other purposes, and physical and mental examinations, are not available in conduct proceedings under this code.

NEW SECTION

WAC 478-121-407 Subpoenas. The hearing officer may issue subpoenas. The parties may also request that the hearing officer issue subpoenas or a party's attorney of record may also issue a subpoena in whose behalf the witness is required to appear at a full hearing. The requesting party is responsible for serving the subpoena upon the witness. In the discretion of the hearing officer, and where the rights of the parties will not be prejudiced thereby, such testimony may be by telephone or other electronic means.

NEW SECTION

WAC 478-121-410 Protective orders. The hearing officer may enter protective orders, which limit the admissibility of evidence or condition it on specified criteria necessary to protect a party or a witness from annoyance, embarrassment, oppression, or undue burden or expense, or to comply with any applicable law.

NEW SECTION

WAC 478-121-413 Pleadings, briefs, and motions. (1) At appropriate stages of full adjudicative proceedings, the hearing officer will give all parties full opportunity to submit and respond to pleadings, motions, objections, and offers of settlement, including motions for summary judgment.

(2) At appropriate stages of full adjudicative proceedings, the hearing officer may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial or final orders.

(3) The hearing officer has the discretion to decide and dispose of all issues raised in accordance with this section.

NEW SECTION

WAC 478-121-415 Communications with hearing officer. All communications with the hearing officer, except for communications necessary to procedural aspects of maintaining an orderly process, must be in the presence of, or with a copy to, all other parties. Ex parte communications received by the hearing officer must be placed on the record, and all other parties must be informed of the ex parte communication and given an opportunity to respond on the record.

NEW SECTION

WAC 478-121-417 Standard of proof in full hearings. The applicable standard of proof is the "preponderance of evidence" standard. This means that, in order for a respondent to be held responsible for prohibited conduct under the conduct code, the hearing officer must conclude, based on all of the evidence in the record, that it is more likely than not that the respondent engaged in an act or acts of prohibited conduct.

NEW SECTION

WAC 478-121-420 Continuances. The hearing officer has the discretion to grant postponements, continuances, extensions of time, and adjournments or upon a request of any party, if the party shows good cause.

A request for a continuance may be oral or written. If all parties do not agree to the continuance, the hearing officer may schedule a prehearing conference to receive argument or may rule on the request without argument.

NEW SECTION

WAC 478-121-423 Testimony under oath or affirmation. In a full hearing, all testimony of parties and witnesses shall be made under oath or affirmation.

NEW SECTION

WAC 478-121-425 Remote participation. At the discretion of the hearing officer, and where the rights of the parties will not be prejudiced thereby, all or part of any hearing, including the testimony of witnesses, may be conducted by telephone, or other electronic means. Each party in the hearing must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place. Such measures may be taken to accommodate concerns raised by a complainant, a respondent, or any witness.

NEW SECTION

WAC 478-121-427 Initial order from full hearing. At the conclusion, the hearing officer will issue an initial order, which shall include all matters required by RCW 34.05.461(3). The hearing officer will serve the initial order to the parties, simultaneously and in writing. The initial order will include an explanation of how to request administrative review of the initial order and the time frame to do so.

If an administrative review is not requested within twenty-one days of service of the initial order, the initial order shall become the final order.

NEW SECTION

WAC 478-121-430 Requesting administrative review from a full hearing. A party may request administrative review of the initial order from a full hearing based on the grounds as set forth in WAC 478-121-433.

A request for administrative review must be submitted in writing to the hearing officer within twenty-one days of the date of the initial order. If one of the grounds is to consider newly discovered evidence, that evidence must be provided with the request for review.

If an administrative review is not requested within twenty-one days the initial order shall become the final order.

NEW SECTION

WAC 478-121-433 Grounds for administrative review from a full hearing. A party may request administrative review for any or all of the following reasons:

(1) To determine whether there was a material error that substantially affected the outcome of the fact finding or sanctioning;

(2) To consider newly discovered evidence, not reasonably available during the fact finding, that could substantially impact the outcome;

(3) To determine whether the sanction(s) imposed were appropriate for the violation committed and were not excessively lenient or excessively severe; or

(4) Any other grounds that would warrant modification, withdrawal, or reversal of the order.

NEW SECTION

WAC 478-121-435 Notice of administrative review from a full hearing. If administrative review is requested,

the university will provide the parties notice, in writing, of the date the administrative review will be initiated and the identities of the reviewing officer(s) selected for the review panel. The parties will also be provided with information on how to petition for disqualification of any reviewing officer(s).

Other parties will be provided with a copy of the request for administrative review and notice of how to submit a written response. Responses must be submitted within five business days of service of the notice of administrative review.

NEW SECTION

WAC 478-121-437 Procedures for administrative review from a full hearing. (1) When the reviewing officer(s) conducts an administrative review, the reviewing officer(s) shall:

(a) Personally consider the whole record or such portions of it as may be cited by the parties;

(b) Exercise all the decision-making power that the reviewing officer would have had to decide and enter the final order had the reviewing officer presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the reviewing officer(s) upon notice to all the parties;

(c) Afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument to explain the party's position but any such argument shall not be considered as evidence;

(d) Review information submitted to the review panel in the request for review or response to request for review; and

(e) Review newly discovered evidence, if the basis for seeking administrative review is that newly discovered evidence has become available; however the review of newly discovered evidence is limited to determining whether the newly discovered evidence warrants remanding the matter for further proceedings.

(2) In reviewing findings of fact by presiding officers, the reviewing officers shall give due regard to the presiding officers' opportunity to observe the witnesses.

(3) Decisions by a panel of reviewing officers will be determined by majority vote.

NEW SECTION

WAC 478-121-440 Communications with reviewing officers. All communications with reviewing officers, except for communications necessary to procedural aspects of maintaining an orderly process, must be in the presence of, or with a copy to, all other parties. Ex parte communications received by reviewing officers must be placed on the record, and all other parties must be informed of the ex parte communication and given an opportunity to respond on the record.

NEW SECTION

WAC 478-121-443 Order from administrative review of a full hearing. (1) Within thirty calendar days of receipt of all response(s) submitted by the parties or oral argument, if any, whichever is later, the reviewing officer(s) will issue an order, which will include the outcome, any sanc-

tion, and a brief statement of the reasons for the outcome. All parties will receive simultaneous, written notification of the outcome of the review.

(2) The reviewing officer(s) may reach one of the following results:

(a) Conclude there is no basis for remand or alteration of sanctions, and issue a final order disposing of the proceeding;

(b) Remand for further fact finding or review if newly discovered evidence may have impacted the result or if the record demonstrates material error with instructions to the presiding officer who entered the initial order;

(c) Increase or reduce the sanction(s), and issue a final order disposing of the proceeding; or

(d) Issue a final order disposing of the proceeding or remand the matter for further proceedings on any other grounds that would warrant modification, withdrawal, or reversal of the order, with instructions to the presiding officer who entered the initial order.

(3) When issuing orders under this section, the order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3).

(4) The reviewing officer(s) will serve the order to the parties, simultaneously and in writing.

NEW SECTION

WAC 478-121-445 Process following remand from administrative review of a full hearing. (1) If the proceeding is remanded, the initial order will be rescinded and the reviewing officer(s) will describe, in writing, the reasons for the remand. Following remand, additional proceedings will be conducted as necessary to address the reasons for the remand.

(2) At the conclusion, the hearing officer will issue an initial order, which shall include all matters required by RCW 34.05.461(3). The hearing officer will serve the initial order to the parties, simultaneously and in writing. The initial order will include an explanation of how to request administrative review of the initial order and the time frame to do so.

(3) If an administrative review is not requested within twenty-one days of service of the initial order, the initial order shall become the final order.

NEW SECTION

WAC 478-121-447 Reconsideration of final orders. Within ten days of the service of a final order or within ten days of the date an initial order becomes a final order, any party may file a request for reconsideration. The request shall be directed to the officer(s) who issued the final order and state in writing specific reasons for the request. Upon receipt, the officer(s) shall promptly serve all other parties with a copy of the request for reconsideration.

Unless the request for reconsideration is automatically deemed to have been denied under WAC 478-121-450, the request shall be disposed of by the officer(s) who issued the final order, if reasonably available. The disposition shall be in the form of a written order denying the request, granting the request and dissolving or modifying the final order, or granting the request and setting the matter for further hearing.

NEW SECTION

WAC 478-121-450 Denial of request for reconsideration. The request for reconsideration is automatically deemed to have been denied if, within twenty days from the date the request for reconsideration is timely submitted, the officer(s) who issued the final order does not either:

(1) Dispose of the request; or

(2) Serve the parties with a written notice specifying the date by which the request will be acted upon.

NEW SECTION

WAC 478-121-453 Privacy in full hearings. (1) In accord with the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and its implementing regulations (34 C.F.R. Part 99) (FERPA), all meetings or reviews conducted under this code generally will be held in closed session out of respect for the privacy of all the students involved.

