

**WSR 19-08-015**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 22, 2019, 1:44 p.m., effective April 22, 2019]

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

Purpose: WAC 458-61A-103(1), which is derived from RCW 82.45.030(3), discusses debt remaining at the time of sale as part of the consideration subject to the real estate excise tax. Additional wording derived from RCW 82.45.030(3) is added for clarification. Current WAC 458-61A-103(2) is not supported by chapter 82.45 RCW, Excise tax on real estate sales, and is deleted. WAC 458-61A-103(3) is also deleted as unnecessary when subsection (2) is deleted. The rule is renumbered to reflect additional examples.

Citation of Rules Affected by this Order: Amending WAC 458-61A-103 Transfers involving an underlying debt.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 82.45.150.

Other Authority: RCW 82.45.030.

Adopted under notice filed as WSR 19-03-131 on January 18, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: March 22, 2019.

Erin T. Lopez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

**WAC 458-61A-103 Transfers involving an underlying debt.** (1) **Introduction.** The real estate excise tax applies to transfers of real property when the grantee relieves the grantor from an underlying debt on the property or makes payments on the grantor's debt. The measure of the tax is the combined amount of the underlying debt on the property and any other consideration.

((For example,)) (2) **Consideration.** Consideration includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance remaining unpaid on the property at the time of sale. It does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. RCW 82.45.030(3).

(3) **Examples.** This rule includes a number of examples that identify a set of facts, and then state a conclusion. These examples are only a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) **Example 1.** Yen transfers property to Lee that is subject to an underlying debt (i.e., mortgage). ~~((Yen is personally liable for the debt, meaning that if Yen does not make the payments the lender may foreclose on the property and obtain a judgment against Yen if the value of the property is insufficient to pay the debt.))~~ Lee agrees to make all future mortgage payments on Yen's debt, but gives no other consideration for the property. Yen owes real estate excise tax on the amount of the underlying debt. Lee's payments on the underlying debt relieve Yen of her debt obligation. Therefore, Yen receives consideration.

~~((2) **Transfers where grantor has no personal liability for the underlying debt.** Real estate excise tax does not apply to transfers of real property subject to an underlying debt when the grantor has no personal liability for the debt and receives no other consideration for the transfer.~~

~~For example, Yen purchases property with funds obtained from PSP Corporation and secured only by the property. Yen has no personal liability for this debt. If Yen fails to make payments on the debt, PSP may foreclose on the property but it may not obtain a judgment against Yen. Yen transfers the property to Lee subject to the underlying debt. Lee takes the property subject to the underlying debt, and does not give any other consideration for the property. If Lee fails to make payments, PSP may foreclose on the property but it may not obtain a judgment against Lee (who, like Yen before, has no personal liability for the debt). Because Yen is not personally liable for the debt, Lee's payments on the underlying debt to PSP do not relieve Yen of any liability for the debt. The real estate excise tax does not apply to this transfer because there is no consideration.~~

(3) **Documentation.** In order to avoid the incidence of the tax, the grantor must present and maintain proper documentation to verify the type of debt and to confirm that fact that the grantor is not personally liable for the debt.)) (b) **Example 2.** Same facts as above, except Lee also paid Yen \$10,000 in addition to making the mortgage payments. In this circumstance, the measure of the real estate excise tax is the amount of the mortgage outstanding at the time of sale, plus the additional consideration paid of \$10,000.

**WSR 19-08-016**  
**PERMANENT RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 22, 2019, 2:48 p.m., effective April 22, 2019]

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 3, ESD includes clarifications around initial applications for benefits, conditional waiver expirations, employee notice to employers, and procedure for employees to designate an

authorized representative. Phase 3 also includes rules related to what documentation the department may request for the initial application.

Citation of Rules Affected by this Order: New WAC 192-500-050, 192-500-060, 192-500-070, 192-500-080, 192-500-090, 192-500-100, 192-510-085, 192-600-005, 192-600-010, 192-600-015, 192-600-020, 192-600-025, 192-610-005, 192-610-010, 192-610-015, 192-610-020, 192-610-025, 192-610-030, 192-610-035, 192-610-040, 192-610-045, 192-610-050, 192-610-055, 192-610-060 and 192-800-003; and amending WAC 192-510-010 and 192-510-065.

Statutory Authority for Adoption: RCW 50A.04.215.

Adopted under notice filed as WSR 19-03-035 on January 7, 2019.

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 [cstreuli@esd.wa.gov](mailto:cstreuli@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 25, Amended 2, 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.

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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: March 22, 2019.

April Amundson  
Policy and Rules Manager  
Paid Family and Medical Leave

#### NEW SECTION

**WAC 192-500-050 De facto parent.** A "de facto parent" is limited to those adults who have fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in a child's life where the natural or legal parent consented to and fostered the parent-like relationship.

#### NEW SECTION

**WAC 192-500-060 In loco parentis.** An individual stands "in loco parentis" when the individual acts in place of a parent, intentionally takes over parental duties, and is responsible for exercising day-to-day care and control fulfilling the child's physical and psychological needs.

#### NEW SECTION

**WAC 192-500-070 Claim year.** (1) "Claim year" is the fifty-two week period beginning Sunday of the week of:

(a) The date of the birth or placement of a child; or  
(b) The date of the filing of a complete and timely application for all other qualifying events.

(2) For applications that are backdated, the claim year is the fifty-two week period beginning Sunday of the week to which the application was backdated.

(3) An employee may only have one valid claim year at a time.

#### NEW SECTION

**WAC 192-500-080 Qualifying event.** A "qualifying event" is:

(1) For family leave, events described in RCW 50A.04.010(9).

(2) For medical leave, events described in RCW 50A.04.010(14).

#### NEW SECTION

**WAC 192-500-090 Health care provider.** "Health care provider" means:

(1) A physician or an osteopathic physician who is licensed to practice medicine or surgery, as appropriate, by the state in which the physician practices;

(2) Nurse practitioners, nurse-midwives, midwives, clinical social workers, physician assistants, podiatrists, dentists, clinical psychologists, optometrists, and physical therapists licensed to practice under state law and who are performing within the scope of their practice as defined under state law by the state in which they practice;

(3) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of the health care provider's practice as defined under such law; or

(4) Any other provider permitted to certify the existence of a serious health condition under the federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017).

#### NEW SECTION

**WAC 192-500-100 Salaried employee.** (1) A "salaried employee" is any employee who receives a fixed periodic compensation from an employer to be paid for hours worked full-time as defined by the employer.

(2) Employees that work less than full-time as defined by the employer are not considered a salaried employee for the purposes of Title 50A RCW.

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

**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.

AMENDATORY SECTION (Amending WSR 18-22-080, filed 11/2/18, effective 12/3/18)

**WAC 192-510-065 When can an employer deduct premiums from employees?** (1) An employer may not deduct more than the maximum allowable employee share of the premium from wages paid for a pay period.

(2) If an employer fails to deduct the maximum allowable employee share of the premium from wages paid for a pay period, the employer is considered to have elected to pay that portion of the employee share under RCW 50A.04.115 (3)(d) for that pay period. The employer cannot deduct this amount from a future paycheck of the employee for a different pay period.

(3) Subsections (1) and (2) of this section do not apply if an employer was unable to deduct the maximum allowable employee share of the premium for a pay period due to a lack of sufficient employee wages for that pay period.

NEW SECTION

**WAC 192-510-085 How will the department assess premiums when a conditional premium waiver expires?**

(1) If an employee who is exempt from premiums under a conditional waiver works eight hundred twenty hours in any period of four consecutive quarters, the waiver will be determined to have expired.

(2) Upon expiration of a conditional premium waiver, the department will assess and notify:

(a) The employer of all the owed employer premiums; and

(b) The employee of all the owed employee premiums.

(3) Payment will be due upon receipt of the assessment.

(4) Failure to pay the assessment by the required date will result in the accrual of interest under RCW 50A.04.140.

(5) Upon payment of the employee premiums, the employee will be credited for the hours worked and will be eligible for benefits under Title 50A RCW as if the premiums were originally paid.

(6) Nothing in this section prevents the employer from paying part or all of the employee's share of the premiums.

**Chapter 192-600 WAC**

**EMPLOYEE NOTICE TO EMPLOYER**

NEW SECTION

**WAC 192-600-005 When must an employee provide notice to the employer for foreseeable leave?** (1)(a) An employee must provide the employer at least thirty days' written notice before paid family or medical leave is to begin if the need for the leave is foreseeable based on an expected birth, placement of a child, or planned medical treatment for a serious health condition.

(b) An employee must provide the employer written notice as soon as is practicable when thirty days' notice is not possible, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency.

(2) An employee must provide the employer written notice as soon as is practicable for foreseeable leave due to a qualifying military exigency, regardless of how far in advance such leave is foreseeable.

(3) Whether paid family or medical leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, written notice need only be given one time, but the employee must inform the employer as soon as is practicable if dates of the scheduled leave change, are extended, or were initially unknown.

NEW SECTION

**WAC 192-600-010 When must an employee provide notice for unforeseeable leave?** (1) When the need for leave is not foreseeable, an employee must provide written notice to the employer as soon as is practicable under the facts and circumstances of the particular situation.

(2) If the employee is unable to provide notice personally, written notice may be given by another responsible party, such as the employee's spouse, neighbor, or coworker.

**Example 1:** An employee's spouse is in a car accident and is taken to the emergency room. The employee would not be required to leave the spouse in the emergency room in order to report the absence while the spouse is receiving emergency treatment. The employee would be expected to provide written notice, such as an email, to the employer as soon as is practicable.

**Example 2:** An employee is in a car accident and is taken to the emergency room for emergency surgery. The employee's parent may provide written notice on behalf of the employee as soon as is practicable.

NEW SECTION

**WAC 192-600-015 What does "as soon as is practicable" mean for this chapter?** For the purposes of this chapter, "as soon as is practicable" means as soon as it is both possible and practical to provide notice, taking into account all of the facts and circumstances in the individual situation. When

an employee becomes aware of a need for paid family or medical leave less than thirty days in advance, the determination of when an employee could practicably provide notice must take into account the individual facts and circumstances.

#### NEW SECTION

**WAC 192-600-020 What must an employee's notice for leave to an employer include?** An employee must provide written notice to make the employer aware that the employee may need paid family or medical leave. The notice must contain at least the anticipated timing and duration of the leave. Written notice includes, but is not limited to, handwritten or typed notices, and all forms of written electronic communications such as text messages and email.

#### NEW SECTION

**WAC 192-600-025 What happens if an employee fails to provide proper notice?** If the department determines that the employee failed to provide proper notice to the employer, the employee's benefits will be denied for a period of time equal to the number of days that notice was insufficient.

**Example:** If an employee should have provided thirty days' notice for a qualifying event the employee was aware of sixty days in advance, but instead the employee provided notice fifteen days prior to the scheduled leave, the department will deny paid family or medical leave benefits for fifteen days. The employee is not required to file a new initial application for benefits. After the required fifteen days, the employee may start receiving benefits upon proper filing of weekly claims if otherwise eligible.

### Chapter 192-610 WAC

#### INITIAL APPLICATION FOR BENEFITS

#### NEW SECTION

**WAC 192-610-005 How does an employee apply for benefits?** (1) An employee may apply for paid family or medical leave benefits under the state plan by:

- (a) Using the department's online services;
  - (b) Contacting the paid family and medical leave customer care center by telephone; or
  - (c) Alternate methods authorized by the commissioner.
- (2) An employee who works for an employer with an approved voluntary plan must follow the application guidelines of the approved plan.

#### NEW SECTION

**WAC 192-610-010 What information is an employee required to provide to the department when applying for benefits?** (1) When an employee submits an application for paid family or medical leave benefits, the employee must provide information sufficient for the department to determine eligibility for benefits. This information includes, but is not limited to, information identifying the employee, the type

and anticipated duration of leave, as well as certification or documentation to validate the qualifying event.

(2) If an employee is in a claim year and has need for successive periods of benefits for the same qualifying event beyond what was originally approved, the employee must update the application.

(3) If an employee experiences a new qualifying event during a claim year, the employee must reopen the claim and provide additional information required by the department before benefits can be paid.

#### NEW SECTION

**WAC 192-610-015 When will the employee be required to provide documentation or certification to the department?** (1) Any time an employee applies for paid family or medical leave benefits, the application must be supported by documentation or certification as required in Title 50A RCW and the rules adopted by the department.

(2) If an employee does not provide sufficient documentation or certification substantiating the employee's qualification for benefits, the department will deny benefits until sufficient documentation or certification substantiating the qualifying event is provided.

(3) The department may require the employee to provide additional documentation or certification to substantiate the qualification for benefits if:

- (a) The employee requests an extension of the leave originally planned;
- (b) Circumstances of the serious health condition change;
- (c) Information is provided to the department that the employee may no longer be qualified for benefits; or
- (d) Other circumstances cause the department to question the employee's qualification for benefits.

#### NEW SECTION

**WAC 192-610-020 What is required on the certification for medical leave or for family leave to care for a family member who has a serious health condition?** When leave is taken because of an employee's own serious health condition or the serious health condition of a family member, certification from a health care provider will be required. Certification must include the following:

- (1) The name, address, telephone number, and contact information of the health care provider and type of medicine the health provider is licensed to practice;
- (2) The anticipated duration of leave;
- (3) Other information as requested by the department to determine eligibility for the qualifying event; and either
  - (a) For medical leave, information from a health care provider that the employee has a serious health condition; or
  - (b) For family leave, information sufficient to establish that the family member has a serious health condition requiring physical or psychological care.

#### NEW SECTION

**WAC 192-610-025 Documenting the birth or placement of a child for family leave.** When family leave is taken

to bond with the employee's child after birth or placement, the department may request a copy of:

- (1) The child's birth certificate;
- (2) Certification from a health care provider;
- (3) Court documents to show placement; or
- (4) Other reasonable documentation to substantiate the qualifying event.

#### NEW SECTION

**WAC 192-610-030 Documenting a military exigency for family leave.** When family leave is taken because of a qualifying military exigency, the employee will be required to provide documents or information such as:

- (1) Active duty orders;
  - (2) The approximate dates in which leave will be needed;
- or
- (3) Other information to substantiate the qualifying event.

#### NEW SECTION

**WAC 192-610-035 Documenting a family relationship.** The department may request documentation or information from the employee that is sufficient to establish the familial relationship for the purposes of benefit eligibility and program integrity.

#### NEW SECTION

**WAC 192-610-040 Can an employee backdate an application or a weekly claim for benefits?** (1) Generally, paid family or medical leave benefits are payable on or after the date the employee applies for benefits. An application or weekly claim may be backdated for good cause or for the convenience of the department.

(2) For the purpose of this section:

(a)(i) "Good cause" means factors that prevented an employee from applying for benefits prior to or at the time of need for paid leave such as a serious health condition, a period of incapacity, or a natural disaster.

(ii) The burden of proof is on the employee to provide all pertinent facts and evidence to the department to determine good cause. The evidence must show that the factors prevented the employee from applying for or claiming benefits when the qualifying event occurred and any subsequent duration in which the employee did not apply for or claim benefits. This evidence may include, but is not limited to, medical certification from a health care provider, evidence of a natural disaster, or other information required by the department.

(b) "For the convenience of the department" means for the purpose of program administration or situations when accepting timely applications or weekly claims was difficult or impossible. These include, but are not limited to, equipment breakdown or lack of available staff.

(3) An employee who wants to backdate an application or weekly claim must file for benefits during the first week in which the factors that constitute good cause no longer exist.

#### NEW SECTION

**WAC 192-610-045 May the department refuse to accept an employee's application, appeal, or petition?** No employee or agent of the department may refuse to accept a properly filed application or weekly claim for paid family or medical leave benefits, a signed appeal, or a petition for review by the commissioner related to any program administered by this department regardless of the employee or agent's opinion concerning its merits.

#### NEW SECTION

**WAC 192-610-050 How are typical workweek hours determined?** (1) For salaried employees, the number of hours worked in a week are assumed to be forty, regardless of how many hours are actually worked. Typical workweek hours are determined by multiplying the number of weeks in the qualifying period the employee held the salaried position by forty, adding any other hours that were not salaried, if any, and then dividing that amount by fifty-two.

(2) For all other employees, typical workweek hours are determined by dividing the sum of all hours reported in the qualifying period by fifty-two.

#### NEW SECTION

**WAC 192-610-055 What is an employee's maximum benefit length?** (1) The maximum duration of paid family leave may not exceed twelve times the typical workweek hours during a claim year.

(2) The maximum duration of paid medical leave may not exceed twelve times the typical workweek hours during a claim year. This leave may be extended to fourteen times the typical workweek hours during a claim year if the employee experiences a serious health condition with a pregnancy that results in a period of incapacity.

(3) An employee is not entitled to paid family or medical leave benefits under this chapter that exceeds a combined total of sixteen times the typical workweek hours during a claim year. The combined total of family and medical leave may be extended to eighteen times the typical workweek hours during a claim year if the employee experiences a serious health condition with a pregnancy that results in a period of incapacity.

#### NEW SECTION

**WAC 192-610-060 Will the employer be notified if an employee files an application for benefits?** (1) The department will send a notice to the employee's current employer(s), if applicable, when an employee files an application for paid family or medical leave benefits.

(2) The department may, when necessary, send a notice to the employee's most recent employer(s).

(3) Any employer that receives such a notice must respond to the department as indicated on the notice. If the employer does not reply within the provided time frame, the department will determine eligibility without input from the employer.

NEW SECTION

**WAC 192-800-003 Designating an authorized representative.** (1) The department may authorize another individual to act on the employee's behalf for the purposes of paid family and medical leave benefits if:

(a) An employee designates an authorized representative by submitting written documentation as required by the department;

(b) A court-appointed legal guardian with authority to make decisions on a person's behalf submits documentation as required by the department;

(c) An individual designated as a power of attorney submits documentation satisfactory to the department to act on the employee's behalf; or

(d) If an employee is unable to designate an authorized representative due to a serious health condition, an individual may represent the employee by submitting a complete and signed authorized representative designation form made available by the department, which must include:

(i) Documentation from the employee's health care provider certifying that the employee is incapable of completing the administrative requirements necessary for receiving paid family and medical leave benefits and is unable to designate an authorized representative to act on the employee's behalf; and

(ii) An affidavit or declaration authorized by RCW 9A.72.085 attesting to the responsibility to act in the employee's best interest.

(2) The department will terminate the authority given to the authorized representative:

(a) When the employee or authorized representative notifies the department verbally or in writing; or

(b) At the department's discretion.

(3) For the purposes of paid family and medical leave the term employee is used for both employee and authorized representative.

**WSR 19-08-020****PERMANENT RULES****DEPARTMENT OF****CHILDREN, YOUTH, AND FAMILIES**

[Filed March 26, 2019, 10:00 a.m., effective April 26, 2019]

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

Purpose: Amendments are being made to the working connections and seasonal child care subsidy program to: (1) Implement the federal requirement of second tier eligibility; (2) improve readability of the chapter by simplifying language and ensuring terms are used consistently throughout the chapter, better clarifying responsibilities of program participants, the department of children, youth, and families (DCYF), and the department of social and health services (DSHS), and better organizing the chapter to align with the ordered functions of applying for, authorizing, and receiving benefits; and (3) make housekeeping updates after the creation of DCYF and the decodification of chapter 43.215 RCW and Title 170 WAC and recodification to chapter 43.216 RCW and Title 110 WAC.

Citation of Rules Affected by this Order: New WAC 110-15-0021; repealing WAC 110-15-0014, 110-15-0022, 110-15-0032, 110-15-0055 and 110-15-0115; and amending WAC 110-15-0001, 110-15-0003, 110-15-0005, 110-15-0012, 110-15-0020, 110-15-0030, 110-15-0031, 110-15-0035, 110-15-0045, 110-15-0050, 110-15-0060, 110-15-0065, 110-15-0085, 110-15-0095, 110-15-0106, 110-15-0107, 110-15-0109, 110-15-0110, 110-15-0126, 110-15-0190, 110-15-0268, 110-15-0271, 110-15-3530, 110-15-3566, and 110-15-3665.

Statutory Authority for Adoption: RCW 43.216.055 and 43.216.065.

Other Authority: 42 U.S.C. 9858, et seq.

Adopted under notice filed as WSR 18-24-014 on November 27, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 110-15-0001, removed proposed subsection (5).

WAC 110-15-0003, definition of "living in the household" simplified.

WAC 110-15-0110 (2)(a), "sustained" inserted.

WAC 110-15-0012 (1) and (1)(d)(iii), remove "at application" and "reapplication" from the description of DSHS's process for verifying child care subsidy and clarify that DSHS may deny an application, request for reduced copay, or request for additional child care when eligibility cannot be verified.

WAC 110-15-0065, removed "anticipated" from preamble.

Nonsubstantive edits: WAC 110-15-0031, reorganized to improve readability. Proposed subsection (2) content moved to subsection (1) as (1)(a)(iii) to clarify when a consumer notifies DSHS of the need for increased child care hours and subsection (1)(c) to explain when changes in child care benefits take effect.

WAC 110-15-0045, without changing the rule's substance, some proposed changes that reorganized the section were eliminated.

WAC 110-15-0085, removed unnecessary language repeated from WAC 110-15-0031.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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Date Adopted: March 26, 2019.

Brenda Villarreal  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0001 Purpose and intent.** (1) This chapter establishes the minimum requirements for eligible families to receive subsidized child care benefits through the working connections child care (WCCC) and seasonal child care (SCC) programs ~~((as)).~~ This chapter also establishes the minimum requirements for providers that request approval to receive subsidy payments for the care of children who are eligible for WCCC or SCC benefits. WCCC and SCC are administered by DSHS ((under)) in accordance with applicable state and federal law((s)) and to the extent of available funds. ((WCCC administered through the early childhood education and assistance program (ECEAP) shall follow ECEAP performance standards and contracts. As used in chapter 170-290 WAC, "to the extent of available funds" includes one or more of the following:

~~(a) Limiting or closing enrollment;~~  
~~(b) Establishing a priority list for new enrollees subject to applicable state and federal law. The priority list includes families participating in early head start child care partnership slots; families with children with special needs; teen parents; homeless families according to the McKinney-Vento Act; families receiving TANF; TANF families curing a sanction; and families that received WCCC/SCC within thirty days of application; or~~

~~(c) Creating and maintaining a waiting list.))~~ Effective July 1, 2019, DCYF will be administering the WCCC and SCC programs.

(2) The purpose of WCCC~~((, as provided in part II of this chapter,))~~ is to:

(a) ~~((Assist))~~ Help eligible ((families in obtaining)) consumers pay for child care ((subsidies for approvable activities that enable them to)) so the consumer can work, attend training, or enroll in educational programs; and

(b) ~~((Consider the health and safety of children while they are in care and receiving child care subsidies.))~~ Promote stability, quality, and continuity of care and education programming for children who participate in the WCCC program.

(3) The purpose of SCC~~((, as provided in part III of this chapter,))~~ is to:

(a) ~~((Assist))~~ Help eligible ((families who)) consumers pay for licensed child care while they are seasonally employed in agriculturally related work ((to pay for licensed child care)); and

(b) ~~((Consider the health and safety of children while they are in care and receiving child care subsidies.))~~ Promote stability, quality, and continuity of care and education programming for children who participate in the SCC program.

(4) No provision of this section shall be interpreted contrary to RCW ~~((43.215.250))~~ 43.216.295.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0003 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"**Able**" means being physically and mentally capable of caring for a child in a responsible manner.

"**Administrative error**" means an error made by DCYF or DSHS through no fault of the consumer or provider.

"**Approved activity**" means an activity that a consumer is required to participate in at application and reapplication to be eligible to collect benefits.

"**Authorization**" means the transaction created by DSHS which allows the provider ~~((the ability))~~ to claim payment during a certification period. The transaction may be adjusted based on the family need.

"**Available**" means being free to provide care when not participating in an approved activity under WAC ~~((170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055))~~ 110-15-0040, 110-15-0045, or 110-15-0050 during the time child care is needed.

"**Benefit**" means a regular payment made by a government agency ~~((to))~~ on behalf of a person ~~((qualified))~~ eligible to receive it.

"**Calendar year**" means those dates between and including January 1st and December 31st.

"**Capacity**" means the maximum number of children the licensee is authorized ~~((by the department))~~ to have in care at any given time.

"**Collective bargaining agreement**" or "**CBA**" means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

"**Consumer**" means the person ~~((receiving))~~ eligible to receive:

(a) WCCC benefits as described in part II of this chapter; or

(b) SCC benefits as described in part III of this chapter.

"**Copayment**" means the amount of money the consumer is responsible to pay the child care provider each month toward the cost of child care, whether provided under a voucher or contract~~((, each month)).~~

"**Days**" means calendar days unless otherwise specified.

~~((("DEL" means the department of early learning.))~~

"DCYF" means the department of children, youth, and families.

"**DSHS**" means the department of social and health services.

"**Early achievers**" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

"**Electronic record**" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"**Electronic signature**" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature, symbol, or process executed by a person with the intent to sign the record.

"**Eligibility**" means that a consumer has met all of the requirements of:

(a) Part II of this chapter to receive WCCC program subsidies; or

(b) Part III of this chapter to receive SCC program subsidies.

**"Employment"** or **"work"** means engaging in any legal, income generating activity that is taxable under the ((United States)) U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the ((United States)) U.S. This includes unsubsidized employment, as verified by DSHS, and subsidized employment, such as:

(a) Working in a federal or state paid work study program; or

(b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

**"Existing child care provider"** means a licensed or certified provider who received a state subsidy payment between July 1, 2015, and June 30, 2016.

**"Fraud"** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefits to himself or herself or another person. See RCW 74.04.004.

**"Homeless"** means homeless as defined by the McKinney-Vento Homeless Assistance Act of 1987 without a fixed, regular, and adequate nighttime residence.

**"In-home/relative provider"** or (~~"license exempt provider,"~~ referred to in the collective bargaining agreement as) **"family, friends, and neighbors (FFN) provider"** (~~or "FFN provider,"~~ means a provider who meets the requirements in WAC 170 290 0130 through 170 290 0167)) means an individual who is exempt from child care licensing standards and is approved for working connections child care (WCCC) payment under WAC 110-15-0125.

**"In loco parentis"** means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

(~~"Intentional"~~ means the likelihood of willfulness or done on purpose.

~~"New child care provider"~~ means a licensed or certified provider who did not receive a state subsidy payment between July 1, 2015, and June 30, 2016.) **"Living in the household"** means people who reside at the same physical address.

**"Lump-sum payment"** means a single payment that is not anticipated to continue.

**"Night shift"** means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

**"Nonschool age child"** means a child who is six years of age or younger and is not enrolled in public or private school.

(~~"Phase out period"~~ means a three-month eligibility period a consumer may be eligible for at reapplication when the consumer's household income is greater than two hundred percent of the federal poverty guidelines (FPG) but less than two hundred twenty percent of the FPG.) **"Overpayment"** means a payment or benefits received by a provider or consumer that exceeds the amount the provider or consumer is approved for or eligible to receive.

**"Parental control"** means a child is living with a biological or adoptive parent, stepparent, legal guardian verifiable by a legal or court document, adult sibling or step-sib-

ling, nephew or niece, aunt, great-aunt, uncle, great-uncle, grandparent or great-grandparent, or an approved in loco parentis custodian responsible for exercising day-to-day care and control of the child.

**"Preschool age child"** means a child age thirty months through six years of age who is not attending kindergarten or elementary school.

**"Private school"** means a private school approved by the state under chapter 28A.195 RCW.

~~"Program violation"~~ means (~~an act contrary to program rules and regulations and includes~~) a failure to adhere to program requirements, which results in an overpayment.

**"Sanction"** means deterrent action imposed by the department to address a program violation finding.

**"SCC"** means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

**"School age child"** means a child who is between five years of age through twelve years of age and who is attending public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

**"Seasonally available agricultural related work"** means work that is directly related to the cultivation, production, harvesting, or processing of fruit trees or crops.

**"Second tier eligibility"** means an increased income limit for eligible families who reapply before the end of their current eligibility period.

**"Self-employment"** means engaging in any legal income generating activity that is taxable under the ((United States)) U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the ((United States)) U.S., as verified by Washington state business license, or a tribal, county, or city business or occupation license, as applicable, and a uniform business identification (UBI) number for approved self-employment activities that occur outside of the home. Incorporated businesses are not considered self-employment enterprises.

(~~"Suspected fraud"~~ means evidence supporting a finding of fraud. Suspected fraud can result in a criminal investigation by law enforcement.) **"Sign"** means placing a name or legal mark on a document by physically writing or using an electronic signature.

**"State median income"** means an annual income figure representing the point at which there are as many families earning more than that amount as there are earning less than that amount. The Census Bureau publishes median family income figures for each state each year, depending on family size.

**"TANF"** means temporary assistance for needy families, a cash assistance program administered by DSHS.

**"Technical assistance"** means a strategy that is focused on the resolution of a specific concern or need. This may be in writing or by phone call.

**"To the extent of available funds"** means one or more of the following:

(a) Limited or closed enrollment;



(b) Subject to a priority list for new enrollees pursuant to applicable state and federal law and as described in WAC 110-15-2210; or

(c) Subject to a waiting list.

"Unintentional" means not done willfully or on purpose.

"Waiting list" means a list of applicants or reapplicants eligible to receive subsidy benefits ~~((but))~~ when funding ~~((is not))~~ becomes available.

"WCCC" means the working connections child care program, ~~((which is))~~ a child care subsidy program described in part II of this chapter that assists eligible families ~~((in obtaining subsidy))~~ to pay for child care.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0005 Eligibility.** (1) **Consumer.** At application and reapplication, to be eligible for WCCC, the ~~((applicant or reapplicant))~~ consumer must:

(a) Have parental control of one or more eligible children;

(b) Live in the state of Washington;

(c) ~~((Be the child's:~~

(i) Parent, either biological or adopted;

(ii) Stepparent;

(iii) Legal guardian verified by a legal or court document;

(iv) Adult sibling or step-sibling;

(v) Nephew or niece;

(vi) Aunt;

(vii) Uncle;

(viii) Grandparent;

(ix) Any of the relatives in (c)(vi), (vii), or (viii) of this subsection with the prefix "great," such as great aunt; or

(x) An approved in loco parentis custodian responsible for exercising day-to-day care and control of the child and who is not related to the child as described above;

(d) Participate in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or have been approved per WAC 170-290-0055;

(e) ~~Comply with any))~~ Participate in an approved activity or meet the eligibility special circumstances ~~((that might affect WCCC eligibility under WAC 170-290-0020))~~ requirements under WAC 110-15-0020;

~~((f))~~ (d) Have countable income at or below two hundred percent of the federal poverty guidelines (FPG) and have resources under one million dollars per WAC ~~((170-290-0022;~~

(g) The consumer's eligibility shall end if the consumer's countable income is greater than eighty-five percent of the state median income or if resources exceed one million dollars;

(h) Complete the WCCC application and DSHS verification process provided in WAC 170-290-0012 regardless of other program benefits or services received;

(i) Effective March 1, 2018, certify under penalty of perjury, the applicant's or reapplicant's status as:

(i) Married;

(ii) Unmarried and living with the parent of any child in the household; or

(iii) Single parent not living with the parent of any child in the household.

~~((j))~~ Meet eligibility requirements for WCCC described in Part II of this chapter.) 110-15-0022; and

~~((e))~~ Have an agreed payment arrangement with any provider to whom any outstanding WCCC copayment is owed.

(2) **Children.** To be eligible for WCCC, ~~((the))~~ a child must:

(a) Belong to one of the following groups as defined in WAC 388-424-0001:

(i) A U.S. citizen;

(ii) A U.S. national;

(iii) A qualified alien; or

(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005~~((;))~~.

~~((b))~~ ~~((Live))~~ Legally reside in Washington state, ~~((and be: (i)))~~ which will be determined by applying the criteria of WAC 388-424-0001 or 388-468-0005; and

~~((c))~~ Be less than thirteen years of age on the first day of eligibility; or

~~((d))~~ Be less than nineteen years of age, and:

~~((A))~~ (i) Have a verified special need, according ~~((WAC 170-290-0220))~~ to WAC 110-15-0020; or

~~((B))~~ (ii) Be under court supervision.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0012 Verifying consumers' information.** (1) ~~((When a consumer initially applies or reapplies for benefits;))~~ DSHS may require~~((s))~~ the consumer to provide verification of child care subsidy eligibility if ~~((the department))~~ DSHS is unable to verify it through agency records or systems~~((;~~

(2) During the consumer's eligibility period, DSHS will request verification for changes that may affect the consumer's benefit amount or eligibility when the department is unable to verify through agency records or systems if:

(a) The consumer reports a change;

(b) DSHS discovers the consumer's circumstances have changed; or

(c) The information DSHS has is questionable or outdated.

~~((3))~~ DSHS notifies the consumer when verification is required.

~~((4))~~ DSHS may accept verification to support the consumer's statement of circumstances. The verification the consumer gives DSHS must:

(a) Clearly relate to what the consumer is trying to provide;

(b) Be from a reliable source; and

(c) Be accurate, complete, and consistent.

(5) When the consumer gives DSHS questionable verification DSHS will:

~~((a))~~ The information and verification provided to DSHS from the consumer must:

(a) Clearly relate to the request made by DSHS;

(b) Be from a reliable source;

(c) Be accurate and complete; and

(d) If DSHS has reasonable cause to believe the information and verification the consumer provides is unreliable, inaccurate, incomplete, or inconsistent, DSHS may:

(i) Ask the consumer to provide ~~((DSHS with more))~~ additional verification ~~((or provide a collateral contact (a "collateral contact" is))~~ that may include a statement from ~~((someone))~~ a person who lives outside of the consumer's residence ~~((that))~~ who knows the consumer's ~~((situation)); or~~

~~((b)))~~ circumstances;

(ii) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. Consumer's rights are found in WAC ~~((170-290-0025.~~

~~((6))~~ At the time of application, reapplication, or when changes are reported, DSHS will verify the following:

~~((a))~~ The consumer's Washington residency;

~~((b))~~ That the consumer has parental control of an eligible child per WAC 170-290-0005;

~~((c))~~ The consumer's household composition:

~~((i))~~ DSHS will compare the consumer's statement of household composition against records for that consumer under TANF, food assistance, medical assistance, and child support services;

~~((ii))~~ If the consumer's statement of household composition is questionable when compared against records for that consumer under TANF, food assistance, medical assistance, and child support services, DSHS may take the action described in subsection (5) of this section; and

~~((iii))~~ Effective March 1, 2018, if the consumer is the only parent named on the benefits application and DSHS is unable to verify household composition in agency records under TANF, food assistance, medical assistance, or child support services, then the consumer must:

~~((A))~~ Provide the name and address of the other parent, or indicate, under penalty of perjury, that the other parent's identity and address are unknown to the applicant or that providing this information will likely result in serious physical or emotional harm to the consumer or anyone residing with the consumer; and

~~((B))~~ Indicate under penalty of perjury whether the parent is present or absent in the household;

~~((d))~~ Whether the consumer is participating in an approved activity, including the consumer's income and schedule from the approved activity;

~~((e))~~ Whether the consumer complies with applicable eligibility rules in WAC 170-290-0020;

~~((f))~~ Other income and countable resources under WAC 170-290-0005;

~~((g))~~ If any other parent, as determined in WAC 170-290-0015, is in the household, the same information in (a) through (g) of this subsection is verified for that parent; and

~~((h))~~ The citizenship or alien status of a child receiving child care subsidies.

~~((7))~~ If DSHS requires verification from a consumer that costs money, DSHS must pay for the consumer's reasonable costs.

~~((8))~~ DSHS does not pay for)) 110-15-0025; or

(ii) Deny the application, request for reduced copay, or request for additional child care.

(2) Gross income of consumers with more than ninety days of employment must be employer-verified. If the consumer has less than ninety days of employment, the consumer must provide verification from the employer within sixty days from the approval date.

(3) DSHS may only request verification for changes during the family's eligibility period that reduce a copayment or increase the authorized amount of care, if agency records or systems cannot provide verification.

(4) If DSHS is unable to verify household composition of a single-parent household through agency records, the single-parent consumer must provide the name and address of the child's other parent, or declare, under penalty of perjury:

(a) That the other parent's identity and address are unknown to the consumer; or

(b) That providing this information will likely result in serious physical or emotional harm to the single-parent consumer or another person residing with the single-parent consumer; and

(c) Whether the other parent is present or absent in the household.

(5) DSHS will pay for requested verification that requires payment; however, this does not include payment for a self-employed consumer's state business registration or license, which is a cost of doing business.

~~((9))~~ If a consumer does not provide all of the verification requested within thirty days from the application date, DSHS will determine the consumer's eligibility based on the information already available to DSHS. DSHS shall deny the application or reapplication if the available information does not confirm eligibility.)

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0020 Eligibility—Special circumstances.** (1) ~~((At application, reapplication and change reporting;~~

~~((a))~~ A consumer is not eligible for WCCC benefits for the consumer's children when child care is provided at the same location where the consumer works.

~~((b)))~~ A legal guardian ~~((under WAC 170-290-0005))~~ or individual acting in loco parentis may ~~((receive))~~ be eligible for WCCC benefits ~~((for))~~ based on participation in approved activities without ~~((the))~~ consideration of the legal guardian's or individual's acting in loco parentis spouse or live-in partner's availability to provide care ~~((being considered unless))~~ if the spouse or live-in partner is ~~((also))~~ not named on the permanent custody order.

~~((i))~~ (a) Eligibility ~~((for WCCC benefits is))~~ will be determined under this subsection based on the following:

~~((A))~~ (i) The consumer's work or approved activities schedule;

~~((B))~~ (ii) The child's need for care;

~~((C))~~ (iii) The child's income ~~((eligibility));~~ and

~~((D))~~ (iv) Family size based on the number of children under guardianship and needing care.

~~((i))~~ (b) The consumer's spouse or live-in partner is not eligible to receive subsidized child care payments as a child care provider for the child.

~~((e))~~ An in loco parentis custodian may be eligible for WCCC benefits when he or she cares for an eligible child in the absence of the child's legal guardian or biological, adoptive or stepparents:

(i) An in loco parentis custodian who is not related to the child as described in WAC 170-290-0005(1) may be eligible for WCCC benefits if he or she:

(A) Has a written, signed agreement between the parent and the caregiver assuming custodial responsibility; or

(B) Receives a TANF grant on behalf of the eligible child.

(ii) Eligibility for WCCC benefits is based on:

(A) The consumer's work schedule;

(B) The child's need for care;

(C) The child's income eligibility; and

(D) Family size based on number of children under in loco parentis and needing care.

~~((iii))~~ The consumer's spouse or live-in partner is not eligible to receive subsidized child care payments as a child care provider for the child.)

(2) **At application and reapplication:**

(a) ~~((A))~~ A consumer may be eligible for WCCC benefits while working in a child care center if the consumer does not provide direct care in the same classroom to the consumer's children during work hours.

~~(b))~~ A consumer is not eligible for WCCC benefits while working in a family home child care where the consumer's children are also receiving subsidized child care.

~~(c))~~ In home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care.

~~(d))~~ A consumer may be eligible for WCCC benefits if the consumer is a parent in a two-parent family and one parent is not able or available as defined in WAC ~~((470-290-0003))~~ 110-15-0003 to provide care for the children while the other parent is working or participating in approved activities.

~~((e))~~ (b) If a consumer claims one parent is not able to care for the children due to a medical condition, the consumer must provide written documentation from an acceptable medical source ~~((see))~~, as defined in WAC 388-449-0010~~((j))~~, that states the:

(i) Reason the parent is not able to care for the children;

(ii) Expected duration and severity of the condition that keeps the parent from caring for the children; and

(iii) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing he or she is cooperating with treatment and is still not able to care for the children.

~~((f))~~ A consumer is not eligible for WCCC benefits when the consumer is the only parent in the family and will be away from the home for more than thirty days in a row.)

(3) A consumer may be eligible for WCCC if the consumer is participating in an approved activity needed to

remove a sanction penalty or to reopen the consumer's Work-First case.

~~(4))~~ ~~((A))~~ A child care provider who receives TANF benefits on behalf of a dependent child may not bill the state for subsidized child care for that same child.

~~(5))~~ When a consumer's monthly copayment is higher than the state maximum rate including any special needs payments for all of the consumer's children in care under WAC 170-290-0005:

(a) The consumer's eligibility period may continue; and

~~(b))~~ DSHS will not authorize payment to the provider until the copayment becomes lower than the state maximum rate including any special needs payments for all of the consumer's children in care under WAC 170-290-0005.) A consumer whose application for TANF has not yet been approved, may be authorized for WCCC benefits for fourteen days pending establishment of an individual responsibility plan (IRP) with an approved activity. The fourteen days counts as part of the twelve-month eligibility period.

(5) A consumer who has an established IRP under WAC 110-15-0040 may be approved for WCCC benefits fourteen days before the start date of the activity. The fourteen days counts as part of the twelve-month eligibility period.

(6) A consumer who is waiting to enter into an approved activity under WAC 110-15-0045 may be approved for WCCC benefits fourteen days before the start date of the activity. The fourteen days counts as part of the twelve-month eligibility period.

#### NEW SECTION

**WAC 110-15-0021 Eligibility—Exclusions.** At application and reapplication:

(1) A consumer is not eligible for WCCC benefits for any child who receives care from a licensed family home child care in which the consumer works.

(2) A consumer is not eligible for WCCC benefits for a child who receives care from a child care center in a classroom in which the consumer provides direct care.

(3) A consumer is not eligible for WCCC benefits when the consumer is the only parent in the family and will be away from the home for more than thirty consecutive days.

(4) A consumer who is also an in-home/relative child care provider is not eligible to receive WCCC benefits for the consumer's own children for the same hours the consumer receives WCCC payments to care for other children.

(5) A consumer who is also a child care provider and receives TANF benefits on behalf of a child is not eligible to receive WCCC payments for the same child.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0030 Consumers' responsibilities.** When a person applies for or receives WCCC benefits, as a condition of receiving those benefits, the applicant or consumer must ~~((as a condition of receiving those benefits))~~:

(1) Give DSHS correct and current information so DSHS can determine eligibility and authorize child care payments correctly;

(2) Choose a provider who meets the requirements of WAC ~~((170-290-0125))~~ 110-15-0125;

(3) Pay the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(4) ~~((In cases of overdue or past due copayments, the consumer, as a condition of maintaining eligibility,))~~ If the consumer or a third-party acting on behalf of the consumer fails to make a copayment when due, the consumer must do one or more of the following:

(a) Pay the child care provider the past ~~((or overdue))~~ due copayments;

(b) ~~((Give))~~ Provide DSHS with a ~~((written))~~ signed copy of a payment agreement between the consumer and child care provider ~~((and consumer to verify that copayment arrangements include one or more of))~~ that includes, but is not limited to, the following information:

(i) ~~((An installment))~~ A description of the agreed payment plan;

(ii) If applicable, a description of any collection agency action that may be taken by the provider if the consumer fails to comply with the agreed payment plan;

(iii) If applicable, a description of in-kind services in lieu of paying the copayment; ~~((or))~~ and

(iv) If applicable, payment forgiveness ~~((of the copayment))~~ from the provider~~((or))~~.

(c) Provide DSHS proof that the consumer ~~((has))~~ attempted to ~~((pay))~~ make a copayment to ~~((a licensed))~~ the provider ~~((who))~~, but the licensed provider is no longer in business or ~~((a))~~ the license-exempt in-home/relative provider ~~((who is))~~ no longer ~~((providing))~~ provides child care. "Proof" includes, but is not limited to, a return receipt associated with a payment that was mailed to the provider that indicates the mailed payment was signed for ~~((and not responded to))~~ but not picked up, or a returned ~~((document))~~, previously mailed payment that was not ~~((picked up;))~~ signed for or accepted.

(5) Pay the provider for child care services when the consumer requests additional child care beyond the current authorization;

(6) Pay the provider for optional child care programs that the consumer requests. The provider must have a written policy in place charging all families for these optional child care programs;

(7) Pay the provider the same late fees that are charged to other families, if the consumer ~~((pays))~~ makes a late copayment ~~((late))~~ or picks up the child late;

(8) ~~((Ensure that care is provided in the correct home per WAC 170-290-0130 if the consumer uses an in-home/relative provider, and monitor the in-home/relative provider's quality of care to ensure that the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs are being met;))~~

~~((9))~~ Cooperate (provide the information requested) with the child care subsidy audit process. If the consumer does not provide the information requested:

(a) A consumer becomes ineligible for WCCC benefits upon a determination of noncooperation;

(b) The consumer remains ineligible until he or she meets child care subsidy audit requirements;

(c) The consumer may become eligible again when he or she meets WCCC requirements in part II of this chapter and cooperates;

(d) Care can begin on or after the date the consumer cooperated and meets WCCC requirements in part II of this chapter.

~~((10))~~ (9) Provide the information requested by the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it ~~((could))~~ may affect the consumer's benefits;

~~((11))~~ (10) Document ~~((their))~~ the child's attendance in child care, or have a person authorized by the consumer to document the child's attendance, by ~~((having the consumer or other person authorized by the consumer to take the child to or from the child care))~~;

(a) Signing the child in on arrival and out at departure, using a full signature and writing the time of arrival and departure, if the provider uses a paper attendance record ~~((; sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure))~~; or

(b) ~~((Record))~~ Electronically recording the child's attendance ~~((using an electronic system if))~~ as instructed, if an electronic system is used by the provider ~~((;))~~

~~((12))~~ Provide the in-home/relative provider the names, addresses, and telephone numbers of persons who are authorized to pick up the child from care; and

~~((13))~~.

(11) Ensure that ~~((their))~~ the consumer's children who receive child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

(12) Ensure that care is provided in the correct home as required by WAC 110-16-0015(3) if the consumer uses an in-home/relative provider, and monitor the in-home/relative provider's quality of care to ensure that the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs are being met;

(13) Provide the in-home/relative provider with the names, addresses, and telephone numbers of persons who are authorized to pick up the child from care; and

(14) Provide other information and resources as necessary for the consumer's in-home/relative provider to be in compliance with the requirements of chapter 110-16 WAC including, but not limited to, WAC 110-16-0030 and 110-16-0035.

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0031 Notification of changes.** (1) ((When a consumer applies for or receives)) Consumers applying for or receiving WCCC benefits ~~((, he or she))~~ must:

~~(a) ((Report to DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about his or her in-home/relative provider;~~

~~(b) Report to DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about anyone sixteen years of age or older who lives with the provider when care occurs outside of the child's home;~~

~~(e)) Notify DSHS((;)) within five days((;)) of:~~

~~(i) Starting care with a provider; or~~

~~(ii) Any change in providers((;))~~

~~(d))~~.

~~(b) Notify DSHS, within ten days, of:~~

~~(i) Changes of the address ((and)) or telephone number of the consumer's in-home/relative provider;~~

~~((e) Notify DSHS, within ten days;)) (ii) Changes of the consumer's home address or telephone number;~~

~~(iii) Changes that increase the number of hours of authorized care;~~

~~(iv) When the consumer's countable income increases and exceeds eighty-five percent of state median income ((as provided in WAC 170-290-0005;~~

~~(f) Notify DSHS, within ten days;)) or~~

~~(v) When the consumer's countable resources exceed one million dollars ((as provided in WAC 170-290-0005;~~

~~(g) Notify the consumer's provider, within ten days, when DSHS changes the consumer's child care authorization; and~~

~~(h) Notify DSHS, within ten days, when the consumer's home address or telephone number changes.~~

~~(2) When a consumer receives WCCC benefits, he or she may notify DSHS when:~~

~~(a) The number of child care hours the consumer needs increases;~~

~~(b) The household income changes, which may lower the consumer's copayment under WAC 170-290-0085;~~

~~(c) The household size increases, which may lower the copayment; or~~

~~(d) The consumer's legal obligation to pay child support increases, which may lower the copayment.~~

~~(3) Effective dates of changes are as follows:~~

~~(a) Copayment changes are effective as provided in WAC 170-290-0085;~~

~~(b) Changes under subsection (1)(c) and (d) of this section are effective:~~

~~(i) The date of change, if reported within five days; or~~

~~(ii) The date the change was reported, if not reported within five days.~~

~~(c) Changes to consumer information described in WAC 170-290-0012 are effective:~~

~~(i) The date the change was reported, if reported within ten days from the date of change or if received within ten days from the date of request for verification; or~~

~~(ii) The date verification is received, if verification is not received within ten days from the date the change is reported or if not received within ten days from the request of verification)).~~

~~(c) The effective date of the change is:~~

~~(i) The date of the change when the consumer reports timely and provides required verification within the requested time frame;~~

~~(ii) The date the change is reported when the consumer does not report timely and provides required verification within the requested time frame; or~~

~~(iii) The date the verification is received when it is not returned within the requested time frame.~~

~~(d) When required changes are timely reported, an overpayment will not be established.~~

~~(e) When required changes are not timely reported, an overpayment may be established as provided in WAC 110-15-0271.~~

~~(2) When a consumer reports a change that will decrease their copayment, the date of change for the copayment is described in WAC 110-15-0085.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0035 DSHS's responsibilities to consumers.** DSHS is responsible to:

(1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;

(2) Determine a consumer's eligibility within thirty days from the date the consumer applied (application date as described in WAC ((170-290-0095)) 110-15-0095). Under WAC ((170-290-0012-(5)(e)(ii))) 110-15-0012, a determination made within thirty days of application using self-attestation of new employment wages is compliant with this subsection even if third-party verification is provided more than thirty days after the date of application;

(3) Allow a consumer to choose his or her provider as long as the provider meets the requirements in WAC ((170-290-0125)) 110-15-0125;

(4) ((Review a consumer's chosen in-home/relative provider's background check results;

(5)) Authorize payments only to child care providers who allow a consumer to access his or her children whenever they are in care;

((6)) (5) Authorize payment when no adult in a consumer's family (under WAC ((170-290-0015)) 110-15-0015) is able or available (under WAC ((170-290-0003)) 110-15-0003) to care for the consumer's children at application and reapplication;

((7)) (6) Inform a consumer of:

(a) His or her rights and responsibilities under the WCCC program at the time of application and reapplication;

(b) The types of child care providers DSHS can pay;

(c) The community resources that can help a consumer select child care when needed; and

(d) Any change in a consumer's copayment during the authorization period except under WAC ((170-290-0120(5))) 110-15-0120(5).

((8)) (7) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:

(a) WCCC eligibility;

(b) Copayment; or

(c) Providers.

((9)) (8) Provide prompt child care payments to a consumer's child care provider;

~~((10))~~ (9) Provide an interpreter or translator service within a reasonable amount of time and at no cost to the consumer;

~~((11) Ensure that Social Security cards, driver's licenses, or other government issued identification for in-home/relative providers are valid and verified; and~~

~~(12) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations:))~~ (10) Provide consumers with at least ten days written notice for changes to WCCC eligibility, provider payments, or when DSHS requires a change in child care arrangements.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0045 Approved activities for applicants and consumers not participating in WorkFirst.** Applicants and consumers not participating in WorkFirst activities may be eligible for WCCC benefits for approved activities as described below.

~~(1) ((General requirements for employment, self-employment, or Supplemental Nutrition Assistance Program employment and training (SNAP E&T) programs. An applicant or consumer may be eligible for WCCC benefits for up to a maximum of sixteen hours per day, including travel, study, and sleep time before or after a night shift, when he or she is:))~~ **Applicants and consumers who are:**

(a) Employed (~~(under WAC 170-290-0003);~~);

(b) Self-employed (~~(under WAC 170-290-0003);~~); or

(c) Participating in the ~~((SNAP E&T program under chapter 388-444 WAC))~~ supplemental nutrition assistance program employment & training services (SNAP E&T) may be eligible for WCCC benefits for up to a maximum of sixteen hours per day, including travel, study, and sleep time before or after a night shift.

(2) **Special requirements for education.**

(a) An applicant or consumer who is under twenty-two years of age;

(i) May be eligible for WCCC benefits for high school (HS) or general educational development (GED) program without a minimum number of employment hours.

(ii) May be eligible for WCCC benefits for up to thirty-six months during the consumer's lifetime for participation in vocational education. The consumer must work either an average of twenty or more hours per week of unsubsidized employment or an average of sixteen or more hours per week in a paid federal or state work study program. The vocational education program must lead to a degree or certificate in a specific occupation and be offered by the following accredited entities only:

(A) Public and private technical college or school;

(B) Community college; or

(C) Tribal college.

(b) An applicant or consumer who is twenty-two years of age or older:

(i) May be eligible ((to receive general education and training benefits under this subsection)) for WCCC benefits up to twenty-four months during the consumer's lifetime for participation in high school/general education development,

adult basic education (ABE) or English as a second language (ESL). The consumer must work either((:

~~(A))~~ an average of twenty or more hours per week of unsubsidized employment((;)), or ~~((B))~~ an average of sixteen or more hours per week in a paid federal or state work study program((;)).

(ii) ~~((Is limited to up to twenty-four months of WCCC benefits during the consumer's lifetime for participation in:~~

~~(A) Adult basic education (ABE);~~

~~(B) English as a second language (ESL); or~~

~~(C) High school/general educational development (GED) completion; and~~

~~(iii) Is limited to up to thirty-six months of))~~ May be eligible for WCCC benefits up to thirty-six months during the consumer's lifetime for participation in vocational education. The consumer must work either an average of twenty or more hours per week of unsubsidized employment, or an average of sixteen or more hours per week in a paid federal or state work study program. The vocational education program must lead to a degree or certificate in a specific occupation and be offered by the following accredited entities only:

(A) Public and private technical college or school;

(B) Community college; or

(C) Tribal college(~~(; and~~

~~(iv) Is limited to up to ten hours per week of))~~;

(c) An applicant or consumer may be eligible for WCCC benefits up to ten hours per week for study time for approved classes. ((Approved classes include classroom, labs, online class and unpaid internships required by the vocational educational program.))

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0050 Additional requirements for self-employed WCCC consumers.** (1) **Self-employment generally.** To be considered self-employed, a WCCC consumer must:

(a) Earn income directly from the consumer's trade or business, not from wages paid by an employer;

(b) Be responsible to pay the consumer's self-employment Social Security and federal withholding taxes;

(c) Have a work schedule, activities or services that are not controlled in an employee-employer relationship;

(d) Participate directly in the production of goods or services that generate the consumer's income.

(2) **Home-based business.** Child care (~~((may))~~ must not occur in the home of a consumer who operates a home-based business.

(3) **Self-employed consumers receiving TANF.** If a consumer receives TANF and is also self-employed, he or she may be eligible for WCCC benefits ~~((for up to sixteen hours in a twenty-four hour period.))~~ as determined by the following:

(a) The consumer must have an approved self-employment plan in the consumer's ~~((IRP under WAC 388-310-1700))~~ individual responsibility plan as outlined in chapter 388-310 WAC;

(b) The ~~((amount))~~ number of hours of WCCC benefits a consumer receives for self-employment is equal to the number of hours in the consumer's approved plan; and

(c) Income from self-employment while the consumer is receiving TANF is determined by WAC 388-450-0085.

(4) **Self-employed consumers not receiving TANF.** If a consumer does not receive TANF and requests WCCC benefits for the consumer's self-employment, the consumer may be eligible for WCCC benefits for up to sixteen hours in a twenty-four-hour period.

(a) A consumer who does not receive TANF cash assistance and requests WCCC benefits for self-employment must provide DSHS with the consumer's:

(i) Washington state business license~~((;))~~ or a tribal, county, or city business or occupation license, as applicable;

(ii) Uniform business identification (UBI) number for the state of Washington, or, for self-employment in bordering states, the registration or filing number;

(iii) Completed self-employment plan that is written, signed, dated, and includes, but is not limited to, a description of the self-employment business, proposed days and hours of work activity, including time needed for transportation, and the location of work activity;

(iv) Projected profit and loss statement~~((, if starting))~~ for a new business that has yet reported taxable income; and

(v) ~~((For established businesses, either))~~ Federal self-employment tax or state tax reporting forms for the most current reporting year ~~((or a profit and loss statement))~~ for an established business.

(b) At application and reapplication, the number of WCCC hours a self-employed consumer is eligible to receive during the first six consecutive months of ((starting)) a new ((self-employment)) business~~((, the number of hours a consumer is eligible to receive))~~ is based on the consumer's report of how many hours are needed, up to sixteen hours per day. A consumer is eligible to receive ~~((this provision))~~ these starting-business WCCC benefits only once during the consumer's lifetime ~~((and must use the benefit provided by this provision within the consumer's authorization period))~~.

(c) At application and reapplication, DSHS determines the number of care hours the consumer is eligible to receive after receiving WCCC self-employment ~~starting-business~~ benefits ~~((for six consecutive months))~~ as provided in (b) of this subsection by:

(i) Dividing the consumer's ~~((gross))~~ net monthly self-employment income, after allowable expenses or the standard one hundred dollar deduction, by the federal or state minimum wage, whichever is lower, to determine the average monthly hours of care needed by the consumer; and

(ii) Adding the consumer's additional approved employment, education, training, or travel hours to the total approved self-employment hours.

(d) If both parents in a two-parent family are self-employed~~((;))~~ at the same or a different business, each parent must provide a self-employment plan and self-employment income verification. If the requested verification is not provided, ~~((then WAC 170-290-0012))~~ WAC 110-15-0012 applies to determining eligibility.

(e) Self-employment income is calculated by subtracting either a standard one hundred dollar deduction or allowable

business expenses from the consumer's gross monthly self-employment income.

The following expenses are not allowable:

(i) Federal, state, and local income taxes;

(ii) Money set aside for retirement purposes;

(iii) Personal work-related expenses (including travel to and from work);

(iv) Net losses from previous periods;

(v) Depreciation; or

(vi) Any amount greater than the payment from a boarder for lodging and meals.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0060 Countable income.** DSHS counts income as money an applicant or consumer earns or receives ~~((themselves))~~ him or herself, or on behalf of the child from:

(1) A TANF grant, except when the grant is for the first three consecutive calendar months after the consumer starts a new job. The first calendar month is the month in which he or she starts working;

(2) ~~((The following))~~ Child support ~~((payment amounts:~~

~~(a) For applicants or consumers who are not receiving DSHS division of child support services, the amount as shown on a current court or administrative order;~~

~~(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;~~

~~(c) For applicants or consumers who have an informal verbal or written child support agreement, the amount verified by a written agreement signed by the noncustodial parent (NCP);~~

~~(d) For applicants or consumers who cannot provide a written agreement signed by the NCP, the amount received for child support verified by a written statement from the consumer that documents why they cannot provide the statement from the NCP.)~~ received;

(3) Supplemental security income (SSI);

(4) ~~((Other))~~ Social Security ~~((payments, such as SSA and SSI))~~ income;

(5) Refugee assistance payments;

(6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);

(7) Unemployment compensation, except as required under RCW ~~((43.215.1351))~~ 43.216.137;

(8) Other types of income not listed in WAC ~~((170-290-0070))~~ 110-15-0070;

(9) Taxable income from VISTA ~~((volunteers)), AmeriCorps, and Washington Service Corps~~ ~~((WSC) if the income is taxed:~~

~~(a) Verify if AmeriCorps has child care services available.~~

~~(b) If the consumer is using the AmeriCorps child care services, they are not eligible for WCCC.)~~ programs;

(10) Taxable gross wages from employment or self-employment ~~((as defined in WAC 170-290-0003. Gross wages includes any wages that are taxable));~~

(11) Corporate compensation received by or on behalf of the consumer, such as rent, living expenses, or transportation expenses;

(12) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(13) Income for the sale of property as follows:

(a) If a consumer sold the property before application, DSHS considers the proceeds an asset and does not count as income;

(b) If a consumer sold the property in the month the consumer applies or during the consumer's eligibility period, DSHS counts it as a lump sum payment as described in WAC ~~((170-290-0065(2)))~~ 110-15-0065(2);

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0065 Calculation of income.** DSHS uses a consumer's countable income when determining income eligibility and copayment. A consumer's countable income is the sum of all income listed in WAC ~~((170-290-0060))~~ 110-15-0060 minus any child support paid out through a court order, division of child support administrative order, or tribal government order.

(1) To determine a consumer's income, DSHS either:

(a) Calculates an average monthly income by:

(i) Determining the number of months, weeks or pay periods it took the consumer's WCCC household to earn the income; and ~~((ii))~~ dividing the income by the same number of months, weeks or pay periods~~((i-ii))~~;

(ii) If the past wages are no longer reflective of the current income, DSHS may accept the employer's statement of current, anticipated wages for future income determination.

(b) When the consumer begins new employment and has less than three months of wages, DSHS uses the best available estimate of the consumer's WCCC household's current income:

(i) As verified by the consumer's employer; or

(ii) As provided by the consumer through a verbal or written statement documenting the new employment at the time of application, reapplication or change reporting, and wage verification within sixty days of DSHS request.

(2) If a consumer receives a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during the consumer's WCCC eligibility:

(a) DSHS calculates a monthly amount by dividing the lump sum payment by twelve;

(b) DSHS adds the monthly amount to the consumer's expected average monthly income:

(i) For the month it was received; and

(ii) For the remaining months of the current eligibility period; and

(c) To remain eligible for WCCC the consumer must meet WCCC income guidelines after the lump sum payment is applied.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0085 Change in copayment.** (1) A consumer's copayment may change when:

(a) The consumer's monthly income decreases;

(b) The consumer's family size increases and causes the copayment to decrease;

(c) DSHS makes an error in the consumer's copayment computation;

(d) The consumer did not report all income, activity and household information at the time of application, reapplication, or when reporting a change in circumstances;

(e) The consumer is no longer eligible for the minimum copayment under WAC ~~((170-290-0090))~~ 110-15-0090;

(f) ~~((DEL))~~ DCYF or DSHS makes a ((mass)) system-level change in benefits due to a change in law or program funding; or

(g) The consumer is approved for a new eligibility period.

(2) Copayment changes are effective on the first day of the month ~~((immediately following the date the copayment change was made.~~

(3) DSHS does not increase)) after a change is reported and required verification is timely received.

(3) Copayment changes are effective on the first day of the month following the month the verification is received when the required verification is not timely received.

(4) A consumer's copayment will not be increased during ((the)) a current eligibility period ((when countable income remains at or below the maximum eligibility limit as provided in WAC 170-290-0005.

(4) DSHS does not prorate the copayment)).

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0095 When WCCC benefits start.** (1) WCCC benefits for an eligible consumer ~~((may))~~ begin when the following conditions are met:

(a) The consumer has completed the required WCCC application and verification process ~~((as described under WAC 170-290-0012))~~ within thirty days of the date DSHS received the consumer's application for WCCC benefits ~~((; except in the case of new employment or new non-TANF activities. In those cases, under WAC 170-290-0012 and 170-290-0014, the consumer must provide third-party verification within sixty days of DSHS approving the application or reapplication)); and~~

(b) The consumer is working or participating in an approved activity ~~((under WAC 170-290-0040, 170-290-0045, 170-290-0050 or 170-290-0055; and~~

(e) The consumer needs child care for approved activities within at least thirty days of the date of application for WCCC benefits)).

(2) If a consumer fails to ~~((turn in all information))~~ complete the initial application within thirty days from the application date, the consumer must restart the application process ~~((; except in the case of new employment or new non-TANF activities. In those cases, under WAC 170-290-0012 and 170-290-0014, the consumer must provide third-party~~



verification within sixty days of DSHS approving the application or reapplication).

(3) The consumer's application date is whichever of the following is earlier:

(a) The date the consumer's application is entered into DSHS's automated system; or

(b) The date the consumer's application is date stamped as received.

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0106 When provider payments start.**

The provider is eligible to receive payment when both of the following are met:

(1) The consumer has chosen the eligible provider (under WAC ~~(170-290-0125)~~ 110-15-0125) and the provider is caring for the children during an eligibility period; and

(2) DSHS notifies the provider that the consumer is eligible.

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0107 Denial of benefits—Date of retermining eligibility.** (1) DSHS sends a ~~((consumer a))~~ denial letter when the consumer has applied for child care and the consumer:

~~((1))~~ (a) Withdraws the request;

~~((2))~~ (b) Is not eligible due to the consumer's:

~~((a))~~ (i) Family composition;

~~((b))~~ (ii) Income; ~~((or~~

~~((c))~~ (iii) Outstanding unpaid copayment; or

(iv) Approved activity~~(-~~

~~(3))~~; or

(c) Did not provide information required to determine the consumer's eligibility ~~((according to WAC 170-290-0012))~~ under WAC 110-15-0012 within thirty days~~(-~~

~~(4))~~.

(2) If a consumer ~~((turns in))~~ provides information or otherwise meets eligibility requirements after DSHS sends the consumer a denial letter, DSHS ~~((determines))~~ will determine when the consumer's benefits may begin ~~((date))~~, as provided in WAC ~~((170-290-0095))~~ 110-15-0095.

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0109 Reapplication.** (1) ~~((If a consumer wants to receive))~~ To request WCCC benefits be continued uninterrupted ~~((child care benefits for another))~~ beyond the consumer's current eligibility period, the consumer must reapply for WCCC benefits with DSHS on or before the end of the current eligibility period. ~~((To determine if a consumer is eligible, DSHS:~~

~~((a) Requests reapplication information))~~

(2) Determination of the consumer's eligibility to receive uninterrupted WCCC benefits beyond the consumer's current eligibility period will be made pursuant to the eligibility rules contained in this chapter.

(3) A consumer who reapplies on or before the end date of the ~~((consumer's))~~ current WCCC eligibility period~~(-~~ and

~~((b) Verifies the requested information for completeness and accuracy.~~

(2) A consumer may be eligible for WCCC benefits for a new eligibility period if:

(a) DSHS receives the consumer's reapplication information no later than the last day of the current eligibility period;

(b) The consumer's provider is eligible for payment under WAC 170-290-0125; and

(c) The consumer meets all WCCC eligibility requirements.

(3) Effective October 1, 2016, if a) may receive continued uninterrupted benefits through second tier eligibility if the consumer's household has countable income greater than two hundred percent ~~((of the federal poverty guidelines (FPG)))~~ but less than two hundred twenty percent of the ~~((FPG, the consumer may be eligible for a three-month eligibility period called Income Phase-Out. In determining eligibility for the Income Phase-Out period, the following rules apply:~~

(a) All countable income must be) federal poverty guidelines (FPG).

(a) If the countable income is equal to or greater than ~~((two hundred percent of the FPG and less than))~~ two hundred twenty percent ~~((of the FPG. If the countable income is equal to or greater than two hundred twenty percent of the))~~ FPG, ~~((DSHS denies))~~ the reapplication~~(-~~

(b) DSHS applies all other eligibility criteria for a reapplication, with the exception of income as described above;

(c) There is no break between the twelve-month eligibility period and the Income Phase-Out period;

(d) DSHS calculates the consumer's copayment at two hundred percent of the FPG of countable household income;

(e) DSHS certifies the consumer for a three-month eligibility period;

(f) The consumer will need to reapply for a new twelve-month certification period if the consumer's household income falls below two hundred percent of the FPG during or at the end of the three-month Income Phase-Out period; and

(g) The consumer will not be eligible for a second, back-to-back Income Phase-Out period if the countable income of the consumer's household remains equal to or greater than two hundred percent of the FPG and less than two hundred twenty percent of the FPG at the end of the first three-month Income Phase-Out period.

(4) If DSHS determines that a consumer is eligible for WCCC benefits based on reapplication information, DSHS notifies the consumer of the new eligibility period and copayment.

~~((5) When))~~ will be denied.

(b) The copayment for a second tier eligible consumer will be determined at two hundred percent of the FPG of countable household income.

(4) If a consumer submits a reapplication after the last day of the current eligibility period and meets all WCCC eligibility requirements, the consumer's benefits will begin:

(a) On the date ~~((that))~~ the consumer's reapplication is entered into DSHS's automated system or the date the consumer's reapplication is date-stamped as received ~~((if~~

DSHS's community service office or entered into the DSHS automated system)) by DSHS, whichever date is earlier;

(b) When the consumer is working or participating in an approved activity; and

(c) The consumer's child is ~~((being cared for by an eligible WCCC))~~ receiving care from an approved provider.

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0110 Termination of and redetermining eligibility for benefits.** (1) ~~((DSHS stops))~~ A consumer's eligibility for WCCC benefits ~~((when))~~ is terminated if the consumer ~~((does not))~~ fails to:

(a) Comply with the ~~((copayment))~~ requirements of WAC ~~((170-290-0030 (3) and (4)))~~ 110-15-0030;

(b) ~~((Complete the requested application or reapplication before the deadline noted in WAC 170-290-0109 (2)(a);~~

~~((e) Enter the approved activity at the end of the fourteen-day wait period;~~

~~((d))~~ Complete the WorkFirst orientation process when approved for TANF~~((;~~

~~((e) Return the requested income verification of new employment by the sixtieth day as provided in WAC 170-290-0012; or~~

~~((f)); or~~

(c) Cooperate with the child care subsidy audit process ~~((or with))~~ and investigations involving the DSHS office of fraud and accountability (OFA).

(2) A consumer's eligibility for WCCC benefits is terminated if the consumer:

(a) Has or anticipates sustained countable income at or above eighty-five percent of the state median income (SMI); or

(b) Has resources that exceed one million dollars.

(3) A consumer ~~((may be eligible))~~ whose eligibility for WCCC benefits has been terminated may be eligible to receive WCCC benefits again, beginning on the date ~~((that))~~ the consumer:

(a) Meets all WCCC eligibility requirements;

(b) Complies with the copayment requirements ~~((of WAC 170-290-0030 (3) and (4)))~~ contained in WAC 110-15-0030; and

(c) Cooperates with the child care subsidy audit process ~~((or with))~~ and the DSHS office of fraud and accountability (OFA).

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0126 Electronic attendance records.** (1) Within ninety days of initial approval to receive WCCC or SCC benefits, providers must ((use)) adopt the department's electronic attendance recordkeeping system or a department-approved electronic attendance recordkeeping system to record a child's attendance. Ninety days following approval, providers not using an approved electronic attendance system will no longer receive WCCC or SCC payments.

(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.

**AMENDATORY SECTION** (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0190 WCCC benefit calculations.** (1) The amount of care a consumer may receive is determined by DSHS at application or reapplication. ~~((The consumer does not need to be in approved activities or a reported activity schedule, except at application or reapplication.))~~ Once the care is authorized, the amount will not be reduced during the eligibility period unless:

(a) The consumer requests the reduction;

(b) The care is for a school-aged child as described in subsection (3) of this section; ~~((and))~~ or

(c) Incorrect information was given at application or reapplication ~~((according to WAC 170-290-0030)).~~

(2) To determine the amount of weekly hours of care needed, DSHS ~~((will))~~ reviews:

(a) The consumer's participation in approved activities ~~((per WAC 170-290-0040, 170-290-0045, 170-290-0050, and 170-290-0055;~~

~~((b))~~ and the number of hours the child attends school, including home school, ~~((and reduce the amount of care;~~

~~(e))~~ which will reduce the amount of care needed.

~~(b)~~ In a two parent household, the days and times ~~((the))~~ approved activities overlap, and only authorize care during those overlapping times;

~~(d) The))~~. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.

~~(c)~~ DSHS will not consider the schedule of a parent ~~((;))~~ in a two parent household ~~((;))~~ who is not able to care for the child ~~((, as defined in WAC 170-290-0020, and exclude the activity requirements; and~~

~~(e) When a consumer requests and verifies the need for increased care, DSHS will increase the care for the remainder of the eligibility period)).~~

~~(3) ((Determining))~~ Full-time care for a family using licensed providers is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Twenty-three full-day units per month will be authorized ~~((for one hundred ten hours of activity or more each month))~~ when the child needs care five or more hours per day;

(b) Thirty half-day units per month will be authorized ~~((for one hundred ten hours of activity or more each month))~~ when the child needs care less than five hours per day;

~~(c) ((Thirty half-day units per month will be authorized during the school year for a school-aged child who needs care less than five hours per day;~~

~~(d))~~ Forty-six half-day units per month will be authorized during the months of June, July, and August for a school-aged child who needs five or more hours of care;

~~((e) Twenty-three full-day units will be authorized during the school year for a school-aged child who needs care five or more hours per day;~~

~~(f))~~ (d) Supervisor approval is required for additional days of care that exceeds twenty-three full days or thirty half days per month; and

~~((g))~~ (e) Care cannot exceed sixteen hours per day, per child.

~~(4) ((Determining))~~ Full-time care for a family using in-home/relative providers (family, friends and neighbors) ~~((;))~~ is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Two hundred thirty hours of care will be authorized ~~((for one hundred ten hours of activity or more each month))~~ when the child needs care five or more hours per day;

(b) One hundred fifteen hours of care will be authorized ~~((for one hundred ten hours of activity or more each month))~~ when the child needs care less than five hours per day;

(c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who needs care less than five hours per day and the provider will be authorized for contingency hours each month, up to a maximum of two hundred thirty hours;

(d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who needs care five or more hours in a day;

(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month; and

(f) Care cannot exceed sixteen hours per day, per child.

(5) When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month ~~((;))~~;

(a) A full-day unit will be authorized for each day of care that exceeds five hours;

(b) A half-day unit will be authorized for each day of care that is less than five hours; and

(c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

~~(6) When determining part-time care for a family using in-home/relative providers ((family, friend and neighbors)):~~

(a) Under the provisions of subsection (2) of this section, DSHS will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and

(b) ~~((When the provider claims contingency hours;))~~ The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

(7) DSHS determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

(8) DSHS may authorize more than the state rate and up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC ~~((170-290-0125))~~ 110-15-0125, or an approved in-home/relative provider under WAC ~~((170-290-0130))~~ 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

(9) Other fees DSHS may authorize to a provider are:

(a) Registration fees;

(b) Field trip fees;

(c) Nonstandard hours bonus;

(d) Overtime care to a licensed provider who has a written policy to charge all families, when care is expected to exceed ten hours in a day; and

(e) Special needs rates for a child.

~~((10) In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits cannot receive those benefits for their own children during the hours in which they provide subsidized child care.))~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0268 Payment discrepancies—Provider overpayments.** (1) An overpayment occurs when a provider receives payment that is more than the provider is eligible to receive. Provider overpayments are established when that provider:

(a) Bills and receives payment for services not provided;

(b) Bills without attendance records that support ~~((their))~~ the billing. Beginning July 1, 2018, attendance must be recorded using DCYF's electronic attendance system or a DCYF-approved electronic attendance system. Any other format for recording attendance will not be considered valid

support for a provider billing and may result in an overpayment;

(c) Bills and receives payment for more than ~~((they are))~~ the provider is eligible to bill;

(d) Routinely provides care in a location other than what was approved at the time of authorization;

(e) With respect to license-exempt in-home/relative providers, ~~((commonly known as "family, friends, and neighbor" providers;))~~ bills the state for more than six children at one time ~~((during))~~ for the same hours of care; or

(f) With respect to licensed or certified providers:

(i) Bills the state for more than the number of children ~~((they have))~~ in ~~((their))~~ the provider's licensed capacity; or

(ii) Is caring for a ~~((WCCC))~~ child receiving WCCC benefits outside ~~((their))~~ the provider's licensed allowable age range without a ~~((DEL approved))~~ DCYF-approved exception; or

(g) With respect to certified providers caring for children in a state bordering Washington:

(i) Is determined ~~((not))~~ to not be in compliance with ~~((their))~~ the state's licensing regulations; or

(ii) Fails to notify DSHS within ten days of any suspension, revocation, or change to ~~((their))~~ the provider's license.

(2) ~~((DEL))~~ DCYF or DSHS will request documentation from a provider when preparing to establish an overpayment. The provider ~~((has))~~ must provide requested information within twenty-eight consecutive calendar days from the date of the written request ~~((to supply any requested documentation))~~.

(3) A provider ~~((is required to))~~ must repay any payments ~~((which they were))~~ that the provider was not eligible to receive.

(4) ~~((Provider overpayments defined in subsection (1) of this section are deemed as program violations as described in WAC 170-290-0277.~~

~~((5))~~ A provider ~~((is required to))~~ must repay any overpayment ~~((made through a departmental error)), even if the overpayment is the result of a DCYF or DSHS error in issuing payment the provider was not eligible to receive.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-0271 Payment discrepancies—Consumer.** (1) DSHS establishes overpayments for past or current consumers when the consumer:

(a) Received benefits in an amount greater than the consumer was eligible to receive;

(b) ~~((Is determined eligible at application or reapplication based on))~~ Received benefits or services based on the eligibility criteria of the consumer's participation in an approved activity ~~((and used benefits, but never participated in said)), but the consumer did not participate in the activity;~~

(c) Failed to report ~~((changes))~~ information accurately under the requirements of ~~((WAC 170-290-0031 to DSHS))~~ this chapter, which ~~((result))~~ resulted in an error in determining eligibility, amount of care authorized, or copayment;

(d) ~~((Used a provider who did not meet the eligibility requirements under WAC 170-290-0125;~~

~~((e))~~ Received benefits for a child who was not eligible ~~((per WAC 170-290-0005, 170-290-0015 or 170-290-0020))~~ under WAC 110-15-0005, 110-15-0015, or 110-15-0020; or

~~((f))~~ (e) Failed to return, by the sixtieth day, the requested income verification of new employment as provided in WAC ~~((170-290-0012))~~ 110-15-0012.

(2) ~~((DEL))~~ DCYF or DSHS may request documentation from a consumer when preparing to establish an overpayment. The consumer has fourteen consecutive calendar days to ~~((supply))~~ provide any requested documentation.

(3) Consumers ~~((are required to))~~ must repay any benefits paid by DSHS that they were not eligible to receive.

(4) ~~((If an))~~ A consumer must repay any overpayment, even if the overpayment ((was made through departmental)) is a result of a DCYF or DSHS error((, the consumer is still required to repay that amount)) in issuing payment the consumer was not eligible to receive.

(5) If a consumer is not eligible under WAC ~~((170-290-0030 through 170-290-0032))~~ 110-15-0030 through 110-15-0032 and the provider has billed correctly, the consumer is responsible for the entire overpayment~~((, including any absent days)).~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-3530 Verifying consumers' and providers' information.** DSHS verifies a consumer's information as provided in WAC ~~((170-290-0012 and 170-290-0014))~~ 110-15-0012.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-3566 Subsidized child care providers' responsibilities.** Licensed or certified child care providers who accept SCC subsidies must do the following:

(1) Comply with all of the ~~((DEL))~~ DCYF child care licensing or certification requirements as provided in chapters ~~((170-295, 170-296A, or 170-297))~~ 110-300, 110-300A, 110-300B, and 110-305 WAC; and

(2) ~~((Report pending charges or convictions to DSHS as provided in chapter 170-295, 170-296A, or 170-297 WAC;~~

~~((3) Keep complete and accurate daily attendance records for children in their care and allow access to DEL to inspect attendance records during all hours in which authorized child care is provided as follows:~~

~~((a) Current attendance records including records from the previous twelve months, must be available immediately for review upon request by DEL;~~

~~((b) Attendance records older than twelve months to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department. Beginning July 1, 2017, or upon ratification of the 2017-19 collective bargaining agreement with SEIU 925, whichever occurs later, the records must be provided within twenty-eight consecutive calendar days of the date of a written request from either department.~~

~~(c) Failure to make attendance records available as provided in this subsection may:~~

~~(i) Result in the immediate suspension of the provider's subsidy payments; and~~

~~(ii) Establish a provider overpayment as provided in WAC 170-290-0268;~~

~~(4) Allow consumers access to their child at all times while the child is in care;~~

~~(5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSHS if the consumer has not paid a copayment to the provider within the previous sixty days;~~

~~(6) Follow billing procedures as described in the most recent version of "Child Care Subsidies: A Guide for Licensed and Certified Family Home Child Care Providers"; "Child Care Subsidies: A Guide for Licensed and Certified Child Care Centers," including billing only for actual units of child care under WCCC billing guidelines;~~

~~(7) Not claim a payment in any month in which a child has not attended at least one day in that month;~~

~~(8) Invoice the state no later than one calendar year after the actual date of service;~~

~~(9) Not charge subsidized families for:~~

~~(a) The difference between the provider's customary rate and the maximum allowed state rate;~~

~~(b) Registration fees in excess of what is paid by subsidy program rules;~~

~~(c) Absent days on days in which the child is not scheduled and authorized for care;~~

~~(d) Handling fees to process consumer copayments, child care services payments, or paperwork;~~

~~(e) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or~~

~~(f) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state; and~~

~~(10) For) Comply with WAC 110-15-0034.~~

~~(3) Providers who care for children in states bordering Washington, must verify that they are currently complying with their state's licensing regulations, and notify DSHS within ten days of any suspension, revocation, or changes to their license.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-15-3665 When SCC program subsidies start.** (1) SCC benefits for an eligible consumer may begin when the following conditions are met:

(a) The consumer has completed the required SCC application and verification process as described under WAC ~~((170-290-0012 and 170-290-0014))~~ 110-15-0012 within thirty days of the date DSHS received the consumer's application for SCC benefits, except in the case of new employment. In that case, under WAC ~~((170-290-0012))~~ 110-15-0012, the consumer must provide third-party verification within sixty days of application or reapplication;

(b) The consumer is working or participating in an approved activity under WAC ~~((170-290-3555))~~ 110-15-3555 at application and reapplication; and

(c) The consumer needs child care for work or approved activities within at least thirty days of the date of application for SCC benefits.

(2) If a consumer fails to turn in all information within thirty days from the application date, the consumer must restart the application process, except in the case of new employment. In that case, under WAC ~~((170-290-0012))~~ 110-15-0012, the consumer must provide third-party verification within sixty days of application or reapplication.

(3) The consumer's application date is whichever is earlier:

(a) The date the consumer's application is entered into DSHS's automated system; or

(b) The date the consumer's application is date stamped as received.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 110-15-0014 Verifying information for a provider's payment.

WAC 110-15-0022 Eligibility—Resources.

WAC 110-15-0032 Failure to report changes.

WAC 110-15-0055 Receipt of benefits during fourteen-day wait period.

WAC 110-15-0115 Notice of payment changes.

### **WSR 19-08-025**

#### **PERMANENT RULES**

#### **HEALTH CARE AUTHORITY**

[Filed March 27, 2019, 12:14 p.m., effective April 27, 2019]

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

Purpose: The agency is amending this rule to replace incorrect references to the developmental disabilities administration with the correct program name of division of disability determination services.

Citation of Rules Affected by this Order: Amending WAC 182-511-1150.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-03-050 on January 9, 2019.

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: March 27, 2019.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-14-080, filed 6/29/15, effective 7/30/15)

**WAC 182-511-1150 Health care for workers with disabilities (HWD)—Disability requirements.** This section describes the disability requirements for the two groups of individuals that may qualify for the health care for workers with disabilities (HWD) program.

(1) To qualify for the HWD program, a person must meet the requirements of the Social Security Act in section 1902 (a)(10)(A)(ii):

- (a) (XV) for the basic coverage group (BCG); or
- (b) (XVI) for the medical improvement group (MIG).

(2) The BCG consists of individuals who:

(a) Meet federal disability requirements for the supplemental security income (SSI) or Social Security Disability Insurance (SSDI) program; or

(b) Are determined by the ~~((developmental disabilities administration (DDA)))~~ department of social and health services, division of disability determination services (DDDS), to meet federal disability requirements for the HWD program.

(3) The MIG consists of individuals who:

(a) Were previously eligible and approved for the HWD program as a member of the BCG; and

(b) Are determined by DDDS to have a medically improved disability. The term "medically improved disability" refers to the particular status granted to persons described in subsection (1)(b).

(4) When completing a disability determination for the HWD program, ~~((DDA))~~ DDDS will not deny disability status because of employment.

### WSR 19-08-026

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed March 27, 2019, 12:15 p.m., effective April 27, 2019]

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

Purpose: WAC 246-840-533 Nursing preceptors, interdisciplinary preceptors, and proctors in clinical or practice settings for nursing education programs located in Washington state, the nursing care quality assurance commission (commission) adopted amendments to existing rule to provide rule clarification and reduce barriers for nursing student access to preceptors for the purpose of completing statutorily required clinical experience. The adopted amendments also reduce barriers for qualified individuals to become preceptors and proctors.

Citation of Rules Affected by this Order: Amending WAC 246-840-533.

Statutory Authority for Adoption: RCW 18.79.110.

Adopted under notice filed as WSR 18-24-050 on November 28, 2018.

Changes Other than Editing from Proposed to Adopted Version: Two nonsubstantive changes were adopted at hearing by the commission. Under subsections (1)(a) and (b) the words "or graduate nurse" were removed and "any" was added prior to nursing student to reduce confusion as to what type of nursing students WAC 246-840-533 applies. Under subsection (2) the word "primary" was added prior to "nursing and interdisciplinary preceptor" in order to clarify the commission's intent of the rule.

A final cost-benefit analysis is available by contacting Amber Zawislak, P.O. Box 47864, Olympia, WA 98504-7852 [98504-7864], phone 360-236-4785, fax 360-236-4738, TTY 360-833-6388 or 711, email [amber.zawislak@doh.wa.gov](mailto:amber.zawislak@doh.wa.gov), web site [doh.wa.gov](http://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: January 11, 2019.

Paula R. Meyer, MSN, RN, FRE  
Executive Director

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-533 Nursing preceptors, interdisciplinary ((mentors)) preceptors, and proctors in clinical or practice settings for nursing ((education programs)) students located in Washington state.** (1) Nursing preceptors, interdisciplinary preceptors, and proctors may be used to enhance clinical or ~~((practice learning))~~ practice learning experiences after a student has received instruction and orientation from program faculty who ~~((assure))~~ confirm the student is adequately prepared for the clinical or practice experience(=

~~(2) Nursing education faculty in prelicensure nursing education programs shall not assign more than two students to each nurse preceptor.~~

~~(3) Nursing education faculty in a program leading to licensure as an advanced registered nurse practitioner shall not assign more than one student to each preceptor).~~ For the purpose of this section:

(a) A nursing preceptor means a practicing licensed nurse who provides personal instruction, training, and supervision to any nursing student, and meets all requirements of subsection (4) of this section.

(b) An interdisciplinary preceptor means a practicing health care provider who is not a licensed nurse, but provides personal instruction, training, and supervision to any nursing student, and meets all requirements of subsection (5) of this section.

(c) A proctor means an individual who holds an active credential in one of the professions identified in RCW 18.130.040 who monitors students during an examination, skill, or practice delivery, and meets all requirements of subsection (6) of this section.

(2) Nursing education faculty are responsible for the overall supervision and evaluation of the student and must confer with each primary nursing and interdisciplinary preceptor, and student at least once during each phase of the student learning experience:

- (a) Beginning;
- (b) Midpoint; and
- (c) End.

(3) A nursing preceptor or an interdisciplinary preceptor shall not precept more than two students at any one time.

(4) A nursing preceptor may be used in ~~((practical and registered))~~ nursing education programs when the nursing preceptor:

- (a) Has an active, unencumbered nursing license at or above the level for~~((;))~~ which the student is preparing;
- (b) ~~((Is experienced in the specialty area for at least two years;))~~ Has at least one year of clinical or practice experience as a licensed nurse at or above the level for which the student is preparing;

(c) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;

(d) Is ~~((not related to, or a personal friend of the student))~~ oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and

(e) Is ~~((oriented to the written role expectations of faculty, preceptor, and student))~~ not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

(5) ~~((A))~~ An interdisciplinary preceptor may be used in nursing education programs ~~((leading to licensure as an advanced registered nurse practitioner))~~ when the interdisciplinary preceptor:

(a) Has an active, unencumbered license ~~((as an ARNP under chapter 18.79 RCW, a physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW, or equivalent license in other states or jurisdictions;~~

(b) Is experienced in the specialty area for at least two years) in the area of practice appropriate to the nursing education faculty planned student learning objectives;

(b) Has the educational preparation and at least one year of clinical or practice experience appropriate to the nursing education faculty planned student learning objectives;

(c) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;

(d) Is ~~((not related to, or a personal friend of the student))~~ oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and

(e) Is ~~((oriented to the written role expectations of faculty, preceptor, and student.~~

(6) A preceptor may be used in graduate nursing programs as appropriate to the course of study when the preceptor:

(a) Is experienced in the specialty area for at least two years;

(b) Is oriented to the written course and student learning objectives;

(c) Is not related to, or a personal friend of the student; and

(d) Is oriented to the written role expectations of faculty, preceptor, and student.

(7) An interdisciplinary mentor who has experience and educational preparation appropriate to the faculty planned student learning experience may be used in some clinical or practice experiences.

(8) Faculty are responsible for the overall supervision and evaluation of the student and must confer with each preceptor or interdisciplinary mentor and student at least once before the student learning experience, at the mid-point of the experience, and at the end of the learning experience.

(9) ~~((9))~~ not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

(6) A proctor who monitors, teaches, and supervises students during the performance of a task or skill must ~~((be qualified with));~~

(a) Have the educational and experiential preparation ~~((in the area))~~ for the task or skill being proctored ~~((and must be credentialed as a licensed health care provider listed in chapter 18.130 RCW. Such a person may));~~

(b) Have an active, unencumbered credential in one of the professions identified in RCW 18.130.040;

(c) Only be used on rare, short-term occasions to proctor students when a faculty member has determined that it is safe for a student to receive direct supervision from the proctor for the performance of a particular task or skill that is within the scope of practice for the nursing student; and

(d) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

## WSR 19-08-027

### PERMANENT RULES

### HEALTH CARE AUTHORITY

[Filed March 27, 2019, 12:17 p.m., effective April 27, 2019]

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

Purpose: The agency is removing the outdated requirement in this section for a diagnosis of one of the qualifying conditions listed in the agency's billing guide for habilitative

services. The agency does not require the diagnosis of a specific condition for an eligible client to receive habilitative services and has removed the list from the billing guide.

Citation of Rules Affected by this Order: Amending WAC 182-545-400.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-05-015 on February 7, 2019.

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: Marcy [March] 27, 2019.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 16-04-026, filed 1/25/16, effective 3/1/16)

**WAC 182-545-400 Habilitative services.** (1) Habilitative services assist the client in partially or fully attaining, learning, maintaining, or improving developmental-age appropriate skills that were not fully acquired as a result of a congenital, genetic, or early acquired health condition. To the extent practical, habilitative services maximize the client's ability to function in the client's environment.

(2) Eligibility is limited to clients who are enrolled in the Washington apple health alternative benefits plan defined in WAC 182-501-0060 (~~and who have a diagnosis which is one of the qualifying conditions listed in the agency's provider guide for habilitative services~~). Clients enrolled in an agency-contracted managed care organization (MCO) must arrange for habilitative services through their MCO.

(3) The following licensed health care professionals may enroll with the agency to provide habilitative services within their scope of practice to eligible clients:

- (a) Psychiatrists;
- (b) Occupational therapists;
- (c) Occupational therapy assistants supervised by a licensed occupational therapist;
- (d) Physical therapists;
- (e) Physical therapy assistants supervised by a licensed physical therapist;
- (f) Speech-language pathologists who have been granted a certificate of clinical competence by the American Speech-Language-Hearing Association; and

(g) Speech-language pathologists who have completed the equivalent educational and work experience necessary for such a certificate.

(4) The agency pays for habilitative services that are:

- (a) Covered within the scope of the client's alternative benefits plan under WAC 182-501-0060;
- (b) Medically necessary;
- (c) Within currently accepted standards of evidence-based medical practice;
- (d) Ordered by a physician, physician assistant, or an advanced registered nurse practitioner;
- (e) Begun within thirty calendar days of the date ordered;
- (f) Provided by one of the health care professionals listed in subsection (3) of this section;
- (g) Authorized under this chapter, chapters 182-501 and 182-502 WAC, and the agency's published provider guides;
- (h) Billed under this chapter, chapters 182-501 and 182-502 WAC, and the agency's published provider guides; and
- (i) Provided as part of a habilitative treatment program:
  - (i) In an office or outpatient hospital setting;
  - (ii) In the home, by a home health agency as described in chapter 182-551 WAC; or
  - (iii) In a neurodevelopmental center, as described in WAC 182-545-900.

(5) For billing purposes under this section:

- (a) Each fifteen minutes of timed procedure code equals one unit.
- (b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.
- (c) Duplicate services for habilitative services are not allowed for the same client when both providers are performing the same or similar procedure on the same day.
- (d) The agency does not pay a health care professional for habilitative services performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.

(6) The limitations in subsection (7) of this section do not apply to eligible clients under age twenty-one.

(7) For eligible clients age twenty-one and older, the agency covers habilitative services that include an ongoing management plan for the client or the client's caregiver to support continued client progress. The agency limits habilitative services as follows:

- (a) Occupational therapy, per client, per year:
  - (i) Without authorization:
    - (A) One occupational therapy evaluation;
    - (B) One occupational therapy reevaluation at time of discharge; and
  - (C) Twenty-four units of occupational therapy (which equals approximately six hours).
- (ii) With expedited prior authorization (EPA), up to twenty-four additional units of occupational therapy may be available when the therapy is required as part of an initial botulinum toxin injection protocol for spasticity or dystonia and botulinum toxin has been authorized by the agency.
  - (b) Physical therapy, per client, per year:
    - (i) Without authorization:
      - (A) One physical therapy evaluation;



(B) One physical therapy reevaluation at time of discharge; and

(C) Twenty-four units of physical therapy (which equals approximately six hours).

(ii) With EPA, up to twenty-four additional units of physical therapy may be available when the therapy is required as part of an initial botulinum toxin injection protocol for spasticity or dystonia and botulinum toxin has been authorized by the agency.

(c) Speech therapy, per client, per year:

(i) Without authorization:

(A) One speech language pathology evaluation;

(B) One speech language pathology reevaluation at the time of discharge; and

(C) Six units of speech therapy (which equals approximately six hours).

(ii) With EPA, up to six additional units of speech therapy may be available when:

(A) The therapy is required as part of an initial botulinum toxin injection protocol for spasticity or dystonia and botulinum toxin has been authorized by the agency; or

(B) The client has a speech deficit (~~caused by the qualifying condition~~) which requires a speech generating device.

(d) Two durable medical equipment needs assessments, per client, per year. The agency covers devices and other durable medical equipment for rehabilitative purposes (~~to treat conditions that qualify~~) under chapter 182-543 WAC.

(e) Two program units of orthotics management and training of upper and lower extremities, per client, per day.

(f) Two program units for the provider to assess prosthetic or orthotic use, per client, per year.

(g) One muscle testing procedure, per client, per day.

(h) One wheelchair-needs assessment, per client, per year.

(8) The agency evaluates requests for rehabilitative services that exceed the limitations in this section under WAC 182-501-0169, for clients age twenty-one and older. For clients age nineteen and twenty, the agency evaluates such requests for medical necessity under chapter 182-534 WAC. The agency requires prior authorization for additional units when:

(a) The criteria for EPA do not apply;

(b) The number of available units under the EPA have been used and services are requested beyond the limits; or

(c) The provider requests it as a medically necessary service.

(9) The agency does not cover the following:

(a) Day habilitation services designed to provide training, structured activities, and specialized services to adults;

(b) Services to assist basic needs;

(c) Vocational services;

(d) Custodial services;

(e) Respite care;

(f) Recreational care;

(g) Residential treatment;

(h) Social services; and

(i) Educational services of any kind.

## WSR 19-08-029

### PERMANENT RULES

### HEALTH CARE AUTHORITY

[Filed March 27, 2019, 12:24 p.m., effective April 27, 2019]

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

Purpose: The agency is revising this section to correct a cross-reference in WAC 182-503-0505 (5)(a). The reference should read "WAC 182-513-1317(5)." The current listed citation, WAC 182-513-1315(13), does not exist.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-03-130 on January 18, 2019.

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: March 27, 2019.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-12-017, filed 5/30/17, effective 6/30/17)

**WAC 182-503-0505 Washington apple health—General eligibility requirements.** (1) When you apply for Washington apple health programs established under chapter 74.09 RCW, you must meet the eligibility criteria in chapters 182-500 through 182-527 WAC.

(2) When you apply for apple health, we first consider you for federally funded or federally matched programs. We consider you for state-funded programs after we have determined that you are ineligible for federally funded and federally matched programs.

(3) Unless otherwise specified in a program specific WAC, the eligibility criteria for each program are as follows:

(a) Age (WAC 182-503-0050);

(b) Residence in Washington state (WAC 182-503-0520 and 182-503-0525);

(c) Citizenship or immigration status in the United States (WAC 182-503-0535);

(d) Possession of a valid Social Security account number (WAC 182-503-0515);

(e) Assignment of medical support rights to the state of Washington (WAC 182-503-0540);

(f) Application for medicare and enrollment into medicare's prescription drug program if:

- (i) You are likely entitled to medicare; and
- (ii) We have authority to pay medicare cost sharing as described in chapter 182-517 WAC.
- (g) If your eligibility is not based on modified adjusted gross income (MAGI) methodology, your countable resources must be within specific program limits (chapters 182-512, 182-513, 182-515, 182-517, and 182-519 WAC); and
- (h) Countable income within program limits:
  - (i) For MAGI-based programs, see WAC 182-505-0100;
  - (ii) For the refugee program, see WAC 182-507-0130;
  - (iii) For the medical care services program, see WAC 182-508-0005;
  - (iv) For the health care for workers with disabilities (HWD) program, see WAC 182-511-1000;
  - (v) For the SSI-related program, see WAC 182-512-0010;
  - (vi) For long-term care programs, see ~~((chapter[s])~~ chapters 182-513 and 182-515 WAC;
  - (vii) For medicare savings programs, see WAC 182-517-0100; and
  - (viii) For the medically needy program, see WAC 182-519-0050.
- (4) In addition to the general eligibility requirements in subsection (3) of this section, each program has specific eligibility requirements as described in applicable WAC.
- (5) If you are in a public institution, including a correctional facility, you are not eligible for full scope apple health coverage, except in the following situations:
  - (a) If you are age twenty-one or younger or age sixty-five or older and are a patient in an institution for mental disease (see WAC ~~((182-513-1315(13)))~~ 182-513-1317(5)); or
  - (b) You receive inpatient hospital services outside of the public institution or correctional facility.
- (6) We limit coverage for people who become residents in a public institution, under subsection (5) of this section, until they are released.
- (7) If you are terminated from SSI or lose eligibility for categorically needy (CN) or alternative benefits plan (ABP) coverage, you receive coverage under the apple health program with the highest scope of care for which you may be eligible while we determine your eligibility for other health care programs. See WAC 182-504-0125.

**WSR 19-08-031****PERMANENT RULES****DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)

[Filed March 27, 2019, 12:29 p.m., effective April 27, 2019]

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

Purpose: WAC 246-840-035, 246-840-048, 246-840-340, 246-840-342, 246-840-344, 246-840-360, 246-840-365 and 246-840-367, interim permits, the nursing care quality assurance commission (commission) has adopted amendments to existing rule that establishes interim permits for nontraditional nursing students and advanced registered nurse practitioners needing to complete clinical practice

hours necessary for licensure. The commission adopted an emergency rule on December 15, 2017 (WSR 18-01-079), to repeal WAC 246-840-035 since it is no longer authorized in statute, and to establish standards under WAC 246-840-048 to ensure a student is able to complete the required clinical practice experience. The adopted rules provide a mechanism for applicants applying for nurse licensure to complete required clinical practice hours under an interim permit, subject to the uniform disciplinary act found in chapter 18.130 RCW, when unable to demonstrate proof of hours upon applying for licensure in Washington state.

Citation of Rules Affected by this Order: New WAC 246-840-048; repealing WAC 246-840-035; and amending WAC 246-840-340, 246-840-342, 246-840-344, 246-840-360, 246-840-365, and 246-840-367.

Statutory Authority for Adoption: RCW 18.79.110.

Adopted under notice filed as WSR 18-24-049 on November 28, 2018.

A final cost-benefit analysis is available by contacting Amber Zawislak, P.O. Box 47864, Olympia, WA 98504-7852 [98504-7864], phone 360-236-4785, fax 360-236-4738, TTY 360-833-6388 or 711, email [amber.zawislak@doh.wa.gov](mailto:amber.zawislak@doh.wa.gov), web site [doh.wa.gov](http://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 1, Amended 6, Repealed 1.

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 6, Repealed 1.

Date Adopted: January 11, 2019.

Paula R. Meyer, MSN, RN, FRE

Executive Director

**NEW SECTION**

**WAC 246-840-048 Students enrolled in a nontraditional nursing program.** This section applies to a licensed practical nurse (LPN) enrolled in a nontraditional LPN to registered nurse (RN) program on July 27, 2017, and describes the eligibility requirements for obtaining a Washington state interim permit.

(1) Graduates of a nontraditional nursing program may apply for an interim permit after degree confirmation by the nontraditional program.

(a) An LPN enrolled in a nontraditional nursing program on July 27, 2017, has until July 27, 2020, to complete the nontraditional program, as defined in WAC 246-840-010.

(b) An LPN successfully completing a nontraditional nursing program after July 27, 2020, may obtain licensure by endorsement in Washington state after completing one thousand hours of practice under an RN license in another state, without discipline.

(2)(a) An LPN successfully completing the nontraditional nursing program and passing the National Council of State Boards of Nursing Registered Nurse Licensing Examination (NCLEX-RN®) may be eligible to receive an interim permit for the purpose of completing one thousand hours of practice experience in the role of an RN.

(b) Only students licensed as an LPN in Washington state and identified by the nontraditional program on July 27, 2017, will be considered eligible to obtain initial licensure from the commission under this section.

(3) An LPN successfully completing a nontraditional nursing program as identified in subsection (2)(b) of this section shall:

(a) Submit a completed RN application indicating the need for an interim permit with the required fee, as defined in WAC 246-840-990;

(b) Request an official transcript be sent directly to the commission from the nontraditional nursing education program confirming a conferred associate degree in nursing;

(c) Successfully pass the National Council of State Boards of Nursing Registered Nurse Licensing Examination (NCLEX-RN®);

(d) Complete one thousand hours of practice under an interim permit in the role of an RN; and

(e) Provide documented evidence from a commission approved supervising licensed RN verifying the interim permit holder successfully completed the one thousand hours of practice in an RN role.

(4) The supervising RN from the acute care, skilled nursing, or transitional care facility:

(a) Shall submit a commission approved application;

(b) Must have an active, unencumbered RN license;

(c) Shall attest to not being related to or personal friends of the interim permit holder;

(d) Must have at least three years of experience as an RN;

(e) Must have demonstrated teaching and mentoring skills; and

(f) Must be able to evaluate, with input from others, the practice of the interim permit holder in the role of an RN.

(5) The interim permit expires one year after the submission of the application and is not renewable.

(6) An interim permit holder who does not successfully fulfill the practice requirements, as identified in subsection (3)(c) and (d) of this section, does not meet the requirements for licensure by examination as an RN in the state of Washington.

(7) The holder of the interim permit is subject to disciplinary action under chapter 18.130 RCW.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-840-035 Initial licensure for registered nurses—  
Out-of-state nontraditional nursing education program approved by another United States nursing board as defined by WAC 246-840-010(16).

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

#### **WAC 246-840-340 Initial ARNP requirements. (1)**

An applicant for licensure as an ARNP (~~((must))~~) shall have the following qualifications:

(a) An active Washington state RN license, without sanctions or restrictions;

(b) A graduate degree from an advanced nursing education program accredited by a national nursing accreditation body recognized by the United States Department of Education;

(c) Certification from a certifying body as identified in WAC 246-840-302;

(d) Completion of advanced clinical practice hours, as defined in WAC 246-840-010(1) and in the role of an advanced practice nurse as defined in WAC 246-840-010(2), when applicable, in situations under subsection (3) of this section.

(2) An applicant for ARNP licensure (~~((must))~~) shall submit:

(a) A completed ARNP application for licensure to the commission;

(b) The license fee as specified in WAC 246-840-990;

(c) A request to the certifying body, as identified in WAC 246-840-302, to send official documentation of certification directly to the commission;

(d) A request to the advanced nursing educational program to send an official transcript directly to the commission showing courses, grades, degree or certificate granted, official seal, and appropriate registrar; and

(e) Program objectives and course descriptions when requested by the commission.

(3) To be granted a license without meeting the advanced clinical practice requirements identified in subsection (4) of this section, the ARNP shall initiate the application process within one year of earning a graduate degree from an advanced nursing education program.

(4) An ARNP applicant who does not apply within one year of earning a graduate degree from an advanced nursing education program (~~((must complete))~~) may be eligible to receive an ARNP interim permit for the purpose of completing one hundred twenty-five hours of advanced clinical practice for (~~((each))~~) every additional year following graduation, not to exceed one thousand hours. The ARNP interim permit expires one year after the submission of the application.

(a) An ARNP applicant's clinical practice must be supervised by an ARNP under chapter 18.79 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, or equivalent licensure in

another state or United States jurisdiction. The ARNP interim permit holder must complete supervised advanced clinical practice as defined in subsections ~~((3) through)~~ (4) and (5) of this section.

(b) The supervisor must be in the same practice specialty in which the applicant is seeking licensure. The supervising ARNP or physician ~~((must))~~:

(i) Shall have an active ARNP or physician license, for two or more years, without sanctions or restrictions ~~((; for two or more years))~~;

(ii) ~~((Not be a relative of the applicant;~~

~~(iii) Not have a personal or financial relationship with the applicant;~~

~~(iv)) Must not be a member of the applicant's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the supervisor's duties to impartially supervise and evaluate the nurse;~~

(ii) Must not have current disciplinary action on their license;

~~((v) Submit a written evaluation to the commission))~~

(iv) Shall submit documented evidence to the commission verifying the applicant's successful completion of the required supervised clinical practice hours ((and that the applicant's knowledge and skills are at a safe and appropriate level to practice as an ARNP)) in an ARNP role.

(5) An ARNP applicant needing to complete supervised advanced clinical practice ~~((must))~~:

(a) Shall meet the requirements of subsection (1)(a) and (b) of this section; ~~((and~~

~~(b) Have commission approval for the following:~~

~~(i) The clinical site in which the supervision will take place; and~~

~~(ii) The supervising ARNP or physician.~~

~~(6) The nursing commission may request additional evidence supporting the applicant's completion of advanced clinical practice hours for the purposes of this section. The commission reserves the right to conduct on-site visits.~~

~~(7) The nurse will not use the designation ARNP during the time))~~

(b) Shall indicate on the ARNP application the need for an interim permit; and

(c) Must obtain:

(i) Commission approval of the supervising ARNP or physician; and

(ii) The interim permit.

(6) The nurse must use the designation interim ARNP at all times and on all documentation of the supervised clinical practice hours.

~~((8)) (7) An applicant holding an active RN license, without sanctions or restrictions((;); and current national certification as a CNS((;); and is practicing in Washington state in an advanced nursing role, will be exempt from the supervised practice requirement if they can provide evidence of two hundred fifty hours of advanced clinical practice within the last two years.~~

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

**WAC 246-840-342 Licensure for ARNP applicants by interstate endorsement.** (1) An applicant for interstate endorsement for Washington state licensure as an ARNP ~~((must))~~ shall meet the following requirements:

(a) Have an active RN and ARNP license, or recognition in another state or jurisdiction, as practicing in an advanced practice role, without sanctions or restrictions;

(b) Have a graduate degree from an advanced nursing education program as identified in WAC 246-840-340 (1)(b);

(c) Hold certification from a certifying body as identified in WAC 246-840-302(3); and

(d) Have been performing advanced clinical practice as defined in WAC 246-840-010(1) as a licensed ARNP, or in the role of an advanced practice nurse as defined in WAC 246-840-010(2), for at least two hundred fifty hours within the two years prior to the date of application.

(2) An applicant for an ARNP license through interstate endorsement ~~((must))~~ shall:

(a) Apply for and be granted a Washington state RN license as identified in WAC 246-840-090;

(b) Submit a completed ARNP application for licensure to the commission;

(c) Submit the license fee as specified in WAC 246-840-990;

(d) Request the certifying body, as identified in WAC 246-840-302, to send official documentation of certification directly to the commission;

(e) Request the advanced nursing educational program to send an official transcript directly to the commission showing courses, grades, degree or certificate granted, official seal and appropriate registrar;

(f) Submit nursing education program objectives and course descriptions when requested by the commission; and

(g) Submit evidence of at least two hundred fifty hours of advanced clinical practice as an ARNP, or at an advanced nursing practice level, within the two years prior to the date of application. The two hundred fifty hours may include teaching advanced nursing practice if ~~((the faculty member is))~~ providing direct patient care as a faculty member or serving as a preceptor in a clinical setting.

(3) An ARNP applicant who does not meet practice requirements ~~((must))~~ shall complete two hundred fifty hours of supervised advanced clinical practice for ~~((each))~~ every two years the applicant may have been out of practice, not to exceed one thousand hours.

(4) An ARNP applicant needing to complete the supervised advanced clinical practice ~~((must meet))~~ shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

**WAC 246-840-344 Licensure for ARNP applicants educated and licensed outside the United States.** (1) An applicant for ARNP licensure in Washington state, educated and licensed outside the United States, ~~((must))~~ shall:

(a) Apply for and be granted an active RN license, or recognition in another state or jurisdiction, without sanctions or restrictions, issued by a regulatory entity outside the United States, and have been practicing at an advanced practice level;

(b) Submit a course-by-course evaluation of education from a commission approved credential evaluating service verifying the advanced nursing educational program completed by the applicant is equivalent to the ARNP education identified in WAC 246-840-455;

(c) Hold certification from a certifying body as identified in WAC 246-840-302(3); and

(d) Have been performing advanced clinical practice in his or her country for at least two hundred fifty hours within the two years prior to the date of application for ARNP licensure.

(2) ~~((The))~~ An applicant educated and licensed outside of the United States ~~((must))~~ shall:

(a) Apply for and be granted a Washington state RN license, without sanctions or restrictions, as identified in WAC 246-840-045;

(b) Submit a completed ARNP application to the commission;

(c) Submit the license fee as specified in WAC 246-840-990;

(d) Submit a course-by-course evaluation of education completed from a commission approved credential evaluating service;

(e) Request the certifying body, as identified in WAC 246-840-302(3), to send official documentation of certification directly to the commission; and

(f) Submit evidence of at least two hundred fifty hours of advanced clinical practice as an ARNP, or in an advanced practice role, within the two years prior to the date of application. The two hundred fifty hours may include teaching advanced nursing practice if ~~((the faculty member is))~~ providing direct patient care as a faculty member or serving as a preceptor in a clinical setting.

(3) Internationally educated ARNP applicants who do not meet advanced clinical practice requirements ~~((must))~~ shall complete two hundred fifty hours of supervised advanced clinical practice for ~~((each))~~ every two years the applicant may have been out of practice, not to exceed one thousand hours.

(4) ~~((The))~~ An ARNP applicant needing to complete supervised advanced clinical practice ~~((must meet))~~ shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

**WAC 246-840-360 Renewal of ARNP licensure.** (1) An applicant applying for ARNP license renewal, ~~((must))~~ shall have:

(a) An active Washington state RN license, without sanctions or restrictions;

(b) Current certification from a certifying body as identified in WAC 246-840-302;

~~((Obtained))~~ Thirty contact hours of continuing education obtained during the renewal period in each ARNP designation. An ARNP who has certification in more than one area of practice may count the continuing education hours for more than one certification when applicable to each area of practice; and

~~((Practiced for))~~ At least two hundred fifty hours in advanced clinical practice for each ARNP designation within the two-year licensing renewal cycle. The two hundred fifty hours may include teaching advanced nursing practice only when the faculty member is providing patient care or serving as a preceptor in a clinical setting.

(2) An applicant for ARNP licensure renewal ~~((must))~~ shall comply with the requirements of chapter 246-12 WAC, Part 2 and submit:

(a) The renewal license fee as specified in WAC 246-840-990; ~~((and))~~

(b) Evidence of current certification by the commission approved certifying body for each designation;

(c) A written declaration, on forms provided by the commission attesting to:

(i) Completion of thirty contact hours of continuing education during the renewal period for each ARNP designation; and

(ii) Completion of a minimum of two hundred fifty hours of advanced clinical practice for each designation in the ARNP role within the last two years.

(d) Evidence of completion of continuing education contact hours and advanced clinical practice hours when requested by the commission.

(3) An applicant for ARNP licensure renewal who does not meet advanced clinical practice requirements shall complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.

(4) An applicant for ARNP licensure renewal needing to complete supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

**WAC 246-840-365 Inactive and reactivating an ARNP license.** To apply for an inactive ARNP license, an ARNP ~~((must))~~ shall comply with WAC 246-12-090 or 246-12-540, ~~((as appropriate))~~ if military related.

(1) An ARNP may apply for an inactive license if he or she holds an active Washington state ARNP license without sanctions or restrictions.

(2) To return to active status the ~~((nurse must))~~ ARNP:

(a) Shall meet the requirements identified in chapter 246-12 WAC, Part 4;

(b) Must hold an active RN license under chapter 18.79 RCW without sanctions or restrictions;

(c) Shall submit the fee as identified ~~((in))~~ under WAC 246-840-990;

(d) Shall submit evidence of current certification by the commission approved certifying body identified in WAC 246-840-302(1);

(e) Shall submit evidence of thirty contact hours of continuing education for each designation within the past two years; and

(f) Shall submit evidence of two hundred fifty hours of advanced clinical practice for each designation within the last two years.

(3) An ARNP applicant who does not have the required practice requirements, ~~((must))~~ shall complete two hundred fifty hours of supervised advanced clinical practice for ~~((each))~~ every two years the applicant may have been out of practice, not to exceed one thousand hours.

(4) The ARNP applicant needing to complete supervised advanced clinical practice ~~((must meet))~~ shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).

(5) To regain prescriptive authority after inactive status, the applicant must meet the prescriptive authority requirements identified in WAC 246-840-410.

**AMENDATORY SECTION** (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

**WAC 246-840-367 Expired license.** When an ARNP license is not renewed, it ~~((will be))~~ is placed in expired status and the nurse must not practice as an ARNP.

(1) To return to active status when the license has been expired for less than two years, the nurse ~~((must))~~ shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Meet ARNP renewal requirements identified in WAC 246-840-360; and

(c) Meet the prescriptive authority requirements identified in WAC 246-840-450, if renewing prescriptive authority.

~~((2))~~ (2) Applicants who do not ~~((meeting))~~ meet the required advanced clinical practice requirements must complete two hundred fifty hours of supervised advanced clinical practice for ~~((each))~~ every two years the applicant may have been out of practice, not to exceed one thousand hours.

~~((2))~~ (3) The ARNP applicant needing to complete supervised advanced clinical practice ~~((must meet))~~ shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).

~~((3))~~ (4) If the ARNP license has expired for two years or more, the applicant ~~((must))~~ shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Submit evidence of current certification by the commission approved certifying body identified in WAC 246-840-302(3);

(c) Submit evidence of thirty contact hours of continuing education for each designation within the ~~((past))~~ prior two years;

(d) Submit evidence of two hundred fifty hours of advanced clinical practice completed within the ~~((past))~~ prior two years; and

(e) Submit evidence of an additional thirty contact hours in pharmacology if requesting prescriptive authority, which

may be granted once the ARNP license is returned to active status.

~~((4))~~ (5) If the applicant does not meet the required advanced clinical practice hours, ~~((he or she must complete))~~ the applicant shall obtain an ARNP interim permit consistent with the requirements for supervised advanced clinical practice as defined in WAC 246-840-340 (4) and (5).

## WSR 19-08-032

### PERMANENT RULES

### DEPARTMENT OF HEALTH

(Board of Naturopathy)

[Filed March 27, 2019, 12:40 p.m., effective January 1, 2021]

Effective Date of Rule: January 1, 2021.

Purpose: WAC 246-836-080 Continuing competency program (naturopathic physicians). Board of naturopathy (board) adopted amendments to WAC 246-836-080 concerning continuing education (CE) requirements for licensed naturopathic physicians. The adopted amendments increase the number of hours, lengthen the reporting cycle, and provide specific direction on options for meeting the CE requirement.

The current rules require naturopathic physicians to report twenty hours of CE every year. The adopted amendments change the requirements to sixty hours every two years, and include a requirement that fifteen hours must have pharmacy content. The adopted amendments also clarify acceptable CE by identifying approved providers and acceptable ways for naturopathic physicians to satisfy the requirements, such as allowing a portion to be fulfilled through courses relevant to other health professions if the content is consistent with naturopathic scope of practice.

The board has determined a delayed effective date of January 1, 2021, is appropriate in order to provide licensees enough time to meet the new requirements.

Citation of Rules Affected by this Order: Amending WAC 246-836-080.

Statutory Authority for Adoption: RCW 18.36A.160.

Adopted under notice filed as WSR 18-20-122 on October 3, 2018.

A final cost-benefit analysis is available by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, fax 360-236-2901, TTY 360-833-6388 or 711, email [susan.gragg@doh.wa.gov](mailto:susan.gragg@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 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: November 16, 2018.

Chad Aschtgen, ND  
Chair

AMENDATORY SECTION (Amending WSR 16-06-008, filed 2/18/16, effective 3/20/16)

**WAC 246-836-080 Continuing competency program.**

(1) General provisions. Each licensed naturopathic physician must complete ~~((twenty))~~ sixty hours of continuing education ~~((per))~~ every two years, as provided in chapter 246-12 WAC, Part 7.

(2)(a) A license holder's first ~~((twenty))~~ sixty hour continuing education requirement is due on the ~~((second))~~ third renewal date after the license is issued. After that, it is due ~~((annually))~~ every other year on the licensee's renewal date.

~~((3))~~ (b) A licensee may begin to accrue continuing education from the date of initial licensure and apply it toward the fulfillment of their first continuing education requirement.

(c) License reissuance. When applying for reissuance of an expired license, a naturopathic physician must attest to sixty hours of continuing education for the two years preceding the reissuance application. Upon reissuance, the licensee's continuing education sequence will resume based on the last active license continuing education cycle.

(3) Licensees must complete a minimum of fifteen continuing education hours over two years on the subject of pharmacology consistent with naturopathic scope of practice in this state. Course content, or a portion thereof, must be designated as pharmacology by an entity listed in subsection (5)(a)(i) or (b)(i) of this section. Examples of eligible pharmacology course content include:

(a) Legend substances as defined in RCW 69.41.010;

(b) Controlled substances in chapter 69.50 RCW;

(c) Biopharmacology, which is the study of medicinal or drug products manufactured in, extracted from, or semi-synthesized from biological sources;

(d) Pharmacognosy, which is the study of medicinal drugs derived from plants or other natural sources;

(e) Contraindications or interactions of drug-to-drug, drug-to-herb, or drug-to-nutrient; or

(f) Other subjects approved by the board.

(4) Suicide prevention requirements. As part of continuing education, a licensed naturopathic physician must complete a board-approved one-time training that is at least six hours long in suicide assessment, treatment, and management. This training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or the first full continuing education reporting period after initial licensure, whichever is later.

(a) Until July 1, 2017, a board-approved training must be an empirically supported training in suicide assessment, including screening and referral, suicide treatment, and suicide management, and meet any other requirement in RCW 43.70.442.

(b) Beginning July 1, 2017, training accepted by the board must be on the department's model list developed in accordance with rules adopted by the department that establish minimum standards for training programs. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

(c) A board-approved training must be at least six hours in length and may be provided in one or more sessions.

(d) The hours spent completing the training in suicide assessment, treatment, and management under this subsection count toward meeting any applicable continuing education requirements.

(e) Nothing in this subsection is intended to expand or limit the naturopathic scope of practice.

~~((4))~~ (5) Categories of creditable continuing education.

(a) Category 1. A licensee is required to obtain a minimum of twenty hours over two years in this category; however, all sixty hours may be earned in this category. Category 1 credit hours and activities include:

(i) Live-attended, both in-person and remote-attendance, education related to the naturopathic scope of practice in this state approved or offered by the following sources:

(A) American Association of Naturopathic Physicians (AANP);

(B) Washington Association of Naturopathic Physicians (WANP);

(C) North American Naturopathic Continuing Education Accreditation Council (NANCEAC) through the Federation of Naturopathic Medicine Regulatory Authorities (FNMRA);  
or

(D) Naturopathic medicine academic institutions and scholarly organizations approved by the board according to WAC 246-836-150.

(ii) Prerecorded education meeting the requirement in (a)(i) of this subsection related to the naturopathic scope of practice in this state. To qualify for credit under this section the course must require the licensee to pass an examination in order to complete the course.

(iii) Completion of a one year residency accredited by the council on naturopathic medical education (CNME) meets the full two year continuing education requirement.

(iv) Licensees completing a medical marijuana continuing education course approved by the department may claim the hours designated by the course provider for this activity. This activity can only be claimed once during a two year continuing education cycle.

(v) Licensees completing the suicide prevention requirement in subsection (4) of this section may claim six hours for this activity. This activity can only be claimed once during a two year continuing education cycle.

(b) Category 2. Category 2 credit hours and activities include:

(i) Live-attended, both in-person and remote-attendance, education relevant to various other health professions, however licensees may only claim those hours that have content consistent with naturopathic scope of practice in this state. Hours must be obtained through an entity that is accredited or nationally recognized, examples of which include, but are not limited to, courses accredited by:

(A) The accreditation council for continuing medical education (ACCME);

(B) The American Nurses Credentialing Center (ANCC); or

(C) The accreditation council for pharmacy education (ACPE).

(ii) Prerecorded education meeting the requirement in (b)(i) of this subsection, however only content related to naturopathic scope of practice in this state may be claimed. To qualify for credit under this section the course must require the licensee to complete an examination in order to complete the course.

(iii) Teaching, lecturing, or serving as a residency director, which shall equate one full-time work week to one continuing education hour.

(iv) Publishing in a peer-reviewed, scientific journal or textbook. Ten credit hours may be claimed for each paper, exhibit, publication, or chapter. Credit shall be claimed as of the date materials were presented or published.

(c) Category 3. A licensee may claim up to a maximum of five hours over two years in this category. Category 3 credit hours and activities include:

(i) Online study not otherwise specified above;

(ii) Multimedia education (CD/DVD);

(iii) Certification or recertification in basic life support (also known as cardiopulmonary resuscitation);

(iv) Self-study including, but not limited to, board examination preparation or reading papers and publications where an assessment tool is required upon completion; and

(v) Courses in nonclinical practice topics, such as:

(A) Health promotion;

(B) Health care cost management;

(C) Coding;

(D) Regulatory affairs; or

(E) Professional ethics, disciplinary prevention, or jurisprudence. Licensees completing the board's jurisprudence examination may claim two hours for this activity. This activity can only be claimed once during a two year continuing education reporting cycle.

(vi) In-person attendance at a board of naturopathy business meeting. Each meeting counts for one hour. Acceptable documentation is the licensee's presence recorded in the board's minutes.

(6) Documentation. A licensee must submit documentation upon request or audit. Acceptable documentation includes:

(a) Certificates of completion;

(b) Transcripts;

(c) Letters from instructors; or

(d) Other records, which must include participant's name, course title, course content, dates, provider(s) name(s), and signature of sponsor or instructor.

(e) For self-study activities that do not offer documentation, licensees should keep lists with hours spent reading publications, papers, or articles; or hours spent preparing for specialty board examinations.

(7) Waiver or extension. In ~~((emergency))~~ emergent or unusual situations, such as personal or family illness, the board may ~~((in its discretion, for good cause shown,))~~ waive all or part of the continuing education requirement for a par-

ticular ~~((one year))~~ continuing education reporting period for an individual licensee if the board determines there is good cause. The board may also grant the licensee an extension period in order to meet the full requirement if the board determines there is good cause. Licensees requesting an extension must include a detailed plan on how they will obtain the deficient hours. Hours obtained for an extension can only be applied to the extension and cannot be used for any other continuing education reporting cycle. The board may require ~~((such))~~ verification of the ~~((emergency))~~ emergent or unusual situation as is necessary ~~((to prove its existence)).~~

## WSR 19-08-033

### PERMANENT RULES

### DEPARTMENT OF HEALTH

(Board of Naturopathy)

[Filed March 27, 2019, 12:47 p.m., effective April 27, 2019]

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

Purpose: WAC 246-836-150 Full approval of colleges of naturopathic medicine, the board of naturopathy (board) adopted amendments to WAC 246-836-150 that address the process by which naturopathic medical schools maintain board approval. The current rule requires naturopathic medical schools to apply to the board for approval every five years; however, the current rule also accepts accreditation by the Council on Naturopathic Medical Education (CNME) as fulfilling the approval criteria. The adopted amendments streamline the process of board approval renewal by exempting CNME-accredited schools from renewal so long as the school maintains uninterrupted CNME accreditation status. If a school fails to maintain CNME accreditation, that school becomes unapproved and must formally reapply to the board for approval.

Citation of Rules Affected by this Order: Amending WAC 246-836-150.

Statutory Authority for Adoption: RCW 18.36A.160, 18.36A.100.

Adopted under notice filed as WSR 18-20-121 on October 3, 2018.

A final cost-benefit analysis is available by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, fax 360-236-2901, TTY 360-833-6388 or 711, email susan.gragg@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 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: November 16, 2018.

Chad Aschtgen, ND  
Chair

AMENDATORY SECTION (Amending WSR 12-13-104, filed 6/20/12, effective 7/21/12)

**WAC 246-836-150 Full approval of colleges of naturopathic medicine.** (1) Full approval of a college of naturopathic medicine is the approval given by the board to a program that meets the requirements of RCW 18.36A.100 and this chapter.

(a) ~~Colleges of naturopathic medicine ((seeking full approval shall apply to the board on a form and in a manner prescribed by the board.~~

(b) ~~Those naturopathic colleges holding current)) that hold accreditation by the ((CNME need only reference their current CNME accreditation, which will be verified by the board)) Council on Naturopathic Medical Education (CNME) as of February 2017 are exempt from the requirement to apply for full approval; however, such colleges shall be subject to all other provisions of this chapter. Colleges of naturopathic medicine that fail to maintain CNME accreditation must seek board approval as outlined in this chapter.~~

(b) Colleges of naturopathic medicine that do not hold CNME accreditation and seek full approval must apply to the board on a form and in a manner prescribed by the board.

(2) The board may grant full approval to naturopathic colleges which have demonstrated compliance with the standards contained in this chapter and RCW 18.36A.100.

(3) To be eligible for full approval a naturopathic college must have been in continuous operation for a period of at least three years.

(4) After approval by the board, periodic reports may be required. Failure to conform to or maintain established standards may result in loss of approval. With the exception of those schools that continue to maintain CNME accreditation as outlined in subsection (1)(a) of this section, no naturopathic college shall receive full approval for a period longer than five years. Prior to the expiration of the period of approval, the college must apply to the board for renewal of approval using the same criteria required under subsection (1) of this section. The responsibility for renewal rests solely with the naturopathic college. The board shall review the application and make a final decision of approval or disapproval in not more than one hundred twenty days.

(5) If a naturopathic college fails to maintain the required standards or fails to report significant institutional changes, including changes in location, within ninety days of the change, the board may revoke or suspend approval. The board may contact a naturopathic college at any time, either through an evaluation committee or representative, to audit, inspect or gather information concerning the college's compliance with the required standards.

(6) After suspension of approval of a naturopathic college, the board may reinstate approval upon receipt of satis-

factory evidence that the college meets the standards of chapter 18.36A RCW and this chapter.

(7) After revocation of approval of a naturopathic college, a college may seek provisional approval, if otherwise qualified.

**WSR 19-08-034**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed March 27, 2019, 3:14 p.m., effective April 27, 2019]

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

Purpose: The securities division hereby amends chapter 460-80 WAC to require the filing of applications for registration of franchise offerings and franchise brokers, as well as for franchise exemption notice filings, to be made through the securities division's electronic franchise filing system. The amendments affect WAC 460-80-100, 460-80-110, 460-80-125, and 460-80-135. The division is also adopting new WAC 460-80-138, which provides instructions on how franchise broker license applications must be filed.

Citation of Rules Affected by this Order: New WAC 460-80-138; and amending WAC 460-80-100, 460-80-110, 460-80-125, and 460-80-135.

Statutory Authority for Adoption: RCW 19.100.250.

Adopted under notice filed as WSR 19-05-085 on February 20, 2019.

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 1, Amended 4, 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: March 27, 2019.

Gloria Papiez  
Director

AMENDATORY SECTION (Amending WSR 09-22-050, filed 10/29/09, effective 11/29/09)

**WAC 460-80-100 Notice of claim for exemption.** Any franchisor or subfranchisor who claims an exemption under RCW 19.100.030 (4)(a) and (b)(i) shall file with the director a completed Annual Notice of Claim of Exemption form along with the fee prescribed in RCW 19.100.240 made payable to the treasurer of the state of Washington. The annual

notice of claim of exemption shall be filed through the online franchise filing system administered by the director.

AMENDATORY SECTION (Amending WSR 09-22-050, filed 10/29/09, effective 11/29/09)

**WAC 460-80-110 Franchise registration application.**

All applications for registration, renewal or amendment of a franchise shall be in the form as provided by the director and contain the information specified therein. The application for registration, renewal or amendment must be accompanied by the fee prescribed in RCW 19.100.240 made payable to the treasurer of the state of Washington. All applications for registration, renewal, or amendment of a franchise shall be filed through the online franchise filing system administered by the director.

AMENDATORY SECTION (Amending WSR 09-22-050, filed 10/29/09, effective 11/29/09)

**WAC 460-80-125 Franchise registration application instructions.** The following must be adhered to with respect to all applications for registration, registration renewal or registration amendment:

(1) Completion of application. An application for registration of the offer or sale of franchises shall include the following, all of which shall be verified by means of the prescribed signature page:

- (a) Application;
- (b) Supplemental information page(s);
- (c) Seller disclosure form;
- (d) A copy of the Franchise Disclosure Document.

(2) The following shall be attached to the application:

- (a) A consent to service of process; and
- (b) One copy of any advertising to be used in connection with the offer or sale in this state of franchises.

(3) Submission of application. All applications for registration, renewal, or amendment of a franchise shall be filed through the online franchise filing system administered by the director.

(4) Disclosure: The offering circular shall be prepared in accordance with the Instructions for Preparation of the Franchise Disclosure Document contained in section IV. of the 2008 Franchise Registration and Disclosure Guidelines promulgated by the North American Securities Administrators Association, Inc. (NASAA).

~~((4))~~ (5) Subfranchisors: When the person filing the application for registration is a subfranchisor, the application shall also include the same information concerning the subfranchisor as is required from the franchisor; the franchisor, as well as the subfranchisor, shall execute a signature page.

~~((5))~~ (6) Signing of application: The application shall be signed by an officer or general partner of the applicant; however, it may be signed by another person holding a power of attorney for such purposes from the applicant. If signed on behalf of the applicant pursuant to such power of attorney, the application shall include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the attorney to act.

~~((6))~~ (7) Manually or digitally signed consent of accountant: All applications shall be accompanied by a man-

ually or digitally signed consent of the independent public accountants for the use of their audited financial statements as such statements appear in the offering circular.

AMENDATORY SECTION (Amending WSR 09-22-050, filed 10/29/09, effective 11/29/09)

**WAC 460-80-135 Franchise registration amendment and renewal instructions.** An application to renew or amend a franchise registration must comply with the following requirements:

(1) An application for renewal of a franchise registration must be filed with the director no later than fifteen business days prior to the expiration of registration in order to avoid a lapse in registration and the need to file an initial application for registration. If the registration has already expired, the applicant must mark the application as an initial registration and pay the fee required for filing an initial application for registration in RCW 19.100.240.

(2) An amendment to a franchise application is required to be filed as soon as reasonably possible and in any case, before the further sale of any franchise, if a material adverse change in the condition of the franchisor or any of its subfranchisors or any material change in the information contained in its Franchise Disclosure Document should occur.

(3) The following documents must be filed for each amendment or application for renewal of a franchise registration:

(a) A completed application marked amendment or renewal, as applicable. If the application is for renewal, do not mark the amendment boxes on the application even if the documents have been revised since the last filing.

(b) All documents set forth in WAC 460-80-125 required for an initial application with all additions, deletions and other changes to the previously filed documents black-lined. Changes must be clearly marked so that each change is noticed easily. Do NOT use margin balloons or color highlights to show changes. Do not use less than 11 point type for changed text. Use a black-lining system that underlines changes and shows deletions by a strike through.

(c) A clean copy of the updated Franchise Disclosure Document.

(4) If the director requires changes to any documents submitted, the franchisor must file a complete clean copy of the revised Franchise Disclosure Document and any other revised documents, and a black-lined copy of all the revised pages, unless directed otherwise.

(5) All applications for renewal or amendment of a franchise shall be filed through the online franchise filing system administered by the director.

NEW SECTION

**WAC 460-80-138 Franchise broker license application instructions.** All applications for initial registration or renewal of a franchise broker license shall be filed through the online franchise filing system administered by the director.

**WSR 19-08-037**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**

[Filed March 28, 2019, 9:48 a.m., effective April 28, 2019]

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

Purpose: The agency is correcting where hospitals must report *other provider preventable condition* associated with an established medicaid client in subsection (6)(d)(i), and correcting a web address. Also correcting a bad web address in subsection (6)(d)(ii).

Citation of Rules Affected by this Order: Amending WAC 182-502-0022.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-03-085 on January 14, 2019.

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: March 28, 2019.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-19-038, filed 9/11/13, effective 10/12/13)

**WAC 182-502-0022 Provider preventable conditions (PPCs)—Payment policy.** (1) This section establishes the agency's payment policy for services provided to medicaid clients on a fee-for-service basis or to a client enrolled in a managed care organization (defined in WAC 182-538-050) by health care professionals and inpatient hospitals that result in provider preventable conditions (PPCs).

(2) The rules in this section apply to:

(a) All health care professionals who bill the agency directly; and

(b) Inpatient hospitals.

(3) Definitions. The following definitions and those found in chapter 182-500 WAC apply to this section:

(a) **Agency** - See WAC 182-500-0010.

(b) **Health care-acquired conditions (HCAC)** - A condition occurring in any inpatient hospital setting (identified as a hospital acquired condition by medicare other than deep vein thrombosis/pulmonary embolism as related to a total knee replacement or hip replacement surgery in pediatric and obstetric patients.) Medicare's list of hospital acquired condi-

tions is also available at: [http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalAcqCond/Hospital-Acquired\\_Conditions.html](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalAcqCond/Hospital-Acquired_Conditions.html).

(c) **Other provider preventable conditions (OPPC)** - The list of serious reportable events in health care as identified by the department of health in WAC 246-302-030 and published by the National Quality Forum.

(d) **Present on admission (POA) indicator** - A status code the hospital uses on an inpatient claim that indicates if a condition was present at the time the order for inpatient admission occurs.

(e) **Provider preventable condition (PPC)** - An umbrella term for hospital and nonhospital acquired conditions identified by the agency for nonpayment to ensure the high quality of medicaid services. PPCs include two distinct categories: Health care-acquired conditions (HCACs) and other provider-preventable conditions (OPPCs).

(4) **Health care-acquired condition (HCAC)** - The agency will deny or recover payment to health care professionals and inpatient hospitals for care related only to the treatment of the consequences of a HCAC.

(a) HCAC conditions include:

(i) Foreign object retained after surgery;

(ii) Air embolism;

(iii) Blood incompatibility;

(iv) Stage III and IV pressure ulcers;

(v) Falls and trauma:

(A) Fractures;

(B) Dislocations;

(C) Intracranial injuries;

(D) Crushing injuries;

(E) Burns;

(F) Other injuries.

(vi) Manifestations of poor glycemic control:

(A) Diabetic ketoacidosis;

(B) Nonketotic hyperosmolar coma;

(C) Hypoglycemic coma;

(D) Secondary diabetes with ketoacidosis;

(E) Secondary diabetes with hyperosmolarity.

(vii) Catheter-associated urinary tract infection (UTI);

(viii) Vascular catheter-associated infection;

(ix) Surgical site infection, mediastinitis, following coronary artery bypass graft (CABG);

(x) Surgical site infection following bariatric surgery for obesity:

(A) Laparoscopic gastric bypass;

(B) Gastroenterostomy; or

(C) Laparoscopic gastric restrictive surgery.

(xi) Surgical site infection following certain orthopedic procedures:

(A) Spine;

(B) Neck;

(C) Shoulder;

(D) Elbow.

(xii) Surgical site infection following cardiac implantable electronic device (CIED).

(xiii) Deep vein thrombosis/pulmonary embolism (DVT/PE) following certain orthopedic procedures:

(A) Total knee replacement; or

(B) Hip replacement.

(xiv) Latrogenic pneumothorax with venous catheterization.

(b) Hospitals must include the present on admission (POA) indicator when submitting inpatient claims for payment. The POA indicator is to be used according to the official coding guidelines for coding and reporting and the CMS guidelines. The POA indicator may prompt a review, by the agency or the agency's designee, of inpatient hospital claims with an HCAC diagnosis code when appropriate according to the CMS guidelines. The agency will identify professional claims using the information provided on the hospital claims.

(c) HCACs are based on current medicare inpatient prospective payment system rules with the inclusion of POA indicators. Health care professionals and inpatient hospitals must report HCACs on claims submitted to the agency for consideration of payment.

(5) **Other provider preventable condition (OPPC)** - The agency will deny or recoup payment to health care professionals and inpatient hospitals for care related only to the treatment of consequences of an OPPC when the condition:

(a) Could have reasonably been prevented through the application of nationally recognized evidence based guidelines;

(b) Is within the control of the hospital;

(c) Occurred during an inpatient hospital admission;

(d) Has a negative consequence for the beneficiary;

(e) Is auditable; and

(f) Is included on the list of serious reportable events in health care as identified by the department of health in WAC 246-302-030 effective on the date the incident occurred. The list of serious reportable events in health care, as of the publishing of this rule, includes:

(i) Surgical or invasive procedure events:

(A) Surgical or other invasive procedure performed on the wrong site;

(B) Surgical or other invasive procedure performed on the wrong patient;

(C) Wrong surgical or other invasive procedure performed on a patient;

(D) Unintended retention of a foreign object in a patient after surgery or other invasive procedure;

(E) Intraoperative or immediately postoperative/postprocedure death in an ASA Class 1 patient.

(ii) Product or device events:

(A) Patient death or serious injury associated with the use of contaminated drugs, devices, or biologics provided by the hospital;

(B) Patient death or serious injury associated with the use or function of a device in patient care, in which the device is used or functions other than as intended;

(C) Patient death or serious injury associated with intravascular air embolism that occurs while being cared for in a hospital.

(iii) Patient protection events:

(A) Discharge or release of a patient/resident of any age, who is unable to make decisions, to other than an authorized person;

(B) Patient death or serious injury associated with patient elopement;

(C) Patient suicide, attempted suicide, or self-harm that results in serious injury, while being cared for in a hospital.

(iv) Care management events:

(A) Patient death or serious injury associated with a medication error (e.g., errors involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration);

(B) Patient death or serious injury associated with unsafe administration of blood products;

(C) Maternal death or serious injury associated with labor or delivery in a low-risk pregnancy while being cared for in a hospital;

(D) Death or serious injury of a neonate associated with labor or delivery in a low-risk pregnancy;

(E) Patient death or serious injury associated with a fall while being cared for in a hospital;

(F) Any stage 3, stage 4, or unstageable pressure ulcers acquired after admission/presentation to a hospital (not present on admission);

(G) Patient death or serious injury resulting from the irretrievable loss of an irreplaceable biological specimen;

(H) Patient death or serious injury resulting from failure to follow-up or communicate laboratory, pathology, or radiology test results.

(v) Environmental events:

(A) Patient death or serious injury associated with an electric shock in the course of a patient care process in a hospital;

(B) Any incident in which systems designated for oxygen or other gas to be delivered to a patient contains no gas, the wrong gas, or is contaminated by toxic substances;

(C) Patient death or serious injury associated with a burn incurred from any source in the course of a patient care process in a hospital;

(D) Patient death or serious injury associated with the use of physical restraints or bedrails while being cared for in a hospital.

(vi) Radiologic events: Death or serious injury of a patient associated with the introduction of a metallic object into the magnetic resonance imaging (MRI) area.

(vii) Potential criminal event:

(A) Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider;

(B) Abduction of a patient of any age;

(C) Sexual abuse/assault on a patient within or on the grounds of a health care setting;

(D) Death or serious injury of a patient resulting from a physical assault (i.e., battery) that occurs within or on the grounds of a health care setting.

(6) Reporting PPCs.

(a) The agency requires inpatient hospitals to report PPCs (as appropriate according to (d) and (e) of this subsection) to the agency by using designated present on admission (POA) indicator codes and appropriate HCPCs modifiers that are associated:

(i) With claims for medical assistance payment; or

(ii) With courses of treatment furnished to clients for which medical assistance payment would otherwise be available.

(b) Health care professionals and inpatient hospitals must report PPCs associated with medicaid clients to the agency even if the provider does not intend to bill the agency.

(c) Use of the appropriate POA indicator codes informs the agency of the following:

(i) A condition was present at the time of inpatient hospital admission or at the time the client was first seen by the health care professional or hospital; or

(ii) A condition occurred during admission or encounter with a health care professional either inpatient or outpatient.

(d) Hospitals must notify the agency of an OPPC associated with an established medicaid client within forty-five calendar days of the confirmed OPPC in accordance with RCW 70.56.020. If the client's medicaid eligibility status is not known or established at the time the OPPC is confirmed, the agency allows hospitals thirty days to notify the agency once the client's eligibility is established or known.

(i) Notification must be in writing, addressed to the agency's (~~chief medical officer~~) office of program integrity, and include the OPPC, date of service, client identifier, and the claim number if the facility submits a claim to the agency.

(ii) Hospitals must complete the appropriate portion of the HCA 12-200 form to notify the agency of the OPPC. Agency forms are available for download at: (~~http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx~~) https://www.hca.wa.gov/billers-providers-partners/forms-and-publications.

(e) Health care professionals or designees responsible for or may have been associated with the occurrence of a PPC involving a medicaid client must notify the agency within forty-five calendar days of the confirmed PPC in accordance with chapter 70.56 RCW. Notifications must be in writing, addressed to the agency's chief medical officer, and include the PPC, date of service, and client identifier. Providers must complete the appropriate portion of the HCA 12-200 form to notify the agency of the PPC. Agency forms are available for download at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>.

(f) Failure to report, code, bill or claim PPCs according to the requirements in this section will result in loss or denial of payments.

(7) Identifying PPCs. The agency may identify PPCs as follows:

(a) Through the department of health (DOH); or

(b) Through the agency's program integrity efforts, including:

(i) The agency's claims payment system;

(ii) Retrospective hospital utilization review process (see WAC 182-550-1700);

(iii) The agency's provider payment review process (see WAC 182-502-0230);

(iv) The agency's provider audit process (see chapter 182-502A WAC); and

(v) A provider or client complaint.

(8) Payment adjustment for PPCs. The agency or its designee conducts a review of the PPC prior to reducing or denying payment.

(a) The agency does not reduce, recoup, or deny payment to a provider for a PPC when the condition:

(i) Existed prior to the initiation of treatment for that client by that provider. Documentation must be kept in the client's clinical record to clearly support that the PPC existed prior to initiation of treatment; or

(ii) Is directly attributable to a comorbid condition(s).

(b) The agency reduces payment to a provider when the following applies:

(i) The identified PPC would otherwise result in an increase in payment; and

(ii) The portion of the professional services payment directly related to the PPC, or treatment of the PPC, can be reasonably isolated for nonpayment.

(c) The agency does not make additional payments for services on claims for covered health care services that are attributable to HCACs and/or are coded with POA indicator codes "N" or "U."

(d) Medicare crossover claims. The agency applies the following rules for these claims:

(i) If medicare denies payment for a claim at a higher rate for the increased costs of care under its PPC policies:

(A) The agency limits payment to the maximum allowed by medicare;

(B) The agency does not pay for care considered nonallowable by medicare; and

(C) The client cannot be held liable for payment.

(ii) If medicare denies payment for a claim under its national coverage determination agency from Section 1862 (a)(1)(A) of the Social Security Act (42 U.S.C. 1395) for an adverse health event:

(A) The agency does not pay the claim, any medicare deductible or any coinsurance related to the inpatient hospital and health care professional services; and

(B) The client cannot be held liable for payment.

(9) The agency will calculate its reduction, denial or recoupment of payment based on the facts of each OPPC or HCAC. Any overpayment applies only to the health care professional or hospital where the OPPC or HCAC occurred and does not apply to care provided by other health care professionals and inpatient hospitals, should the client subsequently be transferred or admitted to another hospital for needed care.

(10) Medicaid clients are not liable for payment of an item or service related to an OPPC or HCAC or the treatment of consequences of an OPPC or HCAC that would have been otherwise payable by the agency, and must not be billed for any item or service related to a PPC.

(11) Provider dispute process for PPCs.

(a) A health care professional or inpatient hospital may dispute the agency's reduction, denial or recoupment of payment related to a PPC as described in chapter 182-502A WAC.

(b) The disputing health care professional or inpatient hospital must provide the agency with the following information:

(i) The health care professional or inpatient hospital's assessment of the PPC; and

(ii) A complete copy of the client's medical record and all associated billing records, to include itemized statement or explanation of charges.

**WSR 19-08-044**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-51—Filed March 29, 2019, 9:03 a.m., effective April 29, 2019]

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

Purpose: Recent clam and oyster population survey data, recreational harvest projections, and negotiations affecting intertidal treaty and nontreaty fisheries, along with public health considerations, call for recreational clam and oyster seasons to be adjusted. Seasons will be opened or extended on some public beaches and closed, removed, or shortened on others. This proposal reflects those openings and closures.

Citation of Rules Affected by this Order: Amending WAC 220-330-110 Clams other than razor clams, and mussels—Areas and seasons and 220-330-140 Oysters—Areas and seasons.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 19-05-051 on February 15, 2019.

Changes Other than Editing from Proposed to Adopted Version: An errant comma in the geographic description of one beach was deleted and a preposition was added to the WAC title to clarify that WAC 220-330-110 applies to all classified clams and mussel species. The prohibition against night harvest at one beach was clarified with language specifying hours of darkness.

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 2, 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: March 29, 2019.

Kelly Susewind  
 Director

AMENDATORY SECTION (Amending WSR 18-11-077, filed 5/17/18, effective 6/17/18)

**WAC 220-330-110 Clams other than razor clams, and mussels—Areas and seasons.** It is permissible to take, dig for, and possess clams and mussels for personal use from public tidelands year-round, except the following restrictions apply to the public tidelands at the beaches listed below:

(1) Ala Spit: All public tidelands of Ala Spit are open May 1 through May 31 only.

(2) Alki Park: Closed year-round.

(3) Alki Point: Closed year-round.

(4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.

(5) Bay View State Park: Closed year-round.

(6) Belfair State Park: Open year-round.

(7) Blaine Marine Park: Closed year-round.

(8) Blake Island State Park Marina: Closed year-round.

(9) Blowers Bluff North: Closed year-round.

(10) Brown's Point Lighthouse: Closed year-round.

(11) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn due west from the southern boundary of Burfoot Park to the opposite shore near 68th Avenue N.W. are closed year-round.

(12) Cama Beach State Park: Closed year-round.

(13) Camano Island State Park: Closed year-round.

(14) ~~((Chimacum Creek Tidelands (Irondale Beach Park): Public tidelands south of the main Chimacum Creek channel are closed year-round.~~

~~((15)))~~ Chuckanut Bay: All tidelands of Chuckanut Bay north of the BNSF Railroad trestle are closed year-round.

~~((16)))~~ (15) Coupeville: Closed year-round.

~~((17)))~~ (16) Cultus Bay: Closed year-round.

~~((18)))~~ (17) Dave Mackie County Park: Closed year-round.

~~((19)))~~ (18) Des Moines City Park: Closed year-round.

~~((20)))~~ (19) Discovery Park: Closed year-round.

~~((21)))~~ (20) DNR-142: Closed year-round.

~~((22)))~~ (21) DNR-144 (Sleeper): Closed year-round.

~~((23)))~~ (22) Dockton County Park: Closed year-round.

~~((24)))~~ (23) Dosewallips State Park: ~~((Open year-round only in))~~ The area defined by boundary markers and signs posted on the beach is open August 15 through September 7 only.

~~((25)))~~ (24) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers on the beach.

~~((26)))~~ (25) Drayton West: All public tidelands of Drayton Harbor are closed year-round, except tidelands identified as approved by the department of health and defined by boundary markers and signs posted on the beach are open year-round.

~~((27)))~~ (26) Duckabush: Open November 1 through April 30 only.

~~((28)))~~ (27) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands: Open May 15 through September 30 only.

~~((29)))~~ (28) Eagle Creek: Open ~~((July))~~ June 1 through ~~((July))~~ August 31 only.

~~((30)))~~ (29) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.

~~((31)))~~ (30) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.

~~((32)))~~ (31) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.

~~((33)))~~ (32) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.

- ~~((34))~~ (33) Fay Bainbridge Park: Closed year-round.
- ~~((35))~~ (34) Fort Flagler State Park: Open January 1 through April 15 and July 1 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.
- ~~((36))~~ (35) Freeland County Park: Open ~~(January)~~ October 1 through May ~~((45))~~ 31 only.
- ~~((37))~~ (36) Frye Cove County Park: Open May 1 through May 31 only.
- ~~((38))~~ (37) Fudge Point State Park: Closed year-round.
- ~~((39))~~ (38) Gertrude Island: All tidelands of Gertrude Island are closed year-round.
- ~~((40))~~ (39) Golden Gardens: Closed year-round.
- ~~((41))~~ (40) Graveyard Spit: Closed year-round.
- ~~((42))~~ (41) Guss Island: All tidelands of Guss Island are closed year-round.
- ~~((43))~~ (42) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed year-round.
- ~~((44))~~ (43) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.
- ~~((45))~~ (44) Howarth Park/Darlington Beach: Closed year-round.
- ~~((46))~~ (45) Illahee State Park: Open April 1 through July 31 only.
- ~~((47))~~ (46) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open August 15 through September ~~((39))~~ 7 only.
- ~~((48))~~ (47) Joemma Beach State Park: Closed year-round.
- ~~((49))~~ (48) Kayak Point County Park: Closed year-round.
- ~~((50))~~ (49) Kitsap Memorial State Park: Closed year-round.
- ~~((51))~~ (50) Kopachuck State Park: Open April 1 through May 31 only.
- ~~((52))~~ (51) Lent Landing (Port Washington Narrows): Closed year-round.
- ~~((53))~~ (52) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.
- ~~((54))~~ (53) Lincoln Park: Closed year-round.
- ~~((55))~~ (54) Lions Park (Bremerton): Closed year-round.
- ~~((56))~~ (55) Lofall: Closed year-round.
- ~~((57))~~ (56) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.
- ~~((58))~~ (57) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.
- ~~((59))~~ (58) Long Point West: Closed year-round.
- ~~((60))~~ (59) Lower Roto Vista Park: Closed year-round.
- ~~((61))~~ Manchester State Park: Closed year-round.
- ~~((62))~~ (60) March Point Recreation Area: Closed year-round.
- ~~((63))~~ (61) McNeil Island: All tidelands of McNeil Island are closed year-round.
- ~~((64))~~ (62) Meadowdale County Park: Closed year-round.
- ~~((65))~~ (63) Mee-Kwa-Mooks Park: Closed year-round.
- ~~((66))~~ (64) Monroe Landing: Closed year-round.
- ~~((67))~~ (65) Mukilteo: Closed year-round.
- ~~((68))~~ (66) Mystery Bay State Park: Open October 1 through April 30 only.
- ~~((69))~~ (67) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are closed year-round.
- ~~((70))~~ (68) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.
- ~~((71))~~ (69) Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.
- ~~((72))~~ (70) North Bay (Case Inlet): ~~((State-owned oyster reserves and contiguous state-owned tidelands south and east of the powerline crossing))~~ All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through ~~((December 31))~~ September 30, from one hour before official sunrise until one hour after official sunset only.
- ~~((73))~~ (71) North Beach County Park: Closed year-round.
- ~~((74))~~ North Tabook Point: Closed year-round.
- ~~((75))~~ (72) Oak Bay County Park: Open ~~((May))~~ April 1 through ~~((May 31))~~ April 30 only.
- ~~((76))~~ (73) Oak Harbor: Closed year-round.
- ~~((77))~~ (74) Oak Harbor Beach Park: Closed year-round.
- ~~((78))~~ (75) Oak Harbor City Park: Closed year-round.
- ~~((79))~~ (76) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.
- ~~((80))~~ (77) Old Mill County Park (Silverdale): Closed year-round.
- ~~((81))~~ (78) Olympia Shoal: Closed year-round.
- ~~((82))~~ (79) Pat Carey Vista Park: Closed year-round.
- ~~((83))~~ (80) Penrose Point State Park: Open March 1 through April 30 only, except that portion of Mayo Cove within the commercially prohibited growing area is closed year-round.
- ~~((84))~~ (81) Picnic Point County Park: Closed year-round.
- ~~((85))~~ (82) Pitship Point: Closed year-round.
- ~~((86))~~ (83) Pitt Island: All tidelands on Pitt Island are closed year-round.
- ~~((87))~~ (84) Pleasant Harbor State Park: Closed year-round.
- ~~((88))~~ (85) Pleasant Harbor WDFW Boat Launch: Closed year-round.

~~((89))~~ (86) Point Defiance: Closed year-round.

~~((90))~~ (87) Point No Point South: Closed year-round.

~~((91))~~ (88) Point Whitney Lagoon: Open January 1 through April ~~((30))~~ 15 only.

~~((92))~~ (89) Point Whitney Tidelands (excluding Point Whitney Lagoon): Open January 1 through April ~~((30))~~ 15 only.

~~((93))~~ (90) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.

~~((94))~~ (91) Port Gamble Heritage Park Tidelands: Open year-round.

~~((95))~~ (92) Port Gardner: Closed year-round.

~~((96))~~ (93) Port Townsend Ship Canal/Portage Beach: Open January 1 through May 31 only.

~~((97))~~ (94) Post Point: Closed year-round.

~~((98))~~ (95) Potlatch DNR tidelands: Open April 1 through ~~((August 31))~~ July 7 only.

~~((99))~~ (96) Potlatch State Park: Open April 1 through ~~((August 31))~~ July 7 only.

~~((100))~~ (97) Priest Point County Park: Closed year-round.

~~((101))~~ (98) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.

~~((102))~~ (99) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams year-round, except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.

~~((103))~~ (100) Retsil: Closed year-round.

~~((104))~~ (101) Richmond Beach Saltwater Park: Closed year-round.

~~((105))~~ (102) Salt Creek Recreation Area (DNR-419): Closed year-round.

~~((106))~~ (103) Saltair Beach (Kingston Ferry Terminal): Closed year-round.

~~((107))~~ (104) Saltwater State Park: Closed year-round.

~~((108))~~ (105) Samish Bay: Public tidelands of Samish Bay between Scotts Point and an unnamed point on the shore (latitude N48.5745°; longitude W122.4440°) are closed year-round.

~~((109))~~ (106) Scenic Beach State Park: Closed year-round.

~~((110))~~ (107) Seahurst County Park: Closed year-round.

~~((111))~~ (108) Semiahmoo County Park: Closed year-round.

~~((112))~~ (109) Semiahmoo Marina: Closed year-round.

~~((113))~~ (110) Sequim Bay State Park: Open January 1 through June 30 only.

~~((114))~~ (111) Shine Tidelands State Park: Open January 1 through May 15 only.

~~((115))~~ (112) Silverdale Waterfront Park: Closed year-round.

~~((116))~~ (113) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Ban-

croft Road and Beach Drive East northerly to Point Herron are closed year-round.

~~((117))~~ (114) Skagit Bay Estuary Wildlife Areas: All public tidelands of Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.

~~((118))~~ (115) South Carkeek Park: Closed year-round.

~~((119))~~ ~~South Mukilteo: Closed year-round.~~

~~((120))~~ (116) Southworth: Closed year-round.

~~((121))~~ (117) Spencer Spit State Park: Open March 1 through July 31 only.

~~((122))~~ (118) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.

~~((123))~~ (119) Taylor Bay: Closed year-round.

~~((124))~~ (120) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.

~~((125))~~ (121) Triton Cove Tidelands: Open ~~((July 15))~~ June 1 through August 31 only.

~~((126))~~ (122) Twanoh State Park: Open ~~((September))~~ August 1 through September 30 only.

~~((127))~~ (123) Walker County Park: Closed year-round.

~~((128))~~ (124) West Dewatto: DNR Beach 44A open July 1 through September 30 only.

~~((129))~~ (125) West Pass Access: Closed year-round.

~~((130))~~ (126) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is ~~((closed year-round))~~ open July 15 through September 15 only.

~~((131))~~ (127) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.

~~((132))~~ (128) Wolfe Property State Park: Open January 1 through May 15 only.

~~((133))~~ (129) Woodard Bay Natural Resource Conservation Area: Closed year-round.

It is permissible to take, dig for, and possess clams, cockles, borers, and mussels, not including razor clams, for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

Violation of the provisions of this section shall be an infraction, punishable under RCW 77.15.160.

**AMENDATORY SECTION** (Amending WSR 18-11-077, filed 5/17/18, effective 6/17/18)

**WAC 220-330-140 Oysters—Areas and seasons.** It is permissible to take and possess oysters for personal use from public tidelands year-round except the following restrictions apply to the public tidelands at the beaches listed below:

(1) Ala Spit: All public tidelands of Ala Spit open May 1 through May 31 only.

(2) Alki Park: Closed year-round.

(3) Alki Point: Closed year-round.

(4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix



River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.

(5) Bay View State Park: Closed year-round.

(6) Blaine Marine Park: Closed year-round.

(7) Blake Island State Park Marina: Closed year-round.

(8) Blowers Bluff North: Closed year-round.

(9) Brown's Point Lighthouse: Closed year-round.

(10) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park to the opposite shore near 68th Avenue N.W. are closed year-round.

(11) Cama Beach State Park: Closed year-round.

(12) Camano Island State Park: Closed year-round.

(13) ~~((Chimacum Creek Tidelands (Irondale Beach Park): Public tidelands south of the main Chimacum Creek channel are closed year-round.~~

(14)) Chuckanut Bay: All tidelands of Chuckanut Bay north of the BNSF Railroad trestle are closed year-round.

((15)) (14) Coupeville: Closed year-round.

((16)) (15) Cultus Bay: Closed year-round.

((17)) (16) Dave Mackie County Park: Closed year-round.

((18)) (17) Des Moines City Park: Closed year-round.

((19)) (18) Discovery Park: Closed year-round.

((20)) (19) DNR-142: Closed year-round.

((21)) (20) DNR-144 (Sleeper): Closed year-round.

((22)) (21) Dockton County Park: Closed year-round.

((23)) (22) Dosewallips State Park: Open year-round only in the area defined by boundary markers and signs posted on the beach.

((24)) (23) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers on the beach.

((25)) (24) Drayton West: All public tidelands of Drayton Harbor are closed year-round, except tidelands identified as approved by the department of health and defined by boundary markers and signs posted on the beach are open year-round.

((26)) (25) Duckabush: Open November 1 through April 30 only.

((27)) (26) Dungeness Spit/National Wildlife Refuge: Open May 15 through September 30 only.

((28)) (27) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.

((29)) (28) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.

((30)) (29) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.

((31)) (30) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.

((32)) (31) Fay Bainbridge Park: Closed year-round.

((33)) (32) Fort Flagler State Park: Open January 1 through April 15 and July 1 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.

((34)) (33) Freeland County Park: Open ~~((January))~~ October 1 through May ((15)) 31 only.

((35)) (34) Frye Cove County Park: Open May 1 through May 31 only.

((36)) (35) Fudge Point State Park: Closed year-round.

((37)) (36) Gertrude Island: All tidelands of Gertrude Island are closed year-round.

((38)) (37) Golden Gardens: Closed year-round.

((39)) (38) Graveyard Spit: Closed year-round.

((40)) (39) Guss Island: All tidelands of Guss Island are closed year-round.

((41)) (40) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed year-round.

((42)) (41) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.

((43)) (42) Howarth Park/Darlington Beach: Closed year-round.

((44)) (43) Illahee State Park: Open April 1 through July 31 only.

((45)) (44) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open August 15 through September ((30)) 7 only.

((46)) (45) Joemma Beach State Park: Closed year-round.

((47)) (46) Kayak Point County Park: Closed year-round.

((48)) (47) Kitsap Memorial State Park: Closed year-round.

((49)) (48) Kopachuck State Park: Open April 1 through May 31 only.

((50)) (49) Lent Landing (Port Washington Narrows): Closed year-round.

((51)) (50) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.

((52)) (51) Lincoln Park: Closed year-round.

((53)) (52) Lions Park (Bremerton): Closed year-round.

((54)) (53) Lofall: Closed year-round.

((55)) (54) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.

((56)) (55) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.

((57)) (56) Long Point West: Closed year-round.

((58)) (57) Lower Roto Vista Park: Closed year-round.

((59) ~~Manchester State Park: Closed year-round.~~

((60)) (58) March Point Recreation Area: Closed year-round.

((61)) (59) McNeil Island: All tidelands of McNeil Island are closed year-round.

((62)) (60) Meadowdale County Park: Closed year-round.

~~((63))~~ (61) Mee-Kwa-Mooks Park: Closed year-round.  
~~((64))~~ (62) Monroe Landing: Closed year-round.  
~~((65))~~ (63) Mukilteo: Closed year-round.  
~~((66))~~ (64) Mystery Bay State Park: Open October 1 through April 30 only.  
~~((67))~~ (65) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are open year-round.  
~~((68))~~ (66) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.  
~~((69))~~ (67) Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequialtchew Creek are closed year-round.  
~~((70))~~ (68) North Bay (Case Inlet): ~~((State-owned oyster reserves and contiguous state-owned tidelands south and east of the powerline crossing))~~ All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through ~~((December 31))~~ September 30, from one hour before official sunrise until one hour after official sunset only.  
~~((71))~~ (69) North Beach County Park: Closed year-round.  
~~((72) North Tabook Point: Closed year-round.~~  
~~((73))~~ (70) Oak Bay County Park: Open ~~((May))~~ April 1 through ~~((May 31))~~ April 30 only.  
~~((74))~~ (71) Oak Harbor: Closed year-round.  
~~((75))~~ (72) Oak Harbor Beach Park: Closed year-round.  
~~((76))~~ (73) Oak Harbor City Park: Closed year-round.  
~~((77))~~ (74) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.  
~~((78))~~ (75) Old Mill County Park (Silverdale): Closed year-round.  
~~((79))~~ (76) Olympia Shoal: Closed year-round.  
~~((80))~~ (77) Pat Carey Vista Park: Closed year-round.  
~~((81))~~ (78) Penrose Point State Park: Open March 1 through April 30 only, except that part of Mayo Cove within the commercially prohibited growing area is closed year-round.  
~~((82))~~ (79) Pitship Point: Closed year-round.  
~~((83))~~ (80) Picnic Point County Park: Closed year-round.  
~~((84))~~ (81) Pitt Island: Closed year-round.  
~~((85))~~ (82) Pleasant Harbor State Park: Closed year-round.  
~~((86))~~ (83) Pleasant Harbor WDFW Boat Launch: Closed year-round.  
~~((87))~~ (84) Point Defiance: Closed year-round.  
~~((88))~~ (85) Point No Point South: Closed year-round.  
~~((89))~~ (86) Point Whitney Lagoon: Open January 1 through July 31 only.  
(87) Point Whitney Tidelands (excluding Point Whitney Lagoon): Open January 1 through ~~((June 30))~~ July 31 only.

~~((90))~~ (88) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.  
~~((91))~~ (89) Port Gamble Heritage Park Tidelands: Open year-round.  
~~((92))~~ (90) Port Gardner: Closed year-round.  
~~((93))~~ (91) Port Townsend Ship Canal/Portage Beach: Open January 1 through May 31 only.  
~~((94))~~ (92) Post Point: Closed year-round.  
~~((95))~~ (93) Potlatch DNR Tidelands: Open April 1 through ~~((August 31))~~ July 7 only.  
~~((96))~~ (94) Potlatch State Park: Open April 1 through ~~((August 31))~~ July 7 only.  
~~((97))~~ (95) Priest Point County Park: Closed year-round.  
~~((98))~~ (96) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.  
~~((99))~~ (97) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed year-round except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.  
~~((100))~~ (98) Retsil: Closed year-round.  
~~((101))~~ (99) Richmond Beach Saltwater Park: Closed year-round.  
~~((102))~~ (100) Salt Creek Recreation Area (DNR-419): Closed year-round.  
~~((103))~~ (101) Saltair Beach (Kingston Ferry Terminal): Closed year-round.  
~~((104))~~ (102) Saltwater State Park: Closed year-round.  
~~((105))~~ (103) Samish Bay: Public tidelands of Samish Bay between Scotts Point and an unnamed point on the shore (latitude N48.5745°; longitude W122.4440°) are closed year-round.  
~~((106))~~ (104) Scenic Beach State Park: Closed year-round.  
~~((107))~~ (105) Seahurst County Park: Closed year-round.  
~~((108))~~ (106) Semiahmoo County Park: Closed year-round.  
~~((109))~~ (107) Semiahmoo Marina: Closed year-round.  
~~((110))~~ (108) Sequim Bay State Park: Open January 1 through June 30 only.  
~~((111))~~ (109) Shine Tidelands State Park: Open January 1 through May 15 only.  
~~((112))~~ (110) Silverdale Waterfront Park: Closed year-round.  
~~((113))~~ (111) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.  
~~((114))~~ (112) Skagit Bay Estuary Wildlife Areas: All public tidelands of the Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.  
~~((115))~~ (113) South Carkeek Park: Closed year-round.

~~((116))~~ ~~South Mukilteo: Closed year-round.~~

~~((117))~~ (114) Southworth: Closed year-round.

~~((118))~~ (115) Spencer Spit State Park: Open March 1 through July 31 only.

~~((119))~~ (116) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.

~~((120))~~ (117) Taylor Bay: Closed year-round.

~~((121))~~ (118) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.

~~((122))~~ (119) Walker County Park: Closed year-round.

~~((123))~~ (120) West Pass Access: Closed year-round.

~~((124))~~ (121) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is ~~(closed year-round)~~ open July 15 through September 15 only.

~~((125))~~ (122) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.

~~((126))~~ (123) Wolfe Property State Park: Open January 1 through May 15 only.

~~((127))~~ (124) Woodard Bay Natural Resource Conservation Area: Closed year-round.

It is permissible to take and possess oysters for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

Violation of the provisions of this section shall be an infraction, punishable under RCW 77.15.160.

**WSR 19-08-045**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed March 29, 2019, 9:05 a.m., effective April 29, 2019]

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

Purpose: This amendment and recodification of OSPI's rules pertaining to required action districts provide a process for: The identification and recommendation for the designation of school districts as required action districts; recommending release from designation as a required action district; and providing an option to extend required action district status for districts. The rule making was undertaken in collaboration with the state board of education, which also has rule-making authority regarding required action districts.

Citation of Rules Affected by this Order: New chapter 392-503 WAC; and repealing WAC 392-501-707, 392-501-710, 392-501-715, 392-501-720, 392-501-730, and 392-501-740.

Statutory Authority for Adoption: RCW 28A.657.020, 28A.657.030, 28A.657.100.

Adopted under notice filed as WSR 19-04-096 on February 5, 2019.

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 1; 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 1, 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: March 28, 2019.

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

**Chapter 392-503 WAC**

**REQUIRED ACTION DISTRICTS**

**GENERAL**

NEW SECTION

**WAC 392-503-100 Authority.** The authority for these rules is RCW 28A.657.020, 28A.657.030, and 28A.657.100, which require the superintendent of public instruction to annually:

(1) Identify challenged schools in need of improvement and a subset of such schools that are the persistently lowest-achieving schools in the state;

(2) Recommend school districts for designation as required action districts to the state board of education; and

(3) Make recommendations to the state board of education regarding the release of school districts from being designated as a required action district.

NEW SECTION

**WAC 392-503-110 Purpose.** The purpose of this chapter is to:

(1) Adopt criteria, aligned with Washington's federally authorized accountability system, for identifying challenged schools in need of improvement and a subset of such schools that are the persistently lowest-achieving schools in the state;

(2) Establish criteria for recommending to the state board of education school districts for required action; and

(3) Establish exit criteria for districts that receive a required action designation.

NEW SECTION

**WAC 392-503-120 Definitions.** For the purposes of this chapter, the following definitions apply:

(1) "Challenged schools in need of improvement" are schools which have been identified for comprehensive supports through Washington's federally authorized accountability system.

(2) "Federally approved accountability plan" refers to the state plan submitted to and approved by the federal Department of Education under the Elementary and Secondary Education Act of 1965, as amended.

(3) "Persistently lowest achieving schools" are a subset of "challenged schools in need of improvement" and are characterized, among other things, as schools showing a lack of progress for all students and subgroups of students over a number of years.

(4) "Required action district" is a district with one or more schools identified as a persistently lowest achieving school, which is recommended by the superintendent of public instruction as a required action district and subsequently designated by the state board of education as a required action district.

(5) "Washington school improvement framework" or "WSIF" means the system of school differentiation described in the Washington accountability plan approved by the U.S. Department of Education as meeting federal requirements.

### PERSISTENTLY LOWEST-ACHIEVING SCHOOLS

#### NEW SECTION

**WAC 392-503-130 Process and criteria for identifying persistently lowest achieving schools.** In February of every year, the superintendent of public instruction will identify challenged schools in need of improvement.

(1) Challenged schools in need of improvement shall be the same schools identified for comprehensive supports through the WSIF.

(2) A subset of these schools shall be identified as persistently lowest achieving schools. Schools identified as persistently lowest achieving schools will meet the following criteria:

(a) The school is a challenged school in need of improvement;

(b) The school is in the lowest decile for combined student growth as defined in the WSIF;

(c) The school is in the lowest decile for combined student proficiency as defined in the WSIF; and

(d) The school is located in a district that serves a significantly higher proportion than the state average of students in the student groups targeted by the superintendent of public instruction for the highest rates of annual improvement in English language arts and math proficiency, as described in the federally accepted Washington accountability plan.

(3) The superintendent of public instruction will prioritize persistently lowest achieving schools as follows:

(a) Identifying the percentage of schools identified for improvement through the WSIF within each persistently lowest achieving school's district;

(b) Ordering the list from the largest to the smallest percentage.

### REQUIRED ACTION SCHOOL DISTRICTS

#### NEW SECTION

**WAC 392-503-140 Process and criteria for recommending to the state board of education school districts**

**for required action.** (1) The superintendent of public instruction shall recommend to the state board of education school districts for designation as required action districts.

(2) The recommendations for designation of required action districts shall occur each year in March, or at a time mutually agreeable to the state board of education and the superintendent of public instruction.

(3) Only districts with one or more schools identified as a persistently lowest achieving school may be recommended as a required action district.

(4) The number of districts recommended for designation as a required action district will be based on:

(a) Prioritization, as described in WAC 392-503-130; and

(b) Availability of federal and state funds to meet the identified needs of the recommended districts.

### EXIT CRITERIA

#### NEW SECTION

**WAC 392-503-150 Exit criteria for required action designation—District option to extend designation.** (1) **General.** The superintendent of public instruction shall recommend to the state board of education that a school district be released from designation as a required action district after the district implements a required action plan for a period of three years if the district no longer has a school on the persistently lowest achieving list.

(2) **Request for accelerated release.**

(a) A school district may request that the superintendent of public instruction recommend an accelerated release from required action status if the district has met the following criteria:

(i) The district must be designated as a required action district for two years;

(ii) The district must operate no school that has been prioritized as a persistently lowest achieving school under WAC 392-503-130.

(b) The request must be made in writing and provided to the superintendent of public instruction by February of the second year after the district's designation as a required action district.

(3) **Request to extend required action district designation.**

(a) A school district meeting the requirements for release from required action designation may request that the superintendent of public instruction allow the district to continue under required action designation for another three-year cycle.

(b) The request must be made in writing and provided to the superintendent of public instruction by February of the third year after designation as a required action district.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-501-707 Authority.

- WAC 392-501-710 Purpose.  
 WAC 392-501-715 Definitions.  
 WAC 392-501-720 Process and criteria for identifying challenged schools in need of improvement.  
 WAC 392-501-730 Process and criteria for recommending to the state board of education school districts for required action.  
 WAC 392-501-740 Exit criteria for required action designation.

Date Adopted: March 29, 2019.

Wendy Barcus  
 Rules Coordinator

**GROUND EMERGENCY  
 MEDICAL TRANSPORTATION (GEMT)**

NEW SECTION

**WAC 182-546-0505 GEMT definitions.** See WAC 182-546-0001 for additional definitions.

**"Allowable costs"** means an expenditure that meets the test of the appropriate Executive Office of the President of the United States Office of Management and Budget (OMB) Circular.

**"Cost allocation plan (CAP)"** means a document that identifies, accumulates, and distributes allowable direct and indirect costs to cost objectives. The document also identifies the allocation methods used for distribution to cost objectives, based on relative benefits received.

**"Direct costs"** means all costs identified specifically with a particular final cost objective in order to meet emergent medical transportation requirements. This includes unallocated payroll costs for personnel work shifts, medical equipment and supplies, professional and contracted services, travel, training, and other costs directly related to delivering covered medical transportation services.

**"Federal financial participation (FFP)"** means the portion of medical assistance expenditures for emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid Services (CMS) according to the state plan for medical assistance. Clients under Title 19 (Health Resources and Services Administration (HRSA)) are eligible for FFP.

**"Indirect costs"** means the costs for a common or joint purpose benefiting more than one cost objective and allocated to each objective using an agency-approved indirect rate or an allocation methodology.

**"Prehospital care"** means assessment, stabilization, and emergency medical care of an ill or injured client by an emergency medical technician, paramedic, or other person before the client reaches the hospital.

**"Publicly owned or operated"** means an entity that is owned or operated by a unit of government. The unit of government is a state, city, county, special purpose district, or other governmental unit in the state that has taxing authority, has direct access to tax revenues, or is an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, Section 4.

**"Qualifying expenditure"** means an expenditure for covered services provided to an eligible beneficiary.

**"Service period"** means July 1st through June 30th of each Washington state fiscal year.

**"Shift"** means a standard period of time assigned for a complete cycle of work as set by each participating provider.

NEW SECTION

**WAC 182-546-0510 GEMT program overview.** (1)  
 The ground emergency medical transportation (GEMT) pro-

**WSR 19-08-058**

**PERMANENT RULES**

**HEALTH CARE AUTHORITY**

[Filed March 29, 2019, 1:44 p.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: This rule making is necessary to implement HB 2007 that directed the agency to design and implement a supplemental medicaid reimbursement in addition to the rate of payment that an eligible provider would otherwise receive for medicaid ground emergency medical transportation services for both fee-for-service and managed care-enrolled clients. An eligible provider is one who provides ground emergency medical transportation services to medicaid beneficiaries, is enrolled as a medicaid provider, and is owned or operated by the state, a city, county fire protection district, community services district, health care district, federally recognized Indian tribe, or any unit of government as defined in 42 C.F.R. Sec. 433.50.

Citation of Rules Affected by this Order: New WAC 182-546-0505, 182-546-0510, 182-546-0515, 182-546-0520, 182-546-0525, 182-546-0530, 182-546-0535, 182-546-0540, and 182-546-0545.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, HB 2007, chapter 147, Laws of 2015, 64th legislature, 2015 regular session.

Adopted under notice filed as WSR 19-05-093 on February 20, 2019.

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 9, 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 9, Amended 0, Repealed 0.

gram permits publicly owned or operated providers to receive cost-based payments for emergency ground ambulance transportation of medicaid fee-for-service clients.

(2) This program is for clients under Title XIX of the federal Social Security Act and the Affordable Care Act (ACA) only. Participating providers do not receive supplemental payments for transporting:

- (a) Medicaid applicants; or
- (b) Medicare/medicaid recipients with dual eligibility.

(3) The cost-based payment, when combined with the amount received from all other sources of reimbursement for medicaid, must not exceed one hundred percent of allowable costs.

(4) Fire departments/districts must use the approved CAP of their local government. If the local government does not have a CAP, they must use the Centers for Medicare and Medicaid Services (CMS)-approved cost report.

(5) The state general fund cannot be used for GEMT cost-based payments.

#### NEW SECTION

**WAC 182-546-0515 GEMT provider participation and qualifications.** (1) Participation in the program by a GEMT provider is voluntary.

(2) To qualify under this program and receive supplemental payments, a participating provider must:

(a) Provide ground emergency transportation services to medicaid fee-for-service clients as described in WAC 182-546-0510(2).

(b) Be publicly owned or operated as defined in WAC 182-546-0505.

(c) Be enrolled as a medicaid provider, with an active core provider agreement, for the service period specified in the claim.

(d) Renew GEMT participation annually by submitting a participation agreement and the Centers for Medicare and Medicaid Services (CMS)-approved cost report to the agency.

#### NEW SECTION

**WAC 182-546-0520 GEMT supplemental payments.**

(1) The agency makes supplemental payments for the uncompensated and allowable costs incurred while providing GEMT services to medicaid fee-for-service clients, as defined by the United States Office of Management and Budget (OMB).

(a) The amount of supplemental payments, when combined with the amount received from all other sources of reimbursement from the medicaid program, will not exceed one hundred percent of allowable costs.

(b) If the participating provider does not have any uncompensated care costs, then the participating provider will not receive payment under this program.

(2) The total payment is equal to the participating provider's allowable costs of providing the services.

(a) The participating provider must certify the uncompensated expenses using the cost reporting process described under WAC 182-546-0525. This cost reporting process

allows medicaid to obtain federal matching dollars to be distributed to participating providers.

(b) The participating provider must:

(i) Include the expenditure in its budget.

(ii) Certify that the claimed expenditures for the GEMT services are eligible for FFP and that the costs were allocated to the appropriate cost objective according to the cost allocation plan.

(iii) Provide evidence, specified by the agency, supporting the certification.

(iv) Submit data, specified by the agency, determining the appropriate amounts to claim as expenditures qualifying for FFP.

#### NEW SECTION

**WAC 182-546-0525 GEMT claim submission and cost reporting.** (1) Each participating provider is responsible for submitting claims to the agency for services provided to eligible clients. Participating providers must submit the claims according to the rules and billing instructions in effect at the time the service is provided.

(2) On an annual basis, participating providers must certify and allocate their direct and indirect costs as qualifying expenditures eligible for FFP.

(3) The claimed costs must be necessary to carry out GEMT.

(4) Participating providers must complete cost reporting according to the Centers for Medicare and Medicaid Services (CMS)-approved cost identification principles and standards such as the most current editions of the *CMS Provider Reimbursement Manual* and the United States Office of Management and Budget Circular (OMB) Circular A-87.

(5) Participating providers must completely and accurately document the CMS-approved cost report as required under OMB Circular A-87 Attachment A.

(6) Participating providers must allocate direct and indirect costs to the appropriate cost objectives as indicated in the cost report instructions.

(7) Reported personnel costs including wages, salaries, and fringe benefits must be exclusively attributable to ground emergency ambulance services provided. Services do not include fire suppression.

(8) Revenues received directly, such as foundation grants and money from private fund-raising, are not eligible for certification because such revenues are not expenditures of a government entity.

(9) The sum of a participating provider's allowable direct and indirect costs are divided by the number of ground emergency medical transports to determine a participating provider's average cost per qualifying transport.

(10) Participating providers must complete an annual cost report documenting the participating provider's total CMS-approved, medicaid-allowable, direct and indirect costs of delivering medicaid-covered services using a CMS-approved cost-allocation methodology. Participating providers must:

(a) Submit the cost report within five months after the close of the service period.

(b) Request an extension to the cost report deadline in writing to the agency, if needed. The agency will review requests for an extension on a case-by-case basis.

(c) Provide additional documentation justifying the information in the cost report, upon request by the agency.

(d) Assure the agency receives the cost report or additional documentation according to WAC 182-502-0020.

(i) Participating providers must comply with WAC 182-502-0020 to receive the supplemental payment under this program.

(ii) The agency pays the claims for the following service period according to the agency's current ambulance fee schedule.

(11) The costs associated with releasing a client on the scene without transportation by ambulance to a medical facility are eligible for FFP and are eligible expenditures.

(12) Other expenses associated with the prehospital care are eligible costs associated with GEMT.

(13) Expenditures are not eligible costs until the services are provided.

#### NEW SECTION

**WAC 182-546-0530 GEMT interim supplemental payment.** (1) The agency pays an interim supplemental payment for GEMT. These payments using the interim supplemental payment allows the agency to pay participating providers for GEMT. The payments will approximate the GEMT costs eligible for federal financial participation claimed through the certified public expenditure (CPE) process.

(2) The agency computes the interim supplemental payment for GEMT on an annual basis.

(3) To determine the interim supplemental payment for GEMT, the agency uses the most recently filed cost reports of all participating providers to determine an average cost per qualifying transport. Therefore, the cost per participating provider and the amount of interim supplemental payments will vary among the participating providers.

(4) The agency distributes the interim supplemental payments to participating providers on a weekly basis using claims data as documented in the agency's claim system.

#### NEW SECTION

**WAC 182-546-0535 GEMT cost reconciliation and settlement process.** (1) The agency reconciles each interim supplemental payment for GEMT to the provider's filed cost report for the service year in which interim supplemental payments are made.

(2) The agency compares the total medicaid-allowable costs to the interim supplemental payments paid to the participating providers as documented in the agency's claim system, resulting in cost reconciliation.

(3) The agency performs cost settlements based on the final Centers for Medicare and Medicaid Services (CMS)-approved cost report schedules for all participating providers.

(a) The agency:

(i) Recovers from the participating provider the federal payments that exceed the participating provider's cost per qualifying transport; or

(ii) Pays the participating provider if the cost per transport exceeds the interim supplemental payment amount.

(b) If a participating provider disputes the reimbursement rate before there is an overpayment, the provider may appeal under WAC 182-502-0220.

(c) If a participating provider disputes the agency's determination that the participating provider has been overpaid, the participating provider may request a hearing under WAC 182-502-0230.

(4) The agency reports to the CMS any difference between the payments of federal funds made to the participating providers and the federal share of the qualifying expenditures and returns excess funds to CMS.

(5) Each participating provider must agree to reimburse the agency for the costs associated with administering the GEMT program. The costs are collected during the final reconciliation and settlement process and cannot be included as an expense in the participating provider's cost report.

#### NEW SECTION

**WAC 182-546-0540 GEMT records maintenance.** In addition to the health care record requirements in WAC 182-502-0020, GEMT participating providers must also maintain records of accounting procedures and practices that reflect all direct and indirect costs, of any nature, spent performing GEMT services.

#### NEW SECTION

**WAC 182-546-0545 GEMT auditing.** (1) Participating providers must follow the terms and conditions outlined in the agency's core provider agreement.

(2) The agency may conduct audit or investigation activities, as described under chapters 74.09 RCW and 182-502A WAC, to determine compliance with the rules and regulations of the core provider agreement, as well as of the GEMT program.

(3) If an audit or investigation is initiated, the participating provider must retain all original records and supporting documentation until the audit or investigation is completed and all issues are resolved, even if the period of retention extends beyond the required six-year period required under WAC 182-502-0020.

### WSR 19-08-065

#### PERMANENT RULES

#### DEPARTMENT OF LICENSING

[Filed March 29, 2019, 2:52 p.m., effective April 29, 2019]

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

Purpose: This rule change will allow drivers to keep a photocopy, electronic image, or the original cab card in their vehicle.

Citation of Rules Affected by this Order: Amending WAC 308-91-040.

Statutory Authority for Adoption: RCW 46.87.010.

Adopted under notice filed as WSR 19-04-089 on February 5, 2019.

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.

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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: March 29, 2019.

Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-03-071, filed 1/19/16, effective 2/19/16)

**WAC 308-91-040 General provisions.** (1) **Can carriers separate their apportionable vehicles into more than one fleet?** Yes, carriers may separate their apportionable vehicles into two or more fleets.

(2) **How must I display my cab card?** The original paper cab card, a legible paper copy, or a legible electronic image must be carried in or on the vehicle to which it has been issued. If you have renewed for a subsequent registration year but are still operating in the current registration year, you are required to carry both cab cards.

(3) **Are photocopies of the cab card acceptable?** ~~((No, photocopies or other facsimiles (fax) of any cab card cannot be used for the power unit.))~~ Yes, a photocopy of the original cab card is acceptable provided the copy is legible.

(4) **May my proportional registration credentials be transferred?** Yes, vehicle license plates and validation tabs may be transferred when moving the vehicles from one fleet to another fleet for the same registrant. Cab card(s) cannot be transferred under any circumstance.

(5) **When must I surrender my proportional registration credentials?** Cab card(s) must be surrendered in order to receive license fee credit unless the supplement is filed electronically.

(6) **Under what circumstances may Washington license fees be adjusted?** For any unpaid invoices, Washington license fees may be adjusted, in one-twelfth increments, if reasonable cause has been established. Reasonable cause may be considered as the demise of the registrant, destruction of a vehicle, theft or other cause the department determines otherwise acceptable. Washington license fees may also be adjusted by audit.

## WSR 19-08-066

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 29, 2019, 4:10 p.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: The department is amending WAC 388-410-0005 Cash assistance overpayment amount and liability, to change which members of a household are and are not responsible for temporary assistance for needy families (TANF) overpayments. Under this change, children will not be responsible for TANF overpayments and circumstances in which overpayments are recovered from nonneedy caretaker relatives or guardians.

Citation of Rules Affected by this Order: Amending WAC 388-410-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Adopted under notice filed as WSR 19-03-098 on January 15, 2019.

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: March 29, 2019.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-18-004, filed 8/22/13, effective 10/1/13)

**WAC 388-410-0005 Cash assistance overpayment amount and liability.** (1) The amount of overpayment for cash assistance households is determined by the amount of assistance received to which the assistance unit was not entitled.

(2) Cash overpayments are recovered from:

(a) Any individual member of an overpaid assistance unit, whether or not the member is currently a recipient; ~~((or))~~

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) A nonneedy caretaker relative or guardian who received the overpayment on behalf of a child.



(3) A cash assistance overpayment is not recovered from:

(a) A nonneedy caretaker relative or guardian who ~~((received no financial benefit from the payment of))~~ did not receive the overpayment on behalf of a child;

(b) A child who was in the assistance unit at the time the overpayment was accrued;

(c) A nonneedy caretaker relative or guardian who was assessed an overpayment for a child who is not currently part of the assistance unit; or

~~((b))~~ (d) A person not receiving assistance when an unintentional overpayment of less than thirty-five dollars is discovered ((and/or)), computed, or both.

(4) Overpayments resulting from incorrectly received cash assistance are reduced by:

(a) Cash assistance a household would have been eligible to receive from any other category of cash assistance during the period of ineligibility; and

(b) Child support the department collected for the month of overpayment in excess of the amount specified in (a) of this subsection; or

(c) Any existing grant underpayments.

(5) A cash assistance overpayment cannot be reduced by a food assistance underpayment.

(6) An underpayment from one assistance unit cannot be credited to another assistance unit to offset an overpayment.

(7) All overpayments occurring after January 1, 1982 are required to be repaid by mandatory grant deduction except where recovery is inequitable as specified in WAC 388-410-0010.

### WSR 19-08-076

#### PERMANENT RULES

#### DEPARTMENT OF

#### LABOR AND INDUSTRIES

[Filed April 2, 2019, 10:00 a.m., effective May 15, 2019]

Effective Date of Rule: May 15, 2019.

Purpose: This update will add language to the current rule allowing the replacement of hearing aids upon request five years after the issue date of the current hearing aids.

Citation of Rules Affected by this Order: Amending WAC 296-20-1101.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 19-03-161 on January 22, 2019.

A final cost-benefit analysis is available by contacting Robert Mayer, Department of Labor and Industries, P.O. Box 44322, Olympia, WA 98504-4322, phone 360-902-5021, fax 360-902-4249, email robert.mayer@lni.wa.gov.

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

Number of Sections Adopted at 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: April 2, 2019.

Joel Sacks  
Director

AMENDATORY SECTION (Amending WSR 08-05-093, filed 2/15/08, effective 3/22/08)

**WAC 296-20-1101 Hearing aids and masking devices.** The department or self-insurer is responsible for replacement or repair of hearing aids damaged or lost due to an industrial accident only to the extent of restoring the damaged item to its condition at time of the accident. If the hearing aid is repairable and the worker determines he prefers replacement, the department or self-insurer is responsible only to the extent of the cost to repair the original and the worker is responsible for the difference between repair and replacement costs.

When the department or self-insurer has accepted a hearing loss condition either as a result of industrial injury or occupational exposure, the department or self-insurer will furnish a hearing aid (hearing aids when bilateral loss is present) when prescribed or recommended by a physician.

The department or self-insurer will bear the cost of ~~((repairs or replacement due to normal wear and the cost of))~~:

(1) Repairs due to normal wear;

(2) Replacement due to normal wear;

(3) Replacement upon request five years after the issue date of the current hearing aid; and

(4) Battery replacement for the life of the hearing aid.

If the worker has been issued a linear analog hearing aid and it becomes inoperable or if the worker is unable to hear, the department or self-insurer will replace the linear analog hearing aid with a nonlinear digital or nonlinear analog hearing aid in accordance with existing medical aid rules and fee schedules and at no cost to the worker even if the linear analog hearing aid is repairable.

In cases of accepted tinnitus, the department or self-insurer may provide masking devices under the same provisions as outlined for hearing aids due to hearing loss.

Provision of masking devices and hearing aids require prior authorization.

**WSR 19-08-086**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed April 3, 2019, 9:54 a.m., effective May 4, 2019]

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

Purpose: The division of child support (DCS) is permanently adopting new and amended rules in chapter 388-14A WAC to implement changes to the Uniform Interstate Family Support Act (UIFSA), adopted in Washington as chapter 26.21A RCW, which were made to implement the Convention of November 23, 2007, on the International Recovery of Child Support and Other Forms of Family Maintenance (known as the Hague Convention on Child Support).

Those statutory changes were adopted under ESSB 5498 (chapter 214, Laws of 2015), as part of Washington's state plan under Title IV-D of the federal Social Security Act. On September 29, 2014, President Obama signed into law H.R. 4980, entitled the Preventing Sex Trafficking and Strengthening Families Act, which became Public Law 113-183, which included a requirement that states adopt UIFSA 2008 by July 1, 2015, as part of the state plan for the child support program under Title IV-D of the federal Social Security Act. 42 U.S.C. 654 (20)(A); 42 USC 666(f).

These changes describe the procedures to be followed when DCS is enforcing or modifying a convention order, which is a child support order that was issued by a tribunal in a foreign country which has ratified the Hague Convention on Child Support.

DCS is amending WAC 388-14A-7100 The division of child support may register an order from a tribe or another state or country for enforcement or modification and 388-14A-7110 The division of child support may enforce interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state.

DCS is adopting new WAC 388-14A-7000 The division of child support may register an order from a non-Washington jurisdiction for enforcement or modification, 388-14A-7005 The division of child support may register an order from a foreign country under the Hague Convention on Child Support for enforcement or modification, and 388-14A-7010 What happens at a hearing on a notice of support debt and registration under the Hague Convention on Child Support?

Citation of Rules Affected by this Order: New WAC 388-14A-7000, 388-14A-7005 and 388-14A-7010; and amending WAC 388-14A-7100 and 388-14A-7110.

Statutory Authority for Adoption: RCW 26.21A.601 through 26.21A.630, 74.08.090.

Adopted under notice filed as WSR 18-23-059 on November 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 3, Amended 2, 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 3, 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 3, Amended 2, Repealed 0.

Date Adopted: April 2, 2019.

Katherine I. Vasquez  
Rules Coordinator

NEW SECTION

**WAC 388-14A-7000 The division of child support may register an order from a non-Washington jurisdiction for enforcement or modification.** (1) A child support order issued by a tribunal of another state, country, or jurisdiction is referred to in this chapter as a foreign order or an intergovernmental order. As described in subsection (3) of this section, there is a type of foreign order known as a convention order.

(2) Except for convention orders described in subsection (3) of this section, a child support order issued by a tribunal of another state or jurisdiction may be registered in this state for enforcement or modification at the request of a party to the order or at the request of the support enforcement agency of a tribe or of another state or country, using the Notice of Support Debt and Registration (NOSDR) as provided in WAC 388-14A-7100.

(3) Support orders issued by a tribunal in a foreign country which has ratified the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (known as the Hague Convention on Child Support) are known as convention orders. Convention orders may be registered in this state for enforcement or modification at the request of a party to the order or at the request of that country, using the Notice of Support Debt and Registration-Hague Convention on Child Support (NOSDR-HC) as provided in WAC 388-14A-7005.

(4) The Hague Convention on Child Support may, for the purposes of this chapter, also be known as the "Hague Convention."

NEW SECTION

**WAC 388-14A-7005 The division of child support may register an order from a foreign country under the Hague Convention on Child Support for enforcement or modification.** (1) A child support order issued by a tribunal of a foreign country which has ratified the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (known as the Hague Convention on Child Support) may be registered in this state for enforcement pursuant to chapter 26.21A RCW at the request of a party to the convention order or at the request of the support enforcement agency of the foreign country.

(a) Such an order is, for the purposes of this chapter, known as a "convention order."

(b) At the option of the division of child support (DCS), a convention order may be registered with the superior court pursuant to RCW 26.21A.505 or it may be registered with the administrative tribunal according to subsection (2) of this section. Either method of registration is valid.

(c) A convention order is registered when the order is filed with the registering tribunal of this state.

(d) DCS may enforce a registered convention order in the same manner and subject to the same procedures as an order issued by a tribunal of this state.

(e) DCS may assess and collect interest on amounts owed under convention orders entered or established in a jurisdiction other than the state of Washington as provided in WAC 388-14A-7110.

(f) DCS notifies the parties that it is enforcing a convention order using the Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC) as provided in this section.

(2) DCS must give notice to the nonregistering party when it administratively registers a convention order. DCS gives this notice by using the Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC).

(a) The notice must inform the nonregistering party:

(i) That a registered convention order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered convention order, the party must request a hearing within thirty days after service of the notice on the nonregistering party, or if the contesting party does not reside in the United States, the contest must be filed no later than sixty days after notice of the registration;

(iii) That failure to contest the validity or enforcement of the registered convention order in a timely manner will result in confirmation and enforcement of the convention order and any alleged arrearages and such failure to contest the notice precludes further contest of the convention order with respect to any matter that could have been asserted;

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110; and

(v) Whether DCS has made a determination of controlling order under chapter 26.21A RCW, as described in WAC 388-14A-7325.

(b) The Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC) must be:

(i) Served on the nonregistering party by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Served on the registering party or entity by first class mail at the last known address; and

(iii) Accompanied by a copy of the registered convention order and any documents and relevant information accompanying the convention order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered convention order is the date DCS receives the request.

(3) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order

issued by a foreign country that has ratified the Hague Convention on Child Support may register the convention order in this state according to RCW 26.21A.613 through 26.21A.615.

(a) The convention order must be registered as provided in subsection (1)(b) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a convention child support order registered for purposes of modification, as if a tribunal of this state had issued the order, but the registered convention order may be modified only if the requirements of RCW 26.21A.-550 are met.

(4) Interpretation of the registered convention order is governed by RCW 26.21A.515.

#### NEW SECTION

**WAC 388-14A-7010 What happens at a hearing on a notice of support debt and registration under the Hague Convention on Child Support?** (1) After the service of a Notice of Support Debt and Registration under the Hague Convention (NOSDR-HC) as described in WAC 388-14A-7005, either party to the convention order may object and request a hearing on the notice.

(2) A hearing under this section is for the limited purpose of determining if the nonregistering party (also called the contesting party for the purposes of this section) can prove one or more of the defenses listed in RCW 26.21A.617.

(3) If the contesting party presents evidence establishing a full or partial defense under 26.21A.617, the presiding officer must:

(a) Not limit the right of the division of child support (DCS) to enforce any severable parts of the convention order;

(b) Continue the proceeding to allow the parties to gather additional relevant evidence; or

(c) Issue other appropriate orders.

(4) As provided in RCW 26.21A.620, DCS may enforce an uncontested portion of the registered convention order by all remedies available under the law of this state before there is a final administrative order.

(5) If the contesting party does not establish a defense under 26.21A.617 to the validity or enforcement of the convention order, the presiding officer must issue an order confirming the registered convention order.

(6) The other party to the convention order may participate as a party to any hearing under this section.

(7) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) The issuing tribunal lacked personal jurisdiction consistent with RCW 26.21A.100;

(c) The order is not enforceable in the issuing country;

(d) The order was obtained by fraud in connection with a matter of procedure;

(e) A record transmitted in accordance with RCW 26.21A.613 lacks authenticity or integrity;

(f) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(h) Payment, to the extent alleged arrears have been paid in whole or in part;

(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) The order was made in violation of RCW 26.21A.-625.

(8) If the presiding officer does not recognize the convention support order under subsection (7)(b), (7)(d) or (7)(i) of this section, the presiding officer may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order.

(9) DCS must take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under RCW 26.21A.-607.

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

**WAC 388-14A-7100 The division of child support may register an order from a tribe or another state or country for enforcement or modification.** (1) A child support order or an income-withholding order for support issued by a tribunal of another state or jurisdiction may be registered in this state for enforcement pursuant to chapter 26.21A RCW at the request of a party to the order or at the request of the support enforcement agency of an Indian tribe or of another state or country.

(a) At the option of the division of child support (DCS), the support order or income-withholding order may be registered with the superior court pursuant to RCW 26.21A.505 or it may be registered with the administrative tribunal according to subsection (2) of this section. Either method of registration is valid.

(b) A support order or income-withholding order issued in another state or jurisdiction is registered when the order is filed with the registering tribunal of this state.

(c) DCS may enforce a registered order issued in another state or jurisdiction in the same manner and subject to the same procedures as an order issued by a tribunal of this state.

(d) DCS may assess and collect interest on amounts owed under support orders entered or established in a juris-

diction other than the state of Washington as provided in WAC 388-14A-7110.

(e) DCS may notify the parties that it is enforcing a non-Washington support order using the notice of support debt and demand for payment under WAC 388-14A-3304 or using the notice of support debt and registration as provided in this section and in WAC 388-14A-7110. Either method of notice is valid.

(2) DCS must give notice to the nonregistering party when it administratively registers a support order or income-withholding order issued in another state or jurisdiction. DCS gives this notice with the Notice of Support Debt and Registration (NOSDR).

(a) The notice must inform the nonregistering party:

(i) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered order, the party must request a hearing within twenty days after service of the notice on the nonregistering party within Washington state. If the nonregistering party was served with the notice outside of Washington state, the party has sixty days after service of the notice to request a hearing to contest the validity or enforcement of the registered order;

(iii) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted;

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110; and

(v) Whether DCS has made a determination of controlling order under chapter 26.21A RCW, as described in WAC 388-14A-7325.

(b) The notice must be:

(i) Served on the nonregistering party by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Served on the registering party by first class mail at the last known address; and

(iii) Accompanied by a copy of the registered order and any documents and relevant information accompanying the order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered order is the date DCS receives the request.

(3) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state or jurisdiction may register the order in this state according to RCW 26.21A.540 through 26.21A.-550.

(a) The order must be registered as provided in subsection (1)(a) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a child support order of another state or jurisdiction registered for purposes of modification,

as if a tribunal of this state had issued the order, but the registered order may be modified only if the requirements of RCW 26.21A.550 are met.

(4) Interpretation of the registered order is governed by RCW 26.21A.515.

(5) For information about the registration of a child support order under the 23 November 2007 Convention on the International Recover of Child Support and Other Forms of Family Maintenance, see WAC 388-14A-7005.

**AMENDATORY SECTION** (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

**WAC 388-14A-7110 The division of child support may enforce interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state.** (1) The division of child support (DCS) may accept an intergovernmental request to enforce interest when:

(a) The request is from:

(i) Another state's IV-D agency;

(ii) An Indian tribe;

(iii) A foreign country which has entered into a reciprocal agreement with the United States of America or with the state of Washington; ~~((or))~~

(iv) A foreign country which has ratified the Hague Convention on Child Support; or

(v) A custodial parent (CP) or noncustodial parent (NCP) who resides outside of Washington state who has filed a petition under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

(b) The party requesting that DCS enforce interest provides a calculation of the interest claimed which has been certified by a IV-D agency or a certified public accountant (CPA); and

(c) The support order was entered or established in a jurisdiction other than Washington state.

(2) When a foreign support order has been submitted for enforcement under UIFSA, DCS may, at its option, either:

(a) Use the notice of support debt and demand for payment to enforce interest on an out-of-state support order. See WAC 388-14A-3304 for the rules regarding the notice of support debt and demand for payment; or

(b) Use a notice of support debt and registration to enforce interest on the foreign order. See WAC 388-14A-7100 and 388-14A-7005 for the rules regarding registration of a foreign order.

(3) When an out of state order has been submitted for registration for enforcement and modification under UIFSA, DCS uses a notice of support debt and registration to enforce interest on the out of state order. See WAC 388-14A-7100 and 388-14A-7005 for the rules regarding registration of a foreign support order.

(4) Any hearing held on a notice of support debt and registration which includes a claim for interest is conducted in accordance with WAC 388-14A-7125 ~~((and)),~~ 388-14A-7115, and 388-14A-7005.

(a) WAC 388-14A-7135 describes the procedures for confirmation of the registered order.

(b) WAC 388-14A-7135 describes the effect of confirmation of the registered order.

(5) At any time after the notice of support debt and registration becomes a final administrative order, DCS may update the amount of interest as provided in WAC 388-14A-7120.

## WSR 19-08-092

### PERMANENT RULES

### PUBLIC DISCLOSURE COMMISSION

[Filed April 3, 2019, 10:25 a.m., effective May 4, 2019]

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

Purpose: To update rules for the DISCLOSE Act of 2018. The 2018 legislature passed SSB 5991, chapter 111, Laws of 2018, pertaining to campaign finance disclosure.

Citation of Rules Affected by this Order: New WAC 390-05-521, 390-05-535, and 390-16-013.

Statutory Authority for Adoption: RCW 42.17A.110(1) and chapter 111, Laws of 2018.

Adopted under notice filed as WSR 19-02-070 on December 28, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 390-05-521, includes exceptions to the definition of payments for restricted funds and appreciation of assets.

WAC 390-05-535, changes definition for a nonprofit organization to an entity that is exempt from federal income tax, instead of an entity that is eligible for such exemption.

WAC 390-16-013, includes prefatory language summarizing the statutory requirements for incidental committees; clarifies that contributions by an organization to its sponsored committee are included towards the \$25,000 threshold; clarifies that contributions to out-of-state committees are not included towards the \$25,000 threshold; clarifies that the aggregated payment from multiple sources does not count as top source of income; and clarifies that the dissolution of an incidental committee is not intended to have any effect on the legal status of the underlying organization.

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 3, 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 3, 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 3, Amended 0, Repealed 0.

Date Adopted: March 28, 2019.

B. G. Sandahl  
Deputy Director

NEW SECTION

**WAC 390-05-521 Definition—Payments received by incidental committees.** (1) Except as provided in subsection (2) of this section for the purpose of reporting the top ten largest sources of payments to an incidental committee, pursuant to RCW 42.17A.235, a "payment" means any monetary transfer or in-kind value accepted by the incidental committee, regardless of the donative intent or benefit received by the person making the transfer.

(2) A "payment" does not include:

(a) A source of funding the nonprofit organization is legally bound and explicitly prohibited from using for the purpose of supporting or opposing a candidate or ballot proposition campaign; or

(b) The fair market appreciation of assets held by an incidental committee such as in an investment account, including a brokerage account, and the sale or transfer of such assets from the account to the incidental committee.

NEW SECTION

**WAC 390-05-535 Definition—Nonprofit organization within the meaning of incidental committee.** A "nonprofit organization," as the term is used in the definition of incidental committee in RCW 42.17A.005, means an entity that meets one or more of the following criteria:

(1) An entity that is exempt from income tax under Title 26 U.S.C. Sec. 501(c) of the federal Internal Revenue Code;

(2) An organization, association or corporation whose income is not paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws and the salary or compensation paid to officers of such organization, association or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state; or

(3) A limited partnership or limited liability company where an entity described in subsection (1) or (2) of this section is a general partner or managing member, respectively.

NEW SECTION

**WAC 390-16-013 Incidental committees—Registration and reporting requirements and method for reporting.** (1) Chapter 42.17A RCW requires the disclosure of monetary and in-kind contributions and expenditures by nonprofit organizations that participate significantly in candidate and ballot proposition campaigns in Washington state. Nonprofit organizations that make contributions or expenditures in Washington elections above specified thresholds, and are not otherwise defined under the law as political committees, must file organizational statements with the PDC and disclose certain contributors, regardless of the organization's primary purpose. These are referred to in the law as "incidental committees." To be an incidental committee, triggering the requirements to file a statement of organization with the PDC and then file the required disclosure reports, an organization must expect to make contributions or expenditures of at least twenty-five thousand dollars in a calendar year for an

election campaign and receive a payment of at least ten thousand dollars from a single source.

(2) The official form for providing the statement of organization by incidental committees as required by RCW 42.17A.207 is designated the incidental committee registration report, or "C-1-IC."

(3) The official form for reporting top ten payments and expenditures by incidental committees as required under RCW 42.17A.240 is designated the incidental committee payments and political expenditures report, or "C-8."

(4) These reporting forms must be filed electronically when the PDC has provided an electronic method to do so. Until an electronic method is provided, the reporting forms should be downloaded from the PDC's web site, [www.pdc.wa.gov](http://www.pdc.wa.gov), or obtained at the PDC office, in Olympia, Washington, and submitted by postal mail or hand delivery. The executive director may make exceptions on a case-by-case basis for an incidental committee that lacks the technological ability to file reports electronically.

(5) For purposes of determining whether a nonprofit organization has the expectation of making contributions or expenditures aggregating at least twenty-five thousand dollars in a calendar year that then triggers the reporting requirements:

(a) Contributions include any monetary or in-kind contributions made to a political committee, including a political committee that the nonprofit organization sponsors; and

(b) Contributions do not include contributions made to an out-of-state political committee, unless the contribution is earmarked or otherwise designated specifically for any in-state election campaign or political committee.

(6) The sources of the top ten largest cumulative payments of ten thousand dollars or greater, as required to be reported on the C-8 report, must include:

(a) The top ten sources of payments within the current calendar year through the applicable reporting period, including any changes to the top ten sources from the previous reporting period; and

(b) The total cumulative payment value, within the current calendar year through the applicable reporting period, made from a person who is reported on the current report as a source of a top ten payment.

(7) For purposes of reporting the sources of the top ten largest cumulative payments of ten thousand dollars or greater, for payments received from multiple persons in an aggregated form, only a payment of more than ten thousand dollars from any single person must be reported, but not the aggregated payment to the nonprofit organization itself or through any intermediary aggregated payment.

(8) An incidental committee may request a modification or suspension of reporting requirements in cases of manifestly unreasonable hardship pursuant to RCW 42.17A.120, as set forth in chapter 390-28 WAC.

(9) Each incidental committee is automatically dissolved at the end of the calendar year in which it was registered, or upon completion of all reporting requirements for that year, whichever is later. Dissolution does not absolve the nonprofit organization that registered as an incidental committee from responsibility for any obligations resulting from a finding before or after dissolution of a violation committed prior to

dissolution. Dissolution in this context refers only to the termination of an incidental committee created to fulfill the non-profit's reporting responsibilities under chapter 42.17A RCW, and is not intended to affect the legal status of the non-profit organization itself.

**WSR 19-08-093**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed April 3, 2019, 10:32 a.m., effective May 4, 2019]

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

Purpose:

- Updated the language to be consistent with the current state and federal accountability framework.
- Removed most of the specific review dates. Dates specified in statute remain.
- Removed outdated references.
- Added definitions section.

Citation of Rules Affected by this Order: New WAC 180-17-005; and amending WAC 180-17-010, 180-17-020, 180-17-030, 180-17-040, 180-17-050, 180-17-060, 180-17-070, 180-17-080, and 180-17-100.

Statutory Authority for Adoption: RCW 28A.657.120.

Adopted under notice filed as WSR 19-04-073 on February 1, 2019.

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 1, Amended 9, 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: March 21, 2019.

Randy Spaulding  
Executive Director

NEW SECTION

**WAC 180-17-005 Definitions.** In addition to the definitions outlined in WAC 392-501-715 the following definitions apply to this chapter:

(1) "School and school district improvement plans" means the data-driven plan for the district and each school described and required under WAC 180-16-220 that promotes a positive impact on student learning and includes a continuous improvement process.

(2) "Federal requirements" means the accountability and other requirements specified by the U.S. Department of Education in the Elementary and Secondary Education Act of 1965, as amended.

(3) "Washington school improvement framework" or "WSIF" means the system of school differentiation described in the Washington accountability plan approved by the U.S. Department of Education as meeting federal requirements. The framework methodology establishes a summative score for the all students group and the reportable student groups specified in WAC 180-105-020 (1)(b) from up to five indicators broadly categorized as academic achievement, student academic growth, English learner progress, high school graduation, and school quality or student success.

AMENDATORY SECTION (Amending WSR 15-21-019, filed 10/12/15, effective 11/12/15)

**WAC 180-17-010 Designation of required action districts.** Upon receipt of the recommendation from the office of the superintendent of public instruction to designate school districts for required action, in ~~((January))~~ March, or another time mutually agreed upon by the superintendent of public instruction and the state board of education, of each year the state board of education shall designate such districts as required action districts.

AMENDATORY SECTION (Amending WSR 10-23-083, filed 11/16/10, effective 12/17/10)

**WAC 180-17-020 Process for submittal and approval of required action plan.** (1) Except as otherwise provided in WAC 180-17-030, ~~((school districts designated as required action districts by the state board of education shall develop a required action plan))~~ the school and school district improvement plans required under WAC 180-16-220 shall be amended to ensure all the requirements listed in RCW 28A.657.050(2) are met according to the following schedule: ~~((a) By April 15th of the year in which the district is designated;))~~ Within forty calendar days of designation by the state board of education a school district shall submit ((a required action plan to the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines for the receipt of a School Improvement Grant. The required action plan must comply with all of the requirements set forth in RCW 28A.657.050.

~~((b) By May 1st of the year in which the district is designated, a school district shall submit a required action plan))~~ amended school and school district improvement plans approved by the superintendent of public instruction to the state board of education for approval.

(2) At the next regularly scheduled meeting, or at a special board meeting if no meeting is scheduled within a reasonable time, the state board of education shall ~~((, by May 15th of each year,))~~ either:

- (a) Approve the school district's required action plan; or
- (b) Notify the school district that the required action plan has not been approved stating the reasons for the disapproval.

(3) A school district notified by the state board of education that its required action plan has not been approved under subsection (2)(a) of this section shall either:

(a) Submit a new required action plan to the superintendent of public instruction and state board of education for review and approval within forty calendar days of notification that its plan was rejected. The state board of education shall approve the ~~((school district's required action plan by no later than July 15th))~~ plan at its next regularly scheduled meeting, or at a special board meeting if it meets all of the requirements set forth in RCW 28A.657.050; or

(b) Submit a request to the required action plan review panel established under RCW 28A.657.070 for reconsideration of the state board's rejection within ten calendar days of the notification that the plan was rejected. The review panel shall consider and issue a ~~((decision))~~ recommendation regarding a district's request for reconsideration to the state board of education ~~((by no later than June 10th))~~ within forty calendar days. The state board of education shall consider the recommendations of the panel at its next regularly scheduled meeting, or at a special board meeting, and issue a decision in writing to the school district and the panel ~~((by no later than June 20th))~~. If the state board of education accepts the changes to the required action plan recommended by the panel, the school district shall submit a revised required action plan to the superintendent of public instruction and state board of education ~~((by July 30th))~~ within forty calendar days. The state board of education shall approve the plan by no later than ~~((August 10th))~~ at its next regularly scheduled meeting or a special board meeting if it incorporates the recommended changes of the panel.

(4) If the review panel issues a decision that reaffirms the decision of the state board of education rejecting the school district's required action plan, then the school district shall submit a revised plan to the superintendent of public instruction and state board of education within ~~((twenty))~~ forty calendar days of the panel's decision. The state board of education shall approve the district's required action plan ~~((by no later than July 15th))~~ at its next regularly scheduled meeting, or special board meeting if it meets all of the requirements set forth in RCW 28A.657.050.

AMENDATORY SECTION (Amending WSR 10-23-083, filed 11/16/10, effective 12/17/10)

**WAC 180-17-030 Process for submittal and approval of a required action plan when mediation or superior court review is involved.** (1) ~~((By April 1st of the year in which))~~ A school district that is designated for required action ~~((, it))~~ shall notify the superintendent of public instruction and the state board of education ~~((that))~~ within ten calendar days if it is pursuing mediation with the public employment relations commission in an effort to agree to changes to terms and conditions of employment to a collective bargaining agreement that are necessary to implement a required action plan. ~~((Mediation with the public employment relations commission must commence no later than April 15th.))~~

(2) If the parties are able to reach agreement in mediation, the ~~((following timeline shall apply:~~

~~((a) A))~~ school district shall submit its required action plan according to the ~~((following))~~ schedule~~((:~~

~~((i) By June 1st, the school district shall submit its required action plan to the superintendent of public instruc-~~

~~tion for review and approval as consistent with federal guidelines for the receipt of a School Improvement Grant.~~

~~((ii) By June 10th, the school district shall submit its required action plan to the state board of education for approval.~~

~~((b) The state board of education shall, by June 15th of each year, approve a plan proposed by a school district only if the plan meets the requirements in RCW 28A.657.050 and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement))~~ outlined in WAC 180-17-020.

(3) If the parties are unable to reach an agreement in mediation, the school district shall file a petition with the superior court for a review of any disputed issues under the timeline prescribed in RCW 28A.657.050. After receipt of the superior court's decision, ~~((the following timeline shall apply:~~

~~((a) A school district shall submit its revised required action plan according to the following schedule:~~

~~((i) By June 30th, the school district shall submit its revised required action plan to the superintendent of public instruction for review and approval as consistent with federal guidelines for the receipt of a School Improvement Grant.~~

~~((ii) By July 7th, the school district shall submit its revised required action plan to the state board of education for approval.~~

~~((b) The state board of education shall, by July 15th of each year, approve a plan proposed by a school district only if the plan meets the requirements in RCW 28A.657.050 and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement))~~ according to the schedule outlined in WAC 180-17-020.

AMENDATORY SECTION (Amending WSR 10-23-083, filed 11/16/10, effective 12/17/10)

**WAC 180-17-040 Failure to submit or receive approval of a required action plan.** The state board of education ~~((shall direct))~~ may recommend the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

**WAC 180-17-050 Release of a school district from designation as a required action district.** (1) The state board of education shall release a school district from designation as a required action district upon recommendation by the superintendent of public instruction, and confirmation by the board, that the district has met the requirements for release set forth in RCW 28A.657.100.

(2) If the board determines that the required action district has not met the requirements for a release in RCW 28A.657.100, the state board of education may determine that



the district remain a Level I required action district and submit a new or revised required action plan under the process and timeline prescribed in WAC 180-17-020, or to the extent applicable in WAC 180-17-030, or ~~((#))~~ following review by the education accountability system oversight committee authorized under RCW 28A.657.130, the board may assign the district to Level II status, according to the requirements of WAC 180-17-060. The oversight committee will have thirty calendar days to review and comment on the findings prior to a board determination.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

**WAC 180-17-060 Designation of required action district to Level II status.** (1) For required action districts which have not demonstrated recent and significant progress toward the requirements for release under RCW 28A.657-100, the state board of education may direct that the district be assigned to Level II status of the required action process.

(2) ~~((For the purposes of this section, recent and significant progress shall be defined as progress occurring within the two most recently completed school years, which is determined by the board to be substantial enough to put the school on track to exit the list of persistently lowest-achieving schools list, as defined in RCW 28A.657.020, if the rate of progress is sustained for an additional three school years.))~~ Schools meeting their ~~((annual measurable objectives (AMOs)))~~ performance improvement goals, as required under WAC 180-105-020, for the all students group for two consecutive years, ~~((as established by the office of the superintendent of public instruction,))~~ may also be deemed to have made recent and significant progress under this section. At the discretion of the state board of education, adjustments may be made to account for changes in standards or assessments, as well as fluctuation in the exit criteria over time due to a normative definition of "persistently lowest-achieving schools" ~~((established in RCW 28A.657.020.~~

(3) ~~If the required action district received a federal School Improvement Grant for the same persistently lowest-achieving school in 2010 or 2011, the superintendent may recommend that the district be assigned to Level II of the required action process after one year of implementing a required action plan under this chapter if the district is not making progress.~~

~~((4))~~ as defined in WAC 392-501-720.

(3) Districts assigned by the state board of education as required action districts must be evaluated for exit under the same criteria used for their original designation into required action status; except, the board may, at its discretion, exit a district if subsequent changes in the exit criteria make them eligible for exit.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

**WAC 180-17-070 Level II needs assessment and revised required action plan requirements.** (1) Upon assignment of a school district to Level II required action district status, the state board shall notify the superintendent of public instruction who shall direct that a Level II needs

assessment and review be conducted to determine the reasons why the previous required action plan did not succeed in improving student achievement. The superintendent of public instruction shall contract with an external review team to conduct a needs assessment and review. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from agency, the school district that is the subject of the assessment, or members of the staff of the state board of education. The needs assessment shall be completed within ninety calendar days of the Level II designation and presented to the board at its next regularly scheduled meeting or a special board meeting.

(2) The needs assessment and review shall include an evaluation of the extent to which the instructional and administrative practices of the school materially changed in response to the original Level I needs assessment and the periodic reviews conducted by the office of the superintendent of public instruction, during Phase I required action. The needs assessment and review may consider both school and community factors which may include, but are not limited to, class size, resources and building capacity, recent bond or levy failures, kindergarten readiness, student mobility, poverty, student homelessness, rate of parental unemployment, and other factors contributing to the opportunity gap.

(3) Based on the results of the Level II needs assessment and review, the superintendent of public instruction shall work collaboratively with the school district board of directors to develop a revised required action plan for Level II. The school district board of directors shall seek public comment on the proposed Level II required action plan prior to submitting the plan to the state board of education for approval.

(4) The Level II required action plan shall include the following components:

(a) A list of the primary reasons why the previous plan did not succeed in improving student achievement.

(b) A list of the conditions which will be binding on the district in the Level II plan. These may include:

(i) Assignment of on-site school improvement specialists or other personnel by the superintendent of public instruction;

(ii) Targeted technical assistance to be provided through an educational service district or other provider;

(iii) Assignment or reassignment of personnel;

(iv) Reallocation of resources, which may include redirection of budgeted funds or personnel, as well as changes in use of instructional and professional development time;

(v) Changes to curriculum or instructional strategies;

(vi) Use of a specified school improvement model; or

(vii) Other conditions which the superintendent of public instruction determines to be necessary to ensure that the revised action plan will be implemented with fidelity and will result in improved student achievement.

(5) The plan shall be submitted to the state board of education for approval prior to ~~((May 30th of the year preceding implementation))~~ the start of the school year in which implementation will take place, with a cover letter bearing the signatures of the superintendent of public instruction and the

chair of the board of directors of the required action district, affirming mutual agreement to the plan.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

**WAC 180-17-080 Level II required action plan—Procedures for direct submission to state board of education by superintendent of public instruction(~~(—)~~) and role of required action plan review panel.** (1) If the superintendent of public instruction and the school district board of directors are unable to come to an agreement on a Level II required action plan within ninety calendar days of the completion of the needs assessment and review conducted under subsection (2) of this section, the superintendent of public instruction shall complete and submit a Level II required action plan directly to the state board of education for approval. Such submissions must be presented and approved by the board prior (~~(to July 15th of the year preceding)~~) start of the school year of implementation.

(2) The school district board of directors may submit a request to the required action plan review panel for reconsideration of the superintendent's Level II required action plan within ten calendar days of the submission of the plan to the state board of education. The state board of education will delay decision on the Level II required action plan for twenty calendar days from the date of the request, in order to receive any recommendations and comment provided by the review panel, which shall be convened expeditiously by the superintendent of public instruction as required, pursuant to RCW 28A.657.070 (2)(c). After the state board of education considers the recommendations of the required action review panel, the decision of the board regarding the Level II required action plan is final and not subject to further reconsideration. The board's decision must be made by public vote, with an opportunity for public comment provided at the same meeting.

(3) If changes to a collective bargaining agreement are necessary to implement a Level II required action plan, the procedures prescribed under RCW 28A.657.050 shall apply. A designee of the superintendent shall participate in the discussions among the parties to the collective bargaining agreement.

(4) In Level II required action, the superintendent of public instruction shall work collaboratively with the local board of education. However, if the superintendent of public instruction finds that the Level II required action plan is not being implemented as specified, including the implementation of any binding conditions within the plan, the superintendent may direct actions that must be taken by school district personnel and the board of directors to implement the Level II required action plan. If necessary, the superintendent of public instruction may exercise authority under RCW 28A.505.120 regarding allocation of funds.

(5) If the superintendent of public instruction seeks to make material changes to the Level II required action plan at any time, those changes must be submitted to the state board of education for approval at a public meeting where an opportunity for public comment is provided.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

**WAC 180-17-100 Establishment of accountability framework to improve student achievement for all children.** (1) Pursuant to the requirements of RCW 28A.657.110 (chapter 159, Laws of 2013), the state board of education adopts the following guiding principles in fulfillment of its responsibility to establish an accountability framework. The framework establishes the guiding principles for a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The statutory purpose of the accountability framework is to provide guidance to the superintendent of public instruction in the design of a comprehensive system of specific strategies for recognition, provision of differentiated support and targeted assistance and, if necessary, intervention in underperforming schools and school districts, as defined under RCW 28A.657.020.

(3) The board finds that the accountability system design and implementation should reflect the following principles and priorities:

(a) Student growth is an essential element in an effective school accountability system. However, inclusion of student growth shall not come at the expense of a commitment to and priority to get all students to academic standard. Washington's accountability system should work toward incorporating metrics of growth adequacy, which measure how much growth is necessary to bring students and schools to academic standard within a specified period of time. An objective standard of career and college-readiness for all students should remain the long-term focus of the system.

(b) The board recognizes that the transition to (~~(common core state standards creates)~~) a new accountability system created practical challenges for shorter term goal-setting, as a new baseline of student performance is established on a series of more rigorous standards and assessments. Normative measures of accountability are a transitional strategy during periods of significant change. Long-term, however, the accountability framework shall establish objective standards for index performance tiers and exit criteria for required action status. The board does not support a permanent system of moving, normative performance targets for our schools and students. The long-term goal remains gradually reduced numbers of schools in the bottom (~~(tiers of the index)~~) deciles of the Washington school improvement framework.

(c) To the greatest extent allowable by federal regulations, the federal accountability requirements for Title I schools should be treated as an integrated aspect of the overall state system of accountability and improvement applying to all schools. The (~~(composite achievement index score)~~) Washington school improvement framework should be used as the standard measure of school achievement, and should be directly aligned with designations of challenged schools in need of improvement made annually by the superintendent of public instruction, and the lists of persistently low-achieving schools as required under federal regulations.

(d) The integration of state and federal accountability policies should also be reflected in program administration.

To the greatest extent allowed by federal regulation, state and federal improvement planning should be streamlined administratively through a centralized planning tool. Improvement and compliance plans required across various state programs and federal title programs should be similarly integrated to the extent allowable. Planning will become less burdensome and more meaningful when the linkages between programs become more apparent in the way they are administered.

~~(c) ((The state's graduation requirements should ultimately be aligned to the performance levels associated with career and college readiness. During implementation of these standards, the board recognizes the necessity of a minimum proficiency standard for graduation that reflects a standard approaching full mastery, as both students and educators adapt to the increased rigor of common core and the underlying standard of career and college readiness for all students.~~

~~(f))~~ In the education accountability framework, goal-setting should be a reciprocal process and responsibility of the legislature, state agencies, and local districts and schools. The state education system should set clearly articulated performance goals for itself in a manner consistent with the planning requirements established for school districts and schools. State goal-setting should be grounded in what is practically achievable in the short-term and aspirational in the long-term, and should reflect realistic assumptions about the level of resources needed, and the time necessary, for implementation of reforms to achieve the desired system outcomes.

~~((g) While the board supports the use of school improvement models beyond those identified by the federal Department of Education under the No Child Left Behind Act, the board will uphold a standard of rigor in review of these plans to ensure that authentic change occurs in instructional and leadership practices as a result of required action plan implementation. Rigorous school improvement models should not be overly accommodating of existing policies and practices in struggling schools, and summative evaluations should be able to document verifiable change in practice.~~

~~(h))~~ (f) Recognition of school success is an important part of an effective accountability framework. The board is committed to an annual process of school recognition, and believes that award-winning schools can make significant contributions to the success of the system by highlighting replicable best practices. All levels of success should be celebrated, including identifying improvement in low-performing schools, and highlighting examples of good schools that later achieve exemplary status.

~~((i))~~ (g) Fostering quality teaching and learning is the ultimate barometer of success for a system of school accountability and support. The central challenge for the superintendent of public instruction is developing delivery systems to provide the needed resources and technical assistance to schools in need, whether they be rural or urban, homogenous or diverse, affluent or economically challenged. In instances where traditional approaches have failed, the system will need to be prepared to develop innovative ways to secure the right instructional and leadership supports for districts and schools that need them.

## WSR 19-08-098

### PERMANENT RULES

#### UNIVERSITY OF WASHINGTON

[Filed April 3, 2019, 11:36 a.m., effective May 4, 2019]

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

Purpose: The university successfully completed its expedited rule-making process with the amended definition of a service animal in WAC 478-128-020 and is proposing to make permanent those amendments. This proposal [amendment] is being done to align our definition in our WAC with the updates to RCW 49.60.040 concerning service animals.

Citation of Rules Affected by this Order: Amending WAC 478-128-020 Definitions, animal control at the University of Washington.

Statutory Authority for Adoption: RCW 28B.20.130.

Adopted under notice filed as WSR 19-03-132 on January 18, 2019.

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

Number of Sections Adopted at 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: April 3, 2019.

Barbara Lechtanski, Director  
University Policy and Rules Office

AMENDATORY SECTION (Amending WSR 09-08-016, filed 3/23/09, effective 4/23/09)

**WAC 478-128-020 Definitions.** "Animal" means any living creature except human beings, fish, any research animal maintained in university facilities, or natural wildlife inhabiting university property. This definition includes, among other things, pets.

"Imminent danger" means a threat to human and/or animal life or university property that is immediate or reasonably foreseeable under the circumstances.

"Organic debris" means animal feces, urine, vomit, blood, etc.

"Owner" means any person having an interest in or right of possession to an animal, or any person having control, custody, or possession of an animal.

"Running at large" means to be off the owner's residential premises and not under the owner's direct control.

"Service animal" ~~((means an animal, including guide dogs, individually trained to do work or perform tasks for the benefit of an individual with a disability, as defined by applicable state and/or federal laws, which includes but is not lim~~

ited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing, providing minimal protection, pulling a wheelchair, or fetching dropped items)) has the same meaning as defined in RCW 49.60.040.

"Service animal in training" means ~~((an animal))~~ a dog or miniature horse that is being trained ((for the purpose of assisting or accommodating an individual with a disability as defined by applicable state and/or federal laws)) to be a service animal, as that term is defined in RCW 49.60.040.

"University property" means property that the university owns as well as property that the university operates, leases, rents, or otherwise controls.

"Working animal" means an animal that is trained for specific tasks and under the control of police, security or emergency personnel, or other university employees or agents. Examples of working animals include, but are not limited to, patrol, rescue, or sentry dogs and therapy animals.