

**WSR 18-11-138**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Children's Administration)

[Filed May 23, 2018, 11:16 a.m., effective June 23, 2018]

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

Purpose: The purpose of these WAC amendments is to provide foster parents, child placing agencies, and group care facilities further instructions and additional clarity regarding the minimum licensing standards. The division of licensed resources WAC were overhauled in 2015, and since that time both internal and external stakeholders have provided feedback to improve and increase the understandability of the WAC.

Citation of Rules Affected by this Order: Amending WAC 388-145-1305, 388-145-1330, 388-145-1355, 388-145-1400, 388-145-1405, 388-145-1430, 388-145-1460, 388-145-1475, 388-145-1560, 388-145-1565, 388-145-1610, 388-145-1835, 388-145-1855, 388-147-1305, 388-147-1425, 388-147-1450, 388-147-1565, 388-148-1305, 388-148-1365, 388-148-1530, and 388-148-1645.

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, 74.39A.056, 43.43.832.

Adopted under notice filed as WSR 18-07-096 on March 20, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 21, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 22, 2018.

Katherine I. Vasquez  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

**WAC 388-145-1305 What definitions do I need to know to understand this chapter?** The following words and terms are for the purpose of this chapter and are important to understand these requirements:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child as defined in RCW 26.44.020.

"Adult" means a person eighteen years old or older, not in the care of the department.

"Agency" is defined in RCW 74.15.020(1).

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

"Business hours" means hours during the day in which state business is commonly conducted. Typically the hours between 9 a.m. and 5 p.m. on weekdays are considered to be standard hours of operation.

"CA" means children's administration.

"Capacity" means the age range, gender and maximum number of children on your current license.

"Care provider" means any person who is licensed or authorized to provide care for children and/or cleared to have unsupervised access to children under the authority of a license.

"Case manager" means a facility employee who coordinates the planning efforts of all the persons working on behalf of a child.

"Chapter" means chapter 388-145 WAC.

"Child," "children," or "youth" for this chapter, means a person who is one of the following:

(1) Under eighteen years old;

(2) Up to twenty-one years of age and enrolled in services through the developmental disabilities administration (DDA) the day prior to his or her eighteenth birthday and pursuing either a high school or equivalency course of study (GED/HSEC), or vocational program;

(3) Up to twenty-one years of age and participates in the extended foster care program;

(4) Up to twenty-one years of age with intellectual and developmental disabilities;

(5) Up to twenty-one years of age and under the custody of the Washington state juvenile justice rehabilitation administration.

"Compliance agreement" means a written improvement plan to address the changes needed to meet licensing requirements.

"Crisis residential center (secure)" means a licensed facility open twenty-four hours a day, seven days a week that provides temporary residential placement, assessment and services in a secure facility to prevent youth from leaving the facility without permission per RCW 13.32A.030(15).

"Crisis residential center (semi-secure)" means a licensed facility open twenty-four hours a day, seven days a week that provides temporary residential placement, assessment and services for runaway youth and youth in conflict with their family and/or in need of emergency placement.

"Day treatment" is a specialized service that provides educational and therapeutic group experiences for emotionally disturbed children.

"DCFS" means the division of children and family services within children's administration. DCFS provides case management to children and families involved in the child welfare system.

"DDA" means the developmental disabilities administration. DDA provides services and case management to children and adults who meet the eligibility criteria.

"Deescalation" means strategies used to defuse a volatile situation, to assist a child to regain behavior control, and to avoid a physical restraint or other behavioral intervention.

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

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"Direct care staff" means persons who provide daily supervision and direct care to group care children and youth.

"DLR" means the division of licensed resources within children's administration. DLR licenses and monitors foster homes, child placing agencies and licensed group care facilities.

"DOH" means the department of health.

"Electronic monitoring" means video or audio monitoring or recording used to watch or listen to children as a way to monitor their behavior.

"Emergency respite center (ERC)" means a licensed facility that may be commonly known as a crisis nursery, which provides emergency or crisis care for nondependent children birth through seventeen years for up to seventy-two hours to prevent child abuse and/or neglect per RCW 74.15.020(d). ERCs may choose to be open up to twenty-four hours a day, seven days a week. Facilities may also provide family assessment, family support services and referral to community services.

"FBI" means the Federal Bureau of Investigation.

"Group care" is a general term for a licensed facility that is maintained and operated for a group of children on a twenty-four-hour basis to provide a safe and healthy living environment that meets the developmental needs of the children in care per RCW 74.15.020 (1)(f).

"Group home" is a specific license for residential care that provides care and supervision for children or youth.

"Group receiving center" means a licensed facility that provides the basic needs of food, shelter, and supervision for children placed by the department, generally for thirty or fewer days.

"Guns or weapons" means any device intended to shoot projectiles under pressure or that can be used to attack. These include but are not limited to BB guns, pellet guns, air rifles, stun guns, antique guns, handguns, rifles, shotguns and archery equipment.

"Health care staff" means anyone providing qualified medical consultation to your staff or medical care to the children and youth in your care.

"Hearing" means the administrative review process conducted by an administrative law judge.

"I, my, you, and your" refers to an applicant for a license issued under this chapter, and to any party holding a license under this chapter.

"Infant" means a child less than twelve months of age.

"Intellectual and developmental disability" means children with deficits in general mental abilities and impairment in everyday adaptive functioning.

"Interim facility" means an overnight youth shelter, emergency respite center or a resource and assessment center.

"License" means a permit issued by us that your facility meets the licensing standards established in this chapter.

"Licensed health care provider" means an MD (medical doctor), DO (doctor of osteopathy), ND (doctor of naturopathy), PA (physician's assistant), or an ARNP (advanced registered nurse practitioner).

"Local fire authority" means your local fire inspection authority having jurisdiction in the area where your facility is located.

"Maternity service" as defined in RCW 74.15.020. These are also referred to as pregnant and parenting youth programs.

"Medically fragile" means the condition of a child who requires the availability of twenty-four-hour skilled care from a health care professional or specially trained staff or volunteers in a group care setting. These conditions may be present all the time or frequently occurring. If the technology, support and services being received by the medically fragile children are interrupted or denied, the child may, without immediate health care intervention, experience death.

"Missing child" means any child less than eighteen years of age in licensed care or under the care, custody, and authority of CA and the child's whereabouts are unknown and/or the child has left care without the permission of the child's caregiver or ((assigned DSHS worker)) CA. This does not include children in dependency guardianship.

"Multidisciplinary teams (MDT)" means groups formed to assist children who are considered at risk youth or children in need of services, and their parents.

"Negative action" means a court order, court judgment, or adverse action taken by an agency, in any state, federal, local, tribal, or foreign jurisdiction, that results in a finding against the applicant reasonably related to the individual's suitability, and competence to care for or have unsupervised access to children in out-of-home care. This may include, but is not limited to:

(1) A decision issued by an administrative law judge;

(2) A final determination, decision, or finding made by an agency following an investigation;

(3) An adverse licensing action, including termination, revocation, or denial of a license or certification, or if there is a pending adverse action, the voluntary surrender of a license, certification, or contract in lieu of an adverse action;

(4) A revocation, denial, or restriction placed on any professional license; or

(5) A final decision of a disciplinary board.

"Nonambulatory" means not able to walk or exit to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Overnight youth shelter" means a licensed nonprofit agency that provides overnight shelter to homeless or runaway youth in need of emergency sleeping arrangements.

"Probationary license" means a license issued as part of a corrective action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies.

"Property or premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include antipsychotic, antidepressant and antianxiety medications.

"Relative" means a person who is related to a child per RCW 74.15.020.

"Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, (excluding Saturdays, Sundays, and holidays) to children who have been removed from their parent's or guardian's care by child protective services or law enforcement.

"Staffed residential home" means a licensed facility that provides twenty-four-hour care to six or fewer children who require more supervision than can be provided in a foster home.

"Treatment plan" means individual plans that identify the service needs of the child, including the child's parent or guardian, and identifies the treatment goals and strategies for achieving those goals.

"Washington state patrol fire protection bureau" or "WSP/FPB" means the state fire marshal.

"Volunteer" means a person who provides direct care services without compensation, for your facility.

"We, our, and us" refers to the department of social and health services, including DLR and DCFS staff.

"Young child" refers to a child age twelve months through eight years old.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1330 How does the department determine my suitability to become a licensed provider or an employee, intern, or volunteer of a licensed provider?** (1) The department determines your suitability as a licensed provider after receiving your application, background authorization(s) for those listed in WAC 388-145-1325(2), and all required documentation outlined in this chapter.

(2) The department determines the suitability of a licensee, employee, intern, or volunteer after receiving their background authorization referenced in subsection (1) above.

(3) You, your employees, interns, and volunteers must not have had a license or contract denied or revoked from an agency that regulates the care of children or vulnerable adults, unless the department determines that you do not pose a risk to a child's safety, well-being and long-term stability.

~~((3))~~ (4) You, your employees, interns, and volunteers must not have been found to have committed abuse or neglect of a child or vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

~~((4))~~ (5) You must demonstrate that you, your employees, interns, and volunteers have:

(a) The understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional, cultural, and social needs of the children under your care; and

(b) The ability to furnish children with a nurturing, respectful, and supportive environment.

~~((5))~~ (6) At any time, we may require you ~~((or))~~, your employees, interns, and volunteers to give us additional information. We may also require an evaluation of your facility or property, or of a staff person working for your facility

or agency, by an evaluator we recommend. Any evaluation requested by the department will be at your expense. The evaluator must be given written permission to share information with us prior to and throughout the evaluation process.

~~((6))~~ (7) Any employee, intern, or volunteer who is found to have misrepresented or provided fraudulent information may be disqualified.

~~((7))~~ (8) Before granting or renewing a license, your licensor will assess your ability to provide a safe environment for children and to provide the quality of care needed by children placed in your care. Your licensor will also determine that you meet training requirements.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1355 Am I required to comply with local ordinances?** You are responsible for obtaining a certificate of occupancy and for following all local and state regulations such as zoning regulations, community covenants, local building codes and fire codes. The department may require you to provide proof that you are complying with local regulations.

AMENDATORY SECTION (Amending WSR 16-06-041, filed 2/24/16, effective 3/26/16)

**WAC 388-145-1400 ~~((Can))~~ Must prospective and current employees, volunteers, interns, and subcontractors be disqualified from having access to the children in my facility?** (1) The department must disqualify prospective and current employees, volunteers ~~((or))~~, interns, and subcontractors if they do not meet the regulations of chapter 388-145 WAC, or cannot have unsupervised access to children because of their background check as outlined in chapter 388-06A WAC.

(2) ~~((We))~~ The department must disqualify prospective and current employees, interns, volunteers, and subcontractors if they have had a negative action taken on a license or contract, or have had a license denied or revoked by an agency that regulates the care of children or vulnerable adults, unless the department determines that the individual does not pose a risk to a child's safety, well-being, and long-term stability.

(3) Applicant's, employees, interns, volunteers, and subcontractors must demonstrate that they have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, cultural, and social needs of the children under their care.

(4) The department will notify ~~((you))~~ the licensee if a ~~((person in your facility))~~ prospective or current employee, intern, volunteer, or subcontractor is disqualified from having unsupervised access to children. ~~((This))~~ Hiring a person disqualified by DSHS or continuing to allow unsupervised access to children by a person disqualified by DSHS could also lead to denial, suspension, or revocation of your license issued under this chapter.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1405 What ~~((can))~~ may I do if I disagree with your decision to modify, deny, suspend or revoke my license, or to disqualify my background check?** ~~((+))~~ You have the right to request an administrative hearing if you disagree with any of these actions. You must request this hearing within twenty-eight calendar days of receiving a certified letter with our decision (see chapter 34.05 RCW). To request a hearing you must send a letter to the Office of Administrative Hearings, P.O. Box 42489, Olympia, Washington ~~((98504-2456))~~ 98504-2489, 1-800-583-8271. The letter must have the following:

~~((a))~~ (1) A specific statement indicating why you disagree with our decision and any laws you believe are related to your claim; and

~~((b))~~ (2) A copy of the certified letter we sent to modify, revoke, suspend, or deny your license or to disqualify your background check.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1430 What are the requirements of an on-site program manager?** (1) On days your facility is operational, you must have an on-site program manager at your facility during business hours when youth are present. Staffed residential facilities licensed for five or fewer are required to have an on-site program manager during business hours when youth are present if the focus of the program is behavioral and a child's behavior poses a risk. The on-site program manager must meet the qualifications to:

- (a) Coordinate the day-to-day operations of the program;
- (b) Supervise the case management and direct care staff; and
- (c) Have the responsibility to ensure the completion of each child's plan of care and treatment.

(2) When youth are not present and the program manager is not on-site, ~~((s/he))~~ he or she must be available by telephone.

(3) An on-site program manager must have one or more of the following:

(a) A master's degree in social services or a closely related field from an accredited school and one year of experience working with children or youth; ~~((or))~~

(b) A bachelor's degree in social services or a closely related field from an accredited school and two years of experience working with children or youth; ~~((or))~~

(c) Five years of successful full-time experience in a relevant field working with children or youth; and

(i) Supervisory abilities that promote effective staff performance; and

(ii) Relevant experience, training and demonstrated skills in each area that ~~((s/he))~~ he or she will be managing or supervising.

(4) An on-site program manager must not provide clinical oversight to case management staff unless they meet the supervision requirements in WAC 388-145-1440(3).

(5) A case management staff or person with equivalent training and experience of an on-site program manager may satisfy this requirement.

(6) For overnight youth shelters, the required prior experience must be in working with adolescents.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1460 Do I need to employ consultants at my facility?** (1) You must have case management consultants available as needed to work with your staff, the children you serve, and the children's families. Other consultants may be used for program support.

(2) A case management consultant is responsible ~~((to))~~ for:

(a) ~~((Review))~~ Reviewing treatment~~((;))~~ or case plans~~((; or adoption home studies))~~ as appropriate;

(b) ~~((Provide))~~ Providing one hour of consultation/supervision to case management staff for every twenty hours a person works. Staff consultations shall be documented and available to staff on an as-needed basis; and

(c) ~~((Monitor))~~ Monitoring staff's skill development in order to effectively manage their cases.

(3) Each case management consultant must have:

(a) A master's degree in social services or a closely related field from an accredited school;

(b) The training, experience, knowledge, and demonstrated skills for each area in which ~~((s/he))~~ he or she will be supervising or advising;

(c) The ability to ensure staff develop their skills, are adequately trained, and have the understanding needed to effectively manage cases; and

(d) Knowledge of mandatory child abuse and neglect reporting requirements.

(4) Consultants may be hired as staff or operate under a contract and must meet the full professional competency requirements and academic training in their respective fields.

(5) If you have consultants working in emergency respite centers, they must also have training and experience in early childhood education.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1475 What are the requirements for volunteers working directly with children~~((#))~~ and youth at my facility?** (1) These volunteers must meet the licensing requirements listed in this chapter, including meeting the qualifications for direct care staff and must:

(a) Be at least twenty-one years of age unless they are between eighteen and twenty-one years of age in an internship or practicum program as per WAC 388-145-1445; and

~~((Be supervised at all times by at least one paid staff member or designated volunteer meeting the qualifications of a program manager, working on-site. (Volunteers meeting program manager qualifications may provide direct care unsupervised.)); and~~

~~((e))~~ Receive the facility's preservice training that addresses the needs of the population of children in care.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1560 What toilet and bathing facilities are required?** (1) You must meet the following requirements for toilets, sinks, and bathing facilities:

(a) Provide toilets, urinals, and hand-washing sinks appropriate to the height for the children served, or have a safe and easily cleaned step stool or platform that is water-resistant;

(b) Provide soap and clean towels, disposable towels or other approved hand-drying devices to the children in your care;

(c) Provide adequate grab-bars((;)) or nonskid pads convenient for children;

(d) Provide appropriate toilet training equipment for children. You must regularly maintain this equipment and keep it in sanitary condition. You must place toilet training equipment on washable, water-resistant surfaces and disinfect toilet training equipment after each child's use.

(2) If you care for children under the age of six, or children with intellectual and developmental disabilities, you must monitor the use of bathtub, shower, or other bathing facilities while in use.

(3) If you operate a group care facility for six or more children you must have a housekeeping sink or department of health approved method of drawing clean mop water and disposing of the wastewater.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1565 What is the ratio of persons normally on the premises to bathrooms at my facility?** (1) You must maintain the following ratio of toilets, handwashing sinks, and bathing facilities:

FACILITY	TOILETS (flush-type)	HANDWASHING (hot and cold running water)	BATHING FACILITIES (hot and cold running water)
Group residential programs licensed for 5 or fewer	1 minimum	1 minimum	1 minimum
Group residential for 6 or more	2 minimum 1:8 ratio	2 minimum 1:8 ratio	1 minimum 1:8 ratio

(2) In programs providing care to expectant mothers, all sleeping areas must have at least one toilet and handwashing sink on the same floor.

(3) Children eighteen months of age or younger and other children who do not use a toilet need not be included when determining the number of required flush-type toilets.

~~((4) All sleeping areas must have at least one toilet and handwashing sink on the same floor.))~~

AMENDATORY SECTION (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

**WAC 388-145-1610 What are the requirements for beds in a facility?** (1) You must provide an appropriately sized separate bed for each child, with clean bedding and a mattress in good condition.

(2) Some children may soil the bed, and you may need to plan accordingly. You must provide waterproof mattress covers or moisture-resistant mattresses if needed. Each child's pillow must be covered with waterproof material or be washable.

(3) A mat may be used for napping but not as a substitute for a bed.

(4) You must provide an infant with a crib that ensures the safety of the infant, and complies with chapter 70.111 RCW, Consumer Product Safety Improvement Act of 2008. These regulations include:

(a) A maximum of 2 3/8" between vertical slats of the crib; and

(b) Cribs, infant beds, bassinets, and playpens must ~~((have))~~ be made of wood, metal, or approved plastic, with secure latching devices and clean, firm, snug fitting mattresses covered with waterproof material that can ~~((be))~~ easily be disinfected ~~((and be made of wood, metal, or approved plastic with secure latching devices)).~~

(5) You must place infants on their backs for sleeping, unless advised differently by the child's licensed health care provider.

(6) You ~~((may))~~ must not have loose blankets, pillows, crib bumpers, or stuffed toys with a sleeping infant.

(7) You may swaddle infants using one lightweight blanket upon the advice and training of a licensed health care provider. You must keep the blanket loose around the hips and legs when swaddling in order to avoid hip dysplasia. You may swaddle infants under two months of age unless a licensed health care provider directs otherwise. You ~~((may))~~ must not dress a swaddled infant in a manner that allows them to overheat.

(8) You ~~((may))~~ must not use wedges and positioners with a sleeping infant unless advised differently by the infant's licensed health care provider.

(9) You ~~((may))~~ must not use weighted blankets for children under three years of age or ~~((that have))~~ for children of any age with mobility limitations ~~((unless advised differently by the child's licensed health care provider)).~~

(10) ~~((#))~~ You may use a weighted blanket((;)) upon the advice and training from a licensed health care provider for children over the age of three years who do not have mobility limitations. You must meet the following requirements:

(a) The weight of the blanket ~~((may))~~ must not exceed ten percent of the child's body weight;

(b) Metal beads are choking hazards and ~~((may))~~ must not be used in a weighted blanket; ~~((and))~~

(c) You ~~((may))~~ must not cover the child's head with a weighted blanket or place it above the middle of the child's chest((;));

(d) The weighted blanket must not hinder a child's movement; and

(e) The weighted blanket must not be used as a restraint.

(11) You ~~((may))~~ must not allow children to use loft style beds or upper bunks ~~((of beds if using them could hurt them because of children's))~~ if the child is vulnerable due to age, development or condition ~~((-Examples-))~~, such as preschool children, expectant mothers, and children with a disability.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1835 Am I required to assess a child's need for immediate medical attention?** (1) ~~((After))~~ When a child ~~((is admitted to your program))~~ first enters out-of-home care (other than overnight youth shelters) you must ensure that a child receives an initial health screen or physical exam as soon as possible but no later than five days after ~~((entering))~~ the child enters your program. The initial health screen involves a review of the child for any health needs requiring immediate attention. You do not need to take a child to get this screen if you received the ~~((children))~~ child directly from a hospital, pediatric interim care, or the child is receiving services through a child advocacy center or sexual assault clinic.

(2) You must also make reasonable attempts to obtain the following health history:

- (a) Allergies;
- (b) All currently prescribed medications; and
- (c) Any special physical or mental health issues.

(3) If the child remains in placement beyond seventy-two hours, you must contact the child's DSHS worker, child placing agency, parent, or legal guardian to obtain the following information:

- (a) The date of the child's last physical and dental exam;
- (b) A history of immunizations; and
- (c) Clinical and medical diagnoses and treatment plans.

(4) When a child leaves the facility, the health history of the child must be provided to the child's DSHS worker or the next caregiver.

(5) You should refer to the department of health's dental care brochure as a guide for ensuring proper dental care for children.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-145-1855 What are the general requirements for managing a child's medication?** (1) Medication must not be used for behavior control, unless prescribed for that purpose by a physician or another person legally authorized to prescribe medication.

(2) Only you, a licensed foster parent, or another authorized care provider, such as a respite provider, are allowed to have access to medications for a child in your care.

(3) You must not use medication in an amount or frequency other than that prescribed by an appropriately licensed health care provider or psychiatrist.

(4) You must not reduce or stop a child's prescribed medication without the written approval of the child's physician. You must report this information to the child's DSHS worker. In addition to the physician, you must coordinate starting or stopping a child's psychotropic medication with the child's

social worker to determine what consent is needed. The social worker may need to obtain consent from the child age thirteen or older, the parent, or the court.

(5) You must follow the direction of the agency or court regarding giving or applying prescription and nonprescription medications if you care for children in the custody of another agency, or tribal or other court. If this is in conflict with children's administration policy, you must notify the child's DCFS worker.

(6) You must not give medications to a child that has been prescribed for someone else.