(2) In a full hearing, the hearing officer may close parts of a hearing under any provision of law expressly authorizing closure or under a protective order entered by the hearing officer pursuant to applicable rules and the hearing officer may order the exclusion of witnesses upon a showing of good cause.

(3) Students may, at their sole discretion, waive their rights under FERPA in writing. The scope of any FERPA waiver and any protective order entered by the hearing officer will determine who can have access to information that would otherwise be protected from disclosure by FERPA, including without limitation who can be present at any hearing held in a full adjudicative proceeding under this code. If the hearing is open to public observation, the presiding officer shall conduct the hearing in a room that will accommodate a reasonable number of observers. The hearing officer may issue a protective order to exclude from the hearing any persons who are disruptive of the proceedings and may limit the number and activities of the observers as necessary to protect the safety of the participants and observers and to assure a fair hearing.

(4) To ensure the privacy of all students involved, no cameras or recording devices shall be permitted except for the official recording by the university; however, if FERPA or other federal or state law implicated by RCW 34.05.040 does not preclude it, then any party, at the party's expense, may cause a reporter approved by the agency to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption. If a party intends to make a recording of the proceeding, the party shall advise the hearing officer prior to the prehearing conference so that any issues related to making an additional recording can be addressed prior to the full hearing.

PART VI

RECORDKEEPING

NEW SECTION

WAC 478-121-500 General recordkeeping. Records related to conduct proceedings shall be maintained consistent with RCW 34.05.476 and 34.05.494, university records retention policies, and other relevant policies.

NEW SECTION

WAC 478-121-510 Disciplinary record. Any final order resulting from conduct proceedings shall become a part of the respondent's disciplinary record. Student disciplinary records are "education records" as defined by FERPA and may only be disclosed consistent with FERPA and chapter 478-140 WAC.

AMENDATORY SECTION (Amending WSR 14-17-097, filed 8/19/14, effective 9/19/14)

WAC 478-124-030 Conduct on campus code—Sanctions. (1) Any person while on the university campus who willfully refuses the request of a uniformed campus police officer to desist from conduct prohibited by these rules may be required by such officer to leave such premises.

(2) Disciplinary action which may result in dismissal from the university will be initiated against faculty, staff, or students who violate these rules, in accordance with the applicable disciplinary codes or other appropriate due process procedures.

(3) Sanctions which may be imposed against faculty are set forth in the *Faculty Code*, Chapter 25, Sections 25-51 and 25-71.

(4) Sanctions which may be imposed against students are set forth in WAC ((478-120-040)) 478-121-210.

(5) Sanctions which may be imposed against the classified staff are set forth in the relevant University of Washington labor contract for contract-classified staff, and in Title 357 WAC and applicable university policy for classified non-union staff.

(6) Sanctions which may be imposed against the professional staff are set forth in the University of Washington Professional Staff Program.

(7) Violation of any of the above regulations may also constitute violation of the criminal laws or ordinances of the city, the county, the state of Washington, or the United States and may subject a violator to criminal sanctions in addition to any sanctions imposed by the university.

AMENDATORY SECTION (Amending WSR 99-12-110, filed 6/2/99, effective 7/3/99)

WAC 478-140-024 Education records—Release. (1) The university shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information" (as defined in subsection (5) of this section), without the written consent of the student, to any party other than the following:

(a) University staff and faculty, and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest in support of the university's mission of education, research and public service and within the performance of their responsibilities to the university. The use of such information will be strictly limited to the performance of those responsibilities.

(b) Authorized representatives of the comptroller general of the United States, the Secretary of the U.S. Department of Education, or state or local authorities requiring access to education records, in connection with the audit or evaluation of a federally or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such a program.

(c) Agencies or organizations requesting information in connection with a student's application for, or receipt of, financial aid if the information is necessary to determine:

(i)(A) Eligibility for financial aid;

(B) The amount of financial aid; or

(C) The conditions for financial aid;

(ii) Or, enforce the terms and conditions of financial aid.

(d) Organizations conducting studies for or on behalf of the university or educational agencies or institutions for purposes of developing, validating, or administering student aid programs, or improving instruction or student services, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully issued subpoena, or as a consequence of the university initiating legal action against a parent or student, upon condition that the university makes a reasonable effort to notify the student of all such orders or subpoenas or of its intent to release records in advance of compliance or release, unless directed otherwise by the court issuing the subpoena. Any university individual(s) or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general's division.

(g) Alleged victims of a crime of violence or a nonforcible sexual offense requesting the final results of disciplinary proceedings conducted by the university under its student conduct code against the alleged perpetrator of such crime with respect to such crime.

(h) To others, the final results of a disciplinary proceeding when, at its discretion the university believes that disclosure will serve a legitimate educational interest, and determines through a disciplinary proceeding conducted under its student conduct code that the alleged student perpetrator committed a crime of violence or a nonforcible sexual offense that is a violation of the university's rules or policies with respect to such crime or offense. For purposes of this subsection, "final results" means the name of the student perpetrator, the violation committed, and any sanction imposed by the university on that student. Names of other students involved in the violation, such as a victim or witness, will be

released only with the written consent of that other student or students.

(i) For the purpose of (g) and (h) of this subsection, a "crime of violence" means:

(i) An offense that has an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(ii) An offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(j) Victims alleging a sexual offense shall be notified of the outcome of disciplinary proceedings through the student conduct code (chapter ~~(478-120)~~ 478-121 WAC).

(k) Officials of another institution of postsecondary education where the student seeks to enroll; the university shall provide the student a copy of the records released.

(l) Officials of another postsecondary institution or educational agency in which the student is enrolled or from which the student receives services when there is a legitimate educational interest.

(m) State or local officials or authorities, if a state statute adopted before November 19, 1974, specifically requires disclosures to those officials and authorities. The university may limit the number and type of officials to whom disclosure will be made under this subsection.

(n) A parent of a minor student or a nonminor dependent student, as defined in the Internal Revenue Code and upon submission of a copy of the most recent Internal Revenue Service annual tax return showing the student as a dependent.

(o) When, at its discretion, it believes that disclosure will serve a legitimate educational interest, the university may release to a parent or legal guardian of a student, information regarding that student's violation of any federal, state, or local law, or of any rule or policy of the university, governing the use or possession of alcohol or a controlled substance if:

(i) The student is under the age of twenty-one, and

(ii) The university determines that the student has committed a disciplinary violation with respect to such use or possession.

(p) Appropriate persons in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individual(s).

(q) Appropriate persons for whom information about the student's university-sponsored student health insurance status is necessary to protect the welfare of the student (e.g., to pay premiums, provide medical treatment, process claims).

(r) For deceased students, members of the family or to other persons with the approval of the family or representatives of the estate. The request for education records must be accompanied by a copy of the death certificate or obituary. Absent approval from the family or representative of the estate, directory information only will be released to persons upon request.

(2) Where the consent of the student is obtained for the release of education records, it shall be in writing, signed and dated by the student, or through the use of computer technology if the identification of the requesting student can be verified by the university, and shall include:

(a) A specification of the records to be released,

(b) The reasons for such release, and

(c) The names of the parties to whom such records may be released.

(3) The university shall keep with the education record released, a log which will indicate the parties which have requested or obtained access to a student's records maintained by the university, including the names of additional parties to whom the receiving party was permitted by the university to disclose the record, and which will indicate the interest claimed by the requesting party. The university need not maintain a log of releases made to university officials who have been determined to have a legitimate educational interest; releases to the student; releases made pursuant to a student's written consent, or releases of directory information only. The log of disclosure may be inspected and reviewed by the student, the university official responsible for the custody of the records, and other authorized parties.

(4) Education records, other than directory information, released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released to any other parties without obtaining consent of the student and must be destroyed when no longer needed for the purposes for which it was provided. Third parties and their agents may use such information only for the purposes for which it was released.

(5) The term "directory information" used in WAC 478-140-024(1) is defined as a student's name, street address, email address, telephone numbers, date of birth, major and minor field(s) of study, class, participation in officially recognized activities and sports, weight and height if the student is a member of an intercollegiate athletic team, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Students may restrict release of directory information, or remove a previous directory release restriction, by going to the registration office (225 Schmitz Hall) in person and presenting photo identification, or using STAR online.

WSR 17-15-073

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed July 14, 2017, 12:04 a.m., effective August 14, 2017]

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

Purpose: The agency is amending these rules to add occupational therapists to the list of eligible prosthetic and orthotic providers.

Citation of Existing Rules Affected by this Order: Amending WAC 182-543-2000 and 182-543-5000.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 17-12-107 on June 7, 2017.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 14, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-2000 DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services—Eligible providers and provider requirements. (1) The medicaid agency pays qualified providers for durable medical equipment (DME) and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, medical supplies, repairs, and related services on a fee-for-service basis as follows:

(a) DME providers who are enrolled with medicare for DME and related repair services;

(b) Qualified CRT suppliers who are enrolled with medicare for DME and related repair services;

(c) Medical equipment dealers who are enrolled with medicare, pharmacies who are enrolled with medicare, and home health agencies under their national provider (~~(indicator)~~) identifier (NPI) for medical supplies;

(d) Prosthetics and orthotics providers who are licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthetics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

(e) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy;

(f) Physicians who provide medical equipment and supplies in the office. The agency may pay separately for medical supplies, subject to the provisions in the agency's resource-based relative value scale fee schedule; and

~~((f))~~ (g) Out-of-state (~~(orthotics and)~~) prosthetics and orthotics providers who meet their state regulations.

