WSR 20-07-014

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed March 5, 2020, 2:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-23-061.

Title of Rule and Other Identifying Information: Amending chapter 172-191 WAC, Student education records.

Hearing Location(s): On May 11, 2020, at 10:00 a.m., at Eastern Washington University, Main Campus, 526 5th Street, 215A Tawanka Hall, Cheney, WA 99004.

Date of Intended Adoption: May 29, 2020.

Submit Written Comments to: Joseph Fuxa, Eastern Washington University, 526 5th Street, 211A Tawanka Hall, Cheney, WA 99004, email jfuxa@ewu.edu, fax 509-359-2874, by May 11, 2020.

Assistance for Persons with Disabilities: Contact Joseph Fuxa, phone 509-359-7496, fax 506-359-2874 [509-359-2874], email jfuxa@ewu.edu, by May 11, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The modifications to WAC 172-191-310 are needed to address changes in practice and procedure.

Reasons Supporting Proposal: The modifications are needed to address enrollment status as a form of directory information as well as changes to position titles regarding responsibilities for hearings.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Joseph Fuxa, 211A Tawanka Hall, 509-359-7496; Implementation and Enforcement: Dr. Mary Cullinan, 214 Showalter Hall, 509-359-6362.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

Pursuant to RCW 34.5.328 (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rules pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

March 5, 2020
Joseph Fuxa
Policy and Compliance Manager

AMENDATORY SECTION (Amending WSR 09-19-064, filed 9/14/09, effective 10/15/09)

WAC 172-191-070 Hearings. Following receipt of a request for a hearing under WAC 172-191-060, the registrar will schedule the hearing. The ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee will act as the hearing officer and will provide the student with written notice of the hearing's date, time and place reasonably in advance of the hearing. The student will be provided an opportunity to present evidence relevant to the contested part of the education record. The student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney.

(1) The ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee will render his/her decision in writing within a reasonable period of time following the hearing. The decision of the officer shall be the university's final decision. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision. The ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee cannot have a direct interest in the outcome of the hearing.

(2) If the ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee determines that the record is inaccurate, misleading, or in violation of the privacy rights of the student and grants the student's appeal, the ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee will amend the education records of the student accordingly and inform the student in writing of his/her decision and of the amendment.

(3) If the ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee determines that the record is accurate, not misleading and not in violation of the privacy rights of the student and denies the student's appeal, the ((~~associate~~)) assistant vice president ((~~for enrollment services~~)) and registrar or his/her designee shall notify the student of his/her decision in writing and shall inform them of the right to place a statement in the record commenting on the contested information in the record or stating why he/she disagrees with the decision of the university or both. The university must maintain the statement with the contested part of the record for as long as the record is maintained and must disclose the statement whenever it discloses the portion of the record to which the statement relates.

(4) The appropriateness of official academic grades is not subject to review pursuant to this process.

AMENDATORY SECTION (Amending WSR 18-06-024, filed 2/27/18, effective 3/30/18)

WAC 172-191-100 Directory information. Directory information is defined to include: Student's name, address, email address, telephone number, participation in officially recognized activities and sports, weight, height and birth dates of athletic team members; dates of attendance at the university, enrollment status, degrees and awards received,

and the most recent previous educational agency or institution attended by the student.

The university may release "directory information" unless the student files a written request restricting the disclosure of the information. A student's election to opt out of directory information disclosures does not prevent the university from disclosing or requiring a student to disclose his/her name, identifier, or university email address in a class in which the student is enrolled.

WSR 20-07-015
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
[Filed March 5, 2020, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-04-006.

Title of Rule and Other Identifying Information: Amending chapter 172-121 WAC, Student conduct code.

Hearing Location(s): On May 11, 2020, at 10:00 a.m., at Eastern Washington University, Main Campus, 526 5th Street, 215A Tawanka Hall, Cheney, WA 99004.

Date of Intended Adoption: May 29, 2020.

Submit Written Comments to: Joseph Fuxa, Eastern Washington University, 526 5th Street, 211A Tawanka Hall, Cheney, WA 99004, email jfuxa@ewu.edu, fax 509-359-2874, by May 11, 2020.

Assistance for Persons with Disabilities: Contact Joseph Fuxa, phone 509-359-7496, fax 506-359-2874 [509-359-2874], email jfuxa@ewu.edu, by May 11, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The modifications to chapter 172-121 WAC are needed to update university processes and procedures.

Reasons Supporting Proposal: Revisions are needed to update university processes and procedures to reflect changes in federal rules.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Joseph Fuxa, 211A Tawanka Hall, 509-359-7496; Implementation and Enforcement: Dr. Mary Cullinan, 214 Showalter Hall, 509-359-6362.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to RCW 34.5.328 [34.05.328] (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.024(4).

March 5, 2020
Joseph Fuxa
Policy and Compliance Manager

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-020 Definitions. For purposes of the student conduct code, chapter 172-121 WAC, the definitions in this section apply.

"Appeal authority" refers to the conduct review official presiding over an appeal under WAC 172-121-130.

"Appellant" refers to any respondent or complainant who appeals the decisions or sanctions of a hearing authority under WAC 172-121-130.

"Brief hearing" refers to a brief conduct review hearing before a conduct review officer ((~~or the student disciplinary council~~)) for allegations that, if substantiated by a preponderance of evidence, would result in a sanction less than a suspension or expulsion and that do not involve felony-level sexual misconduct.

"Business days" refers to the days and hours the university is open for business. Business days are Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays as set forth in the university holiday schedule.

"Complainant" means the person who was subjected to the alleged misconduct. The complainant may or may not be the reporting party. If the person who was subjected to the alleged misconduct does not wish to pursue a student conduct case, the university may choose to fill the role of the complainant throughout the student conduct proceedings.

"Conduct review officer" or "CRO" refers to the person designated to serve as the decision maker for a brief or full hearing.

"Council" or "the council" refers to the student disciplinary council as described in WAC 172-121-070.

"Council hearing" refers to a ((~~brief~~)) full conduct review hearing before the student disciplinary council.

"Dean of students" refers to the dean of students or designee.

"Director of SRR" refers to the director of student rights and responsibilities or designee.

"Filing" means to actually deliver documents. Documents required to be filed with a specific person under these rules shall be deemed filed upon actual receipt during office hours at EWU. Papers may be filed by delivering them to the dean of student's office, sending them via United States mail, properly addressed, postage prepaid, to 301 Pence Union Building, or emailing them to srr@ewu.edu.

"Full hearing" refers to a full conduct reviewing hearing before ((~~a conduct review officer (CRO)~~)) the council for allegations that, if substantiated by a preponderance of the evidence, could result in a sanction of a suspension or expulsion, or that constitute felony-level sexual misconduct.

"Hearing authority" refers to the university official or student disciplinary council who holds a conduct review hearing.

"Interpersonal violence" encompasses domestic violence, dating violence, and stalking for the purposes of WAC

172-121-030 through 172-121-140 and for trainings provided on campus.

"Notify" means to provide notice to a person. A person may be notified in person, by telephone, by sending notice to the person's university email account, by leaving a message on his or her personal telephone, or by sending the notice in the United States mail, properly addressed, postage prepaid, to the person's last known address.

"Off-campus" refers to any location or facility that is not owned, leased, rented, or operated by Eastern Washington University.

"Party/parties" refers to the complainant and the respondent.

"Policies" or "university policy" refers to the written regulations of the university, including the standards of conduct for students, residence life handbook, housing contract, university policies, and graduate/undergraduate catalogs and handbooks.

"Recognized student organizations" refers to clubs, organizations, societies or similarly organized groups recognized by the university or the associated students of Eastern Washington University (ASEWU).

"Reporting party" means the person who notifies student rights and responsibilities of alleged misconduct by a student or student organization. The reporting party may also be the complainant, but need not be the complainant.

"Respondent" refers to any student or student organization accused of violating the student conduct code under this chapter.

"Serve" means to post a document in the United States mail, properly addressed, postage prepaid, to a person's last known address, personal service, or electronic service to the person's university email account. Service by mail is complete upon deposit in the United States mail.

"Session council" refers to the student disciplinary council members selected for a specific hearing or appeal.

"Sexual misconduct" encompasses sexual harassment, ((~~domestic violence, dating violence, stalking, and~~)) acts of nonconsensual sexual activity, and other forms of sexual misconduct as defined in WAC 172-121-200 for the purposes of WAC 172-121-030 through 172-121-140 and for trainings provided on campus. ((~~However, in the violations section in WAC 172-121-200 the violations are defined separately and the term sexual misconduct has the more limited definition of nonconsensual sexual activity.~~))

"Student" includes all of the following:

(a) Any applicant who becomes enrolled, for violations of the code committed as part of the application process or committed following the applicant's submission of the application until the time of official enrollment;

(b) Any person currently enrolled at the university;

(c) Nonmatriculated, international students attending institutes or foreign study programs through the university; and

(d) Any person who was previously enrolled at the university for violations of the code committed while enrolled. A person who engaged in conduct in violation of the student conduct code while a student remains subject to action under this code even if the person has graduated, withdrawn, or is not currently enrolled for any reason.

"University" means Eastern Washington University.

"University official" includes any person employed or contracted by the university, performing assigned administrative or professional responsibilities.

"University premises" means buildings and/or property (including adjacent streets and sidewalks) which are owned, leased, rented or operated by the university, to include all satellite campuses affiliated with the university.

"University president" refers to the university president or designee.

"Vice president for student affairs" refers to the vice president for student affairs or designee.

AMENDATORY SECTION (Amending WSR 19-01-047, filed 12/13/18, effective 1/13/19)

WAC 172-121-030 Rights of students. Any student or student organization charged with any violation of the student conduct code and the complainant in the case of an allegation of sexual misconduct or interpersonal violence, have the following rights:

(1) The right to a fair and impartial conduct review process;

(2) The right to prior written notice to attend a ((~~preliminary~~)) prehearing conference or hearing;

(3) The right to remain silent during any conduct review hearing;

(4) The right to know who filed the complaint against them as described in WAC 172-121-110;

(5) The right to speak on their own behalf in all proceedings;

(6) The right to hear all information and view all material presented against him or her;

(7) The right to call witnesses as described in WAC 172-121-121 or 172-121-122;

(8) The right to ask or submit questions to be asked of witnesses for a full hearing, in a method determined by the conduct review officer, as described in WAC 172-121-122;

(9) The right to consult an advisor as described in WAC 172-121-105(3);

(10) The right to be presumed not responsible;

(11) The right to appeal as provided in WAC 172-121-130; and

(((~~11~~))) (12) The right to be subjected to university disciplinary action only one time for the same conduct.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-070 Conduct review officials. (1) The director of SRR or designee shall:

(a) Serve as the primary point of contact for all matters relating to student conduct code violations and proceedings;

(b) Manage the proceedings as described in this chapter;

(c) Maintain all records of conduct review proceedings as described in WAC 172-121-080;

(d) Ensure complaints are promptly investigated and resolved as required by federal and state laws; and

(e) Review off-campus incidents of alleged misconduct and make determinations as to whether the conduct involved adversely affects the university community and/or the pursuit

of its objectives and whether the conduct process should be initiated.

(2) Conduct review officer (CRO): The university president delegates to the vice president of student affairs the authority to designate one or more CRO(s). The director of SRR may be designated as a CRO. The CRO(s) shall preside over brief hearings((~~, council hearings,~~)) and full conduct hearings under this chapter ((~~and shall serve as the decision maker in such cases unless a brief hearing is held before the student disciplinary council~~)). For brief hearings, the CRO shall serve as the decision maker. For full hearings, the CRO shall serve as the presiding officer and is also a voting member of the council.

As the presiding officer, in full hearings the CRO has authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

(c) Issue subpoenas pursuant to RCW 34.05.446;

(d) Rule on procedural matters, objections, and motions;

(e) Rule on motions for summary judgment;

(f) Rule on offers of proof and receive relevant evidence;

(g) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(h) Question witnesses in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(i) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to each party's opportunity for cross-examination and rebuttal;

(j) Take official notice of facts pursuant to RCW 34.05.452(5);

(k) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(l) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(m) Issue an order of default;

(n) Hold prehearing conferences; and

(o) Take any other action necessary and authorized by any applicable statute or rule.

(3) Student disciplinary council: ((~~All brief hearings are scheduled with a CRO unless one of the parties requests a brief hearing before the student disciplinary council. The council also serves as an appeal authority under WAC 172-121-130.~~)) The council serves as the decision maker for full hearings.

(a) Council pool: For each academic year, a pool of council members shall be established. All members of the council pool are appointed by the vice president for student affairs. Appointment of council pool members is as follows:

(i) Faculty and staff members are appointed for three-year terms. Student members are appointed for one-year terms;

(ii) Council chair: The ((~~director of SRR,~~)) dean of students or designee((~~,~~)) shall serve as chair of council proceedings ((~~but will not have the right to vote, except in the case of a tie~~)) and has the right to vote;

(iii) Vacancies: Council pool vacancies shall be filled as needed through appointment by the vice president for student affairs.

(b) Session council: When a student disciplinary council is needed for a ((~~brief hearing or an appeal, the director of SRR~~)) full hearing, the dean of students shall select available members from the council pool to serve as the session council. Each session council must include ((~~a quorum. A quorum is three voting members, which must include at least one student, one faculty/staff member, and one other member who could be a student or faculty/staff member~~)) three members. The council may consist of students, staff, or faculty members.

(4) Investigator: In all sexual misconduct cases and certain other cases, the ((~~CRO~~)) director of SRR may assign a complaint to an investigator to conduct an investigation. The investigator will provide a written investigative report to the ((~~CRO~~)) director of SRR.

(5) Presenter in cases of a full hearing, a person will present a case against the respondent on behalf of the university. The presenter will call witnesses, ask questions, and offer evidence during the hearing. The presenter may be the director of SRR, designee, or an assistant attorney general appearing on behalf of the university.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-075 Conflicts of interest. (1) Individuals who play a role in receiving, investigating, ((~~advising,~~)) presiding over, and making decisions pertaining to individual student conduct cases shall not have any conflict of interest in the process or a bias for or against complainants or respondents generally or an individual complainant or respondent. A conflict of interest exists if the investigator, ((~~advisor,~~)) presiding officer or decision maker is the respondent, complainant, or a witness; if the respondent, complainant, or witness is a family member or friend; if the individual has a personal interest or bias; or if the individual has previously served in an advisory capacity for any of the parties or witnesses. In the event such a conflict arises in the process, the person shall disclose such interest to the parties. Parties to the complaint who believe a university official involved in the process has a conflict of interest may report such concerns to the director of SRR or the dean of students. The director or dean shall determine whether a conflict of interest exists and take appropriate action.

(2) Challenges to council membership. Members of the student disciplinary council and the conduct review officer (CRO) are subject to the conflict of interest limitations set forth in subsection (1) of this section.

(a) If a member has such a conflict, the person shall recuse him/herself from further involvement in the case. In the event such a conflict arises after the council has been selected or during a proceeding, the member shall disclose the conflict to the parties.

(b) A member's or the CRO's eligibility to participate in a case may be challenged by parties to the case or by other council members at any time by submitting a motion to disqualify to the CRO. When such a challenge is made, the ses-

sion council, excluding the person alleged to have a conflict of interest, shall make a decision on the challenge.

(c) If a member is disqualified or disqualifies him/herself from a case, the ((~~director of SRR~~)) CRO will appoint a replacement.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-080 Administration and records. (1) Student conduct code.

(a) Interpretation: Any questions regarding the interpretation or application of this student conduct code are referred to the vice president for student affairs for final determination.

(b) Review: This student conduct code shall be reviewed at least every three years under the direction of the vice president for student affairs.

(2) Records of conduct review proceedings.

(a) Records of conduct review proceedings under this chapter shall be prepared by the conduct review official(s) involved and maintained by the director of SRR. As much as possible, records should include:

(i) A summary of the proceedings during a prehearing conference;

(ii) An audio recording of conduct review hearings;

(iii) All letters, statements, memoranda, decisions, orders, notices, and other documents related to conduct review proceedings;

(iv) Any images, articles, recordings, or other materials presented as evidence in a conduct review proceeding;

(v) A statement of matters officially noticed or considered by the council or conduct review officer (CRO);

(vi) Evidence submitted, whether or not accepted, any objections and rulings, any cross-examination questions submitted to the council and rulings on such questions;

(vii) Proposed findings, requested orders, and exceptions;

(viii) Recording of the hearing and subsequent transcript, if any;

(ix) Any staff memorandum to the extent required by RCW 34.05.476; and

(x) Matters placed on the record after any ex parte communication. "Ex parte" means when a member of the student discipline council or CRO communicates with a party about a nonprocedural matter regarding the hearing when the other party is not present.

(b) The director of SRR shall keep records of conduct review proceedings for seven years.

(c) Records of conduct review proceedings are the property of the university and are confidential to the extent provided in applicable law.

(d) Prior to the final disposition of a case, the respondent may review the records relative to their case. The respondent shall request to review the case records by contacting the CRO. The CRO shall make every reasonable effort to support the respondent's request.

(3) Student disciplinary records.

(a) Student disciplinary records are confidential and shall be treated consistently with the requirements of the Family Educational Rights and Privacy Act (FERPA) and applicable law. Disciplinary records shall be maintained in accordance with the university's records retention schedule.

(b) Release of student disciplinary records. The university shall not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include, but are not limited to:

(i) The student's parents or legal guardians may review these records as permitted by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(ii) Release to another educational institution, upon request, where the student seeks or intends to enroll, as allowed by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(iii) In response to a judicial order or a lawfully issued subpoena.

(iv) The university shall release information related to disciplinary records to complainants or other persons as required by Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other state and federal laws.

(v) Disciplinary records will be made available to hearing councils and university personnel as needed for legitimate educational purposes.

(vi) A student may authorize release of their own disciplinary record to a third party in compliance with FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) by providing a written consent to student rights and responsibilities.

(vii) Any student may review his/her own disciplinary records by contacting student rights and responsibilities.

(viii) A student may obtain a copy of their disciplinary record by making a written request to student rights and responsibilities. Student rights and responsibilities may charge the student a reasonable amount to cover copying expenses.

(ix) The university may disclose to a student's parents a violation of any federal, state, or local law, or of any university policy or rules regarding use or possession of alcohol or a controlled substance so long as the student is under the age of twenty-one at the time of the disclosure to the parent.

(c) When disciplinary records are released, personally identifiable information may be redacted to protect the privacy of others as permitted by law.

(d) Supportive measures. The university will keep any supportive measures provided to the complainant or respondent in sexual misconduct or interpersonal violence cases confidential to the extent that maintaining such confidentiality will not impair the ability of the university to provide the supportive measures.

(4) Holds:

(a) Types of holds. Holds placed on a student's academic records may prevent admission, registration, graduation, or other academic activities. Holds may also restrict access to transcripts, grades, or other academic records.

(b) Discretionary holds: The CRO may place a hold on a student's academic records in either of the following situations:

(i) Pending the student's satisfactory completion of any sanctions imposed by a conduct review hearing; or

(ii) If the student fails to respond to any properly delivered notice from the CRO.

(c) Required holds: The CRO shall place a hold on a student's academic record if the student is the respondent to a violation of the conduct code and has withdrawn from the university, or if the student withdraws from the university after a complaint is filed against the student. A hold is also required if a student is subject to a pending student conduct complaint at the time of graduation. This hold shall remain in place until the allegation or complaint is resolved.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-100 Complaints. (1) Filing of complaints.

(a) Any person may file a complaint against a student or student organization for violation of the student conduct code.

(b) A person wishing to file a complaint under the student conduct code must submit the complaint, in writing, to one of the following:

(i) Student rights and responsibilities; or

(ii) The office of the dean of students.

(c) Filing a complaint under the student conduct code does not prohibit or limit a person's right to file complaints or charges with other civil and/or criminal authorities for violations of local, county, state, or federal law.

(d) All student conduct code complaints will be forwarded to the director of SRR for further review and action.

(e) In cases where the university is acting as the complainant, an EWU employee shall initiate the complaint. In cases of sexual misconduct, if the university has actual knowledge regarding reports by multiple complainants of conduct by the same respondent that could constitute sexual misconduct, the Title IX coordinator will file a formal complaint against the respondent.