(7) You must keep a record of all prescription and non-prescription medications given to children in care. This documentation includes:

- (a) Child's name;
- (b) Time of medication;
- (c) Dosage of medication; and
- (d) Name of person administering medication.

(8) You must obtain a signature from a licensed health care provider within seventy-two hours of obtaining a medication order by phone.

AMENDATORY SECTION (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

**WAC 388-147-1305 What definitions do I need to know to understand this chapter?** The following words and terms are for the purpose of this chapter and are important to understanding these requirements:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child as defined in RCW 26.44.020.

"Adult" means a person eighteen years old or older, not in the care of the department.

"Agency" is defined in RCW 74.15.020(1).

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

"Business hours" means hours during the day in which business is commonly conducted. Typically the hours between 9 a.m. and 5 p.m. on weekdays are considered to be standard business hours.

"CA" means children's administration.

"Care provider" means any person who is licensed or authorized to provide care for children ~~((and/or))~~ and cleared to have unsupervised access to children under the authority of a license.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child.

"Certification" means a licensed child placing agency (CPA) review that a foster home being supervised by that CPA meets licensing regulations. The final decision for licensing is the responsibility of CA.

"Chapter" means chapter 388-147 WAC.

"Child," "children," or "youth" for this chapter, means a person who is one of the following:

- (1) Under eighteen years of age;
- (2) Up to twenty-one years of age and enrolled in services through the developmental disabilities administration (DDA) the day prior to his or her eighteenth birthday and pur-

suing either a high school or equivalency course of study (GED/HSEC), or vocational program;

(3) Up to twenty-one years of age and participates in the extended foster care program;

(4) Up to twenty-one years of age with intellectual and developmental disabilities;

(5) Up to twenty-one years of age and under the custody of the Washington state juvenile justice rehabilitation administration.

"Child placing agency" or "(CPA)" means an agency licensed to place children for foster care or adoption.

"Compliance agreement" means a written improvement plan to address the changes needed to meet licensing requirements.

"DCFS" means the division of children and family services within children's administration. DCFS provides case management to children and families involved in the child welfare system.

"DDA" means the developmental disabilities administration.

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

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"DLR" means the division of licensed resources within children's administration. DLR licenses and monitors foster homes, child placing agencies, and licensed group care facilities.

"FBI" means the Federal Bureau of Investigation.

"Foster home or foster family home" means a person(s) licensed to regularly provide twenty-four-hour care in their home to children.

"Guns or weapons" means any device intended to shoot projectiles under pressure or that can be used to attack. These include but are not limited to BB guns, pellet guns, air rifles, stun guns, antique guns, handguns, rifles, shotguns and archery equipment.

"Health care staff" means anyone providing qualified medical consultation to your staff or medical care to the children and youth in your care.

"Hearing" means the administrative review process conducted by an administrative law judge.

"I, my, you, and your" refers to an applicant for a license issued under this chapter, and to any party holding a license under this chapter.

"Infant" means a child less than twelve months of age.

"Intellectual and developmental disability" means children with deficits in general mental abilities and impairment in everyday adaptive functioning.

"License" means a permit issued by us confirming that your agency meets the licensing standards established in this chapter.

"Licensed health care provider" means an MD (medical doctor), DO (doctor of osteopathy), ND (doctor of naturopathy), PA (physician's assistant), or an ARNP (advanced registered nurse practitioner).

"Licensor" means either:

(1) A DLR employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies established under this chapter; or

(2) An employee of a child placing agency who certifies or monitors foster homes supervised by the child placing agency.

"Maternity service" as defined in RCW 74.15.020. These are also referred to as pregnant and parenting youth programs.

"Medically fragile" means the condition of a child who requires the availability of twenty-four-hour skilled care from a health care professional or specially trained family or foster family member. These conditions may be present all the time or frequently occurring. If the technology, support and services being received by the medically fragile children are interrupted or denied, the child may, without immediate health care intervention, experience death.

"Missing child" means any child less than eighteen years of age in licensed care or under the care ((and)), custody, and authority of CA and the child's whereabouts are unknown and/or the child has left care without the permission of the child's caregiver or CA. This does not include children in dependency guardianship.

"Nonambulatory" means not able to walk or exit to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Probationary license" means a license issued as part of a corrective action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies.

"Property or premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Relative" means a person who is related to a child as defined in RCW 74.15.020.

"Respite" means brief, temporary relief care provided by an in-home or out-of-home provider paid by the department. The respite provider fulfills some or all of the care provider responsibilities for a short time.

"Treatment plan" means individual plans that identify the service needs of the child, including the child's parent or guardian, and identifies the treatment goals and strategies for achieving those goals.

"Volunteer" means a person who provides services without compensation, for your agency.

"Washington state patrol fire protection bureau" or "WSP/FPB" means the state fire marshal.

"We, our, and us" refers to the department of social and health services, including DLR and DCFS staff.

"Young child" refers to a child age twelve months through eight years old.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-147-1425 What ~~((and))~~ may I do if I disagree with your decision to modify, deny, suspend or revoke my license, or to disqualify my background check? ~~((+))~~** You have the right to request an administrative hearing if you disagree with any of these actions. You must

request this hearing within twenty-eight calendar days of receiving a certified letter with our decision (see chapter 34.05 RCW). To request a hearing you must send a letter to the Office of Administrative Hearings, P.O. Box 42489, Olympia, Washington ((98504-2456)) 98504-2489, 1-800-583-8271. The letter must have the following:

((~~(a)~~)) (1) A specific statement why you disagree with our decision and any laws you believe are related to your claim; and

((~~(b)~~)) (2) A copy of the certified letter we sent to modify, revoke, suspend, or deny your license or to disqualify your background check.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-147-1450 What are the qualifications of a program manager?** (1) You must have a program manager available during business hours who meets the qualifications to:

- (a) Coordinate the day-to-day operations of the program;
- (b) Supervise the case management and direct care staff; and
- (c) Have the responsibility to ensure the completion of each child's plan of care and treatment, if applicable.

(2) A program manager must have education and experience as follows:

(a) A master's degree in social services or a closely related field from an accredited school and one year of experience working with children or youth; or

(b) A bachelor's degree in social services or a closely related field from an accredited school and two years of experience working with children or youth; or

(c) Five years of successful full-time experience working with youth in a relevant field.

(3) A program manager must also have supervisory abilities that promote effective staff performance, and relevant experience, training and demonstrated skills in each area that he or she will be supervising or managing.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-147-1565 Are alcoholic beverages, marijuana or illegal drugs allowed at my agency ((~~or in our certified homes~~))?** (1) You must not have or consume alcohol, marijuana, or illegal drugs on the premises of your agency.

(2) You must not allow staff members who are under the influence of alcohol, marijuana, or illegal drugs to have contact with children in care.

AMENDATORY SECTION (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

**WAC 388-148-1305 What definitions do I need to know to understand this chapter?** The following definitions are for the purpose of this chapter and are important to understanding these requirements:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child as defined in RCW 26.44.020.

"Adult" means a person eighteen years of age and older, not in the care of the department.

"Agency" is defined in RCW 74.15.020(1).

"CA" means children's administration.

"Capacity" means the age range, gender and maximum number of children on your current license.

"Care provider" means any person who is licensed or authorized to provide care for children ((~~and/or~~)), and cleared to have unsupervised access to children under the authority of a license.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child.

"Certification" means either:

(1) Our review of whether you meet the licensing requirements, even though you do not need to be licensed; or

(2) A licensed child placing agency (CPA) representing that a foster home being supervised by that CPA meets licensing requirements. The final decision for licensing is the responsibility of CA.

"Chapter" means chapter 388-148 WAC.

"Child," "children," or "youth" for this chapter, means a person who is one of the following:

(1) Under eighteen years ((~~or~~)) of age;

(2) Up to twenty-one years of age and enrolled in services through developmental disabilities administration (DDA) the day prior to his or her eighteenth birthday and pursuing either a high school or equivalency course of study (GED/HSEC), or vocational program;

(3) Up to twenty-one years of age and participates in the extended foster care program;

(4) Up to twenty-one years of age with intellectual and developmental disabilities;

(5) Up to twenty-one years of age and under the custody of the Washington state juvenile justice rehabilitation administration.

"Child placing agency or CPA" means an agency licensed to place children for foster care or adoption.

"Compliance agreement" means a written improvement plan to address the changes needed to meet licensing requirements.

"DCFS" means the division of children and family services within children's administration. DCFS provides case management to children and families involved in the child welfare system.

"DDA" means the developmental disabilities administration.

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

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"DLR" means the division of licensed resources within children's administration. DLR licenses and monitors foster homes, child placing agencies, and group care facilities.

"FBI" means the Federal Bureau of Investigation.

"Foster home or foster family home" means a person(s) licensed to regularly provide twenty-four-hour care in their home to children.

"Guns or weapons" means any device intended to shoot projectiles under pressure or that can be used to attack. These include but are not limited to BB guns, pellet guns, air rifles, stun guns, antique guns, handguns, rifles, shotguns and archery equipment.

"Hearing" means the administrative review process conducted by an administrative law judge.

"I, my, you, and your" refers to an applicant for a license issued under this chapter, and to any party holding a license under this chapter.

"Infant" means a child less than twelve months of age.

"Intellectual and developmental disability" means children with deficits in general mental abilities and impairment in everyday adaptive functioning.

"License" means a permit issued by us confirming that you and your home meet the licensing standards established in this chapter.

"Licensed health care provider" means an MD (medical doctor), DO (doctor of osteopathy), ND (doctor of naturopathy), PA (physician's assistant), or an ARNP (advanced registered nurse practitioner).

"Licensor" means either:

(1) A DLR employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies established under this chapter; or

(2) An employee of a child placing agency who certifies or monitors foster homes supervised by the child placing agency.

"Maternity services" as defined in RCW 74.15.020. These are also referred to as pregnant and parenting youth programs.

"Medically fragile" means the condition of a child who requires the availability of twenty-four-hour skilled care from a health care professional or specially trained family or foster family member. These conditions may be present all the time or frequently occurring. If the technology, support and services being received by the medically fragile children are interrupted or denied, the child may, without immediate health care intervention, experience death.

"Missing child" means any child less than eighteen years of age in licensed care or under the care, custody, and authority of CA and the child's whereabouts are unknown and/or the child has left care without the permission of the child's caregiver or CA. This does not include children in dependency guardianship.

"Nonambulatory" means not able to walk or exit to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the home of a child's parent, guardian, or legal custodian.

"Probationary license" means a license issued as part of a corrective action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies.

"Property or premises" means your buildings and grounds adjacent to your residential property that are owned ~~((and/or))~~ or managed by you.

"Psychotropic medication" means a type of medicine prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, anti-depressant, and anti-anxiety medications.

"Relative" means a person who is related to a child as defined in RCW 74.15.020.

"Respite" means brief, temporary relief care provided by an in-home or out-of-home provider paid by the department. The respite provider fulfills some or all of the care provider responsibilities for a short time.

"Treatment plan" means individual plans that identify the service needs of the child, including the child's parent or guardian, and identifies the treatment goals and strategies for achieving those goals.

"Washington state patrol fire protection bureau or WSP/FPB" means the state fire marshal.

"We, our, and us" refers to the department of social and health services, including DLR and DCFS staff.

"Young child" refers to a child age twelve months through eight years old.

AMENDATORY SECTION (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

**WAC 388-148-1365 What are the ~~((character and))~~ personal requirements for foster parents?** (1) You must be at least twenty-one years old to apply for a license.

(2) You must demonstrate you have:

(a) The understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional, cultural, and social needs of children under your care; and

(b) ~~((The ability to furnish children with a nurturing, respectful, and supportive environment; and~~

~~((e)))~~ You must have sufficient regular income to maintain your own family, without the foster care reimbursement made for the children in your care.

(3) You may not use drugs or alcohol, whether legal or illegal, in a manner that affects your ability to provide safe care to children.

(4) You and everyone residing on your premises or who you allow to have unsupervised access to children must demonstrate they have the ability to furnish children with a nurturing, respectful, and supportive environment.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-148-1530 ~~((Can))~~ May children participate in everyday activities under my care?** (1) You may decide what family or community activities are appropriate for foster children. These activities must be appropriately supervised and may not interfere with visitation with the child's parents.

(2) Children may participate in family, community or friend social activities, organized sports activities, or field trips. Overnight stays over seventy-two hours requires DSHS

worker approval. Any activities requiring travel must comply with WAC 388-148-1435.

(3) All high risk activities, including the use of power driven machines or other hazardous equipment, must be properly supervised by an adult. When participating in high risk activities, children must:

(a) Be instructed on, and required to use appropriate safety equipment, such as helmets and life vests; and

(b) Be in continuous visual or auditory range at all times, unless approved by the child's DSHS worker.

(4) It may be appropriate for some children to obtain employment when:

(a) Laws regarding minors working are followed; and

(b) The child's work does not interfere with school.

(5) Youth may obtain a driver's license if you agree to act as the "parent/guardian" for the purposes of the Intermediate Driver's License Law. If you act in this capacity for ~~((the))~~ a youth in out-of-home care who is placed in your home, you will also be responsible for the ~~((child's))~~ youth's insurance until the ~~((child reaches eighteen years of age or another responsible adult assumes financial liability risks for the child))~~ youth leaves your home or ages out of care, or if you choose to cancel the youth's insurance. If you choose to cancel the youth's insurance, you must notify the youth's worker at least five days before the cancellation becomes effective.

**AMENDATORY SECTION** (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

**WAC 388-148-1645** What ~~((can))~~ may I do if I disagree with your decision to modify, deny, suspend or revoke my license, or to disqualify my background check? ~~((+))~~ You have the right to request an administrative hearing if you disagree with any of these actions. You must request this hearing within twenty-eight calendar days of receiving a certified letter with our decision (see chapter 34.05 RCW and chapter 388-02 WAC). To request a hearing you must send a letter to the Office of Administrative Hearings, P.O. Box 42489, Olympia, Washington ~~((98504-2456))~~ 98504-2489, 1-800-583-8271. The letter must have the following:

~~((a))~~ (1) A specific statement why you disagree with our decision and any laws you believe are related to your claim; and

~~((b))~~ (2) A copy of the certified letter we sent to modify, revoke, suspend, or deny your license or to disqualify your background check.

### WSR 18-12-008

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed May 24, 2018, 7:14 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: Following a public hearing, a referendum of affected producers, and a request for termination by producers representing more than twenty percent of the assessed production, the purpose of this rule making is to repeal chapter 16-555 WAC, Washington strawberry commission, which

will repeal the strawberry marketing order and terminate the Washington strawberry commission.

Citation of Rules Affected by this Order: Repealing WAC 16-555-010, 16-555-020, 16-555-030, 16-555-040, 16-555-041, 16-555-050, 16-555-060, 16-555-070, and 16-555-080.

Statutory Authority for Adoption: RCW 15.65.183 and 15.65.190.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 17-12-087 on June 6, 2017; WSR 18-01-061 on December 13, 2017; and WSR 18-05-054 on February 15, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 24, 2018.

Derek I. Sandison  
Director

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-555-010 Definition of terms.
- WAC 16-555-020 Strawberry commodity board.
- WAC 16-555-030 Marketing order purposes.
- WAC 16-555-040 Assessments and collections.
- WAC 16-555-041 Time—Place—Method for payment and collection of assessments.
- WAC 16-555-050 Obligations of the board.
- WAC 16-555-060 Termination of the marketing order.
- WAC 16-555-070 Effective time.
- WAC 16-555-080 Separability.

### WSR 18-12-026

#### PERMANENT RULES

#### SHORELINE COMMUNITY COLLEGE

[Filed May 29, 2018, 8:36 a.m., effective June 29, 2018]

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

Purpose: The current grievance procedure for Title IX is not required to be codified under WAC for Shoreline Community College under RCW 34.05.010(16). The grievance procedure for Title IX, WAC 132G-300-010, does not meet the definition of a "rule" under RCW 34.05.010(16) as [it] only serves to identify the procedure in place following receipt of a Title IX complaint. The college has adopted policy language reflecting best practices in Title IX procedures which do not need to be codified in WAC. With this in mind, the college is proposing the elimination of this unnecessary rule related to the Title IX grievance procedure.

Citation of Rules Affected by this Order: Repealing WAC 132G-300-010.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 18-08-011 on March 22, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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: May 24, 2018.

Cheryl Roberts  
President

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132G-300-010 Grievance procedure, Title IX.

#### **WSR 18-12-027**

##### **PERMANENT RULES**

#### **SHORELINE COMMUNITY COLLEGE**

[Filed May 29, 2018, 9:06 a.m., effective June 29, 2018]

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

Purpose: The current admissions and registration rule is not required to be codified under WAC for Shoreline Community College to complete the operational tasks of admitting and registering students per RCW 34.05.010(16). Per RCW 34.05.010(16), a rule required to be in WAC does NOT include "rules of institutions of higher education involving standards of admission, academic achievement, academic credit, graduation and the granting of degrees, employment

relationships, or fiscal processes." With this in mind, the college is proposing the elimination of this unnecessary rule related to admissions and registration at Shoreline Community College.

Citation of Rules Affected by this Order: Repealing chapter 132G-160 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 18-08-012 on March 22, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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: May 24, 2018.

Cheryl Roberts  
President

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132G-160-010 Availability of information.  
WAC 132G-160-020 Admissions.  
WAC 132G-160-030 Registration—Appointments.  
WAC 132G-160-040 Registration—Change of program.  
WAC 132G-160-050 Residency status.  
WAC 132G-160-060 Matriculation fee.  
WAC 132G-160-075 Refund of tuition and fees.  
WAC 132G-160-080 Advanced registration payment—Foreign students.  
WAC 132G-160-500 Graduation requirements.

#### **WSR 18-12-028**

##### **PERMANENT RULES**

#### **DEPARTMENT OF LICENSING**

[Filed May 29, 2018, 9:31 a.m., effective July 1, 2018]

Effective Date of Rule: July 1, 2018.

Purpose: Replace all existing sections and add new sections to chapter 308-30 WAC to implement the provisions of

chapter 42.45 RCW, Revised uniform law on notarial acts, effective July 1, 2018.

Citation of Rules Affected by this Order: New WAC 308-30-110, 308-30-200, 308-30-210, 308-30-220, 308-30-230, 308-30-240, 308-30-250, 308-30-260, 308-30-270 and 308-30-280; repealing WAC 308-30-005 and 308-30-155; and amending chapter 308-30 WAC.

Statutory Authority for Adoption: RCW 42.45.250.

Adopted under notice filed as WSR 18-08-059 on April 2, 2018.

Changes Other than Editing from Proposed to Adopted Version: Added "a copy of" to certificate requirement of WAC 308-30-080(1), to clarify that a notary shall provide a copy of their notarial certificate in obtaining a notarial stamp, which conforms to current notary public practice.

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 10, Amended 18, Repealed 2.

Number of Sections Adopted at the Request of a Non-governmental 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 10, Amended 18, Repealed 2.

Date Adopted: May 29, 2018.

Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-010 ((Size and form of notary seal or stamp.)) Authority.** ((A notary seal shall be one and five-eighths inches minimum in diameter. If a notary stamp is used the following requirements shall apply:

(1) The type shall be a minimum of 8 point type.

(2) The stamp shall be minimum one and five-eighths inches in diameter. If a rectangular stamp is used the minimum dimensions shall be one inch wide by one and five-eighths inches long.

(3) The imprint shall be affixed with indelible ink only.

(4) The face of any notary stamp shall contain permanently affixed letters and numerals and shall not be pre-printed.

(5) The use of the Washington state seal on the notary stamp or seal is prohibited.

(6) A vendor may not provide a notarial seal, or stamp, either inking or embossing, to a person claiming to be a notary, unless the person presents a photo copy of the person's Notary Certificate.

(7) A notary applying for a seal or stamp as a result of a name change shall present a copy to the vendor of the certificate evidencing the notary's name change from the director.))

This chapter implements the revised uniform law on notarial acts, chapter 42.45 RCW.

AMENDATORY SECTION (Amending WSR 06-20-061, filed 9/29/06, effective 11/1/06)

**WAC 308-30-020 ((What fees may a notary public charge?)) Definitions.** ((1) The maximum fees a notary may charge for notarial acts are:

NOTARIAL ACT	FEE
Witnessing or attesting a signature	\$10.00
Taking acknowledgement or verification upon oath or affirmation	\$10.00
Certifying or attesting a copy	\$10.00
Receiving or noting a protest of a negotiable instrument	\$10.00
Being present at demand, tender, or deposit, and noting the same	\$10.00
Administering an oath or affirmation	\$10.00
Certifying that an event has occurred or an act has been performed	\$10.00

(2) A notary public need not charge for notarial acts. A notary who chooses to charge for notarial acts shall conspicuously display in their place of business, or present to each customer outside their business, an English language schedule of fees for notarial acts. No part of the displayed notarial fee schedule may be printed in smaller than 10 point type.

(3) A notary may charge actual costs of copying any instrument or record.

(4) A notary may charge a travel fee when traveling to perform a notarial act if:

(a) The notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(b) The notary explains to the person requesting the notarial act that the travel fee is in addition to the notarial fee in subsection (1) of this section and is not required by law.)) Words and terms used in these rules have the same meaning as in the Revised Uniform Law on Notarial Acts, RCW 42.45.010.

"Appear personally" means being in the same physical location as another individual and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual.

"Commission" is equivalent to the term "license" as defined in RCW 18.235.010(6).

"Department" means the Washington state department of licensing.

"Director" means the director of the department of licensing or the director's designee.

"Electronic journal" means a chronological record of notarizations maintained by a notary public in an electronic format in compliance with these rules.

"Electronic notarial acts" means notarizations or notarial acts with respect to electronic records.

"Electronic notarial certificate" means the part of, or attachment to, an electronic record that is completed by the

notary public, contains the information required under RCW 42.45.130 and the notary's official stamp, bears that notary's electronic signature, and states the facts attested to by the notary in a notarization performed on an electronic record.

"Enroll" and "enrollment" mean a process for registering a notary public with a technology provider to access and use a tamper-evident technology in order to perform electronic notarial acts.

"Principal" means:

(a) An individual whose electronic signature is notarized; or

(b) An individual, other than a witness required for an electronic notarial act, taking an oath or affirmation from the notary public.

"Sole control" means at all times being in the direct physical custody of the notary public or safeguarded by the notary with a password or other secure means of authentication.

"Tamper-evident technology" means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform electronic notarial acts and to display evidence of any changes made to an electronic record.

"Technology provider" means an individual or entity that offers the services of a tamper-evident technology for electronic notarial acts.

"Venue" means the state and county where the notary public is physically located while performing a notarial act.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-030 ((Applications for appointment as notary public-)) Application process for notary public commission.** ~~((Applications for appointment as notary public may be obtained from the department of licensing. Every application submitted for appointment as a notary public must be accompanied by the required surety bond and the prescribed fee and shall in all ways comply with the requirements of chapter 42.44 RCW-))~~ (1) To apply for a notary public commission, an applicant who meets the requirements of RCW 42.45.200(2) shall submit an application on forms provided by the department. The application shall include:

(a) Evidence of a ten thousand dollar surety bond, signed by the notary public, that conforms to RCW 42.45.200(4);

(b) Payment of the prescribed fee; and

(c) A signed and notarized oath of office.

(2) As part of a notary public commission application, an applicant shall provide both their legal name and their commission name. The applicant's commission name must contain their surname, and at least the initials of the applicant's first and middle name.

(3) To apply for an electronic records notary public endorsement, an applicant who meets the requirements of RCW 42.45.200(7) shall submit an electronic records notary public application on forms provided by the department and pay the prescribed fee.

(4) An applicant may only apply for an electronic records notary public endorsement if:

(a) They currently hold an active notary public commission; or

(b) They are applying for a notary public commission and an electronic records notary public endorsement simultaneously.

(5) An individual applying for an electronic records notary public endorsement must inform the department within thirty days of applying of the tamper-evident technology provider that they have enrolled with before they perform their first electronic notarial act.

(6) A notary public shall reapply with the department for each commission term before performing notarial acts.

(7) A notary public may elect not to apply for an electronic records notary public endorsement.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-040 ((Resignation or revocation of notary appointment-)) Approval or denial of application.** ~~((Voluntary resignation by a notary public shall be submitted in writing to the department of licensing. If a notary public voluntarily resigns his or her notary appointment or if the notary appointment is revoked, suspended or restricted, the notary public must mail or deliver his or her notary stamp or seal to the department of licensing. No voluntary resignation of a notary appointment shall be effective until the notary seal or stamp is mailed or delivered to the notary section-))~~ (1) Upon the applicant's fulfillment of the requirements for a notary public commission or an electronic records notary public endorsement, the department shall approve the application and issue the commission or endorsement.

(2) If the department receives an incomplete or invalid application, the department shall hold the application for thirty calendar days to allow the applicant to cure any defects. After the thirty day period, the application shall be canceled and any application fees forfeited.

(3) An applicant may not perform any notarial acts before receiving a notary public commission from the department.

(4) A notary public may not perform any electronic notarial acts before receiving an electronic records notary public endorsement from the department.

(5) The department may deny a commission or endorsement application if the applicant fails to comply with these rules or does not meet the requirements for licensure.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-050 ((Replacement of lost or stolen notary seals or stamps-)) Term of commission.** ~~((When a notary seal or stamp is lost or stolen the department of licensing is to be notified by certified mail. The notice must set forth the fact that the notary seal or stamp has been lost or stolen and be signed by the notary public. The notary public may then obtain a replacement notary seal or stamp. The new notary seal or stamp must contain some variance from the original seal or stamp. If the lost or stolen notary seal or stamp is found or recovered after a replacement has been obtained the original seal or stamp shall be surrendered to the~~

~~department of licensing.))~~ (1) The term of a notary public commission shall expire on the expiration date of the notary public's surety bond, no more than four years after their commission date.

(2) Unless terminated pursuant to WAC 308-30-270, an electronic records notary public endorsement is valid from the date the endorsement is issued by the department, and continues as long as the notary public's current commission remains valid.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

~~WAC 308-30-060 ((Department to be notified of change of name or address.))~~ **Application fees.** ~~((When a notary public changes his or her name or address, the department of licensing must be notified in writing of such name and/or address change. The notification of name change must be accompanied by a bond rider from the bonding company amending the notary bond, and the prescribed fee for a name change which provides a duplicate notary certificate showing the new name. There is no charge for an address change.))~~ The following fees shall be charged by the department:

<u>Title of Fee</u>	<u>Fee</u>
<u>Application for notary public commission</u>	<u>\$30.00</u>
<u>Application for electronic records notary public endorsement</u>	<u>\$15.00</u>
<u>Renewal of notary public commission</u>	<u>\$30.00</u>
<u>Renewal of electronic records notary public endorsement</u>	<u>\$15.00</u>
<u>Duplicate certificate of commission (including name change)</u>	<u>\$15.00</u>

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

~~WAC 308-30-070 ((Requests for evidence of authenticity.))~~ **Size and form of official seal or stamp.** ~~((Requests for evidences of authenticity of notarial commission must be in writing, accompanied by the prescribed fee, the original document, and mailed to the department of licensing.))~~ An official seal or stamp shall conform to the following requirements:

(1) The seal or stamp shall include the following information:

- (a) The words "notary public";
- (b) The words "state of Washington";
- (c) The notary public's name as commissioned;
- (d) The notary public's commission expiration date; and
- (e) The notary public's commission number.

(2) The type on this seal or stamp shall be a minimum of 8 point type.

(3) The seal or stamp shall conform to the following physical requirements:

- (a) The seal or stamp shall be minimum one and five-eighths inches diameter if circular, or one inch wide by one and five-eighths inches long if rectangular;

(b) The face of the seal or stamp shall be permanently affixed; and

(c) If the stamp is affixed to a tangible record, it shall be applied in permanent ink and shall be capable of being photocopied.

(4) The seal or stamp shall not contain the Washington state seal.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

~~WAC 308-30-080 ((Appeals of denials and revocations of notary appointments.))~~ **Acquiring official seal or stamp.** ~~((Notices of appeals of denials and revocations of notary appointments must be in writing and mailed or delivered to the department of licensing. The written notification of appeal must be received by the department within twenty days of the date of denial or revocation or the right to appeal is waived. When the notification of appeal is mailed, the post-marked date will be accepted as the date of receipt by the department of licensing. Procedures on appeal will be as provided in the Administrative Procedure Act, chapter 34.05 RCW, and rules adopted thereunder.))~~ (1) A notary public shall procure an official seal or stamp only after receiving a certificate evidencing the notary public's commission from the department, and shall provide a copy of this certificate to their chosen seal or stamp vendor as part of procuring the stamp.

(2) A notary public with a commission in effect on July 1, 2018, may continue to use their notarial seal until the commission's date of expiration. A notary public who procures an official seal or stamp after July 1, 2018, is subject to and shall comply with the rules in WAC 308-30-070.

(3) The stamp a notary public acquires is the exclusive property of the notary public, and shall not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

~~WAC 308-30-090 ((Forms.))~~ **Replacement of lost or stolen official seal or stamp.** ~~((1) The forms in RCW 42.44.100 are only suggested certificates with the sufficient information included. These forms may be used; however, when a specific form is required by a specific statute, the required form shall be used.~~

~~(2) A nonattorney notary may complete notarial certificates, and may not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act. This does not preclude a notary who is duly qualified in a particular profession from giving advice relating to matters in that professional field.))~~ (1) When an official seal or stamp is lost or stolen the notary public shall notify the department in writing within ten business days of discovering the seal or stamp was lost or stolen.

(2) The notary public may not obtain a replacement official seal or stamp until they have properly notified the department that the original was lost or stolen.

(3) A replacement official seal or stamp must contain some variance from the original seal or stamp.

(4) If the lost or stolen official seal or stamp is found or recovered after a replacement has been obtained, the original seal or stamp shall be destroyed.

AMENDATORY SECTION (Amending WSR 05-12-047, filed 5/26/05, effective 6/26/05)

**WAC 308-30-100 ((Fees.)) Notary signature.** ((The following fees shall be charged by the director of the department of licensing:

<b>Title of Fee</b>	<b>Fee</b>
Application for notary appointment	\$30.00
Renewal of notary appointment	30.00
Duplicate certificate of appointment (including change of name)	15.00
Evidence of verification of notarial commission	15.00
Apostille	15.00))

In addition to the requirements listed in RCW 42.45.130, a notary public signing the notarial certificate of a completed notarial act shall sign the notarial certificate using the exact name that appears on the notary's certificate of commission and their seal or stamp.

**NEW SECTION**

**WAC 308-30-110 Requirements for notarial acts.** (1)

In performing a notarial act, the notary public shall be physically within the geographic borders of the state of Washington.

(2) A notarial officer who certifies that an event has occurred or an act has been performed shall determine, from personal knowledge or satisfactory evidence, that the occurrence or performance took place.

(3) Electronic notarial acts shall conform to the requirements listed in these rules and RCW 42.45.040 on signing parties appearing before the notary.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-120 ((Notary signature.)) Authorized electronic notarial acts.** ((Upon completion of a notarial act, the notary must sign the notary certification using his/her name exactly as it appears on the notary certificate of appointment and the stamp or seal. The notary's name must be legibly printed or stamped directly below their signature.)) A notary public who has received an electronic records notary public endorsement from the department may perform the following electronic notarial acts:

- (1) Taking an acknowledgment;
- (2) Taking a verification on oath or affirmation;
- (3) Witnessing or attesting a signature;
- (4) Certifying or attesting a copy;

(5) Certifying that an event has occurred or an act has been performed; and

(6) Noting a protest of a negotiable instrument, if the notary public is:

- (a) Licensed to practice law in the state of Washington;
- (b) Acting under the authority of an attorney who is licensed to practice law in this or another state; or
- (c) Acting under the authority of a financial institution regulated by this state, another state, or the federal government.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-130 ((Expired stamp or seal.)) Requirements for technologies and technology providers.** ((The use of a stamp or seal with an expired date is prohibited.)) A tamper-evident technology shall comply with these rules:

(1) A technology provider shall enroll only notaries public who have been issued an electronic records notary public endorsement pursuant to WAC 308-30-030.

(2) A technology provider shall take reasonable steps to ensure that a notary public who has enrolled to use the technology has the knowledge to use it to perform electronic notarial acts in compliance with these rules.

(3) A tamper-evident technology shall require access to the system by a password or other secure means of authentication.

(4) A tamper-evident technology shall enable a notary public to affix the notary's electronic signature and seal or stamp in a manner that attributes such signature and seal or stamp to the notary.

(5) A technology provider shall provide prorated fees to align the usage and cost of the tamper-evident technology with the term limit of the notary public electronic records notary public endorsement.

(6) A technology provider shall suspend the use of any tamper-evident technology for any notary public whose endorsement has been revoked, suspended, or canceled by the state of Washington or the notary public.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-140 ((Notification of legal actions.)) Refusal of requests to use system.** ((The notary must notify the department of licensing of any conviction against him or her of official misconduct, and/or civil or criminal charges. Notification must be submitted within thirty days of such happening.)) In addition to the reasons listed in RCW 42.45.-060, a notary public shall refuse a request to:

- (1) Use a tamper-evident technology that the notary does not know how to operate; or
- (2) Perform an electronic notarial act if the notary has a reasonable belief that a tamper-evident technology does not meet the requirements set forth in these rules.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-150** ~~((Continuous qualification required:))~~ **Completion of electronic notarial certificate.** ~~((A notary public must continue to meet the requirements of RCW 42.44.020 (1)(b) or (c) throughout the term of appointment. A notary who fails to meet any one or more of the aforementioned requirements shall resign, or the director shall institute hearings to determine if the requirements have been met by the notary.))~~ (1) For every electronic notarial act, a notary public shall complete an electronic notarial certificate that complies with the requirements of these rules, RCW 42.45.130 and 42.45.140.

(2) An electronic notarial certificate shall be completed at the time of notarization and in the physical presence of the principal.

AMENDATORY SECTION (Amending WSR 93-05-009, filed 2/5/93, effective 3/8/93)

**WAC 308-30-160** ~~((Testimonials:))~~ **Certification of electronic notarial acts.** ~~((A notary may not endorse or promote any service, contest, or other offering if the notary's seal or title is used in the endorsement or promotional statement.))~~ A notary public shall sign each electronic notarial certificate with an electronic signature that complies with WAC 308-30-170 and authenticate an electronic notarial act with an official stamp that complies with WAC 380-30-180.

AMENDATORY SECTION (Amending WSR 97-10-052, filed 5/1/97, effective 6/1/97)

**WAC 308-30-170** ~~((Application of brief adjudicative proceedings:))~~ **Electronic notarial signature.** ~~((The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:~~

~~(1) Whether an applicant for an appointment meets the minimum criteria for an appointment as a notary public in this state and the department proposes to deny the application;~~

~~(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department; and~~

~~(3) Whether an appointment holder requesting renewal has submitted all required information and whether an appointment holder meets minimum criteria for renewal.))~~

(1) A notary public shall use a tamper-evident technology that complies with WAC 308-30-130 of these rules to produce the notary's electronic signature in a manner that is capable of independent verification.

(2) A notary public shall take reasonable steps to ensure that no other individual may possess or access a tamper-evident technology used to produce the notary's electronic signature.

(3) A notary public shall keep in the sole control of the notary all or any part of a tamper-evident technology whose exclusive purpose is to perform electronic notarial acts.

(4) For the purposes of this section, "capable of independent verification" means that any interested individual may confirm through the department that a notary public who signed an electronic record in an official capacity had authority at that time to perform electronic notarial acts.

AMENDATORY SECTION (Amending WSR 97-10-052, filed 5/1/97, effective 6/1/97)

**WAC 308-30-180** ~~((Preliminary record in brief adjudicative proceedings:))~~ **Electronic notarial stamp.** ~~((+))~~ The preliminary record with respect to an application for appointment or reappointment shall consist of:

~~(a) The application for appointment or reappointment and all associated documents;~~

~~(b) All documents relied upon by the director in proposing to deny the appointment or reappointment; and~~

~~(c) All correspondence between the applicant for appointment or reappointment and the director regarding the application.~~

~~(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:~~

~~(a) The previously issued final order or agreement;~~

~~(b) All reports or other documents submitted by, or at the direction of, the appointment holder, in full or partial fulfillment of the terms of the final order or agreement;~~

~~(c) All correspondence between the appointment holder and the director regarding compliance with the final order or agreement; and~~

~~(d) All documents relied upon by the director showing that the appointment holder has failed to comply with the previously issued final order or agreement.))~~ (1) An electronic stamp may be used to authenticate an electronic notarial act if the electronic notarial certificate conforms to the rules set forth in RCW 42.45.130 and 42.45.140.

(2) An electronic stamp of a notary public used to authenticate an electronic notarial act shall conform to RCW 42.45.150 and WAC 308-30-070.

(3) The electronic stamp of a notary public shall be a digital image that appears in the likeness or representation of a traditional physical notary public official stamp meeting the requirements of RCW 42.45.150 and WAC 308-30-070.

(4) The tamper-evident technology used to create a notary public's electronic stamp shall not be used for any purpose other than performing electronic notarial acts under chapter 42.45 RCW and these rules.

(5) Only the notary public to whom the tamper-evident technology is registered shall generate an official stamp.

AMENDATORY SECTION (Amending WSR 97-10-052, filed 5/1/97, effective 6/1/97)

**WAC 308-30-190** ~~((Conduct of brief adjudicative proceedings:))~~ **Journal of notarial acts required.** ~~((+))~~ Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative

~~proceedings shall not have personally participated in the decision which resulted in the request for a brief adjudicative proceeding.~~

~~(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.~~

~~(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.~~

~~(4) No witnesses may appear to testify.~~

~~(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for the decision.~~

~~(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.)~~ (1) A notary public shall record each notarial act in a journal at the time of notarization in compliance with RCW 42.45.180 and these rules.

(2) If a notary public performs notarial acts involving different statements or documents for the same individual on the same date, the notary public may record a single entry in the journal for all of the statements or documents. The entry shall include the number of statements or documents notarized and shall otherwise conform to RCW 42.45.180 and these rules.

(3) The fact that the notary public's employer or contractor keeps a record of notarial acts shall not relieve the notary of the duties required by these rules.

**NEW SECTION**

**WAC 308-30-200 Format of journals of notarial acts.**

- (1) A tangible notarial journal shall:
  - (a) Be a permanent, bound book with numbered pages; and
  - (b) Have the capacity to record for each notarial act:
    - (i) The information required by RCW 42.45.180(4);
    - (ii) A description of the notary public's method of identifying the principal; and
    - (iii) The principal's signature, or the signature of an authorized party in compliance with RCW 42.45.070.
- (2) If a notary public keeps an electronic journal pursuant to RCW 42.45.180(3), the electronic journal shall:
  - (a) Be maintained only in addition to the tangible journal;
  - (b) Have the capacity to record the information required for a tangible notarial journal;
  - (c) Enable access by a password or other secure means of authentication;
  - (d) Be tamper-evident;
  - (e) Create a duplicate record of the journal as a backup; and
  - (f) Be capable of providing tangible or electronic copies of any entry made in the journal.
- (3) A notary public's journal is the exclusive property of the notary public, and shall not be surrendered to an employer

upon demand or termination, whether the employer paid for the journal or the notary's bond or application fees.

**NEW SECTION**

**WAC 308-30-210 Disposition of journal.** (1) Ten years after the performance of the last notarial act chronicled in a tangible journal, the journal is to be destroyed by shredding or other destruction that leaves any entry in the journal illegible.

(2) Ten years after the performance of the last notarial act chronicled in an electronic journal, the journal is to be destroyed by deleting any remaining records pertaining to the electronic journal and deleting any remaining tamper-evident technology in the notary's possession.

(3) The personal representative or guardian of a notary public shall follow RCW 42.45.180(6) related to the disposition of the notary public's journals upon the death or adjudication of incompetency of the notary public.

(4) Nothing in this section shall require a notary to dispose of their notarial journal or journals if doing so would be in conflict with the law of another jurisdiction that requires a notary to keep their journal for a longer period of time.

(5) The notary public, or the notary's personal representative, shall provide access instructions to the department for any electronic journal maintained or stored by the notary, upon commission resignation, revocation, or expiration without renewal, or upon the death or adjudicated incompetence of the notary.

**NEW SECTION**

**WAC 308-30-220 Fees for notarial acts.** (1) The maximum fees a notary may charge for notarial acts are:

Notarial Act	Fee
Witnessing or attesting a signature	\$10.00
Taking an acknowledgment or a verification upon oath or affirmation	\$10.00
Certifying or attesting a copy	\$10.00
Administering an oath or affirmation	\$10.00
Certifying that an event has occurred or an act has been performed	\$10.00

- (2) A notary public need not charge for notarial acts.
- (3) A notary public may not charge fees for receiving or noting a protest of a negotiable instrument.
- (4) A notary public may additionally charge the actual costs of copying any instrument or record.
- (5) A notary public may charge a travel fee when traveling to perform a notarial act if:
  - (a) The notary public and the individual requesting the notarial act agree upon the travel fee in advance of the travel; and
  - (b) The notary public explains to the individual requesting the notarial act that the travel fee is in addition to the notarial fee in subsection (1) of this section and is not required by law.

NEW SECTION

**WAC 308-30-230 Testimonials.** A notary may not endorse or promote any service, contest, or other offering if the notary's seal or title is used in the endorsement or promotional statement.

NEW SECTION

**WAC 308-30-240 Forms.** (1) The forms in RCW 42.45.140 are examples of certificates with the sufficient information included. When a specific form is required by another statute of this state, the required form shall be used.

(2) A nonattorney notary may not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act. This does not preclude a notary who is duly qualified in a particular profession from giving advice relating to matters in that professional field.

NEW SECTION

**WAC 308-30-250 Change of name or address.** (1) When a notary public changes his or her name or address, the department of licensing must be notified of such change on forms prescribed by the department.

(2) A name change notification must be accompanied by a bond rider from the bonding company amending the notary bond, and the prescribed fee for a name change which provides a duplicate notary certificate showing the new name. There is no charge for an address change and a new certificate is not issued.

(3) A notary that submits a name change notification shall continue to use their original notary stamp or seal and their original name and signature until they receive a new commission certificate and seal or stamp with the new information.

NEW SECTION

**WAC 308-30-260 Evidence of authenticity.** Requests for evidence of authenticity should be addressed to the Washington office of the secretary of state, corporations and charities division.

NEW SECTION

**WAC 308-30-270 Termination or suspension of commission or endorsement.** (1) The department may take action against the commission and/or endorsement of a notary public who fails to comply with these rules as provided in RCW 42.45.210, 42.45.270, and chapter 18.235 RCW. Any restriction, suspension, or revocation of a notary public's commission will automatically have the same effect on any endorsement the notary public holds.

(2) A notary public may terminate their notary public commission and/or electronic records endorsement by notifying the department of this intent in writing and disposing of all or any part of a tamper-evident technology in the notary's control whose purpose was to perform electronic notarizations.

(3) A notary public may terminate the electronic records notary public endorsement and maintain the underlying notary public commission.

(4) A notary public whose commission is terminated or expired, either by the notary or the department, shall disable their official stamp by destroying, defacing, damaging, or securing the device against use. The notary shall maintain their notarial journals for ten years as required by RCW 42.45.180 and WAC 308-30-210.

NEW SECTION

**WAC 308-30-280 Change of application information.** If any of the information submitted on a notary public's commission or endorsement applications pursuant to WAC 308-30-030 changes, the notary public shall report this change to the department in writing within fifteen days.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-30-005 Mailing address.

WAC 308-30-155 Satisfactory evidence of identity.

**WSR 18-12-032****PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed May 29, 2018, 10:06 a.m., effective June 29, 2018]

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

Purpose: The employment security department (ESD) is responsible for implementing the paid family and medical leave program in accordance with Title 50A RCW. Rule making will be done in several distinct phases. In phase 1, ESD is establishing rules on: (1) Assessing and collecting premiums for the paid family and medical leave program; (2) collective bargaining agreements; and (3) implementing procedures for voluntary plans.

Citation of Rules Affected by this Order: New WAC 192-510-010, 192-510-020, 192-510-030, 192-510-040, 192-510-050, 192-510-060, 192-510-070, 192-510-080, 192-520-010, 192-530-010, 192-530-020, 192-530-030, 192-530-040, 192-530-050, and 192-530-060.

Statutory Authority for Adoption: RCW 50A.04.215.

Adopted under notice filed as WSR 18-08-083 on April 4, 2018.

Changes Other than Editing from Proposed to Adopted Version: In WAC 192-530-020 (1)(a), the words "at least" were added after the word "take" to clarify that a voluntary plan may offer more leave than is required by statute. In WAC 192-510-010 (4)(a), the word "and" was added after the semicolon to connect the two clauses. In WAC 192-510-050 and 192-530-050(2), the word "who" following "employer" was changed to "that" since employers are entities. In WAC 192-530-050, the word "reports" was removed to correct a duplicate word error and the word "wishes" was changed to "intends" for purposes of clarity.

A final cost-benefit analysis is available by contacting Christina Streuli, ESD, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-791-6710, TTY 711, email [estreuli@esd.wa.gov](mailto:estreuli@esd.wa.gov), web site [https://www.opentownhall.com/portals/289/forum\\_home?phase=open](https://www.opentownhall.com/portals/289/forum_home?phase=open).

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 15, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 29, 2018.

Cami Feek  
Acting Commissioner

## Chapter 192-510 WAC

### ASSESSING AND COLLECTING PREMIUMS

#### NEW SECTION

**WAC 192-510-010 Election, withdrawal, and cancellation of coverage.** (1) Self-employed persons as defined in RCW 50A.04.105(1) and federally recognized tribes as defined in RCW 50A.04.110 may elect coverage under Title 50A RCW.

(2) Notice of election of coverage must be submitted to the department online or in another format approved by the department.

(3) Elective coverage begins on the first day of the calendar quarter immediately following the notice of election.

(4) A period of coverage is defined as:

(a) Three calendar years following the first day of elective coverage or any gap in coverage; and

(b) Each subsequent calendar year.

(5) Any self-employed person or federally recognized tribe may file a notice of withdrawal within thirty calendar days after the end of each period of coverage.

(6) A notice of withdrawal from coverage must be submitted to the department online or in another format approved by the department.

(7) Any levy resulting from the department's cancellation of coverage is in addition to the due and unpaid premiums and interest for the remainder of the period of coverage.

#### NEW SECTION

**WAC 192-510-020 Election of coverage for federally recognized tribes.** (1) Federally recognized tribes electing coverage are employers as defined in RCW 50A.04.010 and

are subject to all rights and responsibilities under Title 50A RCW.

(2) Employees of federally recognized tribes that elect coverage are employees as defined in RCW 50A.04.010 and are subject to all the rights and responsibilities under Title 50A RCW.

#### NEW SECTION

**WAC 192-510-030 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?** (1) The department will use the self-employed person's reported income and divide it by the state's minimum wage to presume the number of hours worked.

**Example:** For this example, the state's minimum wage is \$12.00 per hour. The self-employed person electing coverage reports \$10,000 of income in a quarter. The department will divide \$10,000 by \$12.00 and presume the self-employed person worked 833 hours in that quarter.

(2) The self-employed person may overcome the presumption of hours by providing sufficient documentation to the department including, but not limited to, personal logs or contracts.

(3) The department may require copies of tax returns, bank records, or any other documentation deemed necessary by the department to verify or determine the self-employed person's hours and wages.

#### NEW SECTION

**WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants?** (1) To assess premiums and determine eligibility for small business assistance grants, the department must determine the size of each applicable employer. The department will only count the number of in-state employees as defined in RCW 50A.04.010(4) when calculating employer size.

(2) If the department determines that the employer's status has changed as it relates to premium liability, the department will notify the employer. This notification will include the following information:

(a) If the employer was determined to have fifty or more employees for the preceding calendar year, and the employer is then determined to have fewer than fifty employees for the subsequent calendar year, the employer will not be required to pay the employer portion of the premium for the next calendar year; or

(b) If the employer was determined to have fewer than fifty employees for the preceding calendar year, and the employer is then determined to have fifty or more employees for the subsequent calendar year, the employer will be required to pay the employer portion of the premium for the next calendar year.

**Example:** On September 30, 2018, a business is determined to have had 53 employees on average during the previous four completed quarters, which covers July 1, 2017, through June 30, 2018. The employer is liable for the employer portion of premiums for 2019. On September 30, 2019, the business is determined to have had 48 employees

on average during the previous four completed quarters, which covers July 1, 2018, through June 30, 2019. The employer is no longer liable for the employer share of premiums for 2020.

#### NEW SECTION

**WAC 192-510-050 How will the department assess the size of new employers?** An employer that has not been in business in Washington long enough to report four calendar quarters by September 30th will have its size calculated after the second quarter of reporting is due by averaging the number of employees reported over the quarters for which reporting exists. Premium assessment based on this determination will begin on this reporting date. This size determination remains in effect until the following September 30th pursuant to RCW 50A.04.115 (8)(c).

#### NEW SECTION

**WAC 192-510-060 When are employer premium payments due?** (1) Premiums must be paid quarterly. Each payment must include the premiums owed on all wages subject to premiums during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which premiums are being paid.

(2) Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the premium payment must be postmarked by the next business day.

(3) Premium payments are due within ten calendar days when a business is dissolved or the account is closed by the department. Premiums not paid timely are delinquent and subject to interest under RCW 50A.04.140.

#### NEW SECTION

**WAC 192-510-070 What is "localization" and how does it affect conditional waivers?** (1) An employee's work is subject to all reporting requirements and premiums when the work is localized in Washington. An employee's work is considered localized in Washington when:

(a) All of the employee's work is performed entirely within Washington; or

(b) Most of the employee's services are performed within Washington, but some of the work which is temporary or transitory in nature, or consists of isolated transactions is performed outside of Washington.

(2) Services that are not localized in Washington will be subject to reporting requirements and premiums when the services are not localized in any state, but some of the services are performed in Washington, and:

(a) The base of operations of the employee is in Washington, or if there is no base of operations, then the place from which such services is directed or controlled is in Washington; or

(b) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Washington.

**Example:** A storm hits Washington. An employer in Oregon dispatches an employee who typically lives and works in Oregon to help with repair work. The employee works temporarily in Washington for the employer for one week, and then returns to work in Oregon for the employer. The employment is localized within Oregon and is not subject to premium assessment.

#### NEW SECTION

**WAC 192-510-080 What are the requirements to be eligible for a conditional premium waiver?** (1) An employer and employee may be eligible for a conditional waiver of premium payments by satisfying the requirements of RCW 50A.04.120.

(2) A conditional premium waiver is not required for work that is not subject to premiums under WAC 192-510-070 or fails to meet the definition of employment in RCW 50A.04.010 (7)(a).

(3) Any conditional premium waiver request must be submitted to the department online or in another format approved by the department.

(4) As a condition to granting the conditional premium waiver, the employer must file quarterly reports to verify that employees still qualify for the conditional premium waiver.

(5) Once an employee works eight hundred twenty hours in a qualifying period localized in Washington for an employer, the conditional premium waiver expires.

(6) The department may require the employer to submit additional documentation as necessary.

(7) If the employee exceeds eight hundred twenty hours or more in a qualifying period, the conditional waiver expires and the employer and employee will be responsible for their shares of all premiums that would have been paid during the qualifying period in which the employee exceeded eight hundred twenty hours had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this chapter as if the premiums were originally paid.

**Example:** A storm hits Washington. An employer in Oregon hires a new employee who lives in Oregon to help with repair work. The employee only works in Washington for the employer for one week and is then laid off. The employer could request a conditional premium waiver for this employee.

### Chapter 192-520 WAC

#### COLLECTIVE BARGAINING AGREEMENTS

#### NEW SECTION

**WAC 192-520-010 Parties to collective bargaining agreements.** (1) The rights and responsibilities under Title 50A RCW do not apply to parties covered by collective bargaining agreements in effect before October 19, 2017, unless and until the agreements expire, are reopened, or are renegotiated.

(2) Employers must inform the department immediately upon the reopening, renegotiation, or expiration of a collec-

tive bargaining agreement that was in effect prior to October 19, 2017.

(3) An employer must file quarterly reports once a collective bargaining agreement expires, is reopened, or is renegotiated.

(4) To be eligible for benefits, an employee must have worked at least eight hundred twenty hours during the qualifying period. If the employee's qualifying period includes any quarter prior to a collective bargaining agreement being reopened, renegotiated, or expiring, the department will request the employee's qualifying period wages and hours from the employer. The employer must provide the wages and hours to the department within ten calendar days.

(5) Employees not covered by a collective bargaining agreement are subject to the rights and responsibilities of Title 50A RCW. Employers are also subject to the rights and responsibilities of Title 50A RCW for employees not covered by a collective bargaining agreement, regardless of whether the employer is party to a collective bargaining agreement covering other employees.

(6) Employers party to multiple collective bargaining agreements among different bargaining units are subject to the rights and responsibilities of Title 50A RCW as they pertain to the bargaining units whose collective bargaining agreement has expired, been reopened, or renegotiated, on or after October 19, 2017.

## Chapter 192-530 WAC

### VOLUNTARY PLANS

#### NEW SECTION

**WAC 192-530-010 What are the employer application requirements for voluntary plans?** (1) A voluntary plan application must be submitted to the department online or in another format approved by the department. Incomplete applications will not be reviewed. Voluntary plan application fees are due at the time the application is submitted to the department. The fee is nonrefundable. If the voluntary plan is denied, a new application fee is required with each additional application.

(2) Voluntary plans will take effect on the first day of the quarter immediately following the approval of the plan.

#### NEW SECTION

**WAC 192-530-020 Voluntary plans—Employer plan requirements.** (1) An employer's voluntary plan must:

(a) Allow the employee to take at least the same duration of leave from work as the state plan;

(b) Pay at least equivalent total monetary benefits as the state plan;

(c) Not withhold an amount from an employee's wages that is higher than what would be withheld under the state plan for the same period of time; and

(d) Offer leave for at least the same reasons as the state plan.

(2) An employer with an approved voluntary plan may, at its discretion, use an accelerated payment schedule. The

total monetary benefit must be equal to or greater than what the employee would have received under the state plan.

(a) If the employer chooses to use an accelerated payment schedule, the total monetary benefit must be paid to the employee over a length of time that is no less than one-half of what would have been provided under the state plan.

(b) Whether an employer elects to use an accelerated payment schedule has no impact on the length of job-protected leave to which the employee is entitled.

(c) If an employer chooses to utilize an accelerated payment schedule and the employee agrees to return to work earlier than required, the employer cannot require the employee to repay benefits as a result of returning to work earlier.

(3) Employees covered by a voluntary plan are entitled to at least the same length of job-protected leave to which they would be entitled under the state plan. An employer and an employee may enter into an agreement wherein the employee returns to work at an earlier date.

**Example:** An employee elects to take 12 weeks of leave for the birth of a child. The weekly benefit amount is \$750. The employer decides to pay the employee \$1,500 weekly over 6 weeks. In addition, the employer and the employee agree that the employee will return to work after 6 weeks. In this example, the employee would still have been permitted to take the full 12 weeks of leave if the employee had decided to do so.

(4) A two hundred fifty dollar fee will be required for every new application or nonstatutorily required amendment filed by an employer seeking approval for a voluntary plan.

(5) If an employer elects to have a voluntary plan for either family leave or medical leave, but not both, the employer is responsible for withholding the employee share of the premium for the portion that is covered by the state plan. The department will post the rates for family and medical leave for the following calendar year to its web site by November 30th each year. The employer is responsible for paying the premiums due to the state plan in accordance with WAC 192-510-060.

#### NEW SECTION

**WAC 192-530-030 Voluntary plans—Employee eligibility criteria.** (1) To qualify for an employer's approved voluntary plan, an employee must have been:

(a) In employment for at least eight hundred twenty hours during the qualifying period and in employment with that employer for at least three hundred forty hours; or

(b) Covered by an approved voluntary plan through their previous employer.

(2) Employees working for an employer with a voluntary plan who have not yet met eligibility requirements for that plan are eligible for benefits under the state plan so long as all other requirements are met.

(3) When an employee files a claim for benefits, an employer will access the employee's weekly benefit amount and typical workweek hours information online, or in another format approved by the department, and ensure the employee qualifies for at least an equivalent benefit amount from its voluntary plan.

(4) Upon hiring an employee previously covered under a state plan, the employer with an existing voluntary plan must report to the department online, or in another format approved by the department, the new employee's status for the voluntary plan after the employee becomes eligible for that plan.

NEW SECTION

**WAC 192-530-040 Voluntary plans—Notice requirements under RCW 50A.04.075.** (1) The department will provide a notice that meets the requirements of RCW 50A.04.075 to employers with approved voluntary plans if requested.

(2) Employers may create their own notices that meet the requirements of RCW 50A.04.075. Each employer must provide a copy of its voluntary plan notice to the department for approval. The notice must be submitted online or in another format approved by the department and must contain at least the same information as the state notice.

NEW SECTION

**WAC 192-530-050 Avoiding a duplication of benefits under state and voluntary plans.** (1) Employees cannot collect benefits from both the state plan and a voluntary plan for the same period. To ensure compliance, employers with an approved voluntary plan must report:

- (a) All information required of employers by the state plan;
- (b) Weekly benefit and leave duration information for any employee who takes leave under that plan for reasons that would have qualified for leave under the state plan; and
- (c) Premiums, if any, withheld from employee wages.

(2) Upon request, the department will provide weekly benefit, typical workweek hours, and leave duration information to any employer with an approved voluntary plan that requests it for an employee who intends to take leave under that plan.

NEW SECTION

**WAC 192-530-060 What happens at the end of a voluntary plan?** (1) If the employer chooses to withdraw from a voluntary plan, the employer must notify the department at least thirty calendar days before the withdrawal. Notification of withdrawal shall be submitted to the department online or in another format approved by the department.

(2) If the department has terminated an employer's participation in a voluntary plan, the department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all moneys in the plan, including premiums paid by the employer, premiums paid by the employees, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys. The amount will be due immediately. Any balance owed will not start collecting interest until thirty calendar days after the date of the invoice.

**WSR 18-12-033**

**PERMANENT RULES**

**HEALTH CARE AUTHORITY**

[Filed May 29, 2018, 10:25 a.m., effective July 1, 2018]

Effective Date of Rule: July 1, 2018.

Purpose: The agency is revising WAC 182-535-1084 to (1) allow for payment of silver diamine fluoride as a topical preventative agent; (2) clarify that the coverage policy for silver diamine fluoride is two times per tooth, per visit in a twelve-month period; and (3) clarify that silver diamine fluoride cannot [be] billed with interim therapeutic restoration on the same tooth when arresting caries or as a preventative agent.

Citation of Rules Affected by this Order: Amending WAC 182-535-1084.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-07-041 on March 13, 2018.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
<b>Original WAC 182-535-1084 Dental-related services—Covered—Restorative services</b>		
Proposed	<del>(7)(a)(ii) As a topical preventative agent in lieu of the topical fluoride treatment found in WAC 182-535-1082(2).</del>	Revision made as a result of stakeholder comments.
Adopted	(7)(a)(ii) <u>As a topical preventative agent.</u>	
Proposed	<del>(7)(b) (May be provided) Allowed two times per client, per tooth. Not to exceed six teeth per visit in a twelve-month period(, and).</del>	Revision made as a result of stakeholder comments.
Adopted	(7)(b) <del>(May be provided)</del> <u>Allowed two times per client, per tooth, in a twelve-month period(, and).</u>	
Proposed	<del>(7)(c) Cannot be performed and billed with interim therapeutic restoration on the same tooth when arresting caries or as a preventative agent.</del>	Revision made as a result of stakeholder comments.
Adopted	(7)(c) Cannot be billed with interim therapeutic restoration on the same tooth <u>when arresting caries or as a preventative agent.</u>	

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 the Request of a Non-governmental 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: May 29, 2018.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

**WAC 182-535-1084 Dental-related services—Covered—Restorative services.** Clients described in WAC 182-535-1060 are eligible for the dental-related restorative services listed in this section, subject to coverage limitations, restrictions, and client age requirements identified for a specific service.

(1) **Amalgam and resin restorations for primary and permanent teeth.** The medicaid agency considers:

(a) Tooth preparation, acid etching, all adhesives (including bonding agents), liners and bases, indirect and direct pulp capping, polishing, and curing as part of the restoration.

(b) Occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the restoration.

(c) Restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(2) **Limitations for all restorations.** The agency:

(a) Considers multiple restoration involving the proximal and occlusal surfaces of the same tooth as a multisurface restoration, and limits reimbursement to a single multisurface restoration.

(b) Considers multiple restorative resins, flowable composite resins, or resin-based composites for the occlusal, buccal, lingual, mesial, and distal fissures and grooves on the same tooth as a one-surface restoration.

(c) Considers multiple restorations of fissures and grooves of the occlusal surface of the same tooth as a one-surface restoration.

(d) Considers resin-based composite restorations of teeth where the decay does not penetrate the dentinoenamel junction (DEJ) to be sealants. (See WAC 182-535-1082 for sealant coverage.)

(e) Reimburses proximal restorations that do not involve the incisal angle on anterior teeth as a two-surface restoration.

(f) Covers only one buccal and one lingual surface per tooth. The agency reimburses buccal or lingual restorations, regardless of size or extension, as a one-surface restoration.

(g) Does not cover preventive restorative resin or flowable composite resin on the interproximal surfaces (mesial or distal) when performed on posterior teeth or the incisal surface of anterior teeth.

(h) Does not pay for replacement restorations within a two-year period unless the restoration is cracked or broken or has an additional adjoining carious surface. The agency pays

for the replacement restoration as one multisurface restoration. The client's record must include X rays or documentation supporting the medical necessity for the replacement restoration.

(3) **Additional limitations for restorations on primary teeth.** The agency covers:

(a) A maximum of two surfaces for a primary first molar. (See subsection (6) of this section for a primary first molar that requires a restoration with three or more surfaces.) The agency does not pay for additional restorations on the same tooth.

(b) A maximum of three surfaces for a primary second molar. (See subsection (6) of this section for a primary posterior tooth that requires a restoration with four or more surfaces.) The agency does not pay for additional restorations on the same tooth.

(c) A maximum of three surfaces for a primary anterior tooth. (See subsection (6) of this section for a primary anterior tooth that requires a restoration with four or more surfaces.) The agency does not pay for additional restorations on the same tooth after three surfaces.

(4) **Additional limitations for restorations on permanent teeth.** The agency covers:

(a) Two occlusal restorations for the upper molars on teeth one, two, three, fourteen, fifteen, and sixteen if, the restorations are anatomically separated by sound tooth structure.

(b) A maximum of five surfaces per tooth for permanent posterior teeth, except for upper molars. The agency allows a maximum of six surfaces per tooth for teeth one, two, three, fourteen, fifteen, and sixteen.

(c) A maximum of six surfaces per tooth for resin-based composite restorations for permanent anterior teeth.

(5) **Crowns.** The agency:

(a) Covers the following indirect crowns once every five years, per tooth, for permanent anterior teeth for clients age fifteen through twenty when the crowns meet prior authorization criteria in WAC 182-535-1220 and the provider follows the prior authorization requirements in (c) of this subsection:

(i) Porcelain/ceramic crowns to include all porcelains, glasses, glass-ceramic, and porcelain fused to metal crowns; and

(ii) Resin crowns and resin metal crowns to include any resin-based composite, fiber, or ceramic reinforced polymer compound.

(b) Considers the following to be included in the payment for a crown:

(i) Tooth and soft tissue preparation;

(ii) Amalgam and resin-based composite restoration, or any other restorative material placed within six months of the crown preparation. Exception: The agency covers a one-surface restoration on an endodontically treated tooth, or a core buildup or cast post and core;

(iii) Temporaries, including but not limited to, temporary restoration, temporary crown, provisional crown, temporary prefabricated stainless steel crown, ion crown, or acrylic crown;

(iv) Packing cord placement and removal;

(v) Diagnostic or final impressions;

(vi) Crown seating (placement), including cementing and insulating bases;

(vii) Occlusal adjustment of crown or opposing tooth or teeth; and

(viii) Local anesthesia.

(c) Requires the provider to submit the following with each prior authorization request:

(i) Radiographs to assess all remaining teeth;

(ii) Documentation and identification of all missing teeth;

(iii) Caries diagnosis and treatment plan for all remaining teeth, including a caries control plan for clients with rampant caries;

(iv) Pre- and post-endodontic treatment radiographs for requests on endodontically treated teeth; and

(v) Documentation supporting a five-year prognosis that the client will retain the tooth or crown if the tooth is crowned.

(d) Requires a provider to bill for a crown only after delivery and seating of the crown, not at the impression date.

(6) **Other restorative services.** The agency covers the following restorative services:

(a) All recementations of permanent indirect crowns.

(b) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns for primary anterior teeth once every three years only for clients age twenty and younger as follows:

(i) For age twelve and younger without prior authorization if the tooth requires a four or more surface restoration; and

(ii) For age thirteen through twenty with prior authorization.

(c) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns, for primary posterior teeth once every three years without prior authorization if:

(i) Decay involves three or more surfaces for a primary first molar;

(ii) Decay involves four or more surfaces for a primary second molar; or

(iii) The tooth had a pulpotomy.

(d) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, and prefabricated resin crowns, for permanent posterior teeth excluding one, sixteen, seventeen, and thirty-two once every three years, for clients age twenty and younger, without prior authorization.

(e) Prefabricated stainless steel crowns for clients of the developmental disabilities administration of the department of social and health services (DSHS) without prior authorization according to WAC 182-535-1099.

(f) Core buildup, including pins, only on permanent teeth, only for clients age twenty and younger, and only allowed in conjunction with crowns and when prior authorized. For indirect crowns, prior authorization must be obtained from the agency at the same time as the crown. Providers must submit pre- and post-endodontic treatment radiographs to the agency with the authorization request for endodontically treated teeth.

(g) Cast post and core or prefabricated post and core, only on permanent teeth, only for clients age twenty and younger, and only when in conjunction with a crown and when prior authorized.

(7) **Silver diamine fluoride.** The agency covers silver diamine fluoride (~~(per application)~~), as follows:

(a) Allowed only when used (for stopping the progression of caries only);

(i) For stopping the progression of caries; or

(ii) As a topical preventive agent.

(b) ~~((May be provided))~~ Allowed two times per client, per tooth, in a twelve-month period(=and)).

(c) Cannot be ~~((performed and))~~ billed with interim therapeutic restoration on the same tooth when arresting caries or as a preventive agent.

## WSR 18-12-034

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed May 29, 2018, 11:54 a.m., effective June 29, 2018]

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

Purpose: The department is repealing chapter 388-60 WAC and creating chapter 388-60A WAC to update rules in order to raise the standards of domestic violence perpetrator treatment, thereby increasing the effectiveness of treatment throughout Washington state. A crosswalk table of existing and new WAC sections is available upon request.

Citation of Rules Affected by this Order: New WAC 388-60A-0015, 388-60A-0025, 388-60A-0035, 388-60A-0045, 388-60A-0055, 388-60A-0100, 388-60A-0105, 388-60A-0110, 388-60A-0115, 388-60A-0120, 388-60A-0125, 388-60A-0130, 388-60A-0135, 388-60A-0140, 388-60A-0200, 388-60A-0210, 388-60A-0220, 388-60A-0230, 388-60A-0240, 388-60A-0250, 388-60A-0260, 388-60A-0270, 388-60A-0280, 388-60A-0300, 388-60A-0305, 388-60A-0310, 388-60A-0315, 388-60A-0320, 388-60A-0325, 388-60A-0330, 388-60A-0335, 388-60A-0340, 388-60A-0345, 388-60A-0350, 388-60A-0355, 388-60A-0360, 388-60A-0365, 388-60A-0370, 388-60A-0400, 388-60A-0405, 388-60A-0410, 388-60A-0415, 388-60A-0420, 388-60A-0425, 388-60A-0430, 388-60A-0435, 388-60A-0500, 388-60A-0510, 388-60A-0520 and 388-60A-0530; and repealing WAC 388-60-0015, 388-60-0025, 388-60-0035, 388-60-0045, 388-60-0055, 388-60-0065, 388-60-0075, 388-60-0085, 388-60-0095, 388-60-0105, 388-60-0115, 388-60-0125, 388-60-0135, 388-60-0145, 388-60-0155, 388-60-0165, 388-60-0175, 388-60-0185, 388-60-0195, 388-60-0205, 388-60-0215, 388-60-0225, 388-60-0235, 388-60-0245, 388-60-0255, 388-60-0265, 388-60-0275, 388-60-0285, 388-60-0295, 388-60-0305, 388-60-0315, 388-60-0325, 388-60-0335, 388-60-0345, 388-60-0355, 388-60-0365, 388-60-0375, 388-60-0385, 388-60-0395, 388-60-0405, 388-60-0415, 388-60-0425, 388-60-0435, 388-60-0445, 388-60-0455, 388-60-0465, 388-60-0475, 388-60-0485, 388-60-0495, 388-60-0505, 388-60-0515, 388-60-

0525, 388-60-0535, 388-60-0545, 388-60-0555, 388-60-0565, 388-60-0575, 388-60-0585, 388-60-0595, 388-60-0605, 388-60-0615, 388-60-0625, 388-60-0635, 388-60-0645, 388-60-0655, 388-60-0665, 388-60-0675, 388-60-0685, 388-60-0695, 388-60-0705, 388-60-0715, 388-60-0725, 388-60-0735, 388-60-0745, and 388-60-0755.

Statutory Authority for Adoption: RCW 26.50.150.

Adopted under notice filed as WSR 18-05-060 on February 15, 2018.

A final cost-benefit analysis is available by contacting Amie Roberts, P.O. Box 45710, Olympia, WA 98504, phone 360-902-7962, email amie.roberts@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 50, Amended 0, Repealed 75.

Number of Sections Adopted at the Request of a Non-governmental 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 50, Amended 0, Repealed 75.

Date Adopted: May 25, 2018.

Cheryl Strange  
Secretary

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-14 issue of the Register.

**WSR 18-12-035**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Division of Vocational Rehabilitation)

[Filed May 29, 2018, 12:22 p.m., effective June 30, 2018]

Effective Date of Rule: June 30, 2018.

Purpose: The department is repealing rules contained in chapter 388-891 WAC, Vocational rehabilitation services for individuals with disabilities and creating new rules in a new chapter 388-891A WAC, Vocational rehabilitation services for individuals with disabilities. This new chapter supports the purpose of the division of vocational rehabilitation (DVR), which is to empower people with disabilities to achieve a better quality of life by obtaining and maintaining employment. The rules are intended to inform the public about DVR's vocational rehabilitation (VR) services and the conditions under which DVR provides them.

DVR is creating new rules in a new chapter 388-891A WAC in order to comply with new requirements resulting from the reauthorization of the federal Rehabilitation Act, add guidance to the DVR customer services manual (division

procedures) and align the chapter of WAC with standard operating practice and federal rules, and increase the ease of locating WAC sections. For example, many sections of this chapter addressing the conditions under which DVR will pay for VR services have been relocated from sections grouped under the topic of "vocational rehabilitation services" to sections grouped under the topic of "paying for services."

A crosswalk table of existing and new WAC sections is available upon request.

Citation of Rules Affected by this Order: New WAC 388-891A-0005, 388-891A-0010, 388-891A-0100, 388-891A-0102, 388-891A-0103, 388-891A-0104, 388-891A-0110, 388-891A-0120, 388-891A-0130, 388-891A-0135, 388-891A-0140, 388-891A-0150, 388-891A-0200, 388-891A-0205, 388-891A-0206, 388-891A-0210, 388-891A-0211, 388-891A-0215, 388-891A-0220, 388-891A-0225, 388-891A-0230, 388-891A-0235, 388-891A-0240, 388-891A-0245, 388-891A-0250, 388-891A-0255, 388-891A-0260, 388-891A-0265, 388-891A-0270, 388-891A-0275, 388-891A-0295, 388-891A-0300, 388-891A-0310, 388-891A-0320, 388-891A-0330, 388-891A-0340, 388-891A-0400, 388-891A-0405, 388-891A-0410, 388-891A-0420, 388-891A-0421, 388-891A-0425, 388-891A-0430, 388-891A-0431, 388-891A-0440, 388-891A-0450, 388-891A-0490, 388-891A-0500, 388-891A-0505, 388-891A-0506, 388-891A-0507, 388-891A-0510, 388-891A-0515, 388-891A-0525, 388-891A-0526, 388-891A-0527, 388-891A-0530, 388-891A-0535, 388-891A-0540, 388-891A-0545, 388-891A-0550, 388-891A-0555, 388-891A-0600, 388-891A-0610, 388-891A-0611, 388-891A-0615, 388-891A-0620, 388-891A-0630, 388-891A-0640, 388-891A-0650, 388-891A-0660, 388-891A-0700, 388-891A-0705, 388-891A-0706, 388-891A-0707, 388-891A-0708, 388-891A-0709, 388-891A-0710, 388-891A-0715, 388-891A-0720, 388-891A-0725, 388-891A-0730, 388-891A-0731, 388-891A-0732, 388-891A-0735, 388-891A-0740, 388-891A-0745, 388-891A-0750, 388-891A-0755, 388-891A-0760, 388-891A-0765, 388-891A-0766, 388-891A-0767, 388-891A-0785, 388-891A-0790, 388-891A-0791, 388-891A-0800, 388-891A-0805, 388-891A-0810, 388-891A-0815, 388-891A-0820, 388-891A-0825, 388-891A-0830, 388-891A-0836, 388-891A-0837, 388-891A-0838, 388-891A-0840, 388-891A-0855, 388-891A-0860, 388-891A-0865, 388-891A-0866, 388-891A-0880, 388-891A-0890, 388-891A-0900, 388-891A-0905, 388-891A-0910, 388-891A-0911, 388-891A-0912, 388-891A-0913, 388-891A-0915, 388-891A-0916, 388-891A-0920, 388-891A-0925, 388-891A-0930, 388-891A-0940, 388-891A-0945, 388-891A-0950, 388-891A-0951, 388-891A-0960, 388-891A-0965, 388-891A-0966, 388-891A-0970, 388-891A-1000, 388-891A-1010, 388-891A-1015, 388-891A-1030, 388-891A-1040, 388-891A-1045, 388-891A-1050, 388-891A-1060, 388-891A-1065, 388-891A-1075, 388-891A-1080, 388-891A-1090, 388-891A-1100, 388-891A-1101, 388-891A-1102, 388-891A-1103, 388-891A-1105, 388-891A-1110, 388-891A-1120, 388-891A-1125, 388-891A-1130, 388-891A-1135, 388-891A-1136, 388-891A-1137, 388-891A-1140, 388-891A-1145, 388-891A-1150, 388-891A-1155, 388-891A-1156, 388-891A-1160, 388-891A-1161, 388-891A-

1162, 388-891A-1163, 388-891A-1164, 388-891A-1165, 388-891A-1170, 388-891A-1171, 388-891A-1172, 388-891A-1173, 388-891A-1174, 388-891A-1175, 388-891A-1176, 388-891A-1177, 388-891A-1179, 388-891A-1180, 388-891A-1181, 388-891A-1182, 388-891A-1185, 388-891A-1186, 388-891A-1190, 388-891A-1194, 388-891A-1195, 388-891A-1196, 388-891A-1200, 388-891A-1205, 388-891A-1210, 388-891A-1230, 388-891A-1240, 388-891A-1300, 388-891A-1310, 388-891A-1311, 388-891A-1312, 388-891A-1320 and 388-891A-1330; and repealing WAC 388-891-0005, 388-891-0010, 388-891-0100, 388-891-0103, 388-891-0110, 388-891-0120, 388-891-0130, 388-891-0135, 388-891-0140, 388-891-0150, 388-891-0200, 388-891-0205, 388-891-0210, 388-891-0215, 388-891-0220, 388-891-0225, 388-891-0230, 388-891-0235, 388-891-0240, 388-891-0245, 388-891-0250, 388-891-0255, 388-891-0260, 388-891-0265, 388-891-0270, 388-891-0275, 388-891-0295, 388-891-0300, 388-891-0310, 388-891-0320, 388-891-0325, 388-891-0330, 388-891-0340, 388-891-0345, 388-891-0350, 388-891-0355, 388-891-0360, 388-891-0365, 388-891-0370, 388-891-0400, 388-891-0410, 388-891-0420, 388-891-0430, 388-891-0440, 388-891-0500, 388-891-0510, 388-891-0520, 388-891-0530, 388-891-0540, 388-891-0600, 388-891-0605, 388-891-0610, 388-891-0615, 388-891-0620, 388-891-0625, 388-891-0630, 388-891-0635, 388-891-0640, 388-891-0645, 388-891-0650, 388-891-0655, 388-891-0660, 388-891-0665, 388-891-0670, 388-891-0675, 388-891-0680, 388-891-0685, 388-891-0690, 388-891-0695, 388-891-0700, 388-891-0705, 388-891-0710, 388-891-0715, 388-891-0720, 388-891-0725, 388-891-0730, 388-891-0735, 388-891-0740, 388-891-0745, 388-891-0750, 388-891-0755, 388-891-0760, 388-891-0765, 388-891-0770, 388-891-0775, 388-891-0780, 388-891-0790, 388-891-0800, 388-891-0810, 388-891-0815, 388-891-0820, 388-891-0825, 388-891-0830, 388-891-0835, 388-891-0840, 388-891-0845, 388-891-0850, 388-891-0855, 388-891-0860, 388-891-0865, 388-891-0875, 388-891-0880, 388-891-0885, 388-891-0890, 388-891-0900, 388-891-0910, 388-891-0920, 388-891-0930, 388-891-0940, 388-891-0950, 388-891-0960, 388-891-0970, 388-891-0980, 388-891-1000, 388-891-1005, 388-891-1010, 388-891-1015, 388-891-1020, 388-891-1025, 388-891-1030, 388-891-1035, 388-891-1040, 388-891-1045, 388-891-1050, 388-891-1100, 388-891-1105, 388-891-1110, 388-891-1115, 388-891-1120, 388-891-1125, 388-891-1130, 388-891-1135, 388-891-1137, 388-891-1140, 388-891-1145, 388-891-1150, 388-891-1200, 388-891-1210, 388-891-1220, 388-891-1230, 388-891-1240, 388-891-1300, 388-891-1310, 388-891-1320, and 388-891-1330.

Statutory Authority for Adoption: RCW 74.29.020(8).

Other Authority: 34 C.F.R. (Code of Federal Regulations), Parts 361, 363, 397.

Adopted under notice filed as WSR 18-06-050 on March 2, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-891A-0206(3), added "WAC 388-891A-1060, under which DVR must not provide" changes made for clarification.

WAC 388-891A-0525(3), added "specific" to align more fully with federal regulations.

WAC 388-891A-0760(4), changed "any" to "an," and added ", and as described in WAC 388-891A-0615" for clarification.

WAC 388-891A-0766 (3)(a), deleted "paid and unpaid" to eliminate ambiguity with regulations of other agencies.

WAC 388-891A-0911 (1)(b), changed "when" to "and," and added "the IPE with an outcome in" changes add clarity and avoid conflict with federal regulations.

WAC 388-891A-1110(4), added "The," and added "described in WAC 388-891A-0725 through 388-891A-0732" clarifies what is considered job related.

A final cost-benefit analysis is available by contacting Michele Mulhern, DVR Senior Manager for Planning, Performance, and Policy, P.O. Box 45340, Olympia, WA 98504-5340, phone 360-725-3621, email mulhemi@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 23, 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 the Request of a Non-governmental 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 176, Amended 0, Repealed 145.

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 199, Amended 0, Repealed 145.

Date Adopted: May 25, 2018.

Cheryl Strange  
Secretary

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-14 issue of the Register.

**WSR 18-12-041**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed May 30, 2018, 9:34 a.m., effective July 1, 2018]

Effective Date of Rule: July 1, 2018.

Purpose: This rule making is related to the marking of nonenhanced document issuances required by ESB 5008 enacted during the 2017 legislative session. It is in accordance with federal law that requires states meet federal REAL ID standards (6 C.F.R. Section 37.71).

Citation of Rules Affected by this Order: New WAC 308-104-0140 Marking of all nonenhanced drivers' licenses or identicards.

Statutory Authority for Adoption: RCW 46.20.192.

Other Authority: 6 C.F.R. Section 37.71.

Adopted under notice filed as WSR 18-09-124 on April 18, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 0, Repealed 0.

Date Adopted: May 30, 2018.

Damon Monroe  
Rules Coordinator

#### NEW SECTION

**WAC 308-104-0140 Marking of all nonenhanced drivers' licenses or identicards.** Beginning July 1, 2018, except for enhanced drivers' licenses and identicards issued under RCW 46.20.202, the department shall mark all issuances made pursuant to chapter 46.20 RCW with the phrase "FEDERAL LIMITS APPLY."

**WSR 18-12-042**  
**PERMANENT RULES**  
**OLYMPIC COLLEGE**

[Filed May 30, 2018, 11:14 a.m., effective June 30, 2018]

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

Purpose: Olympic College Public Records Policy #700-03 repeal and replacement.

Citation of Rules Affected by this Order: New WAC 132C-276-200, 132C-276-210, 132C-276-220, 132C-276-230, 132C-276-240, 132C-276-250, 132C-276-260, 132C-276-270, 132C-276-280, 132C-276-290, 132C-276-300 and 132C-276-310; and repealing WAC 132C-276-010, 132C-276-020, 132C-276-030, 132C-276-040, 132C-276-050, 132C-276-060, 132C-276-070, 132C-276-080, 132C-276-090, 132C-276-100, 132C-276-110, 132C-276-120, 132C-276-130, and 132C-276-990.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 18-06-089 on March 6, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 11, Amended 0, Repealed 14.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 0, Repealed 0.

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

Date Adopted: May 29, 2018.

Kim E. Abell  
Public Records Manager and  
Policy Development Coordinator

#### NEW SECTION

**WAC 132C-276-200 Purpose.** The purpose of this chapter is to provide for public access to existing, identifiable, nonexempt public records of Olympic College in accordance with the Public Records Act, chapter 42.56 RCW.

#### NEW SECTION

**WAC 132C-276-210 Definitions.** (1) **Public record.** The term "public record" and other terms defined in the Public Records Act shall have the same meaning in this chapter that they have under the Public Records Act.

(2) **Public Records Act.** References in this chapter to the "Public Records Act" are to chapter 42.56 RCW.

(3) **Requestor.** A "requestor" is any person or entity requesting public records of the college pursuant to the Public Records Act.

(4) **College.** The term "college" means Olympic College.

#### NEW SECTION

**WAC 132C-276-220 Description of the college.** (1) **Mission - Governance.** Olympic College is a public institution of higher education established under chapter 28B.50 RCW as a community college, which offers associate and applied baccalaureate degrees. The college is governed by a board of trustees appointed by the governor. The board appoints a president who serves as the chief executive officer responsible for the administration of the college.

(2) **Olympic College campuses.** The main campus of the college is located at 1600 Chester Avenue, Bremerton, Washington 98337. The college also offers educational programs online and at other campuses located at 937 West Alpine Way, Shelton, Washington 98584, and 1000 Olympic College Way Northwest, Poulsbo, Washington 98370.

(3) **Policies and procedures.** College policies meeting the definition of a "rule" under the Administrative Procedure Act, chapter 34.05 RCW, are adopted by the board of trustees and published in Title 132C of the Washington Administrative Code. Other college policies approved by the administration are published in policies and procedures available on the college web site.

(4) **Documents index.** As an institution of higher education, the college generally does not have occasion to issue nonexempt "final orders," "declaratory orders," "interpretive statements," or "policy statements" as those terms are defined and used in the Public Records Act. The secretary of the col-

lege's board of trustees does maintain and publish on the college web site a documents index of the board's approved meeting minutes which includes motions and resolutions. Inquiries may be directed to the secretary of the board in the office of the president.

(5) **College web site.** The college's official web site, available at [www.olympic.edu](http://www.olympic.edu), provides general information about the college and its board of trustees, administration, educational programs, and policies and procedures. Persons seeking public records of the college are encouraged to view the records available on the web site prior to submitting a records request.

#### NEW SECTION

##### **WAC 132C-276-230 Processing of records requests.**

(1) **Applicable law.** Requests for public records will be processed in accordance with these rules and applicable provisions of the Public Records Act, chapter 42.56 RCW. Guidance concerning the application of these rules may be found in the advisory model rules adopted by the attorney general under chapter 44-14 WAC.

(2) **Prioritizing of requests.** Public records requests generally will be processed in the order in which they are received by the records office and within the staffing limitations of the office. However, the records office may expedite requests for a single record or for only a few records, if such records are easily identifiable and can be readily retrieved. The records office may ask, but not require, a requestor to prioritize the records the requestor is seeking.

(3) **Clarification of requests.** The public records officer may request clarification of a records request in accordance with applicable provisions of the Public Records Act. The requestor must respond to the request for clarification within fifteen business days of the request for clarification.

(4) **Providing records by installment.** If a requestor submits multiple records requests, or if a request seeks a large number of records or many different types of records, the public records officer may provide access to the records in installments in accordance with applicable provisions of the Public Records Act.

(5) **Denial of bot requests.** The public records officer may deny a bot request as defined by, and under the circumstances set forth in, RCW 42.56.080(3) if the records officer reasonably believes the request was automatically generated by a computer program or script.

#### NEW SECTION

**WAC 132C-276-240 Public records available for inspection.** (1) **Scheduling of appointments.** Public records identified as responsive to a public records request may be made available for inspection and copying during customary office hours by scheduling an appointment with the public records officer. The requestor must review the assembled records, or installment of records, within fifteen business days of being notified that the records are available for review.

(2) **Protection of records.** The public records officer will be responsible for providing full access to public records made available for inspection, for protecting the records from

damage or disorganization, and for preventing excessive interference with essential college functions. Public records made available for inspection may not be removed from the office without the permission of the records officer.

(3) **Copying of records.** The public records officer will arrange for copying of any records designated by the requestor and will charge such copying fees as may apply under WAC 132C-276-270.

#### NEW SECTION

**WAC 132C-276-250 Public records officer.** (1) **Designation.** A public records officer designated by the college shall be responsible for responding to public records requests in accordance with the provisions of this chapter and applicable provisions of the Public Records Act, chapter 42.56 RCW. The duties of the public records officer under this chapter may be delegated to one or more public records assistants designated by the college.

(2) **Duties.** The public records officer shall oversee the college's compliance with the Public Records Act. The records officer (or designee) and the college are responsible for providing the fullest assistance to requestors of public records, for ensuring that public records are protected from damage or disorganization, and for preventing records requests from excessively interfering with essential institutional functions or unreasonably disrupting the operations of the college. The college may take reasonable precautions to prevent a requestor from being unreasonably disruptive or disrespectful to college staff.

(3) **Records office.** Inquiries regarding public records of the college may be addressed to the public records officer at the following office address:

Public Records Officer  
Olympic College  
1600 Chester Avenue  
Bremerton, WA 98337  
[publicrecords@olympic.edu](mailto:publicrecords@olympic.edu)

(4) **Office hours.** The customary office hours of the public records office are from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

#### NEW SECTION

**WAC 132C-276-260 Requests for public records.** (1) **Online requests preferred.** Requests for public records of the college may be addressed to the public records officer at the email address given in WAC 132C-276-250. The college encourages, but does not require, requestors to use the public records request form made available online at <https://www.olympic.edu> on the public records web page. Requests made orally, whether by phone or in person, may be confirmed in writing by the public records officer.

(2) **Contents of records requests.** A request for public records must include the following information:

- (a) The name and contact information of the person requesting the records;
- (b) The requestor's mailing address, which may be an electronic mail address;

(c) The date and time of the request;

(d) A description of the requested records that is sufficiently detailed to enable the public records officer to identify and locate the records.

(3) **Lists of individuals for commercial purposes.** State agencies and institutions are not permitted to provide lists of individuals for commercial purposes. A request for lists of individuals must be accompanied by the requestor's signed declaration that the list will not be used for commercial purposes. The public records officer may inquire as to the requestor's intended use of the list and may deny the request if it is evident from the request and/or the requestor's response to an inquiry that the list will be used for a commercial purpose.

(4) **Assistance in identifying records.** The public records officer may assist requestors in identifying the specific records sought by the requestor. With limited exceptions, a requestor may not be required to state the purpose of the request. However, the records officer may ask the purpose of the request if such inquiry will assist in identifying the records requested.

#### NEW SECTION

**WAC 132C-276-270 Copying—Payments.** (1) **Fees and payment procedures.** The following copying fees and payment procedures apply to requests to the college under chapter 42.56 RCW and received on or after the effective date of this section.

(2) **Inspection of records.** There is no fee for inspecting public records made available for inspection by the public records officer under WAC 132C-276-240.

(3) **Actual costs not calculated.** Pursuant to RCW 42.56.120 (2)(b), the college is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The institution does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential college functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120.

(4) **Default fees adopted.** The college will charge for copies of records pursuant to the default fees in RCW 42.56.-120 (2)(b), (c), and (d). The college will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the college may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The college may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the college are summarized in the fee schedule available on the college's web site.

(5) **Advanced payment required - Fee waivers.** Requestors are required to pay for copies in advance of receiving records or an installment of records. The records officer will notify the requestor when payment is due. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and consist of fifteen or fewer pages;

(ii) All of the records responsive to an entire request are electronic with attachments of a size totaling no more than the equivalent of one hundred printed pages and can be provided through an online secure web portal or in a single email with attachments; or

(iii) Would be contrary to the agency's mission or would not be in the public interest.

(b) Fee waivers are not applicable to records provided in installments.

(6) **Copying fee deposits.** The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceed twenty-five dollars.

(7) **Payment method.** Payment should be made by check or money order payable to Olympic College. The college prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) **Closure of request for nonpayment.** The college will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

#### NEW SECTION

##### **WAC 132C-276-280 Closing public records requests.**

(1) **Generally.** Once the requestor has inspected or been provided with copies of the records made available in response to their request, that request is closed. However, with respect to any installment of records other than the final installment, the foregoing applies only to that installment and not the entire request, unless otherwise provided in this chapter.

(2) **Other closing events.** A request may also be closed:

(a) If a requestor does not respond to a request for clarification or otherwise fails to clarify within fifteen business days;

(b) If the requestor fails to make a required deposit or payment for requested copies as provided under WAC 132C-276-270;

(c) If all records identified in any notice of availability, including a notice with respect to an installment of records, have not been inspected, paid for, or picked up within fifteen business days of issuance of such notice of availability; or

(d) As otherwise provided by this chapter or by law.

(3) **Disposition of records upon closing.** Upon the closing of a request, originals of any records assembled in response to the request will be refiled.

#### NEW SECTION

**WAC 132C-276-290 Records exempt from inspection and copying.** (1) **Public Records Act exemptions.** The Public Records Act, chapter 42.56 RCW, exempts from inspection or copying certain categories of records as set forth in the Public Records Act or under other statutes. The public records officer will disclose the existence of exempt

records as required by law, but may deny the inspection or copying of such records to the extent that the records are exempt from inspection or copying under the Public Records Act or other applicable law.

(2) **Commonly applied exemptions.** The public records office maintains an exemption key explaining the exemptions most commonly applied by the college in processing requests for public records. A copy of the exemption key can be requested from the public records officer and will typically be provided by the records officer in responding to a request for records that are determined in whole or in part to be exempt from inspection or copying.

(3) **Determining applicable exemptions.** The public records officer may seek information from the requestor sufficient to determine whether another statute prohibits disclosure of the requested records. For example, student education records generally may not be disclosed to third parties without the student's written consent.

#### NEW SECTION

**WAC 132C-276-300 Review of denials of public records requests.** (1) **Petition for internal administrative review.** A requestor who objects to the denial, or partial denial, of a records request may petition in writing to the public records officer for a review of that decision. The public records officer will promptly refer the petition to the office of the president. A senior administrator designated by the president will consider the petition and render a decision within two business days following the initial receipt of the petition by the public records officer. The time for considering the petition may be extended by mutual agreement of the college and the requestor.

(2) **Review by attorney general's office.** A requestor who objects to the denial, or partial denial, of a records request may request the office of the attorney general to review the matter as provided in RCW 42.56.530 and WAC 44-06-160. Requests for attorney general review must be directed to Public Records Review, Office of the Attorney General, Post Office Box 40100, Olympia, Washington 98504-0100.

(3) **Judicial review.** A requestor may petition the superior court for judicial review of the college's decision denying a public records request, whether in whole or in part, by following the procedures in RCW 42.56.550. The denial of a petition for internal administrative review under subsection (1) of this section shall constitute the final agency action subject to judicial review.

#### NEW SECTION

**WAC 132C-276-310 Court protection of public records.** (1) **Notifying interested persons.** The college, as required or permitted by law or contract, including any collective bargaining agreement, and in other appropriate circumstances, may notify persons named in a public record, or to whom the record specifically pertains, that release of the record has been requested, and that such persons may apply to the superior court for a protective order under RCW 42.56.540.

(2) **Applying for court protection.** The college in appropriate circumstances may apply to the superior court for a protective order enjoining the examination of any specific public record in accordance with the procedures under RCW 42.56.540. Nothing in this chapter shall be construed as either requiring or prohibiting the college's application to the court for such an order.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132C-276-010	Purpose.
WAC 132C-276-020	Definitions.
WAC 132C-276-030	Description of central and field organization of Community College District No. 3.
WAC 132C-276-040	Operations and procedures.
WAC 132C-276-050	Public records available.
WAC 132C-276-060	Public records officer.
WAC 132C-276-070	Office hours.
WAC 132C-276-080	Requests for public records.
WAC 132C-276-090	Copying.
WAC 132C-276-100	Exemptions.
WAC 132C-276-110	Review of denials of public records requests.
WAC 132C-276-120	Protection of public records.
WAC 132C-276-130	Adoption of form.
WAC 132C-276-990	Appendix A—Request for public record to Community College District No. 3.

#### **WSR 18-12-043**

#### **PERMANENT RULES**

#### **HEALTH CARE AUTHORITY**

[Filed May 30, 2018, 12:45 p.m., effective July 1, 2018]

Effective Date of Rule: July 1, 2018.

Purpose: The agency is amending WAC 182-550-3600 and 182-550-3700 to align with medicare changes to outlier pricing. The agency is amending WAC 182-550-3800 to reflect changes in the rebasing process. These changes are being made due to audit findings by the office of the Washington state auditor and in response to provider inquiries regarding the grouper version used by the agency. The agency is amending WAC 182-550-4800 to remove specification of the all-patient refined-diagnostic-related group (APR-DRG) grouper version.

Citation of Rules Affected by this Order: Amending WAC 182-550-3600, 182-550-3700, 182-550-3800, and 182-550-4800.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-09-112 on April 18, 2018.

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 the Request of a Non-governmental 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 4, 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 4, Repealed 0.

Date Adopted: May 30, 2018.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

**WAC 182-550-3600 Diagnosis-related group (DRG) payment—Hospital transfers.** (1) The rules in this section apply when an eligible client transfers from an acute care hospital or distinct unit to any of the following:

- (a) Another acute care hospital or distinct unit;
- (b) A skilled nursing facility (SNF);
- (c) An intermediate care facility (ICF);
- (d) Home care under the medicaid agency's home health program;
- (e) A long-term acute care facility (LTAC);
- (f) Hospice (facility-based or in the client's home);
- (g) A hospital-based, medicare-approved swing bed, or another distinct unit such as a rehabilitation or psychiatric unit (see WAC 182-550-3000); or
- (h) A nursing facility certified under medicaid but not medicare.

(2) The medicaid agency pays a transferring hospital the lesser of:

- (a) The appropriate diagnosis-related group (DRG) payment; or
- (b) The prorated DRG payment, which the agency calculates by:

(i) Using the average length of stay (ALOS) for the assigned DRG:

(A) The agency uses the 3M national average length of stay for paying inpatient claims.

(B) The agency publishes ALOS values on its web site;

(ii) Dividing the hospital's allowed payment amount for the assigned DRG by the ALOS in (b)(i) of this subsection;

(iii) Determining the client length of stay as all medically necessary days at the transferring hospital, plus one day; and

(iv) Multiplying the number in (b)(ii) of this subsection by the length of stay determined in (b)(iii) of this subsection.

(3) The agency applies the outlier payment method if a transfer case qualifies as a high outlier. To qualify for a high outlier, the costs (ratio of cost-to-charges multiplied by covered allowed charges) for the transfer must exceed the outlier threshold. The threshold is the ~~((DRG allowed amount (hospital specific rate multiplied by DRG relative weight)))~~ prorated DRG amount plus forty thousand dollars. The prorated amount is the lesser of:

(a) The per diem DRG allowed amount (hospital's rate multiplied by relative weight for the DRG code assigned to the claim by the agency) divided by the average length of stay (for the DRG code assigned by the agency for the claim) multiplied by the client's length of stay plus one day; or

(b) The total DRG payment allowed amount calculation for the claim.

(4) The agency does not pay a transferring hospital for a nonemergency case when the transfer is to another acute care hospital.

(5) The agency pays the full DRG payment to the discharging hospital for a discharge to home or self-care. This is the agency's maximum payment to a discharging hospital.

(6) The agency pays an intervening hospital a per diem payment based on the method described in subsection (2) of this section.

(7) The transfer payment policy described in this section does not apply to claims grouped into DRG classifications the agency pays based on the per diem, case rate, or ratio of costs-to-charges (RCC) payment methods.

(8) The agency applies the following to the payment for each claim:

- (a) All applicable adjustments for client responsibility;
- (b) Any third-party liability;
- (c) Medicare payments; and
- (d) Any other adjustments as determined by the agency.

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

**WAC 182-550-3700 DRG high outliers.** (1) The medicaid agency identifies a diagnosis-related group (DRG) high outlier claim based on the claim's estimated costs. The agency allows a high outlier payment for claims paid using the DRG payment method when high outlier criteria are met.

(a) To qualify as a DRG high outlier claim, the estimated costs for the claim must be greater than the outlier threshold effective for the date of admission. The outlier threshold amount is depicted in the following table:

Dates of Admission	Pediatric	Nonpediatric
February 1, 2011 - July 31, 2012	Base DRG * 1.50	Base DRG * 1.75
August 1, 2012 - June 30, 2013	Base DRG * 1.429	Base DRG * 1.667
July 1, 2013 - June 30, 2014	Base DRG * 1.563	Base DRG * 1.823
July 1, 2014, and after	Base DRG + \$40,000	Base DRG + \$40,000

(b) The agency calculates the estimated costs of the claim by multiplying the total submitted charges, minus the nonallowed charges on the claim, by the hospital's ratio of costs-to-charges (RCC).

(c) When a transferring hospital submits a transfer claim to the agency, the high outlier criteria used to determine whether the claim qualifies for high outlier payment is the prorated DRG (~~allowed~~) amount for the claim before the transfer payment (~~reduction~~).

(2) The agency calculates the high outlier payment by multiplying the hospital's estimated cost above threshold (CAT) by the outlier adjustment factor. The outlier adjustment factors, which vary by dates of admission and inpatient

payment policy, are depicted in the table at the end of this subsection.

(a) For inpatient claims paid under the all-patient-diagnosis-related group (AP-DRG), the agency uses a separate outlier adjustment factor for:

- (i) Pediatric services, including all claims submitted by children-specialty hospitals;
- (ii) Burn services; and
- (iii) Nonpediatric services.

(b) For inpatient claims paid under the all-patient refined-DRG (APR-DRG), the agency uses a separate outlier adjustment factor for a:

- (i) Severity of illness (SOI) of one or two; or
- (ii) SOI of three or four.

AP-DRG Dates of Admission	Pediatric	Burn	Nonpediatric
Before August 1, 2012	CAT * 0.95	CAT * 0.90	CAT * 0.85
August 1, 2012 - June 30, 2013	CAT * 0.998	CAT * 0.945	CAT * 0.893
July 1, 2013 - June 30, 2014	CAT * 0.912	CAT * 0.864	CAT * 0.816
APR-DRG Dates of Admission	SOI 1 or 2	SOI 3 or 4	
July 1, 2014, and after	CAT * 0.80	CAT * 0.95	

- (3) For state-administered programs (SAP), the agency applies the hospital-specific ratable to the outlier adjustment factor.
- (4) This subsection contains examples of outlier claim payment calculations.

DRG SOI	DRG Allowed Amount	Threshold <sup>1</sup>	Cost <sup>2</sup>	Outlier Percent	Ratable	Base DRG	Outlier <sup>3</sup>	Claim Payment <sup>4</sup>
1	\$10,000	\$50,000	\$100,000	0.80	n/a	\$10,000	\$40,000	\$50,000
3	\$10,000	\$50,000	\$100,000	0.95	n/a	\$10,000	\$47,500	\$57,500

- <sup>1</sup> Threshold = \$40,000 + base DRG
- <sup>2</sup> Cost = Billed charges - noncovered charges - denied charges
- <sup>3</sup> Outlier = (cost - threshold) \* outlier percent
- <sup>4</sup> Claim payment = base DRG + outlier

(5) When directed by the legislature to achieve targeted expenditure levels, as described in WAC 182-550-3000(8), the agency may apply an inpatient adjustment factor to any of the high outlier thresholds and to any of the outlier adjustment factors described in this section.

(6) The agency applies the following to the payment for each claim:

- (a) All applicable adjustments for client responsibility;
- (b) Any third-party liability;
- (c) Medicare payments; and
- (d) Any other adjustments as determined by the agency.

**AMENDATORY SECTION** (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

**WAC 182-550-3800 Rebasing.** The medicaid agency redesigns (rebases) the medicaid inpatient payment system as needed. The base inpatient conversion factor and per diem rates are only updated during a detailed rebasing process, or as directed by the state legislature. Inpatient payment system factors such as the ratio of costs-to-charges (RCC), weighted costs-to-charges (WCC), and administrative day rate are rebased on an annual basis. As part of the rebasing, the agency does all of the following:

(1) Gathers data. The agency uses the following data resources considered to be the most complete and available at the time:

- (a) One year of fee-for-service (FFS) paid claim data from the agency's medicaid management information system (MMIS). The agency excludes:
  - (i) Claims related to state programs and paid at the Title XIX reduced rates from the claim data; and
  - (ii) Critical access hospital claims paid per WAC 182-550-2598; and
- (b) The hospital's most current medicare cost report data from the health care cost report information system (HCRIS) maintained by the Centers for Medicare and Medicaid Services (CMS). If the hospital's medicare cost report from HCRIS is not available, the agency uses the medicare cost report provided by the hospital.

(c) FFS and managed care encounter data.

(2) Estimates costs. The agency uses one of two methods to estimate costs. The agency may perform an aggregate cost determination by multiplying the ratio of costs-to-charges (RCC) by the total billed charges, or the agency may use the following detailed costing method:

(a) The agency identifies routine and ancillary cost for operating capital, and direct medical education cost components using different worksheets from the hospital's medicare cost report;

(b) The agency estimates costs for each claim in the dataset as follows:

(i) Accommodation services. The agency multiplies the average hospital cost per day reported in the medicare cost report data for each type of accommodation service (e.g., adult and pediatric, intensive care unit, psychiatric, nursery) by the number of days reported at the claim line level by type of service; and

(ii) Ancillary services. The agency multiplies the RCC reported for each ancillary type of services (e.g., operating room, recovery room, radiology, laboratory, pharmacy, or clinic) by the allowed charges reported at the claim line level by type of service; and

(c) The agency uses the following standard cost components for accommodation and ancillary services for estimating costs of claims:

(i) Routine cost components:

- (A) Routine care;
- (B) Intensive care;
- (C) Intensive care-psychiatric;
- (D) Coronary care;
- (E) Nursery;
- (F) Neonatal ICU;
- (G) Alcohol/substance abuse;
- (H) Psychiatric;
- (I) Oncology; and
- (J) Rehabilitation.

(ii) Ancillary cost components:

- (A) Operating room;
- (B) Recovery room;
- (C) Delivery/labor room;
- (D) Anesthesiology;
- (E) Radio, diagnostic;
- (F) Radio, therapeutic;
- (G) Radioisotope;
- (H) Laboratory;
- (I) Blood administration;
- (J) Intravenous therapy;
- (K) Respiratory therapy;
- (L) Physical therapy;
- (M) Occupational therapy;
- (N) Speech pathology;
- (O) Electrocardiography;
- (P) Electroencephalography;
- (Q) Medical supplies;
- (R) Drugs;
- (S) Renal dialysis/home dialysis;
- (T) Ancillary oncology;
- (U) Cardiology;
- (V) Ambulatory surgery;
- (W) CT scan/MRI;
- (X) Clinic;
- (Y) Emergency;
- (Z) Ultrasound;
- (AA) NICU transportation;
- (BB) GI laboratory;

(CC) Miscellaneous; and

(DD) Observation beds.

(3) Specifies resource use with relative weights. The agency uses national relative weights designed by 3M™ Corporation as part of its all-patient refined-diagnostic related group (APR-DRG) payment system. The agency periodically reviews and determines the most appropriate APR-DRG grouper version to use.

(4) Calculates base payment factors. The agency calculates the average, or base, DRG conversion factor and per diem rates. The base is calculated as the maximum amount that can be used, along with all other payment factors and adjustments described in this chapter (~~(, to maintain aggregate payments across the system)~~). The agency models the rebased system to be budget neutral on a prospective basis, including global adjustments to the budget target determined by the agency. The agency ensures that base DRG conversion factors and per diem rates are sufficient to support economy, efficiency, and access to services for medicaid recipients. The agency will publish base rate factors on its web site.

(5) (~~Determines~~) To maintain budget neutrality, the agency makes global adjustments as needed.

(a) Claims paid under the DRG, rehab per diem, and detox per diem payment methods were reduced to support an estimated three million five hundred thousand dollar increase in psychiatric payments to acute hospitals.

(b) Claims for acute hospitals paid under the psychiatric per diem method were increased by a factor to inflate estimated system payments by three million five hundred thousand dollars.

(c) Effective for dates of admission on and after October 1, 2017, the agency increased psychiatric per diem rates as directed by the legislature. The increase applies to any hospital with two hundred or more psychiatric bed days.

(i) The agency prioritized the increase for hospitals not currently paid based on provider-specific costs using a similar methodology to set rates for existing inpatient facilities utilizing cost report information for hospital fiscal years ending in 2016.

(ii) The distribution of funds for each fiscal year is as follows:

(A) Free-standing psychiatric hospitals receive 68.15 percent of the statewide average cost per day.

(B) All other hospitals receive the greater of 78.41 percent of their provider-specific cost, or their current medicaid psychiatric per diem rate.

(iii) The agency set the increased rates to assure that the distribution of funds does not exceed the amounts provided by the legislature.

(iv) The agency conducts annual reviews for updated cost information to determine whether new and existing providers meet the two hundred or more bed criteria.

(v) The agency will apply the same cost percentage criteria for future rebasing of the psychiatric per diem rates.

(6) Determines provider specific adjustments. The following adjustments are applied to the base factor or rate established in subsection (4) of this section:

(a) Wage index adjustments reflect labor costs in the cost-based statistical area (CBSA) where a hospital is located.

(i) The agency determines the labor portion by multiplying the base factor or rate by the labor factor established by medicare; then

(ii) The amount in (a)(i) of this subsection is multiplied by the most recent wage index information published by CMS at the time the rates are set; then

(iii) The agency adds the nonlabor portion of the base rate to the amount in (a)(ii) of this subsection to produce a hospital-specific wage adjusted factor.

(b) Indirect medical education factors are applied to the hospital-specific base factor or rate. The agency uses the indirect medical education factor established by medicare on the most currently available medicare cost report that exists at the time the rates are set; and

(c) Direct medical education amounts are applied to the hospital-specific base factor or rate. The agency determines a percentage of direct medical education costs to overall costs using the most currently available medicare cost report that exists at the time the rates are set.

(7) The final, hospital-specific rate is calculated using the base rate established in subsection (4) of this section along with any applicable adjustments in subsections (5) and (6) of this section.

**AMENDATORY SECTION** (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

**WAC 182-550-4800 Hospital payment methods—State-administered programs.** This section does not apply to out-of-state hospitals unless they are border hospitals (critical or noncritical).

(1) The medicaid agency:

(a) Pays for services provided to a client eligible for a state-administered program (SAP) based on SAP rates;

(b) Establishes SAP rates independently from the process used in setting the medicaid payment rates;

(c) Calculates a ratable each year to adjust each hospital's SAP rates for their percentage of community-based dollars to the total revenues for all hospitals;

(d) Calculates an equivalency factor (EF) to keep the SAP payment rates at the same level before and after the medicaid rates were rebased.

(2) The agency has established the following:

(a) SAP diagnosis-related group (DRG) conversion factor (CF) for claims grouped under DRG classifications services;

(b) SAP per diem rates for claims grouped under the following specialty service categories:

(i) Chemical-using pregnant (CUP) women;

(ii) Detoxification;

(iii) Physical medicine and rehabilitation (PM&R); and

(iv) Psychiatric;

(c) SAP per case rate for claims grouped under bariatric services; and

(d) SAP ratio of costs-to-charges (RCC) for claims grouped under transplant services.

(3) This subsection describes the SAP DRG CF and payment calculation processes used by the agency to pay claims using the DRG payment method. The agency pays for services grouped to a DRG classification provided to clients eli-

gible for a SAP based on the use of a DRG CF, a DRG relative weight, and a maximum service adjustor. This process is similar to the payment method used to pay for medicaid and CHIP services grouped to a DRG classification.

(a) The agency's SAP DRG CF calculation process is as follows:

(i) The hospital's specific DRG CF used to calculate payment for a SAP claim is the medicaid DRG CF multiplied by the applicable EF multiplied by the ratable;

(ii) For hospitals that do not have a ratable or an EF, the SAP CF is the hospital's specific medicaid CF multiplied by the average EF and the average ratable; and

(iii) For noncritical border hospitals, the SAP DRG CF is the lowest in-state medicaid DRG CF multiplied by the average ratable and the average EF.

(b) The agency calculates the SAP DRG EF as follows:

(i) The hospital-specific current SAP DRG CF is divided by the rebased medicaid DRG CF and then divided by the ratable factor to compute the preliminary EF.

(ii) The current SAP DRG payment is determined by multiplying the hospital specific SAP DRG CF by the AP-DRG version 23 relative weight.

(iii) The current aggregate DRG payment is determined by summing the current SAP DRG payments for all hospitals.

(iv) The hospital projected SAP DRG payment is determined by multiplying the hospital specific current SAP DRG CF by the APR-DRG relative weights (~~(version 31.0)~~) and the maximum service adjustor.

(v) The projected aggregate DRG payment is determined by summing the projected SAP program DRG payments for all hospitals.

(vi) The aggregate amounts derived in (b)(iii) and (v) of this subsection are compared to identify a neutrality factor that keeps the projected aggregate SAP DRG payment (based on DRG-APR relative weights (~~(version 31.0)~~)) at the same level as the (~~(current)~~) previous aggregate SAP DRG payment (based on AP-DRG relative weights version 23.0).

(vii) The neutrality factor is multiplied by the hospital specific preliminary EF to determine the hospital specific final EF that is used to determine the SAP DRG conversion factors for the rebased system implementation.

(c) The agency calculates the DRG payment for services paid under the DRG payment method as follows:

(i) The agency calculates the allowed amount for the inlier portion of the SAP DRG payment by multiplying the SAP DRG CF by the DRG relative weight and the maximum service adjustor.

(ii) SAP claims are also subject to outlier pricing. See WAC 182-550-3700 for details on outlier pricing.

(4) This subsection describes how the agency calculates the SAP per diem rate and payment for CUP, detoxification, PM&R, and psychiatric services.

(a) The agency calculates the SAP per diem rate for in-state and critical border hospitals by multiplying the hospital's specific medicaid per diem by the ratable and the per diem EF.

(b) The agency calculates the SAP per diem rate for non-critical border hospitals by multiplying the lowest in-state medicaid per diem rate by the average ratable and the average per diem EF.

(c) For hospitals with more than twenty nonpsychiatric SAP per diem paid services during SFY 2011, the agency calculates a per diem EF for each hospital using the individual hospital's claims as follows:

(i) The agency calculates a SAP average payment per day by dividing the total current SAP per diem payments by the total number of days associated with the payments.

(ii) The agency calculates a medicaid average payment per day by dividing the aggregate payments based on the rebased medicaid rates by the total number of days associated with the aggregate payments (same claims used in (c)(i) of this subsection).

(iii) The agency divides the hospital estimated SAP average payment per day in (a) of this subsection by the hospital medicaid average payment per day in (b) of this subsection.

(iv) The agency divides the result of (c)(iii) of this subsection by the hospital specific ratable factor to determine the EF.

(d) For hospitals with twenty or less nonpsychiatric SAP per diem paid services during SFY 2011, the EF is an average for all hospitals. The agency uses the following process to determine the average EF:

(i) The agency calculates a SAP average payment per day by dividing the total current SAP per diem payments for all hospitals by the total number of days associated with the aggregate payments.

(ii) The agency calculates a medicaid average payment per day by dividing the aggregate payments based on the rebased medicaid rates by the total number of days associated with the aggregate payment (same claims used in (d)(i) of this subsection).

(iii) The agency divides the SAP average per day in (a) of this subsection by the medicaid average payment per day in (b) of this subsection.

(iv) The agency divides the result of (d)(iii) of this subsection by the hospital specific ratable factor to determine the EF. The EF is an average based on claims for all the hospitals in the group.

(e) A psychiatric EF is used to keep SAP psychiatric rates at the level required by the Washington state legislature. The agency's SAP psychiatric rates are eighty-five and four one hundredths of a percent (85.04%) of the agency's medicaid psychiatric rates. The factor is applied to all hospitals.

(f) The agency calculates the SAP per diem allowed amount for CUP, detoxification, PM&R, and psychiatric services by multiplying the hospital's SAP per diem rate by the agency's allowed patient days.

(g) The agency does not apply the high outlier or transfer policy to the payment calculations for CUP, detoxification, PM&R, and psychiatric services.

(5) This subsection describes the SAP per case rate and payment processes for bariatric surgery services.

(a) The agency calculates the SAP per case rate for bariatric surgery services by multiplying the hospital's medicaid per case rate for bariatric surgery services by the hospital's ratable.

(b) The per case payment rate for bariatric surgery services is an all-inclusive rate.

(c) The agency does not apply the high outlier or transfer policy to the payment calculations for bariatric surgery services.

(6) The agency calculates the SAP RCC by multiplying the medicaid RCC by the hospital's ratable.

(7) The agency establishes annually the hospital-specific ratable factor used in the calculation of SAP payment rate based on the most current hospital revenue data available from the department of health (DOH). The agency uses the following process to determine the hospital ratable factor:

(a) The agency adds the hospital's medicaid revenue, medicare revenue, charity care, and bad debts as reported in DOH data.

(b) The agency determines the hospital's community care dollars by subtracting the hospital's low-income disproportionate share hospital (LIDSH) payments from the amount derived in (a) of this subsection.

(c) The agency calculates the hospital net revenue by subtracting the hospital-based physician revenue (based on information available from the hospital's medicare cost report or provided by the hospitals) from the DOH total hospital revenue report.

(d) The agency calculates the preliminary hospital-specific ratable by dividing the amount derived in (b) of this subsection by the amount derived in (c) of this subsection.

(e) The agency determines a neutrality factor by comparing the hospital-specific medicaid revenue (used in (a) of this subsection) multiplied by the preliminary ratable to the hospital-specific medicaid revenue (used in (a) of this subsection) multiplied by the prior year ratable. The neutrality factor is used to keep the projected SAP payments at the same current payment level.

(f) The agency determines the final hospital-specific ratable by multiplying the hospital-specific preliminary ratable by the neutrality factor.

(g) The agency applies to the allowable for each SAP claim all applicable adjustments for client responsibility, any third-party liability, medicare payments, and any other adjustments as determined by the agency.

(8) The agency does not pay an SAP claim paid by the DRG method at greater than the billed charges.

(9) SAP rates do not apply to the critical access hospital (CAH) program's weighted cost-to-charges, to the long-term acute care (LTAC) program's per diem rate, or to the certified public expenditure (CPE) program's RCC (except as the RCC applies to the CPE hold harmless described in WAC 182-550-4670).

#### WSR 18-12-045

#### PERMANENT RULES

#### HEALTH CARE AUTHORITY

[Filed May 30, 2018, 1:13 p.m., effective July 1, 2018]

Effective Date of Rule: July 1, 2018.

Purpose: The agency is amending WAC 182-531-1710 Alcohol and substance misuse counseling. The agency is updating qualification requirements for providers who deliver screening, brief intervention, and referral to treatment (SBIRT) service and expanding the settings where SBIRT

services can be delivered. This rule making adds dental offices to the list of places where SBIRT services are offered; removes the minimum four hours of training; and updates how to submit proof of addiction specialist certification to the agency.

Citation of Rules Affected by this Order: Amending WAC 182-531-1710.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-09-125 on April 18, 2018.

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 the Request of a Non-governmental 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: May 30, 2018.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

**WAC 182-531-1710 Alcohol and substance misuse counseling.** (1) The medicaid agency covers alcohol and substance misuse counseling through screening, brief intervention, and referral to treatment (SBIRT) services when delivered by, or under the supervision of, a qualified licensed physician or other qualified licensed health care professional within the scope of their practice.

(2) SBIRT is a comprehensive, evidence-based public health practice designed to identify, reduce and prevent problematic use, abuse, and dependence on alcohol and illicit drugs. SBIRT can be used to identify people who are at risk for or have some level of substance use disorder which can lead to illness, injury, or other long-term morbidity or mortality. SBIRT services are provided in a wide variety of medical and community health care settings such as primary care centers, hospital emergency rooms, ~~(and)~~ trauma centers, and dental offices.

(3) The following health care professionals are eligible to become qualified SBIRT providers to deliver SBIRT services or supervise qualified staff to deliver SBIRT services:

(a) Advanced registered nurse practitioners, in accordance with chapters 18.79 RCW and 246-840 WAC;

(b) Chemical dependency professionals, in accordance with chapters 18.205 RCW and 246-811 WAC;

(c) Licensed practical nurses, in accordance with chapters 18.79 RCW and 246-840 WAC;

(d) Mental health counselors, in accordance with chapters 18.225 RCW and 246-809 WAC;

(e) Marriage and family therapists, in accordance with chapters 18.225 RCW and 246-809 WAC;

(f) Independent and advanced social workers, in accordance with chapters 18.225 RCW and 246-809 WAC;

(g) Physicians, in accordance with chapters 18.71 RCW and 246-919 WAC;

(h) Physician assistants, in accordance with chapters 18.71A RCW and 246-918 WAC;

(i) Psychologists, in accordance with chapters 18.83 RCW and 246-924 WAC;

(j) Registered nurses, in accordance with chapters 18.79 RCW and 246-840 WAC;

(k) Dentists, in accordance with chapters 18.260 and 246-817; and

(l) Dental hygienists, in accordance with chapters 18.29 and 246-815 WAC.

(4) To become a qualified SBIRT provider, eligible licensed health care professionals must:

(a) Complete ~~((a minimum of four hours of))~~ agency-approved SBIRT training and ~~((b))~~ mail or fax the SBIRT training certificate or other proof of this training completion to the agency; or

(b) Have an addiction specialist certification and mail or fax proof of this certification to the agency.

(5) The agency pays for SBIRT as follows:

(a) Screenings, which are included in the reimbursement for the evaluation and management code billed;

(b) Brief interventions, limited to four sessions per client, per provider, per calendar year; and

(c) When billed by one of the following qualified SBIRT health care professionals:

(i) Advanced registered nurse practitioners;

(ii) Mental health counselors;

(iii) Marriage and family therapists;

(iv) Independent and advanced social workers;

(v) Physicians;

(vi) Psychologists;

(vii) Dentists; and

(viii) Dental hygienists.

(6) The agency evaluates a request for additional sessions in excess of the limitations or restrictions according to WAC 182-501-0169.

(7) To be paid for providing alcohol and substance misuse counseling through SBIRT, providers must bill the agency using the agency's published billing instructions.

**WSR 18-12-046  
PERMANENT RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed May 30, 2018, 2:33 p.m., effective June 30, 2018]

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

Purpose: This new section in chapter 314-55 WAC details the process and criteria that the Washington state liquor and cannabis board will use to carry out retail license

forfeitures as required under RCW 69.50.325. This rule making is part of a larger rule-making effort to implement changes to rules needed due to changes made by the 2017 legislature, which are being handled under a separate CR-102 filing. The requirements in this new section are summarized as follows:

- A retail licensee must be open and operational within twelve months of license issuance or November 1, 2018, whichever is longer.
- Fully operational means the business must be open a minimum of five hours per day between 8:00 a.m. and 12:00 midnight, three days per week, post business hours outside the premises, and report monthly sales and pay applicable taxes for at least twelve consecutive weeks.

Exceptions to license forfeiture are included for businesses that are unable to open due [to] city, town, or county actions, including ordinances, zoning, permitting, or bans/moratoria, or for other reasons outside the licensee's control on a case-by-case basis determined by the board. If the condition providing an exemption to forfeiture is removed, a retail licensee has twelve months from the date of its removal to become fully open and operational. Other provisions relating to documentation and hearing rights are also included.

Citation of Rules Affected by this Order: New WAC 314-55-055.

Statutory Authority for Adoption: RCW 69.50.325, 69.50.342, and 69.50.345.

Adopted under notice filed as WSR 18-08-093 on April 4, 2018.

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 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 30, 2018.

Jane Rushford  
Chair

## NEW SECTION

**WAC 314-55-055 Marijuana retailer license forfeiture.** (1)(a) A marijuana retailer's license is subject to forfeiture if the retailer is not fully operational and open to the public after twelve months of issuance of the license or November 1, 2018, whichever is later. No marijuana retailer's license is subject to forfeiture within the first nine months of issuance.

(b) Fully operational means the business meets the following criteria for at least twelve consecutive weeks within a twelve-month period after issuance of the license before or after the effective date of this section:

(i) Is open to the public for a minimum of five hours a day between the hours of 8:00 a.m. and 12:00 midnight, three days a week;

(ii) Posts business hours outside of the premise in the public view; and

(iii) Reports monthly sales from the sale of marijuana products and pays applicable taxes.

(2)(a) A marijuana retailer's license will not be subject to forfeiture if the licensee has been incapable of opening a fully operational retail marijuana business due to actions by the city, town, or county with jurisdiction over the licensed business to include:

(i) The adoption of a ban or moratorium that prohibits the opening of a retail marijuana business; or

(ii) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed marijuana retailer from becoming operational.

(b) The board has the sole discretion to grant exceptions to the license forfeiture process if a marijuana retailer licensee has had circumstances occur that are out of their control such as a natural disaster.

(c) Adequate documentation will be required to verify any of the exceptions to license forfeiture in this section. It is the licensee's responsibility to inform the WSLCB if conditions change, such as an adjustment to zoning requirements, changes to a ban or moratorium, or other circumstances that would allow the licensee to operate. If the underlying condition exempting a marijuana retail license from forfeiture under subsection (2)(a) or (b) of this section is removed, then the twelve-month time frame to become fully operational and open to the public requirement under subsection (1) of this section will begin from the time the condition exempting the retail license from forfeiture is removed.

(3) A retailer that receives notice of license forfeiture under this section from the WSLCB may request an administrative hearing under chapter 34.05 RCW. A request for a hearing must be made in writing and received by the WSLCB no later than twenty days after service of the notice. Requests submitted in paper form may be delivered to the WSLCB in person during normal business hours at 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed appeal requests must be addressed to: WSLCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Adjudicative Proceedings Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98501.

**WSR 18-12-064**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**EARLY LEARNING**

[Filed June 1, 2018, 9:29 a.m., effective July 2, 2018]

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

Purpose: (1) Require providers who participate in the working connections child care and seasonal child care programs to use the department of early learning's (DEL) or a DEL-approved electronic attendance system to track when program-eligible children receive child care; and (2) establish requirements that other systems must comply with in order to be approved for use.

Citation of Rules Affected by this Order: New WAC 170-290-0126.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070.

Adopted under notice filed as WSR 18-09-106 on May 22, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 1, 2018.

Heather Moss  
Director

**NEW SECTION**

**WAC 170-290-0126 Electronic attendance records.**

(1) Providers must use the department's electronic attendance recordkeeping system or a department-approved electronic attendance recordkeeping system to record a child's attendance.

(2) The electronic attendance recordkeeping system must:

(a) Record an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar authentication by the parent or designee when signing the child in and out of the provider's care;

(b) Ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against alterations of the electronic records;

(c) Produce an authentic, verifiable record for each transaction that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

- (d) Prove the identity of the sender of the record;
- (e) Uniquely identify each record;
- (f) Capture an electronic record for each transaction conducted;
- (g) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed and managed as a unit;
- (h) Retain electronic records in an accessible form for their legal minimum retention period;
- (i) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;
- (j) Produce authentic copies of electronic records and supply them in usable formats for business purposes and all public access purposes;
- (k) Contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:
  - (i) The contents of the electronic record;
  - (ii) The method used to sign the electronic record, if applicable;
  - (iii) The person signing the electronic record; and
  - (iv) The date when the signature was executed.

**WSR 18-12-075**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed June 1, 2018, 3:48 p.m., effective July 2, 2018]

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

Purpose: WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions, this rule making updates the federal regulations publication date from 2017 to the most recently adopted 2018 version previously adopted by reference. This amendment makes no changes to any requirements previously adopted, but is required for the department of health to receive delegation of the radionuclide air emissions program from the United States Environmental Protection Agency.

Citation of Rules Affected by this Order: Amending WAC 246-247-035.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080(5).

Adopted under notice filed as WSR 18-09-068 on April 16, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 1, 2018.

Clark Halvorson  
Assistant Secretary

AMENDATORY SECTION (Amending WSR 17-13-037, filed 6/13/17, effective 7/14/17)

**WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.** (1) The following federal standards, as in effect on July 1, ((2017)) 2018, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 C.F.R. Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 C.F.R. Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 C.F.R. Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 C.F.R. Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 C.F.R. Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 C.F.R. Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 C.F.R. Part 61 include the department of health except in any section of 40 C.F.R. Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

## WSR 18-12-091

### PERMANENT RULES

### HEALTH CARE AUTHORITY

[Filed June 5, 2018, 11:18 a.m., effective July 6, 2018]

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

Purpose: The agency is removing all references to managed care from appropriate sections within chapter 182-546 WAC. Effective January 1, 2018, the agency began covering all emergency and nonemergency ambulance services provided to apple health clients through fee-for-service, including those transports for clients in an agency-contract managed care organization.

Before the agency could implement HB 2007 (ground emergency medical transportation) section 10 [2(10)], Laws of 2015, 64th legislature, 2015 regular session, approval from the Centers for Medicare and Medicaid Services (CMS) was required. CMS approved the state plan amendment with the requirement that the agency begin paying for all ground ambulance services through fee-for-service by January 1, 2018. The agency filed emergency rules, effective January 1, 2018, under WSR 18-02-023 for this change. This rule-making order completed the permanent rule making.

Citation of Rules Affected by this Order: Amending WAC 182-546-0150 and 182-546-0400.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-09-114 on April 18, 2018.

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 the Request of a Non-governmental 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: June 5, 2018.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-07-042, filed 3/12/14, effective 4/12/14)

**WAC 182-546-0150 Client eligibility for ambulance transportation.** (1) Except for ((persons)) people in the Family Planning Only and TAKE CHARGE programs, fee-for-service clients are eligible for ambulance transportation to covered services with the following limitations:

(a) ((Persons)) People in the following Washington apple health ((WAH)) programs are eligible for ambulance

services within Washington state or bordering cities only, as designated in WAC 182-501-0175:

(i) Medical care services (MCS) as described in WAC 182-508-0005;

(ii) Alien emergency medical (AEM) services as described in chapter 182-507 WAC.

(b) ~~((Persons))~~ People in the ~~((WAH))~~ apple health categorically needy/qualified medicare beneficiary (CN/QMB) and ~~((WAH))~~ apple health medically needy/qualified medicare beneficiary (MN/QMB) programs are covered by medicare and medicaid, with the payment limitations described in WAC 182-546-0400(5).

(2) ~~((Persons))~~ People enrolled in an agency-contracted managed care organization (MCO) must coordinate:

(a) Ground ambulance services through ~~((their designated MCO, subject to the MCO coverage and limitations))~~ the agency under fee-for-service, subject to the coverage and limitations within this chapter; and

(b) Air ambulance services through the agency under fee-for-service, subject to the coverage and limitations within this chapter.

(3) ~~((Persons))~~ People enrolled in the agency's primary care case management (PCCM) program are eligible for ambulance services that are emergency medical services or that are approved by the PCCM in accordance with the agency's requirements. The agency pays for covered services for these ~~((persons))~~ people according to the agency's published ~~((medicaid provider))~~ billing guides and provider ~~((notices))~~ alerts.

(4) ~~((Persons))~~ People under the Involuntary Treatment Act (ITA) are not eligible for ambulance transportation coverage outside the state of Washington. This exclusion from coverage applies to ~~((individuals))~~ people who are being detained involuntarily for mental health treatment and being transported to or from bordering cities. See also WAC 182-546-4000.

(5) See WAC 182-546-0800 and 182-546-2500 for additional limitations on out-of-state coverage and coverage for ~~((persons))~~ people with other insurance.

(6) The agency does not pay for ambulance services for jail inmates and ~~((persons))~~ people living in a correctional facility, including ~~((persons))~~ people in work-release status. See WAC 182-503-0505(5).

AMENDATORY SECTION (Amending WSR 13-16-006, filed 7/25/13, effective 8/25/13)

**WAC 182-546-0400 General limitations on payment for ambulance services.** (1) In accordance with WAC 182-502-0100(8), the agency pays providers the lesser of the provider's usual and customary charges or the maximum allowable rate established by the agency. The agency's fee schedule payment for ambulance services includes a base rate or lift-off fee plus mileage.

(2) The agency:

(a) ~~((Does not))~~ Pays providers under fee-for-service for ground ambulance services provided to a client who is enrolled in an agency-contracted managed care organization (MCO). ~~((Payment in such cases is the responsibility of the client's agency-contracted MCO;))~~

(b) Pays providers under fee-for-service for air ambulance services provided to a client who is enrolled in an agency-contracted MCO.

(3) The agency does not pay providers for mileage incurred traveling to the point of pickup or any other distance traveled when the client is not on board the ambulance. The agency pays for loaded mileage only as follows:

(a) The agency pays ground ambulance providers for the actual mileage incurred for covered trips by paying from the client's point of pickup to the point of destination.

(b) The agency pays air ambulance providers for the statute miles incurred for covered trips by paying from the client's point of pickup to the point of destination.

(4) The agency does not pay for ambulance services if:

(a) The client is not transported;

(b) The client is transported but not to an appropriate treatment facility; or

(c) The client dies before the ambulance trip begins (see the single exception for ground ambulance providers at WAC 182-546-0500(2)).

(5) For clients in the categorically needy/qualified medicare beneficiary (CN/QMB) and medically needy/qualified medicare beneficiary (MN/QMB) programs, the agency's payment is as follows:

(a) If medicare covers the service, the agency ~~((will))~~ pays the lesser of:

(i) The full coinsurance and deductible amounts due, based upon medicaid's allowed amount; or

(ii) The agency's maximum allowable for that service minus the amount paid by medicare.

(b) If medicare does not cover or denies ambulance services that the agency covers according to this chapter, the agency pays its maximum allowable fee; except the agency does not pay for clients on the qualified medicare beneficiaries (QMB) only program.

## WSR 18-12-100

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed June 5, 2018, 2:36 p.m., effective July 6, 2018]

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

Purpose: The department is creating new sections and amending existing sections in chapter 388-106 WAC in order to increase the maximum service limit to match the limit available under community first choice community transition services and to expand the definition of the service to ensure continuity of services after the conclusion of the Washington roads program when funding for the state-only funded program ends.

Citation of Rules Affected by this Order: New WAC 388-106-0960 and 388-106-0965; and amending WAC 388-106-0950 and 388-106-0955.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 18-08-049 on March 29, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 2, Amended 2, Repealed 0.

Date Adopted: June 4, 2018.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

**WAC 388-106-0950** What services may I receive under ~~((the residential care discharge allowance))~~ **community transition or sustainability services**? ~~((The residential care discharge allowance is a one-time payment used))~~ Community transition or sustainability services are nonrecurring setup items or services necessary to ~~((help))~~ assist you to establish ~~((or))~~, resume ~~((living in))~~, or stabilize your ~~((own))~~ home or community-based residential setting. ~~((You may receive up to eight hundred and sixteen dollars to cover necessary equipment, remodeling, rent, and utilities))~~ Community transition or sustainability services may include, but are not limited to:

(1) Security deposits that are required to lease an apartment or home, including first month's rent.

(2) Activities to assess need, arrange for, and procure necessary household furnishings.

(3) Setup fees or deposits for utilities, including telephone, electricity, heating, water, and garbage.

(4) Services necessary for your health and safety such as pest eradication and nonrecurring extreme cleaning.

(5) Moving expenses.

AMENDATORY SECTION (Amending WSR 15-03-038, filed 1/12/15, effective 2/12/15)

**WAC 388-106-0955** Am I eligible for ~~((residential care discharge allowance))~~ **community transition or sustainability services**? You ~~((are))~~ may be eligible for ~~((a residential discharge allowance))~~ community transition or sustainability services if you:

(1) Meet eligibility criteria to receive long-term ~~((care))~~ services and supports from home and community services;

(2) Are ~~((being discharged))~~ transitioning to the community from a hospital, nursing facility, ~~((a))~~ licensed assisted living facility, enhanced services facility, or adult family home ~~((to your own home))~~, or are living in the community and need stabilization services to remain there; and

(3) Do not have other programs, services, or resources to assist you with these costs; and

~~((4))~~ (a) Have needs beyond what is covered under ~~((the))~~ community transition services ~~((under ((COPES)) community first choice))~~; or

(b) Are not eligible for community transition services (under community first choice).

#### NEW SECTION

**WAC 388-106-0960** Are there limits to the community transition or sustainability services I may receive? Community transition or sustainability services:

(1) Do not include recreational or entertainment items, such as a television, cable, or a DVD player;

(2) Do not include room and board; and

(3) May not exceed eight hundred fifty dollars per transition or occurrence of instability that threatens the loss of your home in the community.

#### NEW SECTION

**WAC 388-106-0965** Are there waiting lists for community transition or sustainability services? There are no waiting lists for community transition or sustainability services. Instead of waiting lists, the department may revise rules to reduce the type of available services, the number of individuals served, or maximum rate, in order to stay within the legislative appropriation.

#### **WSR 18-12-101**

#### **PERMANENT RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed June 5, 2018, 2:55 p.m., effective July 6, 2018]

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

Purpose: The department is amending WAC 388-06A-0110 Who must have background checks?, to align with changes to RCW 74.15.030 and 43.43.832, which allow the department to complete background checks on individuals younger than sixteen years of age when it is warranted to ensure the safety of children in foster care. Additional edits are being made in order to clarify the language.

Citation of Rules Affected by this Order: Amending WAC 388-06A-0110.

Statutory Authority for Adoption: RCW 74.15.030, 43.43.832.

Adopted under notice filed as WSR 17-24-081 on December 5, 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 4, 2018.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-03-071, filed 1/15/15, effective 2/15/15)

**WAC 388-06A-0110 Who must have background checks?** (1) ~~((Per))~~ Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified, or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33-020.

(2) ~~((Per))~~ Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes, or facilities ~~((which))~~ that provide care. The department requires background checks on all of the following people:

(a) A volunteer or intern with regular or unsupervised access to children~~((s))~~.

(b) Any person who regularly has unsupervised access to a child. However, a background check is not required when a caregiver approves the unsupervised access for a normal childhood activity that lasts less than seventy-two hours, ~~((per))~~ as stated in RCW 74.13.710((s)).

(c) A relative other than a parent who may be caring for a child~~((and))~~.

(d) A person who is at least sixteen years old and resides in a foster, relative, or other suitable person's home and is not a foster child.

(e) A person who is younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care. The department may require a background check for persons younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care.

(3) ~~((Per))~~ Under RCW 13.34.138, prior to returning a dependent child home, the department requires a background check on all adults residing in the home.

## WSR 18-12-109

### PERMANENT RULES

### DEPARTMENT OF LICENSING

[Filed June 6, 2018, 9:14 a.m., effective July 7, 2018]

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

Purpose: The adoption removes any contradictory language and clarifies written disclosure to ensure consumer protection and the consumer's right to freely pick a home inspector. The proposal also balances between prohibiting the industry to develop an environment that allows compensation or reward for referrals or inclusion on a preferred list, while removing language that regulates a licensee's marketing, advertising, or promotional activities.

Citation of Rules Affected by this Order: Amending WAC 308-408C-020.

Statutory Authority for Adoption: RCW 18.280.050 and 18.280.060.

Adopted under notice filed as WSR 18-07-066 on March 16, 2018.

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 the Request of a Non-governmental 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 0, Repealed 0.

Date Adopted: June 6, 2018.

Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

### WAC 308-408C-020 Ethics—Statement of purpose.

In order to ensure the integrity and high standard of skill and practice in the home inspection profession, the following rules of conduct and ethics shall be binding upon the inspector.

The home inspector must:

(1) Provide home inspection services that conform to the Washington state home inspectors' SOP.

(2) Provide full written disclosure, to the home inspector's client, of any business ~~((or))~~ family, or financial relationships or other conflicts of interest between ~~((themselves))~~ the home inspector and any other party to the transaction. Written disclosure is required prior to the client's signing of the preinspection agreement. Disclosure is required to ensure the consumer's right to freely pick a home inspector of the buyer's or seller's choice and prevent collusion between the home inspector and the parties to the transaction. Parties may

include, but are not limited to, buyers, sellers, appraisers, real estate licensees, mortgage representatives, title companies, vendors and service contractors.

(3) Act as an unbiased party and discharge his or her duties with integrity and fidelity to the client.

(4) Perform services and express opinions based on genuine conviction and only within the inspector's area of education, training, or expertise.

(5) Not conduct a home inspection or prepare a home inspection report that knowingly minimizes, compromises or attempts to balance information about defects for the purpose of garnering future referrals.

(6) Not provide services that constitute the unauthorized practice of any profession that requires a special license when the inspector does not hold that license.

(7) Not accept compensation for a home inspection from more than one party without written disclosure to the inspector's client(s).

(8) Not for one year after completion of the inspection repair, replace, or upgrade for compensation components or systems on any building inspected - This section applies to the inspector's firm and other employees or principals of that firm or affiliated firms.

(9) ~~((Not provide compensation, inducement, or reward directly or indirectly, to any person or entity other than the client, for the referral of business, inclusion on a list of recommended inspectors or preferred providers or participate in similar arrangements. The purchase and/or use of low value advertising or marketing services or products that does not exceed ten dollars per item, is not considered inducement or reward.))~~ Not offer an inducement to any individual or entity by providing compensation or reward in exchange for performing an inspection.

(10) Not disclose information contained in the inspection report without client approval or as required by law. However, at their discretion inspectors may disclose when practical observed safety or health hazards to occupants or others that are exposed to such hazards.

(11) Not advertise previous experience in an associated trade as experience in the home inspection profession. An inspector's advertised inspection experience will reflect only the inspector's experience as a home inspector and inspectors shall not advertise, market or promote their home inspection services or qualifications in a fraudulent, false, deceptive or misleading manner.

(12) Not accept a home inspection referral or perform a home inspection when assignment of the inspection is contingent upon the inspector reporting predetermined conditions.

### WSR 18-12-112

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed June 6, 2018, 9:51 a.m., effective July 7, 2018]

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

Purpose: WAC 246-817-441 Dentist suicide prevention education, creating a new section to establish a one-time con-

tinuing education requirement for dentists in suicide prevention. The adopted rule implements E2SHB 1612 (chapter 262, Laws of 2017) codified as RCW 43.70.442. The law amended RCW 43.70.442 by adding dentists to the list of professionals required to complete a one-time continuing education in suicide prevention. The adopted rule requires dentists to take a one-time, three-hour training in suicide assessment that includes screening, referral, and imminent harm via lethal means.

Citation of Rules Affected by this Order: New WAC 246-817-441.

Statutory Authority for Adoption: RCW 18.32.002 and 18.32.0365.

Other Authority: RCW 43.70.442.

Adopted under notice filed as WSR 18-06-026 on February 27, 2018.

A final cost-benefit analysis is available by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98504, phone 360-236-4893, fax 360-236-2901, TTY 360-833-6388 or 711, email jennifer.santiago@doh.wa.gov, web site www.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 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 0, Repealed 0.

Date Adopted: April 20, 2018.

John B. Carbery, D.M.D., Chairperson  
Dental Quality Assurance Commission

#### NEW SECTION

**WAC 246-817-441 Dentist suicide prevention education.** Effective August 1, 2020, a licensed dentist must complete a commission-approved one-time training that is at least three hours in length for suicide assessment that includes screening, referral, and imminent harm via lethal means elements.

(1) This training must be completed by the end of the first full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later.

(2) Training accepted by the commission must be on the department's model list as authorized in chapter 246-12 WAC, Part 14.

(3) A licensed dentist who has successfully completed the suicide assessment, treatment, and management curriculum in RCW 43.70.447, by the school of dentistry at the Uni-

versity of Washington prior to licensure is exempt from the training requirement in this section.

(4) Training completed between July 23, 2017, and August 1, 2020, that meets the requirements of subsection (2) or (3) of this section, is accepted as meeting the one-time training requirement of this section.

(5) The hours spent completing the training in suicide assessment under this section count toward meeting applicable continuing education requirements for dentist license renewal.

#### WSR 18-12-114

##### PERMANENT RULES

##### DEPARTMENT OF COMMERCE

[Filed June 6, 2018, 10:00 a.m., effective July 7, 2018]

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

Purpose: The rule revises the method of determining whether a qualifying utility is eligible to use the no-growth compliance method under RCW 19.285.040 (2)(d) of the Energy Independence Act. The revision is proposed in response to a request from the state auditor for an interpretation of the existing calculation rule. The proposed method more closely tracks the language in the statute. The proposed method supports the policy objectives of the Energy Independence Act by clarifying and limiting the application of the no-growth cost cap provision.

Citation of Rules Affected by this Order: Amending WAC 194-37-140.

Statutory Authority for Adoption: RCW 19.285.080(2).

Adopted under notice filed as WSR 18-08-039 on March 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 5, 2018.

Brian Bonlender  
Director

AMENDATORY SECTION (Amending WSR 14-04-015, filed 1/24/14, effective 2/24/14)

**WAC 194-37-140 Documentation of renewable resource financial path for no-load growth utilities.** For each year that a utility meets the renewable energy financial

cost cap, associated with no load growth, identified in RCW 19.285.040 (2)(d), the utility must document the following by January 1:

(1) That it used a consistent methodology from year to year to weather-adjust its retail load;

(2) That ~~((its weather-adjusted load for the most recent prior year is lower than the third year prior))~~ the average of weather-adjusted loads over the three previous years did not increase over the weather-adjusted load in the year immediately prior to the three-year period;

(3) That it invested at least one-percent of its total annual revenue requirement in each target year on eligible renewable resources, RECs, or a combination of both;

(4) That it executed contracts, dated no later than January 1 of the target year, for power purchases of sufficient eligible renewable resources and/or RECs;

(5) The quantity of megawatt-hours for each target year for which the utility:

(a) Commenced or renewed ownership of nonrenewable resources, other than coal transition power, after December 7, 2006; or

(b) Made electricity purchases from nonrenewable energy resources, other than coal transition power, incremental to its annual electricity purchases made or contracted for before December 7, 2006.

Sources of power for daily spot market purchases are not included in this calculation;

(6) The RECs the utility acquired, in addition to any RECs acquired for subsection (3) of this section, to offset power purchases listed in subsection (5) of this section; and

(7) Annual revenue requirement for the target year.

#### WSR 18-12-116

##### PERMANENT RULES

##### DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed June 6, 2018, 10:12 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: WAC 246-817-440 Dentist continuing education requirements, the dental quality assurance commission (commission) adopted amendments to update and clarify continuing education (CE) requirements when dentists renew their license. The adopted rule clarifies CE subject matter, describes different ways to obtain CE, establishes the number of hours a licensed dentist may devote to specific CE activities, and identifies mandatory CE of a dental jurisprudence examination. Additionally, the adopted rule changes the reporting period of CE from twenty-one hours annually to sixty-three hours every three years. The adopted rule is necessary to provide clear requirements for licensed dentists to obtain CE. The adopted change of the CE reporting period does not increase the number of hours, but allows the dentist time to complete the hours over a three year period. The adopted rule begins the three year reporting period on January 1, 2019.

Citation of Rules Affected by this Order: Amending WAC 246-817-440.

Statutory Authority for Adoption: RCW 18.32.002 and 18.32.0365.

Adopted under notice filed as WSR 18-06-027 on February 27, 2018.

A final cost-benefit analysis is available by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98501, phone 360-236-4893, fax 360-236-2901, TTY 360-833-6388 or 711, email [jennifer.santiago@doh.wa.gov](mailto:jennifer.santiago@doh.wa.gov), web site [www.doh.wa.gov](http://www.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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: April 20, 2018.

John B. Carbery, D.M.D.  
Dental Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

**WAC 246-817-440 Dentist continuing education requirements.** ~~((1) Purpose. The dental quality assurance commission (DQAC) has determined that the public health, safety and welfare of the citizens of the state will be served by requiring all dentists, licensed under chapter 18.32 RCW, to continue their professional development via continuing education after receiving such licenses.~~

~~(2) Effective date. The effective date for the continuing education requirement for dentists is July 1, 2001. The first reporting cycle for verifying completion of continuing education hours will begin with renewals due July 1, 2002, and each renewal date thereafter. Every))~~ The goal of continuing education is to encourage the lifetime professional development of the licensed dentist, and to enhance the clinical and overall skills needed to protect the health and safety of all patients.

(1) A licensed dentist shall complete a minimum of sixty-three hours of continuing education every three years.

(a) The three-year continuing education reporting period for a dentist licensed in Washington before 2019 begins January 1, 2019, and verification of completion of continuing education hours will be due on the dentist's annual license renewal date in 2022, and every three years thereafter. The three-year continuing education reporting period for a dentist initially licensed in Washington in 2019 or later begins upon date of licensure.

(b) A licensed dentist ((must sign an affidavit attesting)) shall attest to the completion of ((the required number of))

sixty-three hours of continuing education every three years as a part of their ((annual)) license renewal requirement.

~~((3) Requirements. Licensed dentists must complete twenty-one clock hours of continuing education, each year, in conjunction with their annual renewal date. DQAC)) (c) The dental quality assurance commission (commission) may randomly audit up to twenty-five percent of ((practitioners)) licensed dentists every three years for compliance after the ((credential)) license is renewed as allowed by chapter 246-12 WAC, Part 7.~~

~~((4) Acceptable continuing education—Qualification of courses for continuing education credit. DQAC)) (d) A licensed dentist shall comply with the requirements of chapter 246-12 WAC, Part 7.~~

(e) The commission will not authorize or approve specific continuing education courses.

(2) A licensed dentist shall complete the commission approved dental jurisprudence examination once every three years. One hour of continuing education will be granted toward the sixty-three hour requirement.

(3) Continuing education ((course work)) must contribute to the professional knowledge and development of the ((practitioner,)) licensed dentist or enhance services provided to patients((-

For the purposes of this chapter, acceptable continuing education means courses offered or authorized by industry recognized state, private, national and international organizations, agencies or institutions of higher learning. Examples of sponsors, or types of continuing education courses may include, but are not limited to:

(a) The American Dental Association, Academy of General Dentistry, National Dental Association, American Dental Hygienists' Association, National Dental Hygienists' Association, American Dental Association specialty organizations, including the constituent and component/branch societies.

(b) Basic first aid, CPR, BLS, ACLS, OSHA/WISHA, or emergency related training; such as courses offered or authorized by the American Heart Association or the American Cancer Society; or any other organizations or agencies.

(c) Educational audio or videotapes, films, slides, internet, or independent reading, where an assessment tool is required upon completion are acceptable but may not exceed seven hours per year.

(d) Teaching a seminar or clinical course for the first time is acceptable but may not exceed ten hours per year.

(e) Nonclinical courses relating to dental practice organization and management, patient management, or methods of health delivery may not exceed seven hours per year. Estate planning, financial planning, investments, and personal health courses are not acceptable.

(f) Dental examination standardization and calibration workshops.

(g) Provision of clinical dental services in a formal volunteer capacity may be considered for continuing education credits when preceded by an educational/instructional training prior to provision of services. Continuing education credits in this area shall not exceed seven hours per renewal cycle.

(5) Refer to chapter 246-12 WAC, Part 7, administrative procedures and requirements for credentialed health care pro-

viders for further information regarding compliance with the continuing education requirements for health care providers)). Continuing education must be completed in one or more of the following subject categories:

(a) Education courses relating to the practice of dentistry;

(b) Emergency management, advanced cardiac life support (ACLS), and pediatric advanced life support (PALS);

(c) Health care provider basic life support (BLS). BLS certification is required in WAC 246-817-720. One hour of continuing education for each BLS certification course will be granted. A licensed dentist may not count more than three hours every three years in this category;

(d) Infection control, federal/state safety standards, and radiation protection;

(e) Pharmacology, prescribing practices, and pain management;

(f) Ethics;

(g) Patient care related education including risk management, methods of health delivery, multicultural, and suicide prevention education;

(h) Washington state dentistry law;

(i) Practice management and billing practices. A licensed dentist may not count more than twenty-one hours every three years in this category.

(4) Continuing education in subject categories identified in subsection (3) of this section may be completed using any of the following activities or methods:

(a) Attendance at local, state, national, or international continuing education courses, live interactive webinars, dental study clubs, postdoctoral education, and dental residencies;

(b) Self-study by various means, relevant to dentistry, without an instructor physically present.

(i) Self-study can be continuing education provided online or through the mail provided by a continuing education provider. Thirty minutes will count for every one hour completed for this activity;

(ii) Self-study can be reading a book that contributes to the professional knowledge and development of the licensed dentist, or enhance services provided to patients. A two-page synopsis of what was learned written by the licensed dentist is required. Two hours of continuing education for each book and synopsis will be granted. A licensed dentist may not count more than six hours every three years for this activity.

(c) Teaching, presenting, or lecturing in a course, only if the presentation or lecture is created or authored by the dentist claiming the continuing education hours. A licensed dentist may not count more than twenty-one hours every three years in this activity;

(d) Direct clinical supervision of dental students and dental residents. A licensed dentist may not count more than twenty-one hours every three years in this activity;

(e) Publishing a paper in a peer review journal. A licensed dentist may count fifteen hours the year the paper is published and may not count more than a total of thirty hours every three years in this activity. A copy of the publication is required;

(f) Reading and critically evaluating any hypothesis-driven scientific journal article on a topic that has relevance

to dentistry and is published in a peer-reviewed journal devoted to dentistry, medicine, or useful to dentistry. A licensed dentist may not count more than twenty-one hours every three years.

(i) Before completing this activity, the licensed dentist must complete at least four hours of education in evidence-based dentistry or medicine that includes journal article evaluation. The four-hour education may count toward the required sixty-three hour requirement. The four-hour education is a one-time requirement. A licensed dentist may not count more than four hours every three years.

(ii) A licensed dentist may count one hour for each article that the dentist completes a "Critical Evaluation of a Journal Article" questionnaire. The questionnaire may be obtained from the commission. The completed questionnaire is required;

(g) Volunteer dental patient care. A licensed dentist may not count more than twenty-one hours every three years; and

(h) The commission will accept a current certification or recertification from any specialty board approved and recognized by the American Dental Association (ADA), the American Board of Dental Specialties (ABDS), or other specialty board certification or recertification approved by the commission as sixty-two hours of continuing education. The commission will also accept the award of Fellow of the Academy of General Dentistry, Master of the Academy of General Dentistry, or the Lifelong Learning and Service Recognition Award as sixty-two hours of continuing education. The certification, recertification, or award must be obtained in the three-year reporting period.

(5) Proof of continuing education is a certificate of completion, letter, or other documentation verifying or confirming attendance or completion of continuing education hours. Documentation must be from the organization that provided the activity, except in subsection (4)(b)(ii), (e), and (f)(ii) of this section, and must contain at least the following:

(a) Date of attendance or completion;

(b) Hours earned; and

(c) Course title or subject.