(2) Providers and suppliers of DME and related supplies, CRT, prosthetics, orthotics, medical supplies and related items must:

(a) Meet the general provider requirements in chapter 182-502 WAC;

(b) Have the proper business license and be certified, licensed (~~(and/or)~~) and bonded if required, to perform the services billed to the agency;

(c) Have a valid prescription(~~(s)~~) for the DME.

(i) To be valid, a prescription must:

(A) Be written on the agency's Prescription Form (HCA 13-794). The agency's electronic forms are available online at:

<http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>;

(B) Be written by a physician, advanced registered nurse practitioner (ARNP), naturopathic physician, or physician's assistant certified (PAC);

(C) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the supply, equipment, or device. Prescriptions must not be back-dated;

(D) Be no older than one year from the date the prescriber signs the prescription; and

(E) State the specific item or service requested, diagnosis, estimated length of need (weeks, months, or years), and quantity.

(ii) For dual-eligible (~~(medicare/medicaid)~~) clients when medicare is the primary payer and the agency is being billed for (~~(the co-pay and/or deductible only)~~) only the copay, only the deductible, or both, subsection (2)(a) of this section does not apply.

(d) Provide instructions for use of equipment;

(e) (~~(Furnish)~~) Provide only new equipment to clients (~~(that)~~), which include(~~(s)~~) full manufacturer and dealer warranties. See WAC 182-543-2250(3);

(f) (~~(Furnish)~~) Provide documentation of proof of delivery, upon agency request (see WAC 182-543-2200); and

(g) Bill the agency using only the allowed procedure codes listed in the agency's published DME and related supplies, prosthetics and orthotics, medical supplies and related items billing instructions.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-5000 Covered—Prosthetics/orthotics.

(1) The agency covers, without prior authorization (PA), the following prosthetics and orthotics, with stated limitations:

(a) Thoracic-hip-knee-ankle orthosis (THKAO) standing frame - One every five years.

(b) Preparatory, above knee "PTB" type socket, non-alignable system, pylon, no cover, SACH foot plaster socket, molded to model - One per lifetime, per limb.

(c) Preparatory, below knee "PTB" type socket, non-alignable system, pylon, no cover, SACH foot thermoplastic or equal, direct formed - One per lifetime, per limb.

(d) Socket replacement, below the knee, molded to patient model - One per twelve-month period, per limb.

(e) Socket replacement, above the knee/knee disarticulation, including attachment plate, molded to patient model - One per twelve-month period, per limb.

(f) All other prosthetics and orthotics are limited to one per twelve-month period per limb.

(2) The agency pays only licensed prosthetic and orthotic providers to supply prosthetics and orthotics. This licensure requirement does not apply to the following:

(a) ~~((Selected prosthetics and orthotics that do not require specialized skills to provide; and))~~ Providers who are not required to have specialized skills to provide select orthotics, but meet DME and pharmacy provider licensure requirements;

(b) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy; and

(c) Out-of-state providers, who must meet the licensure requirements of that state.

(3) The agency pays only for prosthetics or orthotics that are listed as such by the Centers for Medicare and Medicaid Services (CMS), that meet the definition of prosthetic or orthotic ~~((as defined))~~ in WAC 182-543-1000 and are prescribed ~~((per))~~ under WAC 182-543-1100 and 182-543-1200.

(4) The agency pays for repair or modification of a client's current prosthesis. To receive payment, all of the following must be met:

(a) All warranties are expired;

(b) The cost of the repair or modification is less than fifty percent of the cost of a new prosthesis and the provider has submitted supporting documentation; and

(c) The repair ~~((is warranted))~~ must have a warranty for a minimum of ninety days.

(5) ~~((The agency requires the client to take responsibility))~~ Clients are responsible for routine maintenance of ~~((a))~~ their prosthetic or orthotic. If ~~((the))~~ a client does not have the physical or mental ability to perform ~~((the))~~ this task, ~~((the agency requires))~~ the client's caregiver ((to be responsible)) is responsible for routine maintenance of the prosthetic or orthotic. The agency requires ~~((prior authorization))~~ PA for extensive maintenance to a prosthetic or orthotic.

(6) For prosthetics dispensed for ~~((purely))~~ cosmetic reasons only, see WAC 182-543-6000~~((, Noncovered DME))~~ DME and related supplies, medical supplies and related services—Noncovered.

Adopted under notice filed as WSR 17-09-022 on April 11, 2017.

Changes Other than Editing from Proposed to Adopted Version: Two minor changes were made in response to the passage of E2SHB 1614 during the 2017 legislative session. The department is preparing paperwork to consider rule making to implement this bill. The bill amends several impaired driving laws and creates a department-issued "forensic phlebotomist" credential. Based on this, a reference to "forensic phlebotomist" was added to the new definition of "forensic blood draw" in amended WAC 246-827-0010.

Additionally, under WAC 246-827-0430 Forensic blood draws—Standards of practice (new), the department added "by medical assistant-certified and medical assistant-phlebotomist" to the second sentence of subsection (1) to clarify that the language in the subsection applies to MA-certified and MA-phlebotomist, and not to forensic phlebotomist.

A final cost-benefit analysis is available by contacting Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4766, fax (360) 236-2901, email brett.cain@doh.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 1, Repealed 0.

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

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

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

Date Adopted: July 13, 2017.

John Wiesman, DrPH, MPH
Secretary

WSR 17-15-075

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 14, 2017, 1:55 p.m., effective August 14, 2017]

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

Purpose: WAC 246-827-0010 Definitions and 246-827-0430 Forensic blood draws—Standards of practice (new), the department of health (department) has adopted rules to add a definition of "forensic blood draw" and establish a new section under the medical assistant (MA) chapter of rules related to standards of practice for forensic blood draws to provide clarification regarding blood draws taken to collect evidence as they relate to MAs.

Citation of Existing Rules Affected by this Order: Amending WAC 246-827-0010.

Statutory Authority for Adoption: RCW 18.360.030, 18.360.040, and 18.360.070.

AMENDATORY SECTION (Amending WSR 13-12-045, filed 5/31/13, effective 7/1/13)

WAC 246-827-0010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) **"Direct visual supervision"** means the supervising health care practitioner is physically present and within visual range of the medical assistant.

(2) **"Forensic blood draw"** means a blood sample drawn at the direction of a law enforcement officer for the purpose of determining its alcoholic or drug content by a person holding one of the credentials listed in RCW 46.61.506, including a medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist.

(3) **"Health care practitioner"** means a physician licensed under chapter 18.71 RCW; an osteopathic physician and surgeon licensed under chapter 18.57 RCW; or acting within the scope of their respective licensure, a podiatric phy-

sician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician assistant licensed under chapter 18.57A RCW, or an optometrist licensed under chapter 18.53 RCW.

~~((3))~~ (4) "**Hemodialysis**" is a procedure for removing metabolic waste products or toxic substances from the human body by dialysis.

~~((4))~~ (5) "**Immediate supervision**" means the supervising health care practitioner is on the premises and available for immediate response as needed.

~~((5))~~ (6) "**Legend drug**" means any drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

~~((6))~~ (7) "**Medical assistant**" without further qualification means a person credentialed under chapter 18.360 RCW as a:

- (a) Medical assistant-certified;
- (b) Medical assistant-registered;
- (c) Medical assistant-hemodialysis technician; and
- (d) Medical assistant-phlebotomist.

~~((7))~~ (8) "**Medical assistant-hemodialysis technician**" means a patient care dialysis technician trained in compliance with federal requirements for end stage renal dialysis facilities.

~~((8))~~ (9) "**Secretary**" means the secretary of the department of health or the secretary's designee.

NEW SECTION

WAC 246-827-0430 Forensic blood draws—Standards of practice. (1) Any medical assistant-certified or medical assistant-phlebotomist certified under this chapter who performs a forensic blood draw must do so in accordance with the rules governing delegation and supervision in WAC 246-827-0110 and 246-827-0420, as well as the standards of practice for a medical assistant in Washington state. Forensic blood draws by medical assistant-certified or medical assistant-phlebotomist are not limited to specific settings and must comply with the standards of practice described in this section.

(2) A medical assistant-phlebotomist or medical assistant-certified meets the supervision requirements to perform a blood draw at the direction of a law enforcement officer if either:

- (a) The medical assistant's supervising health care practitioner delegates the blood draw; or
- (b) The blood draw is performed under the supervising health care practitioner's protocol for blood draws as provided in RCW 18.360.060.

(3) As provided in RCW 18.130.410, it is not professional misconduct for a medical assistant-certified or medical assistant-phlebotomist to collect a blood sample without consent under direction of law enforcement pursuant to a search warrant or under exigent circumstances; however, nothing relieves a medical provider from professional discipline arising

from the use of improper procedures or from failing to exercise the required standard of care.

(4) RCW 46.61.508 sets forth the circumstances under which medical assistants-certified and medical assistants-phlebotomist are immune from civil and criminal liability when conducting a lawful forensic blood draw at the direction of a law enforcement officer. This protection does not extend to civil liability arising from the use of improper procedures or failing to exercise the required standard of care.

WSR 17-15-082
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed July 17, 2017, 10:54 a.m., effective August 17, 2017]

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

Purpose: Pursuant to WAC 352-32-130, hang gliding is a prohibited activity in state parks. However, provisions are made for paragliding which is a similar use. This amendment would revise existing language to authorize hang gliders to use state parks subject to certain conditions and restrictions which are the same as those used for paragliders.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-130.

Statutory Authority for Adoption: Chapter 79A.05 RCW.

Adopted under notice filed as WSR 17-12-066 on June 2, 2017.

A final cost-benefit analysis is available by contacting Nadine Selene-Hait, 1111 Israel Road S.W., Olympia, WA 98501, phone (360) 902-8507, email Nadine.Selene-Hait@parks.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 13, 2017.

Valeria Evans
Management Analyst

AMENDATORY SECTION (Amending WSR 16-10-002, filed 4/20/16, effective 5/21/16)

WAC 352-32-130 Aircraft. (1) No aircraft shall land on or take off from any body of water or land area in a state park

area not specifically designated for landing aircraft. This provision does not apply to official aircraft used in the performance of search and rescue missions, medical emergencies, law enforcement activities, emergency evacuations or fire-fighting activities. It also does not apply in cases where the director or designee specifically authorizes such landings or take offs, in writing, associated with the operational, or administrative needs of the agency or state.

(2) Individuals who have complied with the registration process provided or who have obtained a special recreation event permit pursuant to WAC 352-32-047 may launch and land paragliders and hang gliders in state park areas specifically designated by the director or designee as available for paragliding and hang gliding. Prior to any such designation, the director or designee shall advertise and conduct a public meeting in the region where the park is located. The director or designee shall consider the potential impacts of paragliding and hang gliding in the proposed area((s)) including, but not limited to the following factors: The degree of conflict paragliding and hang gliding may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park designated for paragliding and hang gliding shall be conspicuously posted as such by the agency.

(3) Individuals paragliding and hang gliding in state parks must:

- (a) Comply with the registration process provided for such purposes;
- (b) Observe all applicable laws and regulations;
- (c) Never destroy or disturb park facilities, natural features, or historical or archaeological resources;
- (d) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities;
- (e) Conduct themselves in compliance with the following basic safety regulations:
 - (i) Comply with specific site operational restrictions that are posted;
 - (ii) Fly in a manner consistent with the pilot rating held;
 - (iii) Preplanned landings should be made in areas no smaller than forty feet wide by one hundred feet long;
 - (iv) Make preflight checks of weather, equipment and site conditions;
 - (v) Observe all published traffic and right of way flight guidelines, including yielding right of way to all aircraft;
 - (vi) Wear protective clothing, headgear, Coast Guard approved flotation gear, reserve parachute, supplemental oxygen and communication equipment as appropriate for conditions;
 - (vii) Fly in a manner that does not create a hazard for other persons or property;
 - (viii) Fly only during daylight hours, or hours otherwise specified by posting at the site;
 - (ix) Do not fly over congested areas of parks or open air assembly of persons;
 - (x) Fly only in designated areas of parks;
 - (xi) Fly with visual reference to the ground surface at all times;
 - (xii) Do not tether paragliders or hang gliders to the ground or other stable nonmovable object.

(f) Not fly while under the influence of alcohol or drugs.

(4) Except as provided in subsection (5) of this section, individuals flying remote controlled aircraft may do so only within flying areas designated by the director or designee and only when following the remote controlled aircraft management plan approved by the director or designee and posted for that designated area.

(a) Prior to designating any remote controlled aircraft flying area, the director or designee shall advise and conduct a public meeting in the region where the park is located. The director or designee shall consider the potential impacts of remote controlled aircraft flying in the proposed area((s)) including, but not limited to, the following factors: The degree of conflict remote controlled aircraft flying may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park area designated for remote controlled aircraft flying shall be conspicuously posted as such by the director or designee.

(b) The director or designee shall establish a committee to advise park staff on park management issues related to remote controlled aircraft flying for each state park area designated as a remote controlled aircraft flying area.

(c) Each state park area with an established advisory committee, which includes remote controlled aircraft flyers will have an approved management plan which will specify remote controlled aircraft flying restrictions concerning types of aircraft, flying hours, identified approved flying zones, identified runways for take-offs and landings, engine muffler requirements, use of and posting of radio frequency, fuel spills and cleanup. The director or designee shall ensure that any remote controlled aircraft flying restrictions contained in the remote controlled aircraft flying management plan are conspicuously posted at the entrance of the affected park area.

(d) The director or designee may permanently, or for a specified period or periods of time, close any designated flying area to remote controlled aircraft flying if the director or designee concludes that a remote controlled aircraft flying closure is necessary for the protection of the health, safety, and welfare of the public, park visitors or staff, or park resources. Prior to closing any designated flying area to remote controlled aircraft flying, the director or designee shall hold a public meeting near the state park area to be closed to remote controlled aircraft flying. Prior notice of the meeting shall be published in a newspaper of general circulation in the area and at the park at least thirty days prior to the meeting. In the event that the director or designee or park manager determines that it is necessary to close a designated flying area immediately to protect against an imminent and substantial threat to the health, safety, and welfare of the public, park visitors or staff, or park resources, the director or designee or park manager may take emergency action to close a state park area to remote controlled aircraft flying without first complying with the publication and meeting requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director or designee to comply with the publication and meeting requirements of this subsection. The director or designee shall ensure that any designated flying area closed to remote

controlled aircraft flying is conspicuously posted as such at the entrance of the affected park area.

(5) Remote controlled aircraft may be flown in any state park area pursuant to written permission from the director or designee. In granting such permission, the director or designee may specify time, geographic, and elevation restrictions, and any other restrictions necessary to protect the public, park visitors or staff, or park resources. While operating a remote controlled aircraft pursuant to written permission under this subsection, the operator shall be in possession of a copy of the written permission and shall produce it upon request by parks staff. Permission granted by the director or designee to fly a remote controlled aircraft is subject to rescission as necessary to protect the public, park visitors or staff, or park resources.

(6) Any violation of this section, including any failure to abide by a conspicuously posted remote controlled aircraft flying restriction or failure to abide by the terms of written permission to fly remote controlled aircraft, is an infraction under chapter 7.84 RCW.

WSR 17-15-100
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 18, 2017, 10:59 a.m., effective August 18, 2017]

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

Purpose: These permanent rules amend chapter 392-107 WAC, which governs the administration of the election of board members to educational service districts. The amendments correct a few outdated references, align some procedures with those used for other elections conducted in the state, and update forms the office of superintendent of public instruction uses to conduct elections. Most changes are technical and intended to improve the efficiency of conducting ESD elections.

Citation of Rules Affected by this Order: Amending chapter 392-107 WAC.

Statutory Authority for Adoption: RCW 28A.310.080.

Adopted under notice filed as WSR 17-12-059 on June 2, 2017.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 13, 2017.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 07-17-182, filed 8/22/07, effective 9/22/07)

WAC 392-107-201 Election of educational service district board members. (1) The procedures governing the election of members to the boards of directors of educational service districts are set forth under RCW ((18A.310.080)) 28A.310.080 through 28A.310.110 and WAC 392-107-205 through 392-107-225.

(2) Elections for members of boards of educational service districts ((shall)) must be conducted ((biennially)) in odd-numbered years.

AMENDATORY SECTION (Amending WSR 07-17-182, filed 8/22/07, effective 9/22/07)

WAC 392-107-205 Electors ~~((provisions))~~. ~~(((1)) It shall be the responsibility of the educational service districts to assure that the superintendent of public instruction is provided current and correct information necessary to the conduct of the elections provided for in this chapter. Forms published by the superintendent of public instruction for the purpose of providing the following essential information shall be obtained, completed and submitted on a current basis:~~

~~(a) The name, legal residence, mailing address and board member district number of persons serving on the educational service district board of directors; and~~

~~(b) The position numbers for which appointments have been made to fill unexpired terms.~~

~~(2) On August 21st of the year of election or, if such date is a Saturday, Sunday, or holiday, the state working day immediately preceding such date, the superintendent of public instruction shall certify a tentative list of electors consisting of all persons eligible to vote if the election were held on that date.~~

~~(3) The list of eligible voters shall remain open for changes and deletions until 5:00 p.m. September 26th or, in the event such date is a Saturday, Sunday, or holiday, until 5:00 p.m. the working day immediately following such date. The superintendent of public instruction as soon thereafter as is practical shall certify the list of electors.)~~ An elector is each individual member of a public school board of directors. The office of superintendent of public instruction will obtain the list of electors from the Washington state school directors association or the individual educational service districts. The list must include each public school director's: Name, mailing address, school district name, and board member position or director district number.

AMENDATORY SECTION (Amending WSR 07-17-182, filed 8/22/07, effective 9/22/07)

WAC 392-107-210 ~~((Publicity and))~~ Call of election. ~~(((1)) The superintendent of public instruction shall biennially provide reasonable public information concerning the elec-~~

tion of educational service district board members through press and publication releases beginning in May of the year the elections are to be called.

(2) Call of election. See RCW 28A.310.080.) On or before August 25th of odd-numbered years, the superintendent of public instruction must publicize a call for election. The call of election must include an election timeline, candidate filing information and forms, and voting information. The timeline and other relevant election information will be posted to the superintendent of public instruction's public web site. The superintendent will issue a press release or similar form of public communication to provide election information to the public.

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

WAC 392-107-215 Candidate qualifications—Forms—Filing—Withdrawal of candidacy. (1) Eligibility. A person is eligible to be a candidate for membership on an educational service district board if he or she is a registered voter and a resident of the board-member district for which the candidate files. Restriction on other service pursuant to RCW 28A.310.070.

(2) Declaration ~~((and affidavit))~~ of candidacy. A person who desires to ~~((file for candidacy shall))~~ be a candidate must complete and file ((with the state board of education)) a declaration ((and affidavit)) of candidacy form with the office of superintendent of public instruction as a condition to having his or her name placed on the official ballot. ((The form is available through the state board of education office in Olympia or through the local educational service district office.))

The office of superintendent of public instruction will provide the declaration of candidacy form, which must include the candidate's name, residential address, mailing address (if different from residence), phone number, email address, exact name to be printed on ballot, the position the candidate is running for, and the candidate's signature and date signed. The form must also include the following declaration:

I declare that the above information is true, that I am a registered voter residing at the address listed above, that I am a candidate for the office listed above, and that I am aware if elected, I cannot serve as an employee of a school district or as a member of a board of directors of a common school district or as a member of the state board of education and as a member of an educational service district board at the same time. I swear, or affirm, that I will support the Constitution and laws of the United States, and the Constitution and laws of the state of Washington.

(3) Optional ~~((biographical form. A person who desires to file for candidacy has the option of completing and filing with the state board of education, for inclusion with balloting information, a biographical form not to exceed two pages. The form is available through the state board of education office in Olympia or through the local educational service district office))~~ candidate statement. A candidate has the option of completing and filing a candidate statement and photo for inclusion with balloting information. The candidate

statement, if submitted, shall not exceed three hundred words. The candidate may include one head-shot photo. The candidate statement and photo must be filed by the date and manner provided in the election timeline.

(4) Filing period. ~~((The filing period is set forth under RCW 28A.310.080. The filing period for candidates for any position on an educational service district board is from September 1st through September 16th. Any declaration and affidavit of candidacy that is postmarked on or before midnight September 16th and received by mail prior to the printing of ballots shall be accepted. Any declaration and affidavit of candidacy that is received by United States mail on or before 5:00 p.m. September 21st and is not postmarked or legibly postmarked shall be accepted.))~~ The declaration of candidacy may be filed by postal mail or in person. If filed by mail, the declaration must be postmarked on or by September 16th. If the declaration is filed in person, it must be delivered to the office of superintendent of public instruction on or by September 16th, or the business day otherwise specified in the election timeline. Any declaration postmarked or received after the close of the filing period will not be accepted.

(5) Any candidate may withdraw his or her declaration ~~((and affidavit))~~ of candidacy by ~~((delivering a written, signed and notarized statement of withdrawal to the secretary to the state board of education))~~ completing and signing a statement of withdrawal form and filing the form with the office of superintendent of public instruction on or before 5:00 p.m. September 21st (or business day set forth in election timeline). A candidate's failure to withdraw ((as prescribed above shall)) will result in the inclusion of the candidate's name on the appropriate election ballot.

AMENDATORY SECTION (Amending WSR 07-17-182, filed 8/22/07, effective 9/22/07)

WAC 392-107-220 Balloting. (1) ~~((Ballots shall be prepared by the superintendent of public instruction.))~~ The office of superintendent of public instruction must prepare ballots, subject to the following conditions:

(a) The ballot for each position subject to election ~~((shall))~~ must contain the name of each candidate eligible for the particular position~~((There shall be));~~

(b) The ballot must include a separate listing of the candidates for each board-member ~~((district))~~ position open in the ~~((particular))~~ educational service district~~((:));~~ and

(c) A board-member ~~((district))~~ position shall be stricken from the ballot if no candidate files for the position within the timelines specified in RCW 28A.310.080 and WAC 180-22-215~~((:~~

~~(2)(a) The superintendent of public instruction shall develop voting instructions which shall accompany the ballots. Biographical forms submitted under WAC 180-22-215(3) shall also accompany the ballots.~~

~~(b) On or before October 1st, ballots shall be mailed to voters with two envelopes to be used for voting.~~

~~(i) The outer, larger envelope (i.e., official ballot envelope) shall be labeled "official ballot"; be preaddressed with the "superintendent of public instruction" as addressee; and have provision for the identification of the voter, mailing~~

address, his or her school district, and his or her educational service district.

~~(ii) The inner, smaller envelope shall be unlabeled and unmarked.) during the candidate filing period.~~

(2) The voting package must include the following:

(a) Official ballot;

(b) Ballot return envelope, marked "Official Ballot" and preaddressed to the office of superintendent of public instruction. The return address area of the envelope must be preaddressed with the elector's name, mailing address, and school district;

(c) Secrecy envelope, consisting of a plain envelope with no markings that is smaller than the ballot return envelope;

(d) Instructions to electors, which must identify how to mark the ballot, the date the ballot must be postmarked or returned, and directions on how to place the ballot in the secrecy envelope and place the secrecy envelope in the ballot return envelope;

(e) Candidate statements and photos, which may be compiled into a single document.

(3) Marking of ballots. Each ~~((member of a public school district board of directors))~~ elector may vote for one ~~((of the))~~ candidate~~(s)~~ in each board-member ~~((district))~~ position named on his or her ballot by placing an "X" or other mark as instructed in the space provided next to the name of a candidate.

(4) Return of ballots. Each ~~((member of a public school district board of directors shall))~~ elector must complete voting by:

(a) Placing ((his or her)) the marked official ballot in the ((smaller, unmarked)) secrecy envelope ((and));

(b) Sealing the ((same)) secrecy envelope;

(c) Placing the ((smaller)) secrecy envelope containing the official ballot in the ((larger preaddressed envelope marked "official ballot" and sealing the same)) ballot return envelope;

(d) Sealing the ballot return envelope; and

(e) If not already designated, completing the following information on the face of the official ballot envelope: Name, mailing address, identification of school district and educational service district~~((; and placing the official ballot envelope in the United States mail to the secretary to the state board of education))~~.

(5) Voted ballots must be postmarked on or before October 16th. Ballots delivered in person must be received at the office of superintendent of public instruction on or before October 16th. Voted ballots must be mailed or delivered to the office of superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 07-17-182, filed 8/22/07, effective 9/22/07)

WAC 392-107-225 Counting—Ineligible votes—Recount—Certification of election—Special election.

(1)(a) As official ballot envelopes are received by the superintendent of public instruction, a preliminary determination ~~((shall))~~ must be made as to the eligibility of the ~~((voter))~~ elector and a record shall be made on the list of ~~((eligible voters))~~ electors that the ~~((voter))~~ elector has voted.

(b) Official ballot envelopes not submitted in compliance with this chapter and other envelopes containing ballots ~~((shall))~~ must be set aside for a final review and acceptance or rejection by the election board.

(2)(a) The election board ~~((shall))~~ must convene for the purpose of counting votes on or before October 25th ~~((or, if such date is a Saturday, Sunday, or holiday, the state working day immediately preceding or following such date at a date, time and place designated by the superintendent of public instruction)),~~ but not earlier than October 21st.

(b) Official ballot envelopes that are accepted by the election board ~~((shall))~~ must be opened ~~((and the inner envelopes containing ballots shall)).~~ The secrecy envelope must be removed and placed aside, ~~((still sealed))~~ unopened. The ~~((inner))~~ secrecy envelopes ~~((shall))~~ must then be opened and the votes counted by the election board.

(c) No record shall be made or maintained of the candidate for which any ~~((voter))~~ elector cast his or her vote.

(3) Ineligible votes. The following ballots and votes ~~((shall))~~ must be declared void and ~~((shall))~~ will not be accepted:

(a) Votes for write-in candidates.

(b) Votes cast on other than an official ballot.

(c) Ballots which contain a vote for more than one candidate in a board-member ~~((district))~~ position.

(d) Ballots contained in other than the official ballot envelope.

(e) Ballots contained in the official ballot envelope upon which the ~~((voter's name))~~ elector is not designated by name.

(f) Ballots ~~((received after 5:00 p.m. October 16th. However, any ballot that is postmarked on or before midnight October 16th and received prior to the initial counting of votes by the election board shall be accepted. Any ballot received pursuant to the United States mail on or before 5:00 p.m. on October 21st that is not postmarked or legibly postmarked shall be accepted))~~ postmarked after October 16th; hand-delivered ballots received after October 16th; ballots postmarked on or before October 16th but received after October 21st; mailed ballots with illegible postmarks received after October 21st.

(g) Such other ballots or votes as the election board shall determine to be unidentifiable or unlawful.

(4)(a) Recounts. Automatic. A recount of votes cast ~~((shall))~~ will be automatic if the electoral vote difference between any two candidates for the same position is one vote or less than one percent of electoral votes on a single ballot cast for the position, whichever is greater.

(b) Recounts. Upon request. ~~((A recount of votes cast shall be afforded any candidate as a matter of right.))~~ The request ~~((shall))~~ must be made in writing and received by the superintendent of public instruction ~~((within seven calendar days after the date upon which the votes were counted by the election board)).~~

(5) Certification of election. Within ten calendar days after the date upon which the votes were counted, and no sooner than eight calendar days after the votes are counted by the election board, the superintendent of public instruction shall officially certify to the county auditor of the headquarters county of the educational service district the name or

names of (~~candidates~~) persons elected to membership on the educational service district board of directors.

(6) (~~Special election. See RCW 28A.310.100.~~) Run-off election. If no candidate for any one position receives a minimum of fifty percent plus one of the total votes for such position, the superintendent of public instruction must call a run-off election between the two candidates receiving the two highest vote totals for such position. The call for run-off election by the superintendent of public instruction must occur no later than November 1st. Ballots will be mailed to the same list of electors as were issued ballots for the initial election. In the event of a tie, the winner will be determined by lot drawing. To conduct the lot draw, the superintendent of public instruction, or designee, will place both names in a container and randomly draw one of the names. The lot draw will be conducted at the office of the superintendent of public instruction and will be witnessed by the three member election board. The candidate whose name is drawn will be deemed elected.

WSR 17-15-101
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 18, 2017, 11:00 a.m., effective August 18, 2017]

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

Purpose: These permanent rules amend chapter 392-109 WAC, which governs the administration of the election of board members to the state board of education. The amendments update and correct a few outdated references, align some procedures with those used for other elections conducted in the state, and update forms the office of superintendent of public instruction uses to conduct elections. Most changes are technical and intended to improve the efficiency of conducting educational service district elections.

Citation of Existing Rules Affected by this Order: Amending chapter 392-109 WAC.

Statutory Authority for Adoption: RCW 28A.305.021.

Adopted under notice filed as WSR 17-12-060 on June 2, 2017.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 13, 2017.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-037 Purpose and authority. (1) The purpose of this chapter is to provide for the annual election of members to the state board of education by establishing policies and procedures which implement the statutory election process for such positions.

(2) Authority for this chapter is RCW (~~28A.305.102~~) 28A.305.021 which authorizes the superintendent of public instruction to adopt rules and procedures for the conduct of election of members to the state board of education.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-043 Election officer. In accordance with RCW (~~28A.305.102~~) 28A.305.021, the superintendent of public instruction or his or her designee (~~shall~~) serve as the election officer for the coordination and conduct of the election of members to the state board of education.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-045 Definitions. As used in this chapter the term:

(1) "Board of directors" (~~shall~~) means:

(a) The statutory, multimember board of directors of a public school district; or

(b) The person or multimember body recognized by an approved private school as having the final authority for policy decisions which govern the operation of the private school.

(2) "Elector" (~~shall~~) means:

(a) Each individual member of a public school board of directors; or

(b) An approved private school board of directors as a whole.

(3) "Approved private school" (~~shall~~) means a school which is approved by the state board of education pursuant to chapter 180-90 WAC, as now or hereafter amended, as being in compliance with statutory standards.

(4) "Eastern Washington region" (~~shall~~) means the region comprised of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties.

(5) "Western Washington region" (~~shall~~) means the region comprised of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom counties.

(6) "Weighted vote" (~~shall~~) means the total number of electoral votes assigned to an elector (~~for~~).

(a) Public schools: Each elector shall be entitled to a number of electoral votes equal to:

School District Student Enrollment	Each Elector Receives
1 - 1,000	1 vote
1,001 - 2,000	2 votes
2,001 - 3,000	3 votes
3,001 - 4,000	4 votes
4,001 - 5,000	5 votes
5,001 - 6,000	6 votes
6,001 - 7,000	7 votes
7,001 - 8,000	8 votes
8,001 - 9,000	9 votes
9,001 - 10,000	10 votes
10,001 - 15,000	11 votes
15,001 - 20,000	12 votes
20,001 - 25,000	13 votes
25,001 - 30,000	14 votes
30,001 - 35,000	15 votes
35,001 - 40,000	16 votes
40,001 - or greater	17 votes

(b) Approved private schools: Each approved private school shall be entitled to a number of electoral votes equal to the actual number of students enrolled.

(7) "Student enrollment" ((shall)) means the number of students enrolled during October of the preceding school year as reported to the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-047 Annual elections. The superintendent of public instruction must conduct an election of members to the state board of education ((shall be conducted)) each year preceding a year in which the term of one or more members expires, and as required by RCW ((28A.305.102)) 28A.305.021 following a vacancy on the board.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-048 Election timeline. The superintendent of public instruction must publish an official election timeline ((shall be published by the superintendent of public instruction)) at the call of each ((yearly)) election that shall include all necessary dates for the conduct of election.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-050 Elector information ((necessary for the conduct of elections—Responsibility of school officials)). ((It shall be the responsibility of each member of a

board of directors to assure that the superintendent of public instruction is provided current and correct information necessary for the conduct of the elections provided for in this chapter. Forms published by the superintendent of public instruction for the purpose of providing the following essential information shall be obtained, completed and submitted on a current basis:)) (1) Public schools. The office of superintendent of public instruction will obtain the list of electors from the Washington state school directors association or the individual educational service districts. The list must include each public school director's: Name, mailing address, school district name, and board member position or director district number.

(2) Approved private schools((:)). The state board of education must provide to the office of superintendent of public instruction the mailing address ((and previous October student enrollment; and

(2) Public school districts: The name, legal residence, mailing address and region, as defined in WAC 392-109-034, of residence for each member of a board of directors)) for the board of directors of each approved private school.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-060 ((Publicity and)) Call of election.

On or before August twenty-fifth of each year the superintendent of public instruction ((shall publicize notice of an election to be held for each position on the state board of education subject to election by public and approved private school boards of directors. Notice shall be made by, but not limited to:

(1) An official press release containing the call of election materials citing the election rules, declaration and affidavit of candidacy, biographical data form, and election timeline.

(2) Making the call of election materials in subsection (1) of this section available by contacting: Administrative Resource Services, Office of the Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200.

(3) Making the call of election materials in subsection (1) of this section available on the superintendent of public instruction's official web site at www.k12.wa.us)) must publicize a call of election. The call of election must include an election timeline, candidate filing information and forms, and voting information. The timeline and other relevant election information will be posted to the superintendent of public instruction's public web site. The superintendent will issue a press release or similar form of public communication to provide election information to the public.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-065 Candidates—Eligibility—Filing.

(1) Eligibility((:)). A person is eligible to be a candidate for only one position on the state board of education at a time.

(a) A candidate for a ((vacancy among the five)) position((s)) on the state board of education elected by members of public school ((boards of)) district directors must be a resident of the region represented by the position and meet the

other qualifications established by RCW ((28A.305.102)) 28A.305.021; ((and))

(b) A candidate for ((a vacancy in)) the position on the state board of education elected by private schools must be a resident of the state of Washington and meet the other qualifications established by RCW ((28A.305.102)) 28A.305.021.

(2) Forms for filing((:)). A person who desires to be a candidate ((shall)) must complete:

(a) The declaration ((and affidavit)) of candidacy form provided for in WAC 392-109-070; and

(b) The ((biographical data form)) optional candidate statement provided for in WAC 392-109-075((: Provided, That a declarant may elect not to submit biographical data)).

(3) Filing period((:)). The filing period for candidates for any position on the state board of education elected by either public school district directors or approved private school boards of directors ((shall be no less than seven days in duration and occur a minimum of sixty days prior to election and shall be included on the election timeline. Declarations not received by 5:00 p.m. on the indicated date will not be included on the certified list of candidates)) is September 1st through September 16th, or the business day specified on the election timeline.

(4) Filing deadline((: The filing deadline for candidacy shall be 5:00 p.m. on the date included on)). The declaration of candidacy form must be postmarked by the date specified in the election timeline or, if filed in person, received at the office of superintendent of public instruction by close of business on the business day specified in the election timeline.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-070 Declaration ((and affidavit)) of candidacy form. ((The declaration and affidavit of candidacy form which each candidate is required to substantially complete and to file as a condition to having his or her name placed on an official ballot is available from the superintendent of public instruction and shall be as follows:

I,, solemnly swear (or affirm): That (if filing for a position elected by members of public school boards of directors) I reside in the Region of the state of Washington (OR if filing for the position elected by private schools) I reside within the state of Washington; That I am aware that if elected, I cannot concurrently serve as a member of the state board of education and as an employee of any school, college, university, or other educational institution, or any educational service district superintendent's office, or in the office of the superintendent of public instruction, or as a member of the board of directors of either a common school district or a private school; and, That I hereby declare myself a candidate for membership on the state board of education for Region, Position No., a term beginning on the second Monday in January, 20, subject to the election to be held during the month of November, 20, and I request that my name be listed on the ballot thereof.

Further, I solemnly swear (or affirm) that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

(Print Name)
(Signature)
Address:
.
Telephone number

State of Washington

County of

Signed and sworn to (or affirmed) before me on (date) by (name of person making statement):

(Signature)

(Seal or stamp)

Notary Public

My appointment

expires)

A person who desires to be a candidate must complete and file a declaration of candidacy with the office of superintendent of public instruction as a condition to having his or her name placed on the official ballot.

The office of superintendent of public instruction will provide the declaration of candidacy form, which must include the candidate's name, residential address, mailing address (if different from residence), phone number, email address, exact name to be printed on ballot, the position the candidate is running for, and the candidate's signature and date signed. The form must also include the following declaration:

I declare that the above information is true, that I am a registered voter residing at the address listed above, that I reside in the region of Washington state as listed above, that I am a candidate for the office listed above, and that I am aware if elected, I cannot concurrently serve as a member of the state board of education and as an employee of any school, college, university, or other educational institution, or any educational service district superintendent's office, or in the office of the superintendent of public instruction, or as a member of the board of directors of either a common school district or a private school. I swear, or affirm, that I will support the Constitution and laws of the United States, and the Constitution and laws of the state of Washington.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-075 ((Biographical data form-)) Optional candidate statement. (((1) The superintendent of public instruction shall provide a biographical data form not exceeding one letter size double spaced minimum twelve point font typewritten page in length which each candidate may complete.

(2) Biographical data forms shall be reproduced as submitted and distributed by the superintendent of public instruction with the official ballots to each elector.

(3) Candidates may submit a two-inch by two-inch headshot photograph with this form.

(4) Filing of this form is not required.)) A candidate has the option of completing and filing a candidate statement and photo for inclusion with balloting information. The candidate

statement, if submitted, shall not exceed three hundred words. The candidate may include one head-shot photo. The candidate statement and photo must be filed by the date and manner provided in the election timeline.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-077 Withdrawal of candidacy. Any candidate may withdraw his or her declaration of candidacy by ~~((delivering a written, signed and notarized statement of withdrawal to the superintendent of public instruction on or before 5:00 p.m. on the date included on the election timeline))~~ completing and signing a statement of withdrawal form and filing the form with the office of the superintendent of public instruction on or before 5:00 p.m. on the date included on the election timeline. A candidate's failure to withdraw ~~((as prescribed above shall))~~ will result in the inclusion of the candidate's name on the appropriate election ballot.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-080 Ballots—Contents. The ballot for each position subject to election pursuant to this chapter ~~((shall))~~ must:

- (1) Contain the names of each candidate eligible for the particular position.
- (2) Be prepared for each region.
- (3) Set forth the number of electoral votes to which each elector is entitled.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-085 Ballots and envelopes—Mailing to electors. (1) The office of superintendent of public instruction must prepare ballots. Ballots ~~((shall))~~ must be mailed to electors ~~((on))~~ by the date ~~((included on))~~ set forth in the election timeline ~~((, together with two envelopes to be used for voting—~~

~~(a) The outer and larger envelope (i.e., official ballot return envelope) shall:~~

- ~~(i) Be labeled "official ballot return envelope";~~
- ~~(ii) Be preaddressed with the "superintendent of public instruction" as addressee; and~~
- ~~(iii) Have provision for the identification of the elector, his or her school district or school and his or her home address.~~

~~(b) The inner and smaller envelope shall be unlabeled and unmarked.~~

~~(2) One official ballot and the two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each member of a public school district board of directors.~~

~~(3) One official ballot, two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each approved private school addressed to the chief administrator of each approved).~~

(2) The voting package must include the following:

(a) Official ballot;

(b) Ballot return envelope, marked with "Official Ballot" and preaddressed to the office of superintendent of public instruction. The return address area of the envelope must be preaddressed with the elector's name, mailing address, and school district;

(c) Secrecy envelope, consisting of a plain envelope with no markings that is smaller than the ballot return envelope;

(d) Instructions to electors, which must identify how to mark the ballot, the date the ballot must be postmarked or returned, and directions on how to place the ballot in the secrecy envelope and place the secrecy envelope in the ballot return envelope;

(e) Candidate statements and photos, which may be compiled into a single document.

(3) Voting packages for private schools must be mailed to the chief administrator of each approved private school and include the components listed in subsection (2) of this section. The return address area of the ballot return envelope must include the name and address of the private school.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-090 Voting—Marking and return of ballots. (1) Each member of a public school district board of directors may vote for one of the candidates for each position named on ~~((his or her))~~ the official ballot by placing an "x" or other mark as instructed in the space provided next to the name of a candidate.

(2) Each approved private school may vote for one candidate on the official ballot by placing an "x" or other mark as instructed in the space provided next to the name of a candidate.

(3) Each member of a public school district board of directors and each approved private school shall complete voting by:

(a) Placing the marked official ballot in the smaller, unmarked secrecy envelope and sealing the same;

(b) Placing the ~~((smaller))~~ unmarked secrecy envelope containing the official ballot in the larger preaddressed ballot return envelope marked "official ballot ~~((return envelope))~~" and sealing the same; and

~~((Affixing proper postage and placing the official ballot return envelope in the United States mail or otherwise delivering the envelope to the superintendent of public instruction.))~~ The voted ballot must be returned to the office of superintendent of public instruction by the date stated on the election timeline or must be postmarked on or before the date stated on the election timeline.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-095 Election ~~((committee))~~ counting boards—Appointment and composition. The superintendent of public instruction ~~((shall annually appoint a three member election committee and at least one alternate who shall serve thereon in the absence of a regular member of the election committee. Counting of votes cast at elections con-~~

ducted pursuant to this chapter shall be supervised by the superintendent of public instruction or his or her designee and the election committee)) or designee must establish and supervise counting boards comprised of no less than two members for each board. More than one counting board may be established to conduct the counting of ballots. The office of superintendent of public instruction must compile a list of the members of the counting board.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-100 Receipt of ballots and count of votes. (1) As official ballot return envelopes are received by the superintendent of public instruction, a preliminary determination ~~((shall))~~ must be made as to the eligibility of the elector, and a record ~~((shall))~~ must be made on a list of eligible electors and approved private schools that the elector has voted.

(2) Official ballot return envelopes not submitted in compliance with this chapter and other envelopes containing ballots ~~((shall))~~ must be set aside for a final review and acceptance or rejection by the election ~~((committee))~~ counting boards.

(3) The ~~((election committee shall))~~ counting boards must convene for the purpose of counting votes on the date included on the election timeline.

(a) Official ballot return envelopes accepted by the election committee ~~((shall))~~ must be opened and the ~~((inner unmarked))~~ secrecy envelopes containing the official ballots shall be removed and placed aside still sealed.

(b) The inner unmarked envelopes shall then be opened and the votes counted by the election committee.

(4) ~~((No record shall be made or maintained))~~ The office of superintendent of public instruction must not make or maintain any record of the candidate for whom any elector cast his or her vote.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-105 Ineligible votes. The following ballots and votes ~~((shall))~~ must be declared void and ~~((shall))~~ will not be accepted:

(1) Votes for write-in candidates;

(2) Votes cast on other than an official ballot ~~((provided pursuant to this chapter))~~;

(3) Ballots which contain a vote for two or more of the named candidates for a particular position;

(4) Ballots contained in other than an official ballot return envelope ~~((provided pursuant to this chapter))~~;

(5) Ballots contained in an official ballot return envelope upon which the elector is not designated by name;

(6) Ballots ~~((received after 5:00 p.m. on the date included on the election timeline. Provided, that any official ballot return envelope that is postmarked on or before midnight of the above date and received pursuant to the United States mail prior to the initial counting of votes by the election committee shall be accepted))~~ postmarked after the date specified on the election timeline. Ballots received after 5:00

p.m. on the date specified in the election timeline if delivered in person; and

(7) Such other ballots or votes as the ~~((election committee shall))~~ counting boards determine to be unidentifiable or unlawful.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-111 Run-off election. If no candidate for any one position receives a minimum of fifty percent plus one of the total votes for such position, the superintendent of public instruction ~~((shall))~~ must call a run-off election between the two candidates receiving the two highest vote totals for such position. The call for run-off election will include an updated election timeline. Ballots will be mailed to the same list of electors as were issued ballots for the initial election. In the event of a tie, the winner will be determined by lot drawing. To conduct the lot draw, the superintendent of public instruction, or designee, will place both names in a container and randomly draw one of the names. The lot draw will be conducted at the office of the superintendent of public instruction and will be witnessed by the three member election board. The candidate whose name is drawn will be deemed elected.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-112 Dispute resolution. ~~((H))~~ Any public school district board member or any approved private school eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the superintendent of public instruction's reporting of election, may contest the election of a candidate ~~((for any of the following causes:~~

(a) ~~Because the person whose right is being contested gave a bribe or reward to an elector for the purpose of procuring the candidate's election, or offered to do so; or~~

(b) ~~On account of illegal votes.~~

~~(2) An action contesting an election pursuant to this chapter shall be conducted in compliance with chapter 29A.68 RCW, as now or hereafter amended))~~ under chapter 29A.68 RCW. The request must be made in writing and received by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

WAC 392-109-115 Report and certification of election. (1) On the date included on the election timeline, but no later than December 15, if a candidate receives a minimum of fifty percent plus one of the total votes for a position, the superintendent ~~((shall))~~ must publicly announce and certify the election results; or

(2) If a candidate does not receive a minimum of fifty percent plus one of the total votes for a position, the superintendent ~~((shall))~~ must publicly announce the need for a run-off election; the results of which ~~((shall))~~ must be announced and certified no more than ten days after election.

AMENDATORY SECTION (Amending WSR 11-01-057, filed 12/7/10, effective 1/7/11)

WAC 392-109-120 Vacancies and appointments. (1) Whenever a vacancy among members elected by public school boards of directors occurs on the state board of education, from any cause whatsoever, ~~((it shall be the duty of))~~ the remaining members representing public school boards of directors ~~((to))~~ **must** fill such vacancy by appointment, subject to full board approval. The appointment ~~((shall))~~ **must** be consistent with the appropriate regional position being vacated. The person so appointed ~~((shall))~~ **must** continue in office until the regular term expires. ~~((The appointed person has the option to step down or run for reelection consistent with RCW 28A.305.021 at the time the term expires.))~~

(2) Whenever a vacancy of the approved private school elected member occurs on the state board of education, from any cause whatsoever, ~~((it shall be the duty of))~~ the private school advisory committee ~~((to))~~ **must** fill such vacancy by appointment consistent with RCW ~~((28A.305.011))~~ 28A.305.021. The person so appointed ~~((shall))~~ **must** continue in office until the regular term expires. ~~((The appointed person has the option to step down or run for election consistent with RCW 28A.305.021 at the time the term expires.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-109-078 Certificate of electors.
- WAC 392-109-117 Publishing of names.

WSR 17-15-127

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 19, 2017, 9:37 a.m., effective August 19, 2017]

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

Purpose: WAC 246-824-990 Dispensing optician fees and renewal cycle, the amended rule removes the full examination and reexamination fees, adds an application fee, and fixes formatting to make the fee rule easier to read and understand by licensees.

Citation of Existing Rules Affected by this Order: Amending WAC 246-824-990.

Statutory Authority for Adoption: RCW 18.34.120, 43.70.250, and 43.70.280.

Adopted under notice filed as WSR 17-11-088 on June 7 [May 19], 2017.

Changes Other than Editing from Proposed to Adopted Version: The active license late renewal penalty is reduced from \$75 to \$65 consistent with department standards for late penalties. The duplicate license fee is reduced from \$15 to \$10, and verification of license (formerly certification of license) fee increased from \$15 to \$25 consistent with department's current costs of processing these requests.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 19, 2017.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 13-24-097, filed 12/3/13, effective 2/1/14)

WAC 246-824-990 Dispensing optician fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

((Title of Fee	Fee
Optician:	
Full examination (or reexamination)	\$200.00
Reexamination—Practical only	50.00
Reexamination—Written (basic) only	25.00
Reexamination—Written (contact lens) only	25.00
Renewal	125.00
Renewal retired active	50.00
Late renewal penalty	75.00
Late renewal retired active	25.00
Expired license reissuance	62.50
Duplicate license	15.00
Certification of license	15.00
Apprentice registration	75.00
Endorsement application	100.00
Inactive license	35.00))

Title of Fee	Fee
<u>Original application</u>	<u>\$100.00</u>
<u>Active license renewal</u>	<u>125.00</u>
<u>Late renewal penalty</u>	<u>65.00</u>
<u>Retired active renewal</u>	<u>50.00</u>
<u>Late renewal penalty</u>	<u>25.00</u>
<u>Expired license reissuance</u>	<u>65.00</u>
<u>Apprentice registration</u>	<u>75.00</u>

<u>Title of Fee</u>	<u>Fee</u>
<u>Duplicate license</u>	10.00
<u>Verification of license</u>	25.00
<u>Endorsement application</u>	100.00
<u>Inactive license</u>	35.00

WSR 17-15-135
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed July 19, 2017, 10:57 a.m., effective August 19, 2017]

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

Purpose: Amends WAC 181-79A-211, board action removing requirements for professional level certificates for administrators and principals requires an end date for cohorts currently in program.

Citation of Existing Rules Affected by this Order: Amending WAC 181-79A-211.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 17-11-106 on May 24 [22], 2017.

Changes Other than Editing from Proposed to Adopted Version: WAC 181-79A-2510 is not addressed in this final [filing]; it is being addressed in an emergency filing.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, email david.brenna@k12.wa.us.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 18, 2017.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 13-11-081, filed 5/17/13, effective 6/17/13)

WAC 181-79A-211 Academic and experience requirements for certification—Administrators. Candidates for the respective administrative certificate shall com-

plete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-213.

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate shall hold a valid teacher, educational staff associate, program administrator or principal certificate; excluding certificates issued under WAC 181-79A-231, or comparable out-of-state certificates.

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate shall hold a valid teacher, educational staff associate, program administrator or principal certificate; excluding certificates issued under WAC 181-79A-231, or comparable out-of-state certificates.

(iii) Candidates applying for continuing superintendent's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) Principal.

(a) Residency.

(i) The candidate shall hold an approved master's degree.

(ii) The candidate shall have completed an approved program for the preparation of principals.

(iii) The candidate shall have three years of documented successful school-based experience in an instructional role with students; provided, candidates who were enrolled in an approved principal program prior to July 1, 2013, are not subject to the three-year minimum experience requirement.

(iv) The candidate shall hold or have held:

(A) A valid teacher's certificate, excluding certificates issued under WAC 181-79A-231; or

(B) A valid education staff associate certificate, excluding certificates issued under WAC 181-79A-231.

(v) Persons whose teacher or educational staff associate certificates were revoked, suspended or surrendered are not eligible for principals certificates.

(b) Continuing.

(i) The candidate shall hold a valid initial principal's certificate, an approved master's degree and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 181-78A-270 (2)(a) or (b);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(ii) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 181-79A-211 (2)(c)(i), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.

(iii) The candidate must meet requirements for a principal's certificate pursuant to WAC 181-79A-150(4).

(iv) Candidates applying for the continuing principal's certificate shall provide documentation of three contracted school years of full-time employment as a principal or assistant principal.

(c) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program by September 2018.

(ii) The candidate shall have documentation of three contracted school years of employment as a principal or assistant principal.

(3) Program administrator.

(a) Initial.

The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.

(b) Residency certificate.

The candidate shall hold an approved master's degree and have completed an approved program for the preparation of program administrators.

(c) Continuing.

(i) The candidate shall hold a valid initial program administrator's certificate, an approved master's degree and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for continuing program administrator's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(d) Professional certificate.

The candidate shall have completed an approved professional certificate program by September 2018.

WSR 17-15-136
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed July 19, 2017, 11:15 a.m., effective August 19, 2017]

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

Purpose: Repeals WAC 181-78A-500, 181-78A-515, 181-78A-520, 181-78A-525, 181-78A-530, and 181-78A-535 removing professional certification programs from requirements for administrators/principals and school counselors.

Citation of Existing Rules Affected by this Order: Repealing WAC 181-78A-500, 181-78A-515, 181-78A-520, 181-78A-525, 181-78A-530, and 181-78A-535.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 17-11-143 on May 24, 2017.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, email david.brenna@k12.wa.us.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 6.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 6; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May [July] 18, 2017.

David Brenna
Senior Policy Analyst

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 181-78A-500	Professional certificate program approval.
WAC 181-78A-515	Program approval standards for professional certificate approved programs.
WAC 181-78A-520	Approval standard—Professional education advisory board.
WAC 181-78A-525	Approval standard—Accountability.

- WAC 181-78A-530 Approval standard—Governance and resources.
- WAC 181-78A-535 Approval standard—Program design.