(2) Complaint review. Upon receipt of a complaint, the director of SRR shall review the complaint to determine whether it includes allegations of sexual misconduct, interpersonal violence and/or criminal conduct that will require special processing under subsection (3) of this section and whether appropriate law enforcement or other authorities should be notified. The director of SRR shall also review the complaint to determine whether the allegations may lead to a possible sanction of suspension, expulsion, or if the allegations rise to the level of a felony under Washington criminal law. All allegations that may lead to a possible suspension, expulsion, or that rise to the level of felony sexual misconduct under Washington criminal law shall be referred for a university investigation and full hearing under WAC 172-121-122.

(3) Sexual misconduct and interpersonal violence proceedings. Except where specifically stated, this section applies to all allegations the university receives of sexual misconduct or interpersonal violence regardless of the possible level of sanction or where the alleged acts occurred.

(a) Report to Title IX coordinator. The director of SRR shall report all complaints which may constitute any form of sexual misconduct or interpersonal violence to the university Title IX coordinator within twenty-four hours.

(b) Formal complaints. Solely in cases of sexual misconduct, the university will not move forward with initiating an investigation or student conduct hearing unless SRR has received a document signed by the complainant or Title IX coordinator alleging sexual misconduct against a respondent about conduct within the university's jurisdiction as defined by this code and requesting initiation of the student conduct process. If the alleged sexual misconduct would not constitute a violation of the code even if proved by a preponderance of the evidence or if the university does not have jurisdiction, the university will dismiss the formal complaint.

In all other types of cases, a formal complaint is not required.

(c) Prompt resolution. The university shall investigate any complaint alleging sexual misconduct or interpersonal violence when it is legally required to do so to determine if the university will pursue the incident under this student conduct code and/or refer the incident to other departments or agencies for further criminal, civil, or disciplinary action. All allegations of sexual misconduct or interpersonal violence shall be promptly investigated and resolved. The university's goal is to have complaints of sexual misconduct resolved within ninety days. If the university needs additional times, the director of SRR must provide written notice to the complainant and respondent of the delay and the reasons for the delay. Delays and extensions beyond the ninety days must be based on good cause.

(d) Investigations. The university will investigate all formal complaints of sexual misconduct and interpersonal violence and may, at its discretion, ask for an investigation of other alleged misconduct. During the investigation, the investigator is responsible for gathering evidence sufficient to reach a determination regarding responsibility under this code. The investigator will contact the complainant, respondent, and other witnesses to ask questions and gather relevant evidence. Parties may be assisted by an advisor during the investigative process. During the investigation, parties will be provided with an equal opportunity to identify witnesses and other inculpatory and exculpatory evidence. Prior to any investigatory interview, the investigator will provide written notice of the meeting with the date, time, location, participants, and purpose at least three days prior to any investigatory interview unless such notice is waived by the party. At the conclusion of the investigation, the investigator will prepare a final written report. The investigative report, along with any evidence collected during the investigation, shall then be transmitted to the director of SRR at least ten days prior to any hearing. A copy of the report must also be provided to the parties for their review and written response.

(((~~(e)~~))) (e) Confidentiality. To facilitate the investigative process and protect the privacy of those involved, all information will be maintained in a confidential manner to the fullest extent permissible by law. During an investigation, complaint information will be disseminated on a need-to-know basis. If the complainant wishes to remain anonymous, the university will take all reasonable steps to investigate the

allegation without disclosing the name of the complainant to the extent allowed by state and federal law. If the complainant wishes to remain anonymous, the university shall inform them that its ability to investigate and respond to the allegation will be limited. The university cannot ensure confidentiality, as its legal obligations under federal or state law may require investigation of the allegation and possible disclosure of the complainant's name. Reports of crimes to the campus community shall not include the names of the complainants. Files subject to public disclosure will be released to the extent required by law.

(((~~d~~))) (f) Right to file a criminal report. Once the university is notified of an allegation of sexual misconduct or interpersonal violence, it will notify the potential complainant of their right to file a criminal complaint with campus or local law enforcement. If the complainant in such circumstances wishes to report the conduct to local law enforcement, the university will assist them in doing so. The university will also notify the complainant that he or she is not required to file a report with local law enforcement. The university will report allegations of sexual misconduct or interpersonal violence to law enforcement or other authorities consistent with federal, state, and local law.

(4) ((~~Interim~~)) Supportive measures and interim restrictions. During the complaint review, the director of SRR or Title IX coordinator will review whether any ((~~interim~~)) supportive measures or interim restrictions are needed. ((~~Interim~~)) Supportive measures and interim restrictions are addressed in WAC 172-121-140.

(5) SRR will follow up with the parties as described below.

(a) For cases other than sexual misconduct or interpersonal violence, the director of SRR will contact the parties and provide them with the following information:

(i) The parties' rights under the student conduct code;

(ii) A summary of the allegations the complainant has against the respondent;

(iii) The potential conduct code violations related to the allegations; and

(iv) How to report any subsequent problems or retaliation, including intimidation, threats, coercion, or discrimination.

(b) In all cases alleging sexual misconduct or interpersonal violence, the director of SRR will, in addition to the information specified under (a) of this subsection, provide both parties with written information that will include, at a minimum:

(i) The student's rights and options, including options to avoid contact with the other party; a list of available university and community resources for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other academic and housing services at the university and in the community; and options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;

(ii) The importance of preserving evidence of the alleged incident and procedures to follow to preserve evidence of the alleged incident;

(iii) Who will receive a report of the allegation;

(iv) Their right to file or not file a criminal complaint as detailed above and the ability to be assisted by campus authorities in notifying law enforcement authorities if the complainant wishes to do so;

(v) A list of resources for obtaining protective, no contact, restraining, or similar orders, if applicable;

(vi) The procedures the university will follow when determining if discipline is appropriate;

(vii) Steps the university will take to ensure confidentiality of complainants and other necessary parties and the limits this may place on the university's ability to investigate and respond, as set forth above; and

(viii) Information regarding the university's policy against retaliation, steps the university will take to prevent and respond to any retaliation, and how the student should report retaliation or new incidents.

(6) Following the complaint review, the director of SRR will either dismiss the matter or arrange a ((~~preliminary~~)) prehearing conference.

(a) Dismiss the matter. If the director of SRR determines the allegations, even if true, would not rise to the level of a conduct violation, he/she may dismiss the matter. In such cases, the director of SRR will prepare a written record of the dismissal. The director of SRR will also notify the complainant of their decision, if such notification is permissible under FERPA. The dismissal letter, along with the original complaint and any other related documents, will be maintained as described in WAC 172-121-080. In cases of sexual misconduct or interpersonal violence, the complainant may request a review of the dismissal by the dean of students by filing a request for review with the director of SRR within seven business days of receiving notice of the dismissal.

(b) ((~~Preliminary~~)) Prehearing conference. If the director of SRR does not dismiss the matter he/she will arrange a ((~~preliminary~~)) prehearing conference as described in WAC 172-121-110.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-105 Conduct review proceedings. (1) General provisions:

(a) Conduct review proceedings in which the potential sanction is less than suspension, expulsion, or do not involve allegations of felony level sexual misconduct are brief hearings in accordance with WAC 172-108-050(3). Conduct review proceedings in which the potential sanction is suspension, expulsion, or that involve allegations of felony level sexual misconduct are considered full hearings under the Administrative Procedure Act.

(b) Nonjudicial proceedings: Formal rules of process, procedure, and/or technical rules, such as are applied in criminal or civil courts, do not apply in student conduct code proceedings.

(2) Notification for student organizations: When a charge is directed towards a student organization, the conduct review officer (CRO) will communicate all matters relative to conduct review proceedings with the president of the organization or their designee.

(3) Advisors: The complainant and the respondent may be assisted by one advisor of their choice, subject to the following provisions:

(a) Any fees or expenses associated with the services of an advisor are the responsibility of the complainant or the respondent that employed the advisor;

(b) The advisor may be an attorney or any other person of the student's choosing;

(c) The advisor must provide the CRO with a FERPA release signed by the student they are assisting;

(d) If a complainant or the respondent is represented by an attorney, the attorney shall provide the CRO and other parties with the attorney's name, address, telephone number, and email address. The attorney must file a notice of appearance when hired to represent a person and a notice of withdrawal upon withdrawal of representation. A notice of appearance must be filed at least two business days prior to any conduct review proceeding;

(e) If a complainant or respondent wishes to have an advisor and is not able to identify one, the student may contact SRR for assistance in finding an advisor.

(4) Review of evidence:

(a) In brief hearings, the respondent, and, in cases of sexual misconduct or interpersonal violence, the complainant may request to view material related to their case prior to a scheduled hearing by contacting the CRO. To facilitate this process, the party should contact the CRO as early as possible prior to the scheduled hearing. The CRO shall make a reasonable effort to support the request to the extent allowable by state and federal law.

(b) In council hearings, the parties may request to view material related to the case prior to the scheduled hearing by contacting the ((~~CRO~~)) director of SRR. To facilitate this process, the party should contact the ((~~CRO~~)) director as early as possible prior to the scheduled hearing. The ((~~CRO~~)) director shall make a reasonable effort to support the request to the extent allowable by state and federal law.

(5) Continuances: Continuances, extensions of time, and adjournments may be ordered by the CRO. A party may file a timely request for a continuance if the party shows good cause for the continuance. A request for a continuance may be oral or written. Before granting a motion for a continuance, the CRO shall allow any other party to object to the request. The CRO will make a decision on the request and will communicate his/her decision in writing to the parties along with the reasons for granting or denying the request.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-110 Notice of allegations and initial scheduling. (1) Scheduling. If, after reviewing a complaint, the director of SRR decides to initiate conduct review proceedings, the director shall, within ten business days of receiving the initial complaint, appoint a conduct review officer (CRO) to the case and notify the respondent. In cases alleging sexual misconduct or interpersonal violence, the CRO and session council assigned must have completed training on issues relating to sexual misconduct, the Violence Against Women Reauthorization Act, and Title IX requirements. Notification of the allegations to the respondent must:

(a) Be made in writing;

(b) Include a written list of the allegations against the respondent with sufficient details of the allegations based on current information including, if known, date and time of the incident, description of the conduct, and the specific sections of this code allegedly violated;

(c) Indicate whether or not the allegation has been assigned to a university investigator and, if so, provide the contact information for the investigator; ((~~and~~))

(d) A reminder that the code prohibits knowingly making false statements or knowingly submitting false information during the student conduct process; and

(e) In cases where an allegation is not assigned to an investigator, the information contained in subsection (2) of this section.

(2) After the conclusion of an investigation, or in cases where there is not an investigation, the director will provide written notice to the student the name of the CRO assigned to the case and the ((~~deadline for the respondent to contact the CRO in order to schedule a preliminary conference. Whenever possible, the deadline for the respondent to contact the CRO will be within five business days of the date the director of SRR sent notification to the respondent.~~

~~(3) Failure to respond: If the respondent fails to respond to the notice of allegations, the director of SRR shall schedule the preliminary conference and notify the respondent~~)) date of the prehearing conference. The notice must also inform the parties of their right to inspect or review evidence as provided for in this code. The notification shall be in writing and shall include a date, time, and location of the ((~~preliminary~~)) prehearing conference.

(((~~(4)~~))) (3) Follow up with complainant. In all cases alleging sexual misconduct or interpersonal violence or if there will be a full hearing, the SRR office shall notify the complainant(s) of the date, time, and location of the ((~~preliminary~~)) prehearing conference and of their right to attend the conference. The SRR office shall also follow up with the complainant(s)/respondent(s) to inform them of the process of reporting any retaliation or new incidents. If the complainant has experienced any type of retaliatory behavior, the university shall take immediate steps to protect the complainant from further harassment or retaliation.

(4) If additional information is learned during the investigation that may rise to additional allegations, the university must provide the respondent with an updated notice of allegations.

(5) The procedures for the ((~~preliminary~~)) prehearing conference for brief hearings is contained in WAC 172-121-121. The procedures for the ((~~preliminary and~~)) prehearing conference for full hearings is contained in WAC 172-121-122.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-121 Brief hearings. Brief hearing procedures.

(1) The conduct review officer (CRO) may hold a brief hearing with the respondent if the proposed sanction is less than a suspension and the allegations do not involve felony level sexual misconduct. ((~~A respondent shall be informed of the option to have a brief hearing before a CRO or before the student discipline council. Unless the respondent affirmatively requests a council hearing, brief hearings shall be conducted with a CRO.~~))

(2) General provisions.

(a) Hearing authority: The CRO exercises control over hearing proceedings. All procedural questions are subject to the final decision of the CRO.

(b) Closing hearings: All conduct review hearings will be closed. Admission of any person to a conduct review hearing shall be at the discretion of the hearing authority.

(c) Consolidation of hearings: In the event that one or more students are charged with the same misconduct arising from the same occurrence, the hearing authority may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(3) Appearance.

(a) Failure to appear: In cases where proper notice has been given but the respondent fails to attend a conduct review hearing, the hearing authority shall decide the case based on the information available, without the respondent's input.

(b) Appearance: The parties will be provided options for reasonable alternative arrangements if they do not wish to be present in the same room as the other student during the hearing. The parties may appear at the conduct review hearing in person, through telephone conference, or through any other practical means of communication, subject to the limits set forth below in (e) of this subsection. If a party does not appear at the hearing, the hearing authority will decide the case based on the information available.

(c) Advisors: The complainant and the respondent may be assisted by one advisor during conduct review hearings as described in WAC 172-121-105.

(d) Disruption of proceedings: Any person, including the respondent, who disrupts a hearing, may be excluded from the proceedings.

(e) ((~~Telephonic~~)) Electronic appearance. In the interest of fairness and expedience, the CRO may permit any person to appear by telephone, audio tape, written statement, or other means, as appropriate, if the rights of the parties will not be substantially prejudiced by a telephonic appearance as determined by the CRO.

(4) Standard of proof. The hearing authority shall determine whether the respondent violated the student conduct code, as charged, based on a preponderance of the evidence. A preponderance means, based on the evidence admitted, whether it is more probable than not that the respondent violated the student conduct code. For cases of sexual misconduct, the university bears the burden of proof.

(5) ((~~Preliminary~~)) Prehearing conference. The SRR office will schedule a ((~~preliminary~~)) prehearing conference with the respondent. Only the respondent and the respondent's advisor may appear at the preliminary conference, unless the case involves alleged sexual misconduct or interpersonal violence. In cases alleging sexual misconduct or interpersonal violence, the respondent and the complainant, along with their advisors, if they choose to have an advisor, may appear at the same or separate ((~~preliminary~~)) prehearing conferences. The purpose of the ((~~preliminary~~)) prehearing conference is to advise the parties regarding the student conduct process. During the ((~~preliminary~~)) prehearing conference, the CRO will:

(a) Review the written list of allegations with the respondent;

(b) Inform the respondent who is bringing the complaint against them;

(c) Provide the respondent with a copy of the student conduct code and any other relevant university policies;

(d) Explain the respondent's rights under the student code;

(e) Explain the conduct review procedures;

(f) Explain the respondent's and complainant's rights and responsibilities in the conduct review process; and

(g) Explain possible penalties under the student conduct code.

At the end of the ((~~preliminary~~)) prehearing conference, the CRO will either conduct or schedule a brief hearing with the respondent as set forth in this subsection. If proper notice was given of the ((~~preliminary~~)) prehearing conference and the respondent fails to attend the conference, the CRO may either proceed with the brief hearing and decide the case based on the information available, or place a hold on the respondent's academic records as described in WAC 172-121-080 until the respondent cooperates with the student conduct process.

(6) Scheduling. A brief hearing may take place immediately following the ((~~preliminary~~)) prehearing conference or it may be scheduled for a later date or time, except that, in cases of sexual misconduct or interpersonal violence, a brief hearing cannot take place without first notifying the complainant/respondent of the hearing. If the brief hearing will be held at a later date or time, the CRO shall schedule the hearing and notify the respondent and, in the case of sexual misconduct or interpersonal violence, the complainant of the date, time, and place of the hearing. The CRO may coordinate with the parties to facilitate scheduling, but is not required to do so.

(7) If the respondent fails to appear at the brief hearing, the CRO may conduct the hearing without the respondent present. The CRO may also place a hold on the respondent's academic records under WAC 172-121-080 until the respondent cooperates with the student conduct process.

(8) Deliberation. After the hearing, the CRO ((~~and/or council~~)) shall decide whether the respondent violated the student conduct code based on a preponderance of the evidence. ((~~For council hearings, the council shall meet in closed session and, within seven business days, determine by majority vote whether the respondent violated the student conduct code.~~)) All admitted evidence must be objectively evaluated, including both inculpatory and exculpatory evidence.

(a) If the CRO ((~~and/or council~~)) determines that there is not sufficient information to establish a violation by a preponderance of evidence, the CRO ((~~and/or council~~)) shall dismiss the complaint.

(b) If the CRO ((~~and/or council~~)) determines that the respondent violated the student conduct code, the CRO ((~~and/or council~~)) shall impose any number of sanctions as described in WAC 172-121-210, except suspension or expulsion.

(9) Sanctions. In determining what sanctions shall be imposed, the ((~~hearing authority~~)) CRO may consider the evidence presented at the hearing as well as any information contained in the student's disciplinary and academic records. If a student fails to appear for a hearing, then the ((~~hearings~~)) CRO authority shall review the evidence provided and may consider information available from the student's disciplinary and academic records in determining what sanction should be imposed.

(10) Notification. The CRO((~~, and/or the presiding officer in cases of a council hearing,~~)) shall serve the respondent with a decision including its findings, conclusions, and rationale. The decision shall address credibility issues if credibility or witness demeanor was a substantial factor in the ((~~council's/CRO's~~)) CRO's decision. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness. The findings shall be based exclusively on the evidence provided at the hearing. The decision must also ((~~identify the~~)) include:

• Identification of the section of the code alleged to have been violated;

• A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews, methods to gather evidence, and hearings;

• Findings of fact supporting the determination;

• Conclusions regarding the application of the code to the facts along with the rationale for each determination;

• Sanctions and remedies;

• Respondent's right to appeal.

In cases of sexual misconduct or interpersonal violence, the complainant shall be provided with written notice of:

(a) The university's determination as to whether such sexual misconduct occurred;

(b) The complainant's right to appeal;

(c) Any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)).

Information regarding the discipline of the respondent will not be released unless:

(i) The information contained in the record directly relates to the complainant, such as an order requiring the respondent to not contact the complainant; or

(ii) The misconduct involves a crime of violence or a sexual assault, including rape, dating violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

(11) Finality. The CRO's decision becomes final at either the conclusion or the appeal process under this code, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be timely.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-122 Full hearing procedures. (1) Scheduling and notification. Full hearings are used for allegations which, if substantiated by a preponderance of the evidence, could result in a sanction of suspension or expulsion or that involve felony-level sexual misconduct. Following provision of the notice of allegations to the respondent, as set forth in WAC 172-121-110, the SRR office shall arrange for a ((~~preliminary~~)) prehearing conference.

(2) General provisions.

(a) Hearing authority: The CRO exercises control over hearing proceedings. All procedural questions are subject to the final decision of the CRO. The CRO chairs the disciplinary council.

(b) Closed hearings: All conduct review hearings will be closed. Admission of any person to a conduct review hearing shall be at the discretion of the CRO.

(c) Consolidation of hearings: In the event that one or more students are charged with the same misconduct arising from the same occurrence, the ((~~CRO~~)) council may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(3) Appearance.

(a) Failure to appear: In cases where proper notice has been given but the respondent fails to attend a conduct review hearing, the ((~~CRO~~)) council shall decide the case based on the information available, without the respondent's input.

(b) Appearance: The parties will be provided options for reasonable alternative arrangements if they do not wish to be present in the same room as the other student during the hearing. The parties may appear at the conduct review hearing in person((~~, through telephone conference, or through any other practical means of communication~~)) via a method that allows the council to hear the parties and physically observe them while testifying, subject to the limits set forth below in (e) of this subsection. If a party does not appear at the hearing, the ((~~CRO~~)) council will decide the case based on the information available except that, in cases of sexual misconduct only, no information provided by a person may be considered by the council if the person does not appear at the hearing.

(c) Advisors: The complainant and the respondent may be assisted by one advisor during conduct review hearings as described in WAC 172-121-105.

(d) Disruption of proceedings: Any person, including the respondent, who disrupts a hearing, may be excluded from the proceedings.

(e) ((~~Telephonic~~)) Remote appearance. In the interest of fairness and expedience, the CRO may permit any person to appear by ((~~telephone, audio tape, written statement, or other means, as appropriate, if the rights of the parties will not be substantially prejudiced by a telephonic appearance as determined by the CRO~~)) a method that allows the person to be seen and heard by the council.

(4) Standard of proof. The ((~~CRO~~)) council shall determine whether the respondent violated the student conduct code, as charged, based on a preponderance of the evidence. A preponderance means, based on the evidence admitted, whether it is more probable than not that the respondent vio-

lated the student conduct code. In cases of sexual misconduct, the university bears the burden of proof.

(5) ((~~Preliminary~~)) Prehearing conference. The SRR office or designee will arrange for a ((~~preliminary~~)) prehearing conference with ((~~each of~~)) the parties ((~~separately~~)) to advise them about the student conduct process. During the ((~~preliminary~~)) prehearing conference, the SRR office or designee will:

(a) Review the written list of allegations with the respondent;

(b) Inform the respondent who is bringing the complaint against them;

(c) Provide the respondent with a copy of the student conduct code and any other relevant university policies;

(d) Explain the respondent's rights under the student code;

(e) Explain the conduct review procedures;

(f) Explain the respondent's and complainant's rights and responsibilities in the conduct review process; ((~~and~~))

(g) Explain possible penalties under the student conduct code;

(h) Schedule a date for the full hearing; and

(i) Address any preliminary matters or motions.

(6) ((~~Prehearing conference. Following the preliminary conference, the case will be referred to the CRO and the CRO will arrange for a prehearing conference with the parties. The purpose of the prehearing conference is for the CRO to explain what will occur for during the full hearing process, to schedule a date for the full hearing, and to address any preliminary matters or motions.~~)) Following the prehearing conference, the CRO shall schedule the hearing and notify the respondent with the date, time, and location of the hearing. The director of SRR shall also notify the complainant of the date, time, and location of the hearing in writing as well as any other details required by RCW 34.05.434. The notice will include information about how to request accommodations or interpreters for any parties or witnesses. The notice of hearing must be served on the respondent and complainant at least seven business days prior to the hearing. The CRO may coordinate with the parties to facilitate scheduling, but is not required to do so.

(7) Evidence.

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the ((~~CRO~~)) council in accordance with RCW 34.05.452. Any investigation conducted by the university will be admitted into evidence as long as the investigator testifies at the hearing. Evidence, including hearsay evidence, is admissible if in the judgment of the CRO it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs, except, solely in cases of sexual misconduct, statements obtained from a person who does not testify at the hearing shall not be considered by the council. The CRO shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized by Washington courts. The CRO may exclude incompetent, irrelevant, immaterial or unduly repetitious material. If not inconsistent with this section, the CRO shall refer to the Washington rules of evidence as guidelines for evidentiary rulings. The CRO must explain on the record the reasons for excluding any evidence or prohibiting any questions.

(b) The respondent and complainant have the right to view all material presented during the course of the hearing, except a respondent's previous disciplinary history which shall be used solely for the purpose of determining the appropriate sanction.

(c) All testimony of parties and witnesses shall be made under oath or affirmation. Any interpreter shall be proscribed the oath set forth in WAC 10-08-160.

(d) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(e) Official notice may be taken of (i) any easily verifiable facts such as dates or weather conditions, (ii) technical or scientific facts within EWU's specialized knowledge, such as enrollment status or class schedules, and (iii) codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

(f) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of RCW 34.05.452.

(8) Discovery. Discovery is not permitted under the code, except for requests for documentary information from the university. Either party may request the university to produce relevant documents as long as such request is submitted at least five business days prior to the hearing, absent extenuating circumstances. If the CRO determines the request is not relevant to the present allegation, the CRO may deny the request. The university will provide the requested information prior to the hearing to the extent permitted by state and federal law.

(9) Subpoenas.

(a) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446 and 5.56.010.

(b) Every subpoena shall identify the party causing issuance of the subpoena and shall state EWU's name and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control.

(i) A subpoena to a person to provide testimony at a hearing shall specify the time and place set for hearing.

(ii) A subpoena duces tecum requesting a person to produce designated books, documents, or things under his or her control shall specify a time and place for producing the books, documents, or things. That time and place may be the time and place set for the hearing, or another reasonably convenient time and place in advance of the hearing.

(c) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve

process, proof of service shall be made by affidavit or declaration under penalty of perjury.

(d) The CRO, upon motion by a party or at his or her own discretion, may (i) quash or modify the subpoena if it is unreasonable and oppressive or (ii) condition denial of the motion upon advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things. Subpoenas may not be used to threaten or intimidate parties or witnesses.

(10) Summary judgment. A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

(11) Witnesses.

(a) The complainant, respondent, ((~~investigator, and CRO~~)) and presenter may present witnesses at full hearings.

(b) The ((~~party~~)) person who wishes to call a witness is responsible for ensuring that the witness is available and present at the time of the hearing. An attorney may subpoena a witness to appear at the hearing. Nonattorneys may request the CRO to subpoena witnesses in accordance with subsection (4) of this section. The CRO has the discretion to deny a request to issue a subpoena or to quash a subpoena issued by an attorney if the subpoena is unreasonable and oppressive.

(c) The CRO may exclude witnesses from the hearing room when they are not testifying. The CRO is not required to take the testimony of all witnesses called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious. Any decision to exclude a witness shall be explained on the record.

(d) All parties have the right to hear all testimony provided by witnesses during the hearing.

(e) The parties should inform the CRO of any possible need for an interpreter or any accommodation requests at least five business days prior to the hearing. The CRO will comply with WAC 10-08-150.

(12) Questioning:

(a) The complainant, the respondent, ((~~and~~)) their advisors, and the presenter may ask questions of ((~~each other or of any witnesses~~)) any witness, except cross-examination questions for ((~~another party~~)) any witness must be submitted in writing to the CRO or asked by an advisor. For sexual misconduct cases, if a party does not have an advisor present at the hearing, the university will provide the party with an advisor aligned with that party for the purposes of conducting cross-examination. The CRO and council may also ask ((~~such~~)) questions, but ((~~is~~)) are not required to do so. The CRO may preclude any questions which he/she considers inappropriate, irrelevant, immaterial or unduly repetitious ((~~or may require that all questions be submitted to the CRO rather than allowing the parties to directly question witnesses~~)). All cross-examination questions must exclude evidence of the complainant's sexual behavior or predisposition, unless such evidence about the complainant's sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's sexual behavior with respect to the respondent and is offered to prove consent. The CRO will explain to the parties the reason for rejecting any questions and will maintain a record of the questions submitted and rulings made.

(b) The ((~~CRO~~)) council may ask their own questions of any witness called before them.

(13) The CRO may accommodate concerns for personal safety, well-being, or fears of confrontation of any person appearing at the hearing by providing separate facilities, or by permitting participation by ((~~telephone, audio tape,~~)) video conferencing, or other means that allows the decision-maker and parties to see and hear the party answering questions, as determined appropriate, subject to subsection (3)(b) of this section.

(14) Deliberations and sanctions. Following the hearing, the ((~~CRO~~)) council will determine in closed session whether, by a preponderance of the evidence, the respondent violated the student conduct code based on the evidence presented at the hearing. If a student fails to appear, the ((~~CRO~~)) council shall make a decision based on the information available. If the ((~~CRO~~)) council determines the respondent violated the student conduct code, the ((~~CRO~~)) council shall then decide what sanctions shall be imposed. The ((~~CRO~~)) council may review the respondent's previous disciplinary history for purposes of determining the appropriate sanction. The ((~~CRO~~)) council shall issue a decision including ((~~his/her~~)) their findings, conclusions, and rationale. The decision shall address credibility issues if credibility or witness demeanor was a substantial factor in the ((~~CRO's~~)) council's decision. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness. The findings shall be based exclusively on the evidence provided at the hearing. Such decisions should be issued within seven business days from the date of the hearing. The written decision shall also:

(a) Be correctly captioned identifying EWU and the name of the proceeding;

(b) Designate all parties and representatives participating in the proceeding;

(c) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(d) Contain ((~~appropriate~~)) appropriately numbered conclusions ((~~of law, including citations of statutes and rules relied upon~~)) regarding the application of university policies and this code to the facts;

(e) A statement of, and rationale for the conclusions;

(f) Contain an initial or final order disposing of all contested issues;

(((~~f~~))) (g) Contain a statement describing ((~~the available posthearing remedies~~)) rights to appeal.

(15) Finality. The council's decision becomes final at either the conclusion or the appeal process under this code, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be timely.

(16) Notification to the respondent. The ((~~director of SRR~~)) CRO shall serve the respondent with a copy of the decision and notice of the right to appeal.

(((~~16~~))) (17) Notification to the complainant. In cases of sexual misconduct or interpersonal violence, the complainant shall be provided with written notice of:

(a) The university's determination as to whether sexual misconduct occurred;

(b) The complainant's right to appeal;

(c) Any change to the results that occurs prior to the time that such results become final and when such results become final (20 U.S.C. 1092(f));

(d) Information regarding the discipline of the respondent will not be released unless:

(i) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(ii) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-130 Appeals. (1) Basis: Appeals following a brief hearing, full hearing, or dismissal of a complaint may be filed by the respondent or the complainant under this section. Appeals of interim restrictions are governed by WAC 172-121-140. Appeals may be filed for one or more of the following reasons:

(a) To determine whether the hearing was conducted according to established procedures. A hearing may have deviated from established procedures if:

(i) The hearing was not conducted fairly in light of the notice of allegations and information presented;

(ii) The complainant was not given a reasonable opportunity to prepare and to present information as provided by the student conduct code;

(iii) The respondent was not given a reasonable opportunity to prepare and to present a response as provided by the student conduct code.

(b) The hearing authority misinterpreted the student conduct code.

(c) To determine whether the decision reached by the hearing authority, or the director of SRR's decision to not proceed with a hearing, was based on the information presented and that information was sufficient to reasonably establish that a violation of the conduct code did or did not occur based on a preponderance of the evidence.

(d) To determine whether the sanction(s) imposed were reasonable and appropriate for the associated conduct code violation(s).

(e) To consider newly discovered, material information which was not known to the appellant and could not reasonably have been discovered and presented by the appellant at the original hearing. It is the party's obligation to present all evidence at the time of the original hearing. The university is not obligated to grant an appeal and conduct a new hearing when parties do not take reasonable efforts to prepare their cases for the original hearing.

(2) Filing: Appeals may be filed following a brief hearing, full hearing, or dismissal of a complaint, subject to the following provisions:

(a) The appeal must be submitted to the director of student rights and responsibilities within ten business days from service of the ((~~CRO's~~)) council's decision following a full hearing or dismissal of a complaint, or within twenty-one calendar days from service of a decision from a brief hearing conducted by the CRO ((~~or student disciplinary council~~));

(b) The appeal shall be in writing and shall include:

(i) The appellant's name;

(ii) The nature of the decision and sanctions reached by the hearing official;

(iii) The basis, as described in subsection (1) of this section, for the appeal; and

(iv) What remedy the appellant is seeking.

(c) In cases of sexual misconduct or interpersonal violence, the other party must be given a copy of the appeal and provided with an opportunity to provide his/her own written response to the appeal within three business days; and

(d) For dismissal of a complaint, appeals are determined by the dean of students.

(3) Appeal authorities:

(a) For brief hearings ((~~heard by the CRO~~)), appeals are determined by the ((~~student disciplinary council.~~

~~(b) For brief hearings heard by the student disciplinary council, appeals are determined by the~~)) dean of students.

(((~~c~~))) (b) For full hearings, appeals are determined by the vice president for student affairs.

(4) Forwarding of appeals: The director of SRR shall forward the appeal to the appropriate appeal authority. The submitted appeal will include, at a minimum, the appellant's written appeal and the written report of the case. The director of SRR may also forward any other written records related to the case.

(5) Review of appeals:

(a) Before rendering a decision, the appeal authority may request additional information or explanation from any of the parties to the proceedings.

(b) Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the conduct review hearing and supporting documents.

(c) In making its decision, the appeal authority will only consider the written record before it, the appellant's notice of appeal, the other party's response, and other information and/or explanation it has requested from the parties to the proceedings.

(6) Decisions: After reviewing the appeal, the appeal authority may affirm, reverse, or remand the decision(s) of the hearing authority. The appeal decision shall include an explanation of the appeal authority's decision and rationale. The appeal decision must be issued within thirty calendar days of the appeal authority receiving all necessary documentation.

(7) Remanded cases: In cases where the appeal authority remands the decision or sanction(s) of the hearing authority, the case will be returned to the hearing authority for reconsideration or other action as specified by the appeal authority. Following such reconsideration, the hearing authority will return the case to the appeal authority for further review/action. The appeal authority will then complete the appeal process or remand the case again. No appeal may, however, be remanded more than two times. After a case has been remanded twice, the appeal authority must affirm or reverse the decision and affirm, reverse, or modify the sanctions.

(8) Sanctions: The appeal authority may affirm, reverse, remand, or modify the sanctions assigned to the respondent. When determining sanctions, the appeal authority may consider the complete record of the respondent's prior conduct and academic performance in addition to all other information associated with the case.

(9) Notification: Once the appeal authority has made a final decision to affirm or reverse and/or to modify the sanctions assigned, the appeal authority shall forward the decision to the director of SRR. The director of SRR shall serve the respondent, and, in cases of sexual misconduct or interpersonal violence, notify the complainant, with a brief written statement setting forth the outcome of the appeal. The notification shall also inform the recipient that judicial review of the decision may be available under chapter 34.05 RCW.

(10) Further proceedings. The appeal authority's decision is final and no further appeals may be made under the student conduct code. Judicial review of the university's decision may be available under chapter 34.05 RCW.

(11) Appeals standards:

(a) Appeal authorities must weigh all pertinent information presented to them in determining whether sufficient evidence exists to support reversal or modification of decisions or sanctions.

(b) For appeals based on a deviation from established procedures, such deviations will not be a basis for sustaining an appeal unless the alleged deviation materially changed the outcome of the case or the sanctions imposed.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-140 ((~~Interim~~)) Supportive measures and interim restrictions. (1) ((~~Interim~~)) Supportive measures. During the complaint review, the director of SRR, Title IX coordinator, or designee will evaluate the circumstances and recommend to the ((~~dean of students~~)) director of SRR if any ((~~interim~~)) supportive measures to assist or protect the parties during the conduct code process are needed. ((~~Interim~~)) Supportive measures may include, but are not limited to, safety planning with the EWU police department, no contact directives, academic or workplace modifications, providing counseling for the complainant and/or respondent, campus housing modifications, and/or an interim restriction for the respondent. The purpose of ((~~an interim~~)) a supportive measure is to provide an equitable process for both students that minimizes the possibility of a hostile environment on campus. In sexual misconduct cases, supportive measures must be designed to restore or preserve access to the university's educational programs or activities without unreasonably burdening either party; protect the safety of all parties and the university's educational environment; and deter sexual harassment. Supportive measures in cases of sexual misconduct are coordinated by the Title IX coordinator.

(2) Interim restrictions. In situations where there is cause to believe that a student or a student organization poses an immediate ((~~danger~~)) threat to the health, safety, or welfare of themselves, the university community, or property of the university community, the ((~~dean of students~~)) director of SRR may take immediate action(s) against the student or student organization without prior notice or hearing.

Simultaneous with such action(s), the ((~~dean of students~~)) director of SRR will refer the allegations to the conduct review officer, who will process such allegations in accordance with the provisions of this student conduct code.

Interim restriction is subject to the following:

(a) Interim restriction actions may only be imposed in the following situations:

(i) When a student or student organization poses an immediate threat to:

(A) The health, safety or welfare of any part of the university community or public at large;

(B) The student's own physical safety and well-being; or

(C) Any property of the university community; or

(ii) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community.

(b) During the interim restriction period, a student may be restricted by any or all of the following means:

(i) Denial of access including, but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(ii) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(iii) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The ((~~dean of students~~)) director of SRR will determine what restriction(s) will be placed on a student.

(4) The ((~~dean of students~~)) director of SRR will prepare a brief memorandum for record containing the reasons for the interim restriction. The ((~~dean of students~~)) director of SRR will serve the memorandum on the restricted student and notify all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) could constitute a violation of the student conduct code;

(c) How the circumstances of the case necessitated the interim restriction action(s); and

(d) An explanation of the process for emergency appeal reviews.

(5) In cases alleging sexual misconduct or interpersonal violence, the complainant will be provided with notice of any interim restrictions that relate directly to the complainant. If the respondent appeals such interim restrictions, the complainant will be given notice of the respondent's appeal and an opportunity to submit a statement as to why the interim restriction should or should not be modified.

(6) Emergency appeal review.

(a) If a student has been suspended on an interim basis, the student will automatically receive an emergency appeal review with the vice president for student affairs, or designee. If the interim restriction is something less than a suspension,

the student or student organization subject to the interim restriction must file a written appeal with the vice president for student affairs within five business days after service of the interim restriction. In all cases, the student must submit any information the student wishes the vice president to consider submitted within ten business days after service of the interim restriction. The appealing party should outline the desired modification(s) to the interim restriction as well as the specific challenge(s) to the interim restriction decision. Challenges to interim restriction decisions are limited to the criteria identified in WAC 172-121-140(1) upon which the interim restriction was imposed (threat to health or safety of the university community, potential for creating campus disorder, impeding the lawful activity of others, etc.). Appealing parties are limited to submitting their own written statements. Any other evidence should be submitted to the investigator or provided to the CRO under the regular hearing process.

(b) The vice president for student affairs, or designee, will conduct an emergency appeal review. Emergency appeal reviews will address only the interim restriction decision of the dean of students and the basis on which the restriction modification or termination is requested by the appealing party. The emergency appeal review does not replace the regular hearing process. In the emergency appeal review, the vice president will only review materials available to and information considered by the dean of students at the time the interim restriction was imposed, written statements by the two parties, and information that becomes available as a part of the university's investigation that the vice president deems relevant.

(c) In cases alleging sexual misconduct or interpersonal violence, if a complainant believes the interim restriction does not adequately protect their health and safety, the complainant may appeal the interim restriction using the process outlined in this subsection. If the complainant files an appeal, all parties shall be given notice of the appeal and shall be provided the opportunity to submit a written statement to the vice president.

(d) During the emergency appeal review, the vice president for student affairs will review available materials and statements. The vice president for student affairs will issue a written decision upholding, modifying, or terminating the interim restriction action. The written decision shall include a rationale for the basis of the decision and be issued within fifteen business days of the date of service of an interim restriction.

(e) The interim restriction does not replace the regular hearing process, which will proceed as quickly as feasible consistent with this chapter.

(f) Duration. An interim restriction will remain in effect until terminated, in writing, by the student disciplinary council, CRO, or the vice president for student affairs.

AMENDATORY SECTION (Amending WSR 20-01-032, filed 12/6/19, effective 1/6/20)

WAC 172-121-200 Violations. The following are defined as offenses which are subject to disciplinary action by the university.

(1) **Acts of academic dishonesty.** University policy regarding academic dishonesty is governed by the university academic integrity policy.

(2) **Abuse, threats and harassment.**

(a) Abuse. Assault and other forms of physical abuse.

(b) Threats. Any conduct or statement that, when viewed objectively, threatens bodily harm to another person or that endangers the health or safety of another person.

(c) Bullying. Bullying is behavior that is:

(i) Intentional;

(ii) Targeted at an individual or group;

(iii) Repeated;

(iv) Hostile or offensive; and

(v) Creates an intimidating and/or threatening environment that is so severe or pervasive, and objectively offensive, that it substantially interferes with another's ability to work, study, participate in, or benefit from the university's programs and activities.

(d) Discriminatory harassment. Physical, verbal, electronic, or other conduct based on an individual's race, color, religion, national origin, sex, age, pregnancy, marital status, sexual orientation, gender identity or expression, disability, or veteran status when one of the conditions outlined in subsection (1) or (2) of this section are present:

(i) Submission to, or rejection of such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any university program, activity, or benefit, or is used as a basis for evaluation in making academic or personnel decisions; or

(ii) Such conduct creates a hostile environment. A hostile environment is created when the conduct is sufficiently severe or pervasive, and objectively offensive, that it unreasonably interferes with an individual's academic or work performance, ability to participate in or benefit from the university's programs, services, opportunities, or activities. Unreasonable interference is viewed from both a subjective and objective standard.

(e) Interpersonal violence. Interpersonal violence includes domestic violence ((~~and~~)), dating violence, and stalking.

(i) Domestic violence means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

(B) Sexual assault of one family or household member by another; or

(C) Stalking of one family or household member by another family or household member.

(ii) Dating violence is a type of domestic violence, except the acts specified above are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. In determining whether such a relationship exists, the following factors are considered:

(A) The length of time the relationship has existed;

(B) The nature of the relationship; and

(C) The frequency of interaction between the parties involved in the relationship.

(f) ((~~Sexual and gender-based harassment. Sexual harassment is defined by the Office of Civil Rights as unwelcome conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment violates this code when it is sufficiently severe or pervasive such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.~~

~~In determining whether conduct is severe or pervasive, the university shall consider all relevant circumstances from both an objective and subjective perspective, including the type of harassment (verbal or physical); the frequency and severity of the conduct; the age, sex, and relationship of the individuals involved; the degree to which the conduct affected the complainant; the setting and context in which the harassment occurred; whether other incidents have occurred at the university; and other relevant factors.~~

~~Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes. Gender-based harassment violates this code when it is sufficiently severe or pervasive, such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.~~)) Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for their health and/or safety or the health/safety of others; or

(ii) Suffer substantial emotional distress.

(g) Retaliation. Any actual or threatened retaliation or any act of intimidation intended to prevent or otherwise obstruct the reporting of a violation of this code is prohibited and is a separate violation of this code. Any actual or threatened retaliation or act of intimidation directed towards a person who participates in an investigation or disciplinary process under this code is prohibited and is a separate violation of this code.

(3) **Sexual misconduct.** Sexual misconduct includes, but is not limited to:

(a) Sexual and gender-based harassment. Sexual harassment is defined by the office of civil rights as unwelcome conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment violates this code when it is sufficiently severe or pervasive such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

In determining whether conduct is severe or pervasive, the university shall consider all relevant circumstances from both an objective and subjective perspective, including the type of harassment (verbal or physical); the frequency and severity of the conduct; the age, sex, and relationship of the individuals involved; the degree to which the conduct affected the complainant; the setting and context in which the harassment occurred; whether other incidents have occurred at the university; and other relevant factors.

Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender of nonconformity with gender stereotypes. Gender-based harassment violates this code when it is sufficiently severe or pervasive, such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(b) Nonconsensual sexual activity. Nonconsensual sexual activity is sexual contact or sexual intercourse without consent. Sexual contact is intentional contact with a person's intimate body parts without their consent. Intimate body parts include, but are not limited to, breasts, genitalia, thighs, and buttocks. Nonconsensual sexual intercourse is penetration, no matter how slight, of the vagina, or anus, with any body part or object, without consent; or, oral penetration by a sex organ of another person without consent. Consent means actual words or conduct indicating freely given agreement to the sexual act. Consent cannot be inferred from silence, passivity, or lack of active resistance. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. Sexual activity is nonconsensual when one person is incapable of consent by reason of mental incapacity, drug/alcohol use, illness, unconsciousness, or physical condition. Incapacitation due to drugs or alcohol refers to an individual who is in a state of intoxication such that the individual is incapable of making rational, reasonable decisions because the person lacks the capacity to give knowing consent.

(((~~b~~))) (c) Other forms of sexual misconduct. Other forms of sexual misconduct include indecent liberties; indecent exposure; sexual exhibitionism; sex-based cyber harassment; prostitution or the solicitation of a prostitute; peeping or other voyeurism; or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the nonconsensual recording of sexual activity.

(4) ((~~**Stalking.** Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:~~

~~(a) Fear for their health and/or safety or the health/safety of others; or~~

~~(b) Suffer substantial emotional distress.~~

~~(5)~~))) **Unauthorized use of electronic or other devices.** Making an audio or video recording of any person while on university premises without the person's prior knowledge or without their effective consent, when such a recording is of a private conversation or of images taken of a person(s) at a time and place where the person would reasonably expect privacy and where such recordings are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view.

(((~~(6)~~))) (5) **Property violations.** Theft of, damage to, or misuse of another person's or entity's property. This also includes any conduct or statement that, when viewed objectively, threatens to damage another's property.

(((~~(7)~~))) (6) **Weapons.** Possession, carrying, discharge or other use of any weapon is prohibited on property owned or controlled by Eastern Washington University, except as permitted in (a) through (d) of this subsection. Examples of weapons under this section include, but are not limited to:

Explosives, chemical weapons, shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, stun guns, electroshock weapons, and any item that can be used as an object of intimidation and/or threat, such as replica or look-a-like weapons.

(a) Commissioned law enforcement officers may carry weapons, which have been issued by their respective law enforcement agencies, while on campus or other university controlled property, including residence halls. Law enforcement officers must inform the university police of their presence on campus upon arrival.

(b) A person may possess a personal protection spray device, as authorized by RCW 9.91.160, while on property owned or controlled by Eastern Washington University.

(c) A person may bring a weapon onto campus for display or demonstration purposes directly related to a class or other educational activity, provided that they obtain prior authorization from the university police department. The university police department shall review any such request and may establish conditions to the authorization.

(d) Weapons that are owned by the institution for use in organized recreational activities or by special groups, such as EWU ROTC or university-sponsored clubs or teams, must be stored in a location approved by the university police department. These weapons must be checked out by the advisor or coach and are to be used only in organized recreational activities or by legitimate members of the club or team in the normal course of the club or team's related activity.

(((~~8~~))) (7) **Failure to comply.**

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus;

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so;

(c) Failure to attend any medical treatment or evaluation program when directed to do so by the dean of students or other authorized university official.

(((~~9~~))) (8) **Trespassing/unauthorized use of keys.**

(a) Trespass. Entering or remaining on university property without authorization.

(b) Unauthorized use of keys. Unauthorized possession, duplication, or use of university keys or access cards.

(((~~10~~))) (9) **Deception, forgery, fraud, unauthorized representation.**

(a) Knowingly furnishing false information to the university.

(b) Forgery, alteration, or misuse of university documents, records, or instruments of identification. This includes situations of identity theft where a person knowingly uses or transfers another person's identification for any purpose.

(c) Forgery or issuing a bad check with intent to defraud.

(d) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(((~~11~~))) (10) **Safety.**

(a) Intentionally activating a false fire alarm.

(b) Making a bomb threat.

(c) Tampering with fire extinguishers, alarms, or safety equipment.

(d) Tampering with elevator controls and/or equipment.

(e) Failure to evacuate during a fire, fire drill, or false alarm.

(((~~12~~))) (11) **Alcohol, drugs, and controlled substances.**

(a) Alcohol and substance violations. Use, possession, distribution, or sale of alcoholic beverages (except as permitted by university policy and state law) is prohibited. Under no circumstances may individuals under the age of twenty-one use, possess, distribute, manufacture or sell alcoholic beverages. Public intoxication is prohibited.

(b) Drugs and paraphernalia.

(i) Use, possession, distribution, manufacture, or sale of illegal drugs, paraphernalia, narcotics or controlled substances, is prohibited.

(ii) Use, possession, distribution, manufacture, or sale of marijuana is prohibited except for reasons permitted under EWU Policy 602-01 (drug and alcohol abuse prevention).

(iii) Being under the influence of marijuana or an illegal substance, while on property owned or operated by the university, is prohibited. Being under the influence of a controlled substance, except when legally prescribed by a licensed medical practitioner, is also prohibited while on property owned or operated by the university.

(((~~13~~))) (12) **Hazing.** Any act which, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization:

(a) Endangers the mental or physical health or safety of any student or other person;

(b) Destroys or removes public or private property; or

(c) Compels an individual to participate in any activity which is illegal or contrary to university rules, regulations or policies.

The express or implied consent of any participant is not a defense. A person who is apathetic or acquiesces in the presence of hazing violates this rule.

(((~~14~~))) (13) **Disruptive conduct/obstruction.**

(a) Disruptive conduct. Conduct which unreasonably interferes with any person's ability to work or study, or obstructs university operations or campus activities.

(b) Disorderly conduct. Conduct that is disorderly, lewd, indecent or a breach of peace.

(c) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

(((~~15~~))) (14) **Violations of other laws, regulations and policies.**

(a) Violation of a local, county, state, or federal law.

(b) Violation of other university policies, regulations, contracts, or handbook provisions.

(((~~16~~))) (15) **Assisting/attempts.** Soliciting, aiding, abetting, concealing, or attempting conduct in violation of this code.

(((~~17~~))) (16) **Acts against the administration of this code.**

(a) Initiation of a complaint or charge knowing that the charge was false or with reckless disregard of its truth.

(b) Interference with or attempt to interfere with the enforcement of this code including, but not limited to, intimidation or bribery of hearing participants, acceptance of bribes, dishonesty, or disruption of proceedings and hearings held under this code.

(c) Knowing violation of the terms of any disciplinary sanction or attached conditions imposed in accordance with this code.

((~~(18)~~)) (17) **Other responsibilities.**

(a) Guests. A student, student group or student organization is responsible for the conduct of guests on or in university property and at functions sponsored by the university or sponsored by any recognized university organization.

(b) Students studying abroad. Students who participate in any university sponsored or sanctioned foreign country study program shall observe the following rules and regulations:

(i) The laws of the host country;

(ii) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(iii) Any other agreements related to the student's study program in the foreign country; and

(iv) The student conduct code.

((~~(19)~~)) (18) **Student organization and/or group offenses.** Clubs, organizations, societies or similarly organized groups in or recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

AMENDATORY SECTION (Amending WSR 18-06-021, filed 2/27/18, effective 3/30/18)

WAC 172-121-210 Sanctions. If any student or student organization is found to have committed any of the offenses described in WAC 172-121-200, one or more of the sanctions described in this section may be imposed against the student or student organization. Imposed sanctions are effective as of the date the CRO or council issues its decision unless the decision specifically identifies an alternative date. Failure to comply with any imposed sanction may result in additional sanctions.

(1) Individual student sanctions:

(a) Admonition: An oral statement to a student that he/she has violated university rules and regulations.

(b) Warning: A notice to the student or student organization that they have violated the standards for student conduct and that any repeated or continuing violation of the same standard, within a specified period of time, may result in more severe disciplinary action. A warning may be verbal or written.

(c) Censure: A written reprimand for violation of specified regulations. A censure will also state that more severe disciplinary sanctions may be imposed if the student or student organization is found in violation of any regulation within a stated period of time.

(d) Disciplinary probation: A formal action which places one or more conditions, for a specified period of time, on the student's continued attendance. Disciplinary probation sanctions will be executed in writing and will specify the probationary conditions and the period of the probation. A disciplinary probation notice will also inform the student that any further misconduct will automatically involve consideration of suspension. Probationary conditions may include, but are not limited to:

(i) Restricting the student's university-related privileges;

(ii) Limiting the student's participation in extra-curricular activities; and/or

(iii) Enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups.

(e) Restitution: Reimbursement to the university or others for damage, destruction, or other loss of property suffered as a result of theft or negligence. Restitution also includes reimbursement for medical expenses incurred due to conduct code violations. Restitution may take the form of appropriate service or other compensation. Failure to fulfill restitution requirements will result in cancellation of the student's registration and will prevent the student from future registration until restitution conditions are satisfied.

(f) Fines: The university conduct review officer and the student disciplinary council may assess monetary fines up to a maximum of four hundred dollars against individual students for violation of university rules or regulations or for failure to comply with university standards of conduct. Failure to promptly pay such fines will prevent the student from future registration. Failure to pay may also result in additional sanctions.

(g) Discretionary sanctions: Work assignments, service to the university community or other related discretionary assignments for a specified period of time as directed by the hearing authority.

(h) Loss of financial aid: In accordance with RCW 28B.30.125, a person who participates in the hazing of another forfeits entitlement to state-funded grants, scholarships or awards for a specified period of time. ((~~Loss of financial aid is subject to the processes outlined in this chapter except any such loss must also be approved by the dean of students and the vice president for student affairs before such sanction is imposed.~~))

(i) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(j) Suspension: Exclusion from classes and other privileges or activities for a specified period of time. Suspensions will be executed through a written order of suspension and will state all restrictions imposed by the suspension, as well as the suspension period and what conditions of readmission, if any, are ordered. ((~~Suspension is subject to the processes outlined in this chapter except any suspension must also be approved by the dean of students and the vice president for student affairs before such sanction is imposed.~~)) Suspensions may be noted on the student's transcript during the period of time the suspension is in effect.

(k) Expulsion: Permanent separation of the student from the university with no promise (implied or otherwise) that the student may return at any future time. The student will also be barred from university premises. ((~~Expulsion is subject to the processes outlined in this chapter except any expulsion must also be approved by the dean of students and the vice president of student affairs before such sanction is imposed.~~)) Expulsions may be noted on the student's transcript.

(l) Loss of institutional, financial aid funds: Formal withholding of all or a part of institutional funds currently being received by the student or promised for future disbursement to the student for a specified period of time. Loss of financial aid is subject to the processes outlined in this chapter except any such loss must be approved by the dean of students and the vice president for student affairs before such sanction is imposed.

(m) Revocation of degree: A degree awarded by the university may be revoked for fraud, misrepresentation, or other violation of law or university standards. Revocation of a degree is subject to processes outlined in this chapter except that revocation of a degree must also be approved by the university president.

(2) Student organizations and/or group sanctions: Any of the above sanctions may be imposed in addition to those listed below:

(a) Probation: Formal action placing conditions on the group's continued recognition by or permission to function at the university. The probationary conditions will apply for a specified period of time. Violation of the conditions of probation or additional violations while under probation may result in more severe sanctions;

(b) Social probation: Prohibition of the group from sponsoring any organized social activity, party or function, or from obtaining a permission for the use of alcoholic beverages at social functions for a specified period of time;

(c) Restriction: The temporary withdrawal of university or ASEWU recognition for a group, club, society or other organization. Restriction is subject to the processes outlined in this chapter except any restriction must also be approved by the dean of students and the vice president of student affairs before such sanction is imposed;

(d) Revocation: The permanent withdrawal of university or ASEWU recognition for a group, club, society or other organization((~~. Revocation is subject to the processes outlined in this chapter except any revocation must also be approved by the dean of students and the vice president of student affairs before such sanction is imposed~~));

(e) Additional sanctions: In addition to or separately from the above, any one or a combination of the following may be concurrently imposed on the group:

(i) Exclusion from intramural competition as a group;

(ii) Denial of use of university facilities for meetings, events, etc.;

(iii) Restitution; and/or

(iv) Fines.

WSR 20-07-016
PROPOSED RULES
DEPARTMENT OF FISH AND WILDLIFE
[Filed March 5, 2020, 4:50 p.m.]

Continuance of WSR 20-04-091.

Preproposal statement of inquiry was filed as WSR 20-01-123.

Title of Rule and Other Identifying Information: The department seeks to adopt rules concerning the 2020-2021 hunting seasons.

Hearing Location(s): On March 13-14, 2020, at 8:00 a.m., at the Red Lion Columbia Center, 1101 North Columbia Center Boulevard, Kennewick, WA 99336.

Date of Intended Adoption: April 10-11, 2020.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504-3200, email wildthing@dfw.wa.gov, by March 31, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is filing a continuance to extend the written public comment period. This will provide an additional avenue to comment on the proposed rule making for those who may not want to attend the public hearing.

Rule is not necessitated by federal law, federal or state court decision.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

March 5, 2020
Michele K. Culver
Agency Rules Coordinator

WSR 20-07-025
PROPOSED RULES
DEPARTMENT OF VETERANS AFFAIRS
[Filed March 9, 2020, 11:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-03-010.

Title of Rule and Other Identifying Information: Veterans estate management program, chapter 484-40 WAC.

Hearing Location(s): On May 6, 2020, at 11:30 [a.m]., at Washington Department of Veterans Affairs (WDVA), 1102 Quince Street S.E., 3rd Floor Conference Room, Olympia, WA 98504.

Date of Intended Adoption: May 7, 2020.

Submit Written Comments to: WDVA, Heidi Audette, P.O. Box 41150, email heidia@dva.wa.gov, fax 360-725-2197, by May 5, 2020.

Assistance for Persons with Disabilities: Contact Heidi Audette, phone 360-725-2154, fax 360-725-2197, TTY 360-725-2199, email heidia@dva.wa.gov, by March 10, 2019 [2020].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: General updates to language for clarity and updates to maximum estate size of beneficiaries.

Reasons Supporting Proposal: Compliance with RCW 73.04.130.

Statutory Authority for Adoption: RCW 43.60A.070. Other references are RCW 43.60A.70 [43.60A.070], 73.04.-130.

Statute Being Implemented: RCW 73.04.130.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDVA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Heidi Audette, 1102 Quince Street S.E., Olympia, WA 98504, 360-725-2154.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not considered a significant legislative rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

March 6, 2020
Heidi Audette
Communications and
Legislative Director

AMENDATORY SECTION (Amending WSR 80-09-069, filed 7/17/80)

WAC 484-40-005 Scope of services. As authorized by RCW 43.60A.070, the director of the department of veterans affairs, or ((~~his~~)) designee, is authorized to act as:

(1) Executor under the last will of the estate of any deceased veteran.

(2) Administrator of the estate of any deceased veteran.

(3) The ((~~guardian or~~)) duly appointed federal fiduciary of the estate of any ((~~insane or incompetent~~)) veteran deemed by the U.S. Department of Veterans Affairs or the Social Security Administration to be incompetent to handle their own finances.

(4) ((~~Guardian or~~)) Duly appointed federal fiduciary of the estate of any person who is a bona fide resident of the state of Washington and who is certified by the ((~~veterans administration~~)) U.S. Department of Veterans Affairs or the Social Security Administration as having money due from the ((~~veterans administration~~)) U.S. Department of Veterans Affairs or the Social Security Administration, the payment of which is dependent upon the appointment of a ((~~guardian or other type~~)) fiduciary.

((~~No estate larger than $15,000.00, authorized by RCW 73.04.130 shall be eligible for any of the preceding categories.~~))

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-40-015 Case level. (1) The director of the department of veterans affairs, or ((~~his~~)) designee, is authorized to provide the scope of services enumerated under WAC 484-40-005. ((~~He is not required to do so.~~))

(2) The director of veterans affairs shall determine when the case level is commensurate with available personnel and funding.

(3) The director of the department may refuse the provision of further services, under this chapter, whenever ((~~he deems appropriate for whatever reasons he deems~~)) appropriate.

AMENDATORY SECTION (Amending WSR 80-09-069, filed 7/17/80)

WAC 484-40-020 Auditing. (1) All funds received and disbursed in conjunction with services afforded under this chapter shall be accounted for by generally accepted accounting standards.

(2) The director of the department of veterans affairs or ((~~his~~)) designee shall cause a fiscal audit to be performed on all records and documents pertaining to the funds for which conservatorship is afforded under this chapter.

(3) Such audit may be performed by accountants within the department of veterans affairs or accountants from another governmental agency.

((~~(4) Such audit shall be performed at time intervals not to exceed fourteen months and shall ensure that no period of time shall be unaudited.~~))

WSR 20-07-026
PROPOSED RULES
DEPARTMENT OF VETERANS AFFAIRS
[Filed March 9, 2020, 11:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-03-011.

Title of Rule and Other Identifying Information: WAC 484-10-010 State veterans institutions.

Hearing Location(s): On May 6, 2020, at 11:30 [a.m.], at Washington department of veterans affairs (WDVA), at 1102 Quince Street S.E., 3rd Floor Conference Room, Olympia, WA 98504.

Date of Intended Adoption: May 7, 2020.

Submit Written Comments to: WDVA, Heidi Audette, P.O. Box 41150, email heidia@dva.wa.gov, fax 360-725-2197, by May 5, 2020.

Assistance for Persons with Disabilities: Contact Heidi Audette, phone 360-725-2154, fax 360-725-2197, TTY 360-725-2199, email heidia@dva.wa.gov, by March 10, 2019 [2020].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: General updates to

language from superintendent to administrator and removing provision allowing a superintendent in training to be hired.

Reasons Supporting Proposal: Compliance with RCW 72.36.020.

Statutory Authority for Adoption: RCW 43.60A.070, 72.36.020.

Statute Being Implemented: RCW 72.36.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDVA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Heidi Audette, 1102 Quince Street S.E., Olympia, WA 98504, 360-725-2154.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not considered a significant legislative rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

March 6, 2020
Heidi Audette
Communications and
Legislative Director

AMENDATORY SECTION (Amending WSR 10-04-027, filed 1/26/10, effective 2/26/10)

WAC 484-10-010 State veterans institutions. (1) The Washington soldiers home and colony, the Washington veterans home, ((~~and~~)) the eastern Washington veterans home, and the Walla Walla veterans home shall have, respectively, a chief executive officer to be called ((~~a superintendent~~)) an administrator. The ((~~superintendent~~)) administrator shall be directly responsible to the director or designee, of the department of veterans affairs((~~, and as such shall be an honorably discharged veteran~~)).

(2) The ((~~superintendent~~)) administrator shall be a licensed nursing home administrator in the state of Washington. ((~~In situations where a candidate is identified who is an honorably discharged veteran but not yet a licensed nursing home administrator in the state of Washington, the director may appoint the candidate to the position of superintendent-in-training, providing time for the candidate to complete an administrator-in-training program, approved by the Washington state department of health, and pass the nursing home administrators licensing examination. The candidate is eligible for appointment to the position of superintendent once he or she becomes a licensed nursing home administrator. The director will ensure that the facility is directed by an interim on-site, full-time superintendent who is a licensed nursing home administrator and who may or may not be a veteran, while the candidate is in training, or whenever a suitable candidate is not available.~~))

WSR 20-07-027
PROPOSED RULES
DEPARTMENT OF VETERANS AFFAIRS
[Filed March 9, 2020, 11:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-03-007.

Title of Rule and Other Identifying Information: Public disclosure process including statement of costs.

Hearing Location(s): On May 6, 2020, at 11:30 [a.m.], at Washington Department of Veterans Affairs (WDVA), 1102 Quince Street S.E., 3rd Floor Conference Room, Olympia, WA 98504.

Date of Intended Adoption: May 7, 2020.

Submit Written Comments to: WDVA, Heidi Audette, P.O. Box 41150, email heidia@dva.wa.gov, fax 360-725-2197, by May 5, 2020.

Assistance for Persons with Disabilities: Contact Heidi Audette, phone 360-725-2154, fax 360-725-2197, TTY 360-725-2199, email heidia@dva.wa.gov, by March 10, 2019 [2020].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates existing sections regarding disclosure and exemptions to comply with chapter 42.56 RCW. Creates new sections related to how WDVA is organized, charges for copies of records, and notification of individuals.

Reasons Supporting Proposal: Compliance with chapter 42.56 RCW.

Statutory Authority for Adoption: RCW 42.56.040, [42.56.]070, [42.56.]090, [42.56.]120.

Statute Being Implemented: RCW 42.56.040, [42.56.]070, [42.56.]090, [42.56.]120.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDVA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Heidi Audette, 1102 Quince Street S.E., Olympia, WA 98504, 360-725-2154.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not considered a significant legislative rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

March 6, 2020
Heidi Audette
Communications and
Legislative Director

NEW SECTION

WAC 484-50-001 How is DVA organized? (1) WDVA is organized into the following areas:

(a) Veterans homes;

(b) Veterans services;

(c) Counseling and wellness;

(d) Cemetery; and

(e) Administration.

(2) Additional information on agency organization and operation is available at https://www.dva.wa.gov/about-wdva/about-us or by writing:

WDVA Communications Office
P.O. Box 41150
Olympia, WA 98504

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-50-005 ((~~Disclosure.~~)) How do I request and inspect public records? (1) All public records of the department of veterans affairs are available for public inspection and copying from 9:00 a.m. - 12:00 p.m. and 1:30 p.m. - 4:30 p.m. Monday through Friday, excluding legal holidays, pursuant to these rules except as otherwise provided in chapter 42.56 RCW ((~~42.17.310 and WAC 484-50-010.~~

~~(2) Requests for any identifiable public record may be initiated at the headquarters of the department of veterans affairs, in Olympia~~)), other applicable laws, and these rules.

(2) The public records officer for WDVA shall be responsible for responses to requests for public records. Requests for public records shall be submitted to the WDVA public records officer using the following contact information:

WDVA Public Records Officer
P.O. Box 41150
Olympia, WA 98504
Phone: 1-800-562-2308 (ask for the public records officer)

Additional contact information is available via the WDVA website at www.dva.wa.gov search "Public Disclosure".

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-50-010 ((~~Exemptions.~~)) What if the public record contains information that is exempt from public disclosure? (((~~(1) The department of veterans affairs reserves the right to determine that a public record requested is exempt under the provisions of RCW 42.17.310 or federal or other state laws and regulations.~~

~~(2) Pursuant to RCW 42.17.260, the department of veterans affairs reserves the right to delete identifying details when it makes available or publishes any public record, in any case in which there is reason to believe that disclosure of such details may be unreasonable invasion of personal privacy. The public records officer shall fully justify such deletion in writing.~~)) (1) Public records and information may be exempt from disclosure or production under chapter 42.56 RCW or other state or federal laws. Commonly applicable exemptions include, but are not limited to, the following:

(a) Under RCW 42.56.230(1), personal information in files maintained for WDVA clients. Personal information includes, but is not limited to:

(i) Names;

(ii) Telephone numbers;

(iii) Fax numbers;

(iv) Email addresses;

(v) Social Security numbers;

(vi) VA claim numbers;

(vii) VA disability percentages;

(viii) DOD type of military separation, characterization of service, narrative reason for separation, reentry code, separation code;

(ix) Account numbers;

(x) Certificate or license numbers;

(xi) Vehicle identifiers and serial numbers, including license plate numbers;

(xii) Device identifiers and serial numbers;

(xiii) Web universal resource locators (URLs);

(xiv) Internet protocol (IP) address numbers;

(xv) Biometric identifiers, including finger and voice prints;

(xvi) Full face photographic images and any comparable images;

(xvii) Any other unique identifying number, characteristic, or code;

(xviii) All geographic subdivisions smaller than a state, including street address, mailing address, city, county, precinct, geocodes, and zip code, except for the initial three digits of a zip code; and

(xix) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death.

(b) Under chapter 70.02 RCW and related federal laws, protected health care information and medical records.

(c) Under RCW 42.56.230(3), personal information in files maintained for WDVA employees or elected officials to the extent that disclosure would violate their right to privacy.

(d) Under RCW 42.56.230(5), credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including Social Security numbers, except when disclosure is expressly required by or governed by other law.

(e) Under RCW 42.56.250, the following information from personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency:

(i) Residential addresses;

(ii) Residential phone numbers;

(iii) Personal wireless telephone numbers;

(iv) Personal email addresses;

(v) Social Security numbers;

(vi) Driver's license numbers;

(vii) Identicard numbers;

(viii) Emergency contact information; and

(ix) Names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers,

personal email addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.

(f) Under RCW 42.56.235, records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation.

(g) Effective July 1, 2020, agency employee records described under RCW 42.56.660.

(h) Effective July 1, 2020, lists of state agency employee names under RCW 42.56.675.

(i) Under RCW 42.56.640 and 43.17.410, sensitive personal information of vulnerable individuals and in-home caregivers for vulnerable populations, except as allowed under subsection (3) of this section.

(2) If the requested public record contains information that is exempt from public disclosure, WDVA may:

(a) As appropriate, release the nonexempt portion, explaining what exemptions apply to redacted portions of the record;

(b) As appropriate, deny release of the entire record, sending a written explanation and citing the exemption that applies to the denial; or

(c) Neither confirm or deny the existence of the requested records and provide the legal basis for confidentiality as if the responsive records existed, when a denial would reveal information that is confidential and must not be disclosed.

(3) Sensitive personal information under subsection (1)(i) of this section may be disclosed or produced if WDVA determines that the requestor:

(a) Meets the criteria under RCW 42.56.645; and

(b) Has complied with any procedures developed by WDVA to protect the confidentiality of the information.

NEW SECTION

WAC 484-50-020 Does WDVA charge for inspecting or providing public records? (1) There is no fee for inspecting public records.

(2) Pursuant to RCW 42.56.120 (2)(b), WDVA does not calculate the actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) WDVA does not have the resources to conduct a study to determine all of its actual copying costs; and

(b) To conduct such a study would interfere with other essential agency functions.

(3) WDVA may do one or more of the following:

(a) Charge for copies of records according to the default fees in RCW 42.56.120 (2)(b), (c), and (d);

(b) Charge for customized services pursuant to RCW 42.56.120(3);

(c) Charge other copy fees authorized by statutes outside of chapter 42.56 RCW;

(d) Enter into an alternative fee agreement with a requestor under RCW 42.56.120(4).

(4) WDVA may waive copying fees in one or more of the following circumstances:

(a) Clients receiving the first copy of their file;

(b) Producing records assists in managing a program;

(c) The expense of billing exceeds the cost of producing records.

NEW SECTION

WAC 484-50-030 If a public record identifies or pertains to an individual or organization, other than the requestor, is that individual or organization notified? (1) If records responsive to a public records request identify or pertain directly to an individual or organization other than the requestor, WDVA may notify the named individual or organization about the request.

(2) WDVA's third-party notice may include:

(a) A copy of the original request;

(b) If appropriate, the records that identify or pertain to the third party;

(c) The date WDVA intends to release the record; and

(d) A statement that the third party may prevent release of the record by agreement or by bringing a lawsuit and getting an injunction against WDVA and the requestor under RCW 42.56.540 prior to the intended release date.

(3) WDVA may inform the requestor that:

(a) A third party has been notified of the request;

(b) WDVA provided the third party with a due date for objecting to disclosure; and

(c) In the absence of an agreement with the requestor, the third party may bring a lawsuit against the requestor and WDVA under RCW 42.56.540 to stop disclosure.

WSR 20-07-043
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS

[Filed March 10, 2020, 9:57 a.m.]

Continuance of WSR 20-03-149.

Preproposal statement of inquiry was filed as WSR 19-21-106.

Title of Rule and Other Identifying Information: WAC 363-116-082 Limitations on new pilots.

Hearing Location(s): On May 21, 2020, at 10:00 a.m., at 2901 3rd Avenue, 1st Floor, Agate Conference Room.

Date of Intended Adoption: May 21, 2020.

Submit Written Comments to: Sheri Tonn, Chair, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, fax 206-515-3906, by May 14, 2020.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, fax 206-515-3906, email HamelJ@wsdot.wa.gov, by May 14, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to limited training opportunities in the Puget Sound Pilotage District, the board will limit the license for first-year pilots in the Duwamish Waterway. The license restriction will prohibit first-year pilots from piloting vessels greater than three thousand gross tons in the Duwamish Waterway. The restriction will be lifted through the license upgrade program developed by the board's trainee evaluation committee (TEC) for second year pilots.

The Purpose of this filing is to continue the March 19, 2020, public hearing to May 21, 2020, and extend the public comment period to May 14, 2020.

Reasons Supporting Proposal: This WAC change is necessary due to the advanced level of piloting skill required to navigate the Duwamish Waterway and lack of opportunities to obtain the required number of observation, training, and evaluation trips, as required by the board's pilot training program.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The board received a recommendation from TEC favoring the implementation of this license restriction based on a review of traffic patterns in the Duwamish Waterway.

Name of Proponent: Board of pilotage commissioners, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jaimie C. Bever, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, 206-515-3887; and Enforcement: Board of Pilotage Commissioners, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, 206-515-3904.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

March 10, 2020
Jaimie C. Bever
Executive Director

WSR 20-07-052
PROPOSED RULES
LIQUOR AND CANNABIS BOARD

[Filed March 11, 2020, 10:19 a.m.]

Continuance of WSR 20-03-176.

Preproposal statement of inquiry was filed as WSR 18-17-041.

Title of Rule and Other Identifying Information: WAC 314-55-101 Quality assurance sampling protocols, 314-55-102 Quality assurance testing (effective until August 31, 2020), new 314-55-1021 Quality assurance and quality control (effective September 1, 2020, until February 28, 2021), new 314-55-1022 Quality assurance and quality control (effective March 1, 2021), and 314-55-1025 Proficiency testing. The Washington state liquor and cannabis board (WSLCB) proposes amendments and new sections to current marijuana product testing standards that would require the addition of pesticide and heavy metal testing for all marijuana products produced, processed, and sold in Washington state.

Hearing Location(s): On April 1, 2020, at 10:00 a.m., at 1025 Union Avenue, Olympia, WA 98501.

Date of Intended Adoption: April 15, 2020.

Submit Written Comments to: Katherine Hoffman, 1025 Union Avenue, Olympia, WA 98501, email rules@lcb.wa.gov, fax 360-664-9689, by April 1, 2020.

Assistance for Persons with Disabilities: Contact Claris Nhanabu, ADA coordinator, human resources, phone 360-664-1642, fax 360-664-9689, TTY 711 or 1-800-833-6388, email Claris.Nhanabu@lcb.wa.gov, by March 25, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendments revise and update current marijuana quality assurance sampling protocols described in WAC 314-55-101, and marijuana proficiency testing described in WAC 314-55-1025.

This proposal also provides that as of March 2021, in addition to the currently required suite of tests, all marijuana products produced, processed, and sold in Washington state be tested for pesticides and heavy metals. This is accomplished by revising and updating existing WAC 314-55-102 by way of a phase-in plan, as follows:

- The first proposed revisions, if adopted, would be effective until August 31, 2020.
- On September 1, 2020, WAC 314-55-102 would be repealed, and WAC 314-55-1021 would become effective until February 28, 2021, adding pesticide testing to the current suite of required product testing for all marijuana products produced and sold in Washington state.
- Finally, on February 28, 2021, WAC 314-55-1021 would be repealed, and effective March 1, 2021, WAC 314-55-1022 would become effective, requiring both pesticides *and* heavy metals to the current suite of required product testing for all marijuana products produced and sold in Washington state.

As a technical matter, this proposal renames and more appropriately refers to marijuana *quality control* sampling protocols and marijuana *quality control* and assurance testing standards. While quality control is a set of activities designed to evaluate a product, quality assurance pertains to activities that are designed to ensure that a *process* is adequate and the system meets its objectives. In contrast, quality control focuses on finding defects or anomalies in a product or deliverable, and checks whether defined requirements are the right requirements. Testing is one example of a quality control activity, but there are many more such activities that make up quality control. For these reasons, this proposal renames these sections.

Other proposed revisions include streamlined, clarified language; section reorganization to increase readability, along with reduction and removal of passive language where appropriate.

Reasons Supporting Proposal: Current testing requirements for recreational marijuana are intended to ensure that products for sale are safe and have accurate potency levels.

However, Washington state recreational marijuana products are not required to be tested for pesticides and heavy metals, and although not precluded from doing so, many producers and processors do not test for either. Based on a number of elements, including consumer concern and national best practices, it has become evident that standardized testing for *all* marijuana products produced, processed, and sold in Washington state is necessary. Washington state is the only state with both recreational and medical programs that does not require such testing for all products.

There is no guidance available to the WSLCB or any other state agency regulating marijuana from federal agencies who set standards for agriculture, food, and other products because marijuana remains classified as a Schedule I drug, and federally illegal. This presents regulatory challenges to the WSLCB, regulators throughout the country, and the industry since there is limited funding to support research on how marijuana tainted with potential toxins affects humans. However, while the possible health impact of consuming marijuana products with unapproved pesticides is an emerging area of research, the overarching goal of the WSLCB is to protect public health and safety, and to assure that all products sold within the I-502 market are safe for *all* consumers.

Recently, concern around the composition and safety of marijuana concentrates for inhalation has highlighted the need to assure that all marijuana products are tested for the presence of harmful compounds and other contaminants. The proposed rule amendments and phase-in plan offer a reasonable time frame that provides both licensees and accredited labs the opportunity to adjust business models where necessary, and offers options to prepare for additional fields of testing either immediately or over an extended, but finite period of time.

Statutory Authority for Adoption: RCW 69.50.345 and 69.50.348.

Statute Being Implemented: RCW 69.50.345 and 69.50.348.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSLCB, governmental.

Name of Agency Personnel Responsible for Drafting: Katherine Hoffman, Rules Coordinator, 1025 Union Avenue, Olympia, WA 98501, 360-664-1622; Implementation: Kendra Hodgson, Marijuana Examiners Unit Manager, 1025 Union Avenue, Olympia, WA 98501, 360-664-4555; and Enforcement: Justin Nordhorn, Chief of Enforcement, 1025 Union Avenue, Olympia, WA 98501, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Katherine Hoffman, 1025 Union Avenue, Olympia, WA 98502, phone 360-664-1622, fax 360-664-9689, email rules@lcb.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4)(d); WAC 314-55-101; 314-55-1025.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

What is the scope of the rule package? Compliance with the proposed, specific requirements described [in] WAC 314-55-102, 314-55-1021, and 314-55-1022 will likely result in additional compliance costs. This includes the incremental, phased-in requirement to test all marijuana products for pesticides and heavy metals. The remainder of the rule revisions are exempt.

Which businesses are impacted by the proposed rule package? What was their North American Industry Classification (NAICS) code or codes? What are their minor cost thresholds? The NAICS code, business description, and minor cost thresholds are described and calculated below:

Type of Business	# of Businesses In Washington	Percentage of Businesses Considered Small[3]	Average Annual Revenues[4,5]	Minor Cost Threshold (0.3% Average Annual Revenues)
Marijuana Producer, Processor	341[1]	98%	$1,418,224	$4,255
Cannabis Testing Laboratory	14[2]	100%	$1997000 [$1,997,000]	$5,990

Notes:

[1]Represents the number of Marijuana producer/processors that reported revenue, lab tests, and employment between 2018-05 and 2019-04

[2]Represents the number of labs certified to conduct testing on cannabis products in Washington state.

[3]Defined as having fifty or fewer employees. Producer/processor employment information provided by the employment security department for the 3rd quarter of 2018. Laboratory businesses employment determined through interviews with labs and LinkedIn business profiles accessed 2019-04 and 2020-01

Type of Business	# of Businesses In Washington	Percentage of Businesses Considered Small[3]	Average Annual Revenues[4,5]	Minor Cost Threshold (0.3% Average Annual Revenues)
[4]Average annual revenues for producer/processors based on total sales divided by the number of business[es] that reported sales, lab tests, and employment. [5]For testing laboratories, minor cost threshold based on average annual revenues from the 2010 Economic census of the United States for businesses in the "Testing Laboratories" category (NAICS 541380) (WA State Auditor's Office 2019)				

Does the rule have a disproportionate impact on small businesses? In particular, in order to calculate annual costs, we require information on a per entity basis describing the number of samples being tested per year. While we have some limited anecdotal information on the numbers of samples tested per year by individual producer/processors, we lack information on the myriad business models that could lead to a wide range in the number of samples tested per year, and thus a wide range of per entity compliance costs per year. Developing reliable estimates would require a comprehensive survey with a *reasonable* response rate, and even then, given the wide variability of business models and documented inconsistency in responses from licensees, per entity costs is [are] difficult to determine.

Did the agency make an effort to reduce the impact of the rule? The proposed rule changes include provisions that are intended to reduce the compliance costs for small businesses. These include:

- An incremental phase-in period that contemplates full compliance by March, 2021; and
- Allowing labs to subcontract pesticide and heavy metals testing for a period of time.

It is difficult to accurately assess if small businesses will be disproportionately impacted by this rule proposal when there is both significant overlap and variance between the groups evaluated. As noted above, and throughout this SBEIS, most of the businesses impacted are small as defined by RCW 19.85.030.

Did the agency involve small businesses in the rule development process? Throughout the rule development process, the WSLCB has engaged with businesses likely to be affected by the rule, and who volunteered to participate in the process. To support development of the SBEIS, a subset of six producer/processors spanning a range of both tiers and types of producers was contacted; interviews were conducted with two producers, one processor, and one producer/processor. In addition, interviews were conducted with three testing laboratories. Additional opportunity for public comment will be available when the proposed rule is published. Indoor and outdoor farmers, including sun growers, were included in the interviews.

During the rule development process, the WSLCB hosted two "Listen and Learn" sessions, one in April 2019 and the second in August 2019, inviting industry discussion and feedback on the proposed rules, and [to] discuss potential mitigation strategies. The WSLCB's stakeholder process encouraged interested parties and industry partners to:

- Identify burdensome areas of existing and proposed rules;
- Proposed initial or draft rule changes; and
- Refine those changes.

Although the WSLCB broadly messaged these sessions (messaging went directly to *all* licensees, as well as over ten thousand GovDelivery subscribers), few processors and producers attended the sessions. This rule project was the first employing the "Listen and Learn" model, and attendees were initially unfamiliar with not only the model, but the process, although detailed agendas were provided well in advance of each meeting.

These heavily facilitated sessions followed two thought streams: the first asked attendees to review draft conceptual rules offered well in advance of the meeting and provide feedback or specific rule language, specifically indicating what they liked, didn't like, and what they proposed in the way of a solution. No rule language revisions were offered by attendees at either session. Solutions ranged from suggesting that figures and language be more concise in general without offering example, to unsupported assertions that adding pesticides and heavy metals to the suite of required tests would put certain producers out of business.

All comments received during these sessions were curated to the extent possible, although developing themes from sessions was difficult based on the broad range of comments. The proposed rules went through several stages of edits, review, discussion, and then further refinement before arriving at the initial proposal. The end result of this process are proposed rules that are offered as a framework and guidance for testing marijuana products that supports the overarching WSLCB goal of public health and safety.

A summary of the description of issues related to the proposed rule set and how the agency collaborated with stakeholders and industry partners to mitigate potential burden associated with rule compliance is more fully described in the significant analysis prepared consistent with RCW 34.05.328, including a phase-in plan, and offered as part of this initial rule proposal.

Will businesses have to hire or fire employees because of the requirements in the rule? While the impacts to individual producer[/]processors may depend on their ability to pass on increased testing costs (in the form of higher prices to retailers), the proposed rule is not expected to affect the amount of marijuana produced. Thus, the proposed rule is unlikely to affect the overall number of employees of producer/processors or retailers. For example, if increased testing costs lead some smaller entities to cease production, other entities may produce larger volumes.

While it would be an indirect effect, the proposed rule may result in some limited additional employment in the labs conducting testing. In order to conduct the testing, a lab add-

ing this testing capability may need to hire one or two additional scientists or technicians to operate equipment and conduct tests. The extent of potential employment gains are uncertain, but given the small number of labs in the industry (currently fifteen certified labs) any employment gains would likely be limited.

A copy of the statement may be obtained by contacting Katherine Hoffman, 1025 Union Avenue, Olympia, WA 98501, phone 360-664-1622, fax 360-664-9689, email rules@lcb.wa.gov.

March 10, 2020
Jane Rushford
Chair

WSR 20-07-059
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
[Filed March 12, 2020, 12:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-03-035.

Title of Rule and Other Identifying Information: Amending chapter 172-100 WAC, Traffic and parking rules.

Hearing Location(s): On May 11, 2020, at 10:00 a.m., at Eastern Washington University, Main Campus, 526 5th Street, 215A Tawanka Hall, Cheney, WA 99004.

Date of Intended Adoption: May 29, 2020.

Submit Written Comments to: Joseph Fuxa, Eastern Washington University, 526 5th Street, 211A Tawanka Hall, Cheney, WA 99004, email jfuxa@ewu.edu, fax 509-359-2874, by May 11, 2020.

Assistance for Persons with Disabilities: Joseph Fuxa, phone 509-359-7496, fax 506-359-2874 [509-359-2874], email jfuxa@ewu.edu, by May 11, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The modifications to chapter 172-100 WAC are needed to address mobile payments and immobilization options.

Reasons Supporting Proposal: The modifications are needed as the university accepts mobile payments for parking meters and to update immobilization options.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Joseph Fuxa, 211A Tawanka Hall, 509-359-7496; Implementation and Enforcement: Dr. Mary Cullinan, 214 Showalter Hall, 509-359-6362.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to RCW 34.5.328 [34.05.328] (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4)

March 12, 2020
Joseph Fuxa
Policy and Compliance Manager

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-030 Liability of university. The university assumes no liability for bicycles or motor vehicles or their contents when such bicycles or motor vehicles are on campus. The university offers parking permits to those desiring to park on campus. The university uses license plate recognition technology to manage parking. A parking permit licenses the holder (licensee) to park one motor vehicle in the lot ((~~designated on the permit~~)) for which the owner purchased a parking permit as long as the license plate number for the vehicle matches the license plate number on file with parking services. The university is not responsible for fire, theft, damage, or loss of any bicycle, motor vehicle, or any article left in such vehicle. A parking permit is a license to park and no bailment is created.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-100 General traffic and vehicle rules. (1) Bicycle riders and motor vehicle operators shall operate such equipment in a careful and prudent manner at all times and must comply with posted speed limits.

(2) Bicycle riders and motor vehicle operators shall obey all regulatory signs and comply with directions given by parking services personnel and public safety officers and their designees.

(3) Bicycle riders and motor vehicle operators shall yield the right of way to pedestrians. This includes, but is not limited to, yielding to pedestrians crossing streets, roadways, and parking areas within the campus. Riders and drivers shall also yield to pedestrians at intersections, clearly marked crosswalks, or city streets on campus.

(4) Vehicles on university property must be kept in operating condition, except those ((~~in a garage, research facility, or~~)) at the automotive repair shop. Vehicle repairs or maintenance are prohibited on campus unless preauthorized by parking services.

(5) Bicycles may be operated any place where motor vehicles are permitted. Bicycles may also be operated on university walkways, so long as the bicycle is operated in a safe manner and does not interfere with pedestrian traffic or other campus activities.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-120 Parking rules. (1) Emergency access areas: Parking is prohibited in:

(a) Emergency access areas;

(b) Fire lanes;

(c) Within fifteen feet of a fire hydrant.

(2) No parking/restricted parking areas: Parking is prohibited in any area that is not specifically designated for parking, unless explicitly authorized by parking services or university police. No parking and restricted parking areas include, but are not limited to:

(a) Yellow curb areas;

(b) Bus zones;

(c) Driveways;

(d) Sidewalks; and

(e) Any grassy area.

(3) Loading zones: Parking is permitted in loading zones according to the restrictions and time limits posted for the zone. If no restrictions are posted, users shall:

(a) Display a department permit issued under WAC 172-100-230; or

(b) Obtain and display a permit from parking services.

(4) Service drives/areas: Driving or parking in a service drive without displaying a department or service permit is prohibited.

(5) Visitor spaces: Campus visitors may park in any visitor parking space on campus subject to any posted restrictions.

(6) Reserved spaces: Parking in a reserved parking space, without proper authorization, is prohibited.

(7) Permit-required lots: Except as provided herein, parking is prohibited in any campus parking lot that requires a parking permit unless the vehicle ((~~displays~~)) has a valid parking permit for that lot. The university uses license plate recognition technology to manage parking on its campus. Owners purchase parking permits for particular lots on campus and are required to provide the license plate numbers for any vehicles they are requesting a permit for. To be considered valid, parking permits must be issued by the university's parking services office, be current, and be ((~~properly displayed~~)) for the license plate associated with the vehicle parked in a parking lot.

(a) All permit-required lots have designated days and times during which a permit is required.

(b) Motorcycles parked in a permit-required lot ((~~in any space other than a designated motorcycle free-parking area~~)) must ((~~display~~)) have a valid parking permit.

(8) Disabled parking spaces: Any vehicle that is parked in a disabled parking space in a university owned or leased parking lot must ((~~display~~)) register with parking services and provide evidence of a valid, state-issued disabled parking permit, license plate, or year tab. The vehicle must also ((~~display~~)) have a valid EWU disabled parking permit if parking in a permit-required parking lot during the designated days and times that a permit is required for parking.

(9) ((~~Metered~~)) Metered/mobile payment parking: A person who parks a vehicle in a metered or mobile payment parking space must pay for time used during posted times of operation.

(10) Vehicle size limits: Vehicles longer than twenty feet, campers, trailers, buses, and pickup trucks with a camper may not be parked on university property without prior authorization from parking services.

(11) Bicycles: Bicycles must be parked in bicycle racks.

(12) Parking space violation: Vehicles may only occupy one parking space or stall as designated within a parking area.

(13) Disabled, and inoperative vehicles: A disabled or inoperative vehicle may not be parked on the university campus for more than twenty-four hours without prior authorization from parking services.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-130 Citations and fines. Any violation of these rules is subject to citation. Each offense may result in a separate citation.

(1) Payment: Citation fines must be paid to EWU parking services and may be paid in person, online, by mail, or by phone.

(2) Amounts:

(a) Citations: When a citation is issued, fines are determined in accordance with a fine schedule. The fine schedule is approved by the vice president for business and finance.

(b) Adjustments: When mitigating circumstances exist, authorized parking services personnel may reduce or dismiss fines.

(3) Appeals: Citations may be appealed by submitting ((~~a~~)) an online or written appeal to parking services within fourteen calendar days of the date the citation was issued. If an appeal is not submitted online, handwritten appeals must be submitted to parking services in person or by mail within fourteen calendar days or a late fee will be assessed. If a timely appeal is not filed, the citation becomes final. Appeals will be reviewed by a board consisting of voting members from the following groups: Associated students, classified staff, faculty, and ((~~administrative~~)) exempt staff. A parking services representative will act as a consultant to the board ((~~and vote only to break a tie~~)). The board may uphold or dismiss the citation. In the case of a tie vote, the board will continue discussion and vote again until a majority vote is obtained. If an impasse exists, the citation will be reduced to a warning. If the board upholds the citation, it may reduce the fine amount. In no event may the board impose a fine exceeding the amount set forth in the fine schedule. Within five calendar days following the board's review, parking services shall notify the appellant, by mail or by email, of the board's determination. The board will meet every two weeks, with additional meetings as necessary. Additional appeal rights are governed by RCW 28B.10.560.

(4) ((~~Nonpayment~~)) Collection: Unpaid fines are subject to collection through the university's established collection methods under chapter 172-144 WAC. An owner and/or driver may be responsible for all collection fees, which may be based on a percentage up to fifty percent of the unpaid charges, and all costs and expenses, including attorneys' fees related to collection of the unpaid debt.

(5) Nonpayment: In addition to seeking collection of unpaid fines under subsection (4) of this section, unpaid fines

may lead to the immobilization or impoundment of a vehicle when:

(a) A permit account (which may include one individual license plate number or a combination of license plate numbers on a single account) contains four unpaid citations with fines exceeding one hundred dollars; or

(b) A permit account (which may include one individual license plate number or a combination of license plate numbers on a single account) has a balance that is older than ninety days and exceeds one hundred dollars.

(((~~5~~))) (6) Disposition of fees and fines: Proceeds from fees and fines collected under this chapter are to be deposited in the university's parking fund and applied to the costs of operating, maintaining, and patrolling the campus parking lots and administering these rules.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-140 Immobilization and impoundment of motor vehicles and bicycles. (1) The vice president for business and finance or designee may order the immobilization, impoundment and storage of any vehicle:

(a) That is parked, in violation of these rules:

(i) In an emergency access area, no parking area, or restricted parking area;

(ii) In a loading zone or service drive or area without a department permit as noted in WAC 172-100-230;

(iii) In a parking space designated for another person or vehicle; or

(iv) In a disabled parking space;

(b) That is disabled or inoperative; or

(c) That is parked on university property and ((~~has more than four unpaid citations, after the university has made reasonable attempts to contact the owner~~)) is connected to a parking permit account that has unpaid fines in accordance with WAC 172-100-130.

(2) The owner and/or driver of an immobilized or impounded motor vehicle is responsible for all immobilization and impoundment ((~~and storage~~)) costs, and any related costs, and may not recover the motor vehicle until arrangements have been made with parking services. To have the motor vehicle released pending any appeal, the owner and/or driver must post a bond in the amount of the unpaid fines, fees, and costs relating to the immobilization and/or impoundment. If the owner and/or driver timely appeals the immobilization and/or impoundment in accordance with subsection (5) of this section and the fines, fees, or costs are overturned, the university will refund the bond to the owner and/or driver. The university and its employees or representatives are not liable for loss or damage of any kind resulting from impoundment or storage. The university is also not financially responsible for any incidentals accrued by the owner and/or driver through this process.

(3) Bicycles may be impounded for violations of the above parking rules. The university is authorized to break any bicycle lock to facilitate impoundment. The university and parking services are not responsible for any damage resulting from the impoundment of a bicycle, including removal of a lock.

(4) Definitions.

(a) "Impoundment" means to take and hold a motor vehicle or bicycle in legal custody, which includes, but is not limited to, securing, towing, and storing the motor vehicle or bicycle.

(b) "Immobilization" means the use of a locking wheel boot or similar device that, when attached to the wheel of a motor vehicle, prevents the motor vehicle from moving without damage to the tire which the locking wheel boot or similar device is attached.

(5) Immobilization and impoundments may be appealed by submitting a written appeal to parking services within fourteen calendar days of the date of the immobilization or impoundment of the motor vehicle. Appeals may be submitted to parking services in person. If an appeal is not timely filed, the fees, fines, or costs are final.

(6) Appeals will be reviewed by a board consisting of voting members from the following groups: Associated students, classified staff, faculty, and exempt staff. A parking services representative will invite members to join the board and will act as a consultant to the board. A quorum of members must be present to adjudicate. The board may uphold or dismiss any fees, fines, or costs of the immobilization/impoundment, the owner and/or driver is responsible for paying all fees, fines, and costs. If the board upholds the fees, fines, or costs related to the immobilization or impoundment, the owner and/or driver is responsible for paying all fees, fines, and costs. If the board overturns the immobilization or impoundment, the owner and/or driver is not responsible for the costs related to such immobilization or impoundment. In the case of a tie vote, the board will continue discussion and vote again until a majority vote is obtained. If an impasse exists, the decision will be in the favor of the immobilization or impoundment.

(7) Within five calendar days following the board's review, parking services shall notify the appellant, by mail or by electronic mail, of the board's determination. The board will meet every two weeks, with additional meetings as necessary. Additional appeal rights are governed by RCW 28B.10.560.

AMENDATORY SECTION (Amending WSR 15-24-048, filed 11/23/15, effective 12/24/15)

WAC 172-100-150 Electric vehicle charging stations. (1) These rules govern the use of electric vehicle charging stations (EVCSs) that are located on parking lots or at metered parking spaces which are owned and/or operated by Eastern Washington University (EWU). All EVCSs will be clearly marked by signs and green pavement markings as required by RCW 46.08.185.

(2) General rules:

(a) Vehicles parked in an EVCS must be in compliance with all other parking rules for that parking area as described in chapter 172-100 WAC.

(b) Vehicles must be actively charging while parked in an EVCS. Per RCW 46.08.185, a monetary penalty will be assessed to any vehicle parked in an EVCS on public or private property if the vehicle is not connected to the charging equipment.

(c) There is no additional charge to plug into an EVCS.

(d) Permit required EVCS: A vehicle that is parked in an EVCS located in a nonmetered space on a permit-required parking lot((~~;~~)):

(i) Must ((~~display~~)) have a valid parking permit for ((~~the~~)) any campus lot; and

(ii) Is limited to four hours per day of parking in the EVCS during designated days/times in which a parking permit is required.

(e) Metered EVCS: A person using an EVCS located at a metered-parking space((~~;~~)):

(i) Must pay the required parking meter fee; and

(ii) Is limited to four hours per day of parking in the EVCS during posted days/times of operation.

(3) Restrictions:

(a) Charging of an electric vehicle is limited to an EVCS only. No person may use an electrical outlet of any facility owned and/or operated by EWU for vehicle charging except for vehicles that are owned or leased by EWU.

(b) EVCSs may be closed for special event parking, maintenance, and/or construction.

(c) An EVCS may be reserved through the Parking and Transportation Services office for some special event parking.

(d) EWU assumes no responsibility or liability for damage to vehicles using an EVCS.

(e) A violation of these rules may result in issuance of a parking infraction.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-200 Parking permits—Issuance and responsibility. (1) Parking permits may be obtained through parking services. Permits are issued upon payment of established fees, subject to availability. Permits may not be transferred, assigned, or sold.

(2) Prorated refunds: Refunds of parking permit fees will be issued according to parking office guidelines.

(3) The university reserves the right to refuse parking privileges to anyone who has:

(a) Had a permit revoked;

(b) Falsified a parking application or registration;

(c) Counterfeited or altered an area designator or permit;

(d) Failed to pay outstanding traffic or parking citations;

(e) Possessed or used a lost, altered, or stolen parking permit;

(f) Been given notice ((~~against~~)) of trespass from campus;

(g) Failed to comply with parking services directions; or

(h) Damaged university property while driving or parking on campus.

(4) Responsibility: The person to whom a parking permit is issued is responsible for all violations of these rules involving the vehicle for which the permit was issued regardless of whether the person was operating the vehicle at the time of the violation.

(5) Lost or stolen permits: If a permit is lost or stolen, the permit holder must report the loss to parking services. A replacement permit will be provided to the individual. A fee may be charged for a lost permit.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-220 Parking permits for permit-required lots. (1) Standard permits: ((~~Standard permits consist of a decal denoting the assigned parking lot and the academic year or term for which the permit is valid.~~)) The university issues standard parking permits using license plate recognition technology. The permit is connected to any vehicle containing the license plate number identified by the owner at the time the permit is purchased. A permit may be attached to many license plate numbers on file, but only one vehicle attached to the permit is allowed on campus at a time during enforcement hours. Priority for issuance of standard permits will be given to university employees and students.

(2) EWU disabled parking permits: These permits are issued to university employees and students who are authorized to park in disabled parking areas and possess a current, state issued, disabled parking placard, license plate, and/or year tab.

(3) Retiree permits: Individuals who have retired from EWU are entitled to a retiree parking permit at ((~~no cost~~)) an annual discounted price based on space availability. Retiree permits entitle ((~~the~~)) retirees ((~~to park in university parking lots, where space is available,~~)) access to parking in designated areas while attending retiree functions sponsored by the university. Retiree permits are subject to the following:

(a) Retiree permits may not be used to park in residence hall lots.

(b) Retiree permits do not entitle the retiree to free parking during special events.

(c) Retiree permits may only be used by the retiree.

(d) Retiree permits may not be used by a retiree who is employed by the university.

(e) If a retiree permit is used in violation of the above conditions, the university may revoke the retiree's permit.

(4) Special ('S') permits: The 'S' permit may be issued to university employees whose duties require frequent visits or deliveries to other campus locations. The permit allows employees to park their vehicles in undesignated lots for official campus duties. Issuance and use of 'S' permits is subject to the following:

(a) Requests: University employees may request an 'S' permit through parking services. Requests for an 'S' permit must describe the employee's duties that justify the 'S' permit, including detailed information regarding the frequency and nature of the employee's intra-campus business activities and why a departmental permit is inadequate to support those activities. Requests must be endorsed by the president or appropriate vice president. The vice president for business and finance, or designee, is the approval authority for 'S' permits.

(b) Issuance. The parking services office shall provide an 'S' permit to an employee who has been authorized by their department's vice president to obtain an 'S' permit and has purchased a core lot permit and paid the additional 'S' permit fee.

(c) Use: 'S' permits may only be used for the purpose of conducting official university business. 'S' permits may be used to park in any campus parking lot, loading zone, or service area, on a space-available basis, limited to the time needed to conduct university business. They may not be used for personal use or convenience.

(d) Restrictions: 'S' permits do not authorize parking in disabled parking spaces unless the person is authorized to park in disabled parking spaces under these rules. 'S' permits are not valid at meters, fire lanes, safety zones, yellow curbs or zones, designated "no parking" areas, or other areas not designated for parking.

(e) Availability: The vice president for business and finance may limit the number of 'S' permits that are available for issuance throughout the university, and/or to departments or units.

(5) Guest permits: Campus guests and persons doing business with the university may be issued a guest permit allowing them to park in designated lots on campus, subject to the following:

(a) Guest permits are valid for the dates and locations specified at the time of issuance.

(b) A fee may be charged for a guest permit.

(c) A guest permit will not be issued to persons intending to make personal solicitations from or personal sales to university employees or students.

(d) Guest permits do not authorize parking in spaces that are reserved.

(e) Guests may park in disabled parking spaces so long as their vehicle displays the guest permit along with a current, state-issued disabled parking placard, license plate, and/or year tab.

(6) Duplicate permits and car pool permits: ((~~(a) Permit holders may purchase duplicate decals for~~)) Additional vehicle((~~s.~~

~~(b) Duplicate permits may also be purchased for each vehicle in a car pool, up to a maximum of five permits per pool.~~

~~(c) A fee is charged for each duplicate permit.~~

~~(d) Duplicate and car pool permits must be purchased and signed for by the purchaser of the original permit.~~

~~(e)~~)) license plate numbers may be listed under the original purchaser accounts, but only one motor vehicle bearing the duplicate permit number may park in the designated parking lot at a time. Violation of this section will subject each vehicle involved to a fine.

AMENDATORY SECTION (Amending WSR 13-24-119, filed 12/4/13, effective 1/4/14)

WAC 172-100-230 Parking permits for loading zones and service drives. (1) Department permits: These permits are issued to departments or units to facilitate the movement of equipment and materials by allowing for limited parking in parking lots, service drives, and loading/unloading zones. Department permits may not be used by persons for their own benefit or convenience. They may only be used for official university business. A regular permit is not required when a person uses a department permit.

(a) Issuance and control. Department permits are issued on an annual basis for temporary, short-term use, and must be returned to the department after use. Permit use must be monitored and controlled by a designated person.

(b) Restrictions. Department permits are not valid at meters, reserved spaces, disabled parking spaces, fire lanes, safety zones, yellow curbs or zones, "no parking" areas, or other areas not designated for parking. Departments are assigned a primary lot and are limited to thirty minutes parking in the primary lot.

(c) Loss. If a department permit is lost, the department it is issued to must file a report with parking services. Parking services will determine if a fee is assessed for the lost permit.

(2) Service permits: Service permits are issued at a discounted cost to service providers, contractors, repairmen, and vendors to support their access requirements. Parking services shall specify terms of use ((~~when a service permit is issued~~)) upon registration of motor vehicles.

WSR 20-07-067
PROPOSED RULES
PARAEDUCATOR BOARD
[Filed March 13, 2020, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-17-094.

Title of Rule and Other Identifying Information: WAC 179-01-030, use of certificate fees collected by the paraeducator certificate program.

Hearing Location(s): On May 20, 2020, at 8:30 a.m., at the Hampton Inn Richland/Tri-Cities, 486 Bradley Boulevard, Richland, WA 99352.

Date of Intended Adoption: May 20, 2020.

Submit Written Comments to: Paraeducator Board, 600 Washington Street S.E., Room 400, Olympia, WA 98504, email paraboard@k12.wa.us, by May 18, 2020.

Assistance for Persons with Disabilities: Contact professional educator standards board (PESB), phone 360-725-6275, email pesb@k12.wa.us, by May 18, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New section; amend WAC with new language regarding how fees collected from the paraeducator certificate program may be used.

Reasons Supporting Proposal: New language will clarify how fees collected from the paraeducator certificate program may be used as allowed by HB 1115 (2017). The new language is aligned with how PESB may use fees.

Statutory Authority for Adoption: Chapter 28A.413 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Paraeducator board, governmental.

Name of Agency Personnel Responsible for Drafting: Jack Busbee, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275; Implementation and Enforcement: Paraeducator Board, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The WAC does not impact small businesses.

March 12, 2020
Jack Busbee
Rules Coordinator

NEW SECTION

WAC 179-01-030 Certification fees. Certificate fees shall be used as described in WAC 181-79A-131.

WSR 20-07-080
WITHDRAWAL OF PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed March 16, 2020, 1:42 p.m.]

On December 18, 2019, the Washington state office of superintendent of public instruction (OSPI) filed proposed rule making form CR-102, WSR 20-01-168, concerning proposed rule making for WAC 392-157-125.

However, this document serves as official notification that OSPI is withdrawing this CR-102. A new proposed rule making (CR-102) notice with a new hearing date(s) and location(s) will be filed in the future.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

WSR 20-07-081
WITHDRAWAL OF PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed March 16, 2020, 1:44 p.m.]

On February 19, 2020, the Washington state office of superintendent of public instruction (OSPI) filed proposed rule making form CR-102, WSR 20-05-089, concerning proposed rule making for WAC 392-121-182 and chapter 392-550 WAC.

However, this document serves as official notification that OSPI is withdrawing this CR-102. A new proposed rule making (CR-102) notice with a new hearing date and time will be filed in the future.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

WSR 20-07-089
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed March 17, 2020, 10:15 a.m.]

The department of licensing, business and professions division, requests the withdrawal of the proposed rule making for Title 308 WAC, Licensing, department of: WAC 308-30-060 Application fees (notaries public), 308-420-240 Fees and charges (camping resorts), 308-129-110 Seller of travel registration fees, 308-320-050 Registration fees (commercial telephone solicitors), 308-320-060 Annual renewal dates, forms, and fees (commercial telephone solicitors), 308-312-060 Fees (whitewater river outfitters), and 308-29-045 Collection agency fees, filed with your office as WSR 20-06-076 on March 4, 2020.

This document serves as the official notification of our rule withdrawal.

Damon Monroe
Rules Coordinator

WSR 20-07-094
PROPOSED RULES
SPOKANE REGIONAL CLEAN AIR AGENCY
[Filed March 17, 2020, 11:42 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Spokane regional clean air agency (SRCAA) Regulation I, Articles I, II, IV, and V, and some sections of Articles VI and X.

Hearing Location(s): On Tuesday, June 16, 2020, at 6:00 p.m.; and Thursday, July 9, 2020, at 9:30 a.m., at SRCAA Office, 3104 East Augusta Avenue, Spokane, WA 99207. Comment period: May 1, 2020 - July 9, 2020, ending at the close of the July 9, 2020, hearing.

Date of Intended Adoption: July 9, 2020.

Submit Written Comments to: Margee Chambers, 3104 East Augusta Avenue, Spokane, WA 99207, email Public Comment@spokanecleanair.org, fax 509-477-6828, by July 9, 2020, close of hearing. Note, please submit written comments by July 6, 2020, for comments to be included in the July 9, 2020, prehearing presentation.

Assistance for Persons with Disabilities: Contact Mary Kataoka, phone 509-477-4727 ext. # 100, fax 509-477-6828, email mkataoka@spokanecleanair.org, by July 6, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates throughout Articles I, II, IV, V, VI, and X include: Formatting improvements for consistency among Articles in SRCAA Regulation I; clarification edits to improve ease of use, understanding, and improved readability of the Articles; correct typographical and spelling errors; remove obsolete text; update citing; and updates to improve consistency between local regulations and state and federal regulations. The summary below highlights additional proposed amendments.

Article I, amend Sections 1.01 - 1.04, new Section 1.05:

- Section 1.01: Update text to improve consistency with state and federal requirements and SIP approvability.
- Section 1.04: Modify and add definitions to align with state chapter 173-400 WAC definitions and federal clean air act definitions; number the definitions to provide consistency with other Articles in Regulation I; remove definitions no longer needed in Regulation I; move closure procedure to Article IV, Section 4.05; and move upset condition definition from Article II to 1.04.
- Add new Section 1.05 to improve ease of use and understanding of acronyms and measurements abbreviations used in Regulation I.

Article II, amend Sections 2.01 - 2.15, new Sections 2.16 - 2.19:

- Section 2.02: Add new subsection (J) to explain source records requirement.
- Section 2.07: Update with 2004 repeal information.
- Section 2.09: Remove obsolete definitions; move "malfunction" to Article I; change order of subsections; include email as an allowable form of communication; expand test methods text for clarification and SIP approvability; and eliminate combustion tests subsection because requirements are included in an order of approval.
- Section 2.13: Add a single point adoption by reference date for both state and federal rules; add clarification text for federal rules for administrator and reports.
- Section 2.14: Update adoption by reference to show what WACs SRCAA is adopting by reference, rather than what SRCAA is excluding.
- Add new federal adoption by reference Sections 2.16, 2.17, 2.18, and 2.19.

Article IV, amend Sections 4.01 - 4.04, new Section 4.05:

- Section 4.01: Add new subsections explaining purpose and program components for clarification purposes, and improve consistency with state requirements.
- Section 4.02: Restructure section; simplify text; add new fee subsection and operation and maintenance plan subsection; and move closure text to 4.05.
- Section 4.03: Update exemption text to provide clarity on what is exempt from registration and exemption requirements.
- Exhibit R: Rename Exhibit R to Section 4.04; restructure from one long list of sources to grouping in five categories: State requirements, local requirements, operation type, equipment type, toxic air pollutants, to improve ease of use by the agency staff and regulated sources; add new General Order of Approval option; update list to include source categories that the agency has been registering but were not previous[ly] specified in Exhibit R - source categories to uncontrolled emission rates - distilleries, general surface coating operations that only use nonspray application methods, nonperchloroethylene dry cleaning operations, fume hoods, plasma or laser cutters, welding, brazing or soldering operations; and operation types - alternative commercial fuel production facilities, Portland cement production facilities.
- Add new Section 4.05 by moving closure procedural text from Sections 1.04 and 4.02 to Section 4.05, to improve ease of use and understanding of the requirements.

Article V, amend Sections 5.01 - 5.15:

- Section 5.01: Update to include 2004 repeal information.
- Section 5.02: Rework section to improve flow and clarity; add new subsections for purpose and applicability; change name of Notice of Intent (NOI) application to a Portable Source Permit (PSP) application; clarify text on when an [a] Notice of Construction (NOC) or PSP is required; and improve consistency with state and federal requirements; and update exemption subsection to provide clarity on what is exempt from new source review and exemption requirements.
- Section 5.03: Simplify text.
- Section 5.04: Updates to clarify what information the source must provide so that they [the] agency can make a determination; and improve consistency with state and federal requirements.
- Section 5.05: Updates to clarify noticing, comment period and hearing requirements; improve consistency with state and federal requirements; and allow e-noticing.
- Section 5.06: Clarify application completeness requirements.
- Section 5.07: Update subsection (A) to improve consistency with state and federal requirements and clarify criteria that must be met for approval of NOC applications; clarify steps for the agency to take when a determination has been made; improve the flow of subsection (B) and include steps for agency to take when a determination has been made.
- Section 5.08: Change NOI to PSP; simplify the permitting requirements for a portable source eliminating requirement to first obtain a [an] NOC prior to obtaining an NOI; update nonroad engine requirements; update exemption subsection to provide clarity on what is exempt from PSP and exemption requirements.
- Section 5.09: Simplify operation and maintenance and compliance subsections; remove duplicative text that is housed in 5.07; add new subsection (C) with operating requirements for internal combustion engines.
- Section 5.10: Simplify text; add transfer of ownership information that was housed in Section 5.02; and clarify change in conditions text.
- Sections 5.11 - 5.15: Simplify text and improve readability.

Article VI, amend Sections 6.01 - 6.09, 6.11 - 6.15 and 6.17:

- Section 6.03: Subsection (A) clarification and SIP approvability updates.
- Section 6.04: Subsection (B) updates to improve consistency with state requirements and SIP approvability.
- Repeal Section 6.06, duplicative of 6.04(C).
- Section 6.07: Updates to improve consistency with WAC 173-400-040(8) and SIP approvability.
- Section 6.09: Update with 2004 repeal information.
- Section 6.12: Update with reserve information.

- Section 6.13: Remove subsection (H) compliance schedule.
- Section 6.15: Subsection (A) align applicability text to be the same as 6.14(A).

Article X, amend Sections 10.02, 10.06 - 10.08, 10.11, and 10.13:

- Section 10.02: Update subsection (C) to exclude AOP from round up to nearest dollar requirements.
- Section 10.06: Updates for clarification; and add consolidated to fee schedule.
- Section 10.07: Change NOI to PSP; add consolidated to fee schedule; change recent to preceding; and update greater/less than symbols to words.
- Section 10.08: Change NOI to PSP; add consolidated to fee schedule; change recent to preceding, and update citing.
- Section 10.11: Update with 2005 repeal information.
- Section 10.13: Update citing; add consolidated to fee schedule; and change recent to preceding.

Anticipated effects: The amendments will improve clarity, readability, formatting consistency among articles; improve consistency with state and federal requirements; simplify compliance for the regulated community by adding adoption by reference sections that specify which state and federal rules are adopted by reference, streamline source test provisions, clarify registration program requirements, clarify new source review requirements, simplify portable source permitting process and update public involvement provisions to allow e-noticing; meet federal enforceability requirements and the EPAs federal requirements for incorporation in the state implementation plan.

Reasons Supporting Proposal: SRCAA Regulation I establishes the regulatory framework and control strategies to ensure that healthy air quality exists in Spokane County, Washington, including meeting the federal air quality standards. The proposed amendments update Regulation I to meet requirements in chapter 173-400 WAC and the federal New Source Review regulations to ensure that Spokane clean air is consistent with state and federal Clean Air Acts while attaining and maintaining good air quality and protecting citizens' health.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: The Washington Clean Air Act, chapter 70.94 RCW; the Federal Clean Air Act, 42 U.S.C. 7401 et. seq.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Margee Chambers, SRCAA, 509-477-4727; Implementation: April Westby, SRCAA, 509-477-4727; and Enforcement: Lori Rodriguez, SRCAA, 509-477-4727.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. SRCAA is a local air pollution control agency. Per RCW 70.94.141, a cost-benefit analysis under RCW 34.05.328 does not apply to local air pollution control agencies.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 70.94.141.

Explanation of exemptions: SRCAA is a local air pollution control agency. Per RCW 70.94.141, a small business economic impact statement does not apply to local air pollution control agencies.

March 17, 2020
Margee Chambers
Rule Writer
SIP Planner

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 20-09 issue of the Register.

WSR 20-07-095
PROPOSED RULES
DEPARTMENT OF FISH AND WILDLIFE
[Filed March 17, 2020, 11:43 a.m.]

Continuance of WSR 20-06-053.

Preproposal statement of inquiry was filed as WSR 19-19-056.

Title of Rule and Other Identifying Information: Hydraulic project approval (HPA) rule making implementing 2SHB 1579 amending WAC 220-660-050 Procedures—Hydraulic project approvals, 220-660-370 Bank protection in saltwater areas, 220-660-460 Informal appeal of administrative actions, 220-660-370 Formal appeal of administrative actions, and 220-660-480 Compliance with HPA provisions of hydraulic code rules in chapter 220-660 WAC.

Hearing Location(s): On April 10-11, 2020, at 8:00 a.m., by webinar and/or conference call. This meeting will take place by webinar and/or conference call. The public may participate in the meeting. Visit our website at https://wdfw.wa.gov/about/commission/meetings or contact the commission office at 360-902-2267 or commission@dfw.wa.gov for instructions on how to join the meeting.

Date of Intended Adoption: April 24, 2020.

Submit Written Comments to: Randi Thurston, P.O. Box 43200, Olympia, WA 98504-3200, email HPARules@dfw.wa.gov, fax 360-902-2946, website https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking, by 5 p.m., April 10, 2020.

Assistance for Persons with Disabilities: Delores Noyes, phone 360-902-2349, fax 360-902-2946 Attn: Randi Thurston, TTY 360-902-2207, email adaprogram@dfw.wa.gov, by 5 p.m., April 10, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is filing a continuance as the location of the hearing, which is a meeting of the fish and wildlife commission, has changed from an in-person meeting to a webinar in an effort to slow the spread of the COVID-19/coronavirus.

March 17, 2020
Michele K. Culver
Rules Coordinator

WSR 20-07-101
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed March 17, 2020, 2:18 p.m.]

Continuance of WSR 20-05-085.

Preproposal statement of inquiry was filed as WSR 20-02-081.

Title of Rule and Other Identifying Information: WAC 308-104-145 Driving record abstracts—Release to insurance companies.

Hearing Location(s): On Wednesday, June 17, 2020, at 10:00 a.m., at the Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA 98507. Check in at the first floor reception desk.

Date of Intended Adoption: June 18, 2020.

Submit Written Comments to: Chante El, Department of Licensing, P.O. Box 9030, Olympia, WA 98507-9030, email chel@dol.wa.gov, fax 360-570-7070, by June 16, 2020.

Assistance for Persons with Disabilities: Chante El, phone 360-902-3776, fax 360-570-7070, email chel@dol.wa.gov, by June 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repealing WAC 308-104-145. In DRIVES, we no longer produce a commercial and noncommercial version of the abstract of driving record for insurance companies.

Reasons Supporting Proposal: We are proposing to repeal WAC 308-104-145 since we no longer issue these separate abstracts.

Statutory Authority for Adoption: RCW 46.01.110 and 46.25.140.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Chante El, 1125 Washington Street S.E. Olympia, WA 98507, 360-902-3776; Enforcement: Toni Wilson, 1125 Washington Street S.E. Olympia, WA 98507, 360-902-3839.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The changes to this rule add no additional costs to stakeholder[s].

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

March 17, 2020
Damon Monroe
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-104-145 Driving record abstracts—Release to insurance companies.

WSR 20-07-104
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed March 17, 2020, 3:11 p.m.]

Continuance of WSR 20-06-035.

Preproposal statement of inquiry was filed as WSR 19-15-047.

Title of Rule and Other Identifying Information: WAC 308-101-030 Computation of time.

Hearing Location(s): On June 17, 2020, at 11:00 a.m., at the Highways-Licenses Building, Conference Room 430, 1125 Washington Street S.E., Olympia, WA 98504. Check in at the first floor counter.

Date of Intended Adoption: June 18, 2020.

Submit Written Comments to: Marguerite Friedlander, Administrator, Department of Licensing, Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA 98504, email mfriedland@dol.wa.gov, fax 360-570-7009, by June 6, 2020.

Assistance for Persons with Disabilities: Marguerite Friedlander, administrator, department of licensing (DOL), phone 360-664-1523 or 360-902-0105, email mfriedland@dol.wa.gov, by June 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule establishes a uniform method of computation for determining when the department receives a hearing request form, pursuant to RCW 46.20.308(7).

Reasons Supporting Proposal: This rule will avoid inconsistency in calculations and reduce the number of hearings that would be dismissed for being scheduled beyond the statutory thirty days.

Statutory Authority for Adoption: RCW 46.01.110 and 46.20.308.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DOL, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Marguerite Friedlander, 421 Black Lake Boulevard S.W., Olympia, WA 98502, 360-664-1523.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. No cost is associated with this rule change.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

March 17, 2020
Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-11-098, filed 5/21/18, effective 9/4/18)

WAC 308-101-030 Computation of time. (1) In computing any period of time prescribed or allowed by any applicable statute or rule, RCW 1.12.040 shall apply;

(2) When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation;

(3) Whenever a person has the right to request a hearing or other proceeding within a prescribed period after "notice is given" by the department under Title 46 RCW or 308 WAC, such notice is deemed to be given on the third day after the notice is deposited into the state mailing service;

(4) Whenever a person has the right to request a hearing or other proceeding within a prescribed period after "receiving notice" from the department under Title 46 RCW or 308 WAC, such notice is deemed to be "received" by a person on the third day after the notice is deposited into the state mailing service((.));

(5) A request for a hearing or interview under Title 46 RCW is deemed complete on the day the request is postmarked or, if sent electronically, the date the request is received by the department, and the department is deemed to be in receipt of the hearing or interview request on the third day after the request is postmarked.

WSR 20-07-108
PROPOSED RULES
DEPARTMENT OF HEALTH
STATE BOARD OF HEALTH

[Filed March 18, 2020, 8:34 a.m.]

Continuance of WSR 20-06-061.

Preproposal statement of inquiry was filed as WSR 18-11-089.

Title of Rule and Other Identifying Information: Chapter 246-101 WAC, Notifiable conditions. Proposed changes to add notification and specimen submission requirements; change notification and specimen submission requirements for existing conditions; clarify notification requirements for suspected cases; revise reporting requirements for veterinarians and the Washington State Department of Agriculture; update references; and improve clarity and usability of the rule.

Hearing Location(s): On April 8, 2020, at 11:35 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of health and state board of health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting online: https://global.gotomeeting.com/join/703870893.

You can also dial-in using your phone: Call in: +1 (669) 224-3319. Access Code: 703-870-893.

Date of Intended Adoption: April 8, 2020.

Submit Written Comments to: Alexandra Montano, P.O. Box 47811, Olympia, WA 98504-7811, email https://fortress.wa.gov/doh/policyreview, by March 25, 2020.

Assistance for Persons with Disabilities: Alexandra Montano, phone 360-236-4205, TTY 711, email alexandra.montano@doh.wa.gov, by April 3, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In our effort to protect the public's health while continuing our commitment to engage the public, the board will hold a virtual public hearing on April 8, 2020. Board members will listen remotely. We encourage and accept public comments from interested individuals using the GoToMeetings application, as well as submission of written comments to P.O. Box 47811, Olympia, WA 98504-7811.

Statutory Authority for Adoption: RCW 43.20.050, 70.104.055, 43.70.545, 70.24.125, 70.104.030, 70.24.130, 70.24.380, and 70.28.032.

Statute Being Implemented: RCW 70.104.055, 43.70.545, 70.28.010, and 70.05.060.

March 17, 2020
Michelle A. Davis
and John Wiesman
State Board of Health
Executive Director
and Secretary of Health

PART I: GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-005 Purpose ((~~of notifiable conditions reporting~~)) and scope. (1) The purpose of ((~~notifiable conditions reporting~~)) this chapter is to provide ((~~the information necessary for public health officials to protect the public's health by tracking communicable diseases and other conditions. These data are critical to local health departments and the departments of health and labor and industries in their efforts to prevent and control the spread of diseases and other conditions. Public health officials take steps to protect the public, based on these notifications. Treating persons already ill, providing preventive therapies for individuals who came into contact with infectious agents, investigating and halting outbreaks, and removing harmful health exposures are key~~

~~ways public health officials protect the public. Public health workers also use these data to assess broader patterns, including historical trends and geographic clustering. By analyzing the broader picture, officials are able to take appropriate actions, including outbreak investigation, redirection of program activities, or policy development~~)) critical information to public health authorities to aid them in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions. Public health authorities use the information gathered under this chapter to take appropriate action including, but not limited to:

(a) Treating ill persons;

(b) Providing preventive therapies for individuals who came into contact with infectious agents;

(c) Investigating and halting outbreaks;

(d) Removing harmful health exposures from the environment;

(e) Assessing broader health-related patterns, including historical trends, geographic clustering, and risk factors; and

(f) Redirecting program activities and developing policies based on broader health-related patterns.

(2) This chapter establishes notification requirements and standards for conditions that pose a threat to public health consistent with the purpose as established in this section.

AMENDATORY SECTION (Amending WSR 14-11-009, filed 5/8/14, effective 6/8/14)

WAC 246-101-010 Definitions ((~~within the notifiable conditions regulations~~)), abbreviations, and acronyms. The ((~~following~~)) definitions, abbreviations, and acronyms in this section apply ((~~in the interpretation and enforcement of~~)) throughout this chapter unless the context clearly requires otherwise:

(1) "Animal case" means an animal, alive or dead, with a diagnosis or suspected diagnosis of a notifiable condition in Table Agriculture-1 of WAC 246-101-805 made by a veterinarian licensed under chapter 18.92 RCW, veterinary medical facility licensed under chapter 18.92 RCW, or veterinary laboratory as defined under chapter 16.70 RCW based on clinical criteria, or laboratory criteria, or both.

(2) "Associated death" means a death resulting directly or indirectly from ((~~the confirmed condition of influenza or varicella. There should be~~)) a confirmed case of the specified condition, with no period of complete recovery between the ((~~illness~~)) onset of the condition and death.

(((~~2~~))) (3) "Blood lead level" means a measurement of lead content in whole blood.

(((~~3~~))) (4) "Board" means the Washington state board of health.

(((~~4~~))) (5) "Business day" means any day that the department is open for business.

(6) "Carrier" means a person harboring a specific infectious agent without developing symptoms and serving as a potential source of infection to others.

(((~~5~~))) (7) "Case" means a person, alive or dead, ((~~diagnosed~~)) with a ((~~particular disease or~~)) diagnosis or suspected diagnosis of a condition made by a health care provider ((~~with diagnosis~~)), health care facility, or laboratory based on clinical criteria, or laboratory criteria, or both, such as the Centers for Disease Control and Prevention, National Notifiable Diseases Surveillance System, Council of State and Territorial Epidemiologists case definitions.

(((~~6) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.~~

~~(7) "Condition notifiable within three business days" means a notifiable condition that must be reported to the local health officer or the department within three business days following date of diagnosis. For example, if a condition notifiable within three business days is diagnosed on a Friday afternoon, the report must be submitted by the following Wednesday.~~))

(8) "Communicable disease" means ((~~a~~)) an infectious disease ((~~caused by an infectious agent~~)) that can be transmitted from ((~~one~~)) a person, animal, or object to ((~~another~~)) a person by direct or indirect means including, but not limited to, transmission through an intermediate host or vector, food, water, or air.

(9) ((~~"Contact" means a person exposed to an infected person, animal, or contaminated environment that may lead to infection.~~

(~~10~~))) "Condition" means an infectious or noninfectious condition as these terms are defined in this chapter.

(10) "Department" or "DOH" means the Washington state department of health.

(11) ((~~"Disease of suspected bioterrorism origin" means a disease caused by viruses, bacteria, fungi, or toxins from living organisms that are used to produce death or disease in humans, animals, or plants. Many of these diseases may have nonspecific presenting symptoms. The following situations could represent a possible bioterrorism event and should be reported immediately to the local health department:~~

~~(a) A single diagnosed or strongly suspected case of disease caused by an uncommon agent or a potential agent of bioterrorism occurring in a patient with no known risk factors;~~

~~(b) A cluster of patients presenting with a similar syndrome that includes unusual disease characteristics or unusually high morbidity or mortality without obvious etiology; or~~

~~(c) Unexplained increase in a common syndrome above seasonally expected levels.~~

~~(12) "Elevated blood lead level" means blood lead levels equal to or greater than 10 micrograms per deciliter for persons aged fifteen years or older, or equal to or greater than 5 micrograms per deciliter in children less than fifteen years of age.~~

~~(13) "Emerging condition with outbreak potential" means a newly identified condition with potential for person-to-person transmission.~~

~~(14) "Food service establishment" means a place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs.~~

(~~15~~))) "Health care-associated infection" means an infection acquired from contaminated products, devices, or food products in a health care facility.

(((~~16~~))) (12) "Health care facility" means:

(a) Any assisted living facility licensed under chapter 18.20 RCW; birthing center licensed under chapter 18.46 RCW; nursing home licensed under chapter 18.51 RCW; hospital licensed under chapter 70.41 RCW; adult family home licensed under chapter 70.128 RCW; ambulatory surgical facility licensed under chapter 70.230 RCW; or private establishment licensed under chapter 71.12 RCW;

(b) Clinics, or other settings where one or more health care providers practice; and

(c) In reference to a sexually transmitted ((~~disease~~)) infection, other settings as defined in chapter 70.24 RCW.

(((~~(17)~~))) (13) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care whose scope of practice allows for diagnosis and treatment of notifiable conditions and who is:

(a) Licensed or certified in this state under Title 18 RCW; or

(b) Military personnel providing health care within the state regardless of licensure.

(((~~(18) "Health care services to the patient" means treatment, consultation, or intervention for patient care.~~

~~(19) "Health carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.~~

~~(20) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 246-100-207. To assure that the protection, including, but not limited to, pre- and post-test counseling, consent, and confidentiality afforded to HIV testing as described in chapter 246-100 WAC also applies to the enumeration of CD4 + (T4) lymphocyte counts (CD4 + counts) and CD4 + (T4) percents of total lymphocytes (CD4 + percents) when used to diagnose HIV infection, CD4 + counts and CD4 + percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:~~

~~(a) Monitoring previously diagnosed infection with HIV;~~

~~(b) Monitoring organ or bone marrow transplants;~~

~~(c) Monitoring chemotherapy;~~

~~(d) Medical research; or~~

~~(e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.~~

~~The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting the existence.~~

~~(21)~~))) (14) "Immediately ((~~notifiable condition~~))" means ((~~a notifiable condition of urgent public health importance, a case or suspected case of which must be reported to the local health officer or the department~~)) without delay, twenty-four hours a day, seven days a week.

(a) For health care providers and health care facilities, immediately means at the time ((~~of diagnosis or suspected diagnosis, twenty-four hours a day, seven days a week~~)) a case is identified;

(b) For laboratories, immediately means upon receiving a presumptive or final test result; or

(c) For state agencies and local health jurisdictions, immediately means upon receiving notification of a case.

(((~~(22)~~))) (15) "Infection control measures" means the management of an infected person((~~s~~)), or of a person suspected to be infected, and others in a manner to prevent transmission of the infectious agent. Infection control measures include, but are not limited to, isolation and quarantine.

(16) "Infectious condition" means a disease caused by a pathogenic organism such as bacteria, virus, fungus, or parasite, and includes communicable disease and zoonotic disease.

(17) "Influenza, novel" or "influenza virus, novel" means a human infection with an influenza A virus subtype that is different from currently circulating human influenza subtypes. Novel subtypes include, but are not limited to, H2, H5, H7, and H9 subtypes.

(((~~(23)~~))) (18) "Institutional review board" ((~~means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects~~)) has the same meaning as defined in RCW 70.02.010.

(((~~(24)~~))) (19) "Isolation" means the separation ((~~or restriction of activities of infected individuals, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent~~)) of infected or contaminated persons or animals from others to prevent or limit the transmission of the infectious agent or contaminant from those infected or contaminated to those who are susceptible to disease or who may spread the infectious agent or contaminant to others.

(((~~(25)~~))) (20) "Laboratory" means any facility licensed as a test site or medical test site under chapter 70.42 RCW and chapter 246-338 WAC, including any laboratory that is granted a Clinical Laboratory Improvement Amendment (CLIA)-Waiver.

(((~~(26)~~))) (21) "Laboratory director" means the ((~~director or manager,~~)) person, or person's designee, by whatever title known, having the administrative responsibility ((~~in any licensed medical test site~~)) for a laboratory.

(((~~(27)~~))) (22) "Local health ((~~department" means the city, town, county, or district agency providing public health services to persons within the area, established under chapters 70.05, 70.08, and 70.46 RCW~~)) jurisdiction" or "LHJ" means a county health department under chapter 70.05 RCW, city-county health department under chapter 70.08 RCW, or health district under chapter 70.46 RCW.

(((~~(28)~~))) (23) "Local health officer" means the ((~~individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.~~

~~(29) "Member of the general public" means any person present within the boundary of the state of Washington.~~

~~(30) "Monthly notifiable condition" means a notifiable condition which must be reported to the local health officer or the department within one month of diagnosis.~~

~~(31)~~))) legally qualified physician who has been appointed as the health officer for the local health jurisdiction under chapter 70.05 RCW, or their designee.

(24) "MERS" means Middle East respiratory syndrome.

(25) "Noninfectious condition" means a disease or health concern caused by nonpathogenic factors.

(26) "Notifiable condition" means a ((~~disease or~~)) condition ((~~of public health importance~~)) identified in Table HC-1 of WAC 246-101-101, Table Lab-1 of WAC 246-101-201, and Table Agriculture-1 of WAC 246-101-805, or designated by the local health officer as notifiable under chapter 70.05 RCW, a case of which((~~, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer or the state health officer.~~

~~(32) "Other rare diseases of public health significance" means a disease or condition, of general or international public health concern, which is occasionally or not ordinarily seen in the state of Washington including, but not limited to, spotted fever rickettsiosis, babesiosis, tick paralysis, anaplasmosis, and other tick borne diseases. This also includes public health events of international concern and communicable diseases that would be of general public concern if detected in Washington.~~

~~(33)~~)) requires notification to public health authorities under this chapter; or a condition designated by the local health officer as notifiable under chapter 70.05 RCW. Notifiable condition does not include provisional conditions as defined under WAC 246-101-015.

(27) "Outbreak" means the occurrence ((~~of cases or suspected cases~~)) of a ((~~disease or~~)) condition in ((~~any~~)) an area over a given period of time in excess of the expected number of ((~~cases~~)) occurrences including, but not limited to, foodborne disease, waterborne disease, and health care-associated infection.

(((~~(34) "Patient" means a case, suspected case, or contact.~~

~~(35)~~)) (28) "Pesticide poisoning" means the disturbance of function, damage to structure, or illness in humans resulting from the inhalation, absorption, ingestion of, or contact with any pesticide.

(((~~(36)~~))) (29) "Presumptive" means a preliminary test result that has not yet been confirmed as a definitive result.

(30) "Principal health care provider" means the attending health care provider recognized as primarily responsible for diagnosis or treatment of a patient, or in the absence of such, the health care provider initiating diagnostic testing or treatment for the patient.

(((~~(37)~~))) (31) "Provisional condition" means a condition the department has requested be reported under WAC 246-101-105.

(32) "Public health authorities" ((~~means~~)) includes local health ((~~departments~~)) jurisdictions, the ((~~state health~~)) department, ((~~and~~)) the department of labor and industries ((~~personnel charged with administering provisions of this chapter.~~

~~(38)~~)), the department of agriculture, sovereign tribal nations, and tribal epidemiology centers.

(33) "Quarantine" means the ((~~separation or restriction on activities of an individual having been exposed to or infected with an infectious agent, to prevent disease transmission.~~

~~(39)~~)) limitation of freedom of movement of persons or domestic animals that have been exposed to, or are suspected to have been exposed to, an infectious agent:

(a) For a period of time not longer than the longest usual incubation period of the infectious agent; and

(b) In a way to prevent effective contact with those not exposed.

(34) "Rapid screening test" or "RST" means a U.S. Food and Drug Administration-approved test that provides same day results and is suitable for obtaining presumptive test results. RST includes point-of-care testing.

(35) "Reference laboratory" means a laboratory licensed inside or outside of Washington state that receives a specimen from another licensed laboratory and performs one or more tests on that specimen.

(36) "School" ((~~means a facility for programs of education as defined~~)) has the same meaning as in RCW 28A.210.070 (((~~preschool and kindergarten through grade twelve~~))).

(((~~(40)~~))) (37) "SARS" means severe acute respiratory syndrome.

(38) "Secretary" means the secretary of the Washington state department of health.

(39) "Secure electronic data transmission" means electronic communication and accounts developed and maintained to prevent unauthorized access, loss, or compromise of sensitive information including, but not limited to, secure file transfer, secure email, secure facsimile, a health information exchange authorized under RCW 41.05.039, and secure electronic disease surveillance system.

(40) "Secure electronic disease surveillance system" means the secure electronic data transmission system maintained by the department and used by local health jurisdictions to submit notifications, case reports, and outbreak reports under this chapter.

(41) "Sexually transmitted disease (((~~STD~~)))" or "sexually transmitted infection" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

(a) Acute pelvic inflammatory disease;

(b) Chancroid;

(c) *Chlamydia trachomatis* infection;

(d) Genital and neonatal Herpes simplex;

(e) Genital human papilloma virus infection;

(f) Gonorrhea;

(g) Granuloma inguinale;

(h) Hepatitis B infection;

(i) Human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS);

(j) Lymphogranuloma venereum;

(k) Nongonococcal urethritis (NGU); and

(l) Syphilis.

(((~~(41)~~))) (42) "Specimen" means material associated or suspected to be associated with a notifiable condition including, but not limited to, isolates, blood, serum, stool, urine, tissue, respiratory secretions, swab, other body fluid, or an environmental sample.

(43) "State health officer" means the person ((~~designated~~)) appointed by the secretary ((~~of the department~~)) under RCW 43.70.020 to serve as statewide health officer((~~, or, in the absence of this designation, the person having primary responsibility for public health matters in the state.~~

~~(42) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with sus-~~

~~pected diagnosis based on signs and symptoms, laboratory evidence, or both.~~

~~(43) "Third party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction including a health care service contractor and health maintenance organization, an employee welfare benefit plan, or a state or federal health benefit program as defined in RCW 70.02.010.~~

~~(44) "Unexplained critical illness or death" means cases of illness or death with infectious hallmarks but no known etiology, in previously healthy persons one to forty-nine years of age excluding those with chronic medical conditions (e.g., malignancy, diabetes, AIDS, cirrhosis)~~)).

(((~~(45)~~))) (44) "Veterinarian" means an individual licensed and practicing under provisions of chapter 18.92 RCW((~~, Veterinary medicine, surgery, and dentistry~~)).

(45) "Zoonotic disease" means an infectious condition of animals that can cause disease when transmitted to humans.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-015 Provisional ((~~condition~~)) notification and submission of specimen. ((~~This section describes how conditions can become notifiable; what period of time conditions are provisionally notifiable; what analyses must be accomplished during provisional notification status; the transition from provisionally notifiable condition to permanently notifiable condition or deletion of notification requirements. The department's goal for provisionally notifiable conditions is to collect enough information to determine whether requiring notification improves public health.~~

~~(1) The state health officer may:~~

~~(a) Request reporting of cases and suspected cases of disease and conditions in addition to those required in Tables HC-1 of WAC 246-101-101, Lab-1 of WAC 246-101-201, and HF-1 of WAC 246-101-301 on a provisional basis for a period of time less than forty-eight months when:~~

~~(i) The disease or condition is newly recognized or recently acknowledged as a public health concern;~~

~~(ii) Epidemiological investigation based on notification of cases may contribute to understanding of the disease or condition;~~

~~(iii) There is reason to expect that the information acquired through notification will assist the state and/or local health department to design or implement intervention strategies that will result in an improvement in public health; and~~

~~(iv) Written notification is provided to all local health officers regarding:~~

~~(A) Additional reporting requirements; and~~

~~(B) Rationale or justification for specifying the disease or condition as notifiable.~~

~~(b) Request laboratories to submit specimens indicative of infections in addition to those required in Table Lab-1 of WAC 246-101-201 on a provisional basis for a period of time less than forty-eight months, if:~~

~~(i) The infection is of public health concern;~~

~~(ii) The department has a plan for using data gathered from the specimens; and~~

~~(iii) Written notification is provided to all local health officers and all laboratory directors explaining:~~

~~(A) Actions required; and~~

~~(B) Reason for the addition.~~

~~(2) Within forty months of the state health officer's designation of a condition as provisionally notifiable in subsection (1)(a) of this section, or requests for laboratories to submit specimens indicative of infections in subsection (1)(b) of this section, the department will conduct an evaluation for the notification requirement that:~~

~~(a) Estimates the societal cost resulting from the provisionally notifiable condition;~~

~~(i) Determine the prevalence of the provisional notifiable condition; and~~

~~(ii) Identify the quantifiable costs resulting from the provisionally notifiable condition; and~~

~~(iii) Discuss the qualitative costs resulting from the provisionally notifiable condition.~~

~~(b) Describes how the information was used and how it will continue to be used to design and implement intervention strategies aimed at combating the provisionally notifiable condition;~~

~~(c) Verifies the effectiveness of previous intervention strategies at reducing the incidence, morbidity, or mortality of the provisional notifiable condition;~~

~~(d) Identifies the quantitative and qualitative costs of the provisional notification requirement;~~

~~(e) Compares the costs of the provisional notification requirement with the estimated cost savings resulting from the intervention based on the information provided through the provisional notification requirement;~~

~~(f) Describes the effectiveness and utility of using the notifiable conditions process as a mechanism to collect these data; and~~

~~(g) Describes that a less burdensome data collection system (example: Biennial surveys) would not provide the information needed to effectively establish and maintain the intervention strategies.~~

~~(3) Based upon the evaluation in subsection (2) of this section, the board will assess results of the evaluation after the particular condition is notifiable or the requirement for laboratories to submit specimens indicative of infections has been in place for no longer than forty months. The board will determine based upon the results of the evaluation whether the provisionally notifiable condition or the requirement for laboratories to submit specimens indicative of infections should be:~~

~~(a) Permanently notifiable in the same manner as the provisional notification requirement;~~

~~(b) Permanently notifiable in a manner that would use the evaluation results to redesign the notification requirements; or~~

~~(c) Deleted from the notifiable conditions system.~~

~~(4) The department shall have the authority to declare an emergency and institute notification requirements under the provisions of RCW 34.05.350.~~)) (1) The state health officer may request additional notification, submission of laboratory test results, or submission of specimens for notifiable conditions.

(2) The state health officer may request notification, submission of laboratory test results, and submission of specimens for a condition they determine should be provisionally reported.

(3) The state health officer may request information under subsection (1) of this section when they:

(a) Determine additional information in case reports or additional submission of specimens for a notifiable condition is needed in order to properly prevent and control the condition; and

(b) Determine that provisional notification or submission of laboratory test results or specimens for a condition other than a notifiable condition is likely to contribute to understanding the condition, provide information necessary to prevent and control the condition, and improve public health.

(4) The state health officer shall notify the board, local health officers, health care providers, laboratory directors, health care facilities, and the department of agriculture of the request, as applicable. The notification must include the:

(a) Determination required under subsection (3) of this section including documentation supporting the determination; and

(b) As applicable, the requested:

(i) Test results;

(ii) Timeline for notification;

(iii) Public health authority to be notified;

(iv) Content of notification;

(v) Means of notification;

(vi) Specimen submission;

(vii) Timeline for specimen submission; and

(viii) Specimen submittal documentation for the condition.

(5) Within forty months of the state health officer's designation of a provisional condition or additional information for a notifiable condition, the state health officer shall:

(a) Discontinue notification, submission of laboratory test results, or submission of specimens for the condition; or

(b) Request that the board consider revising this chapter to require notification, submission of laboratory tests, and submission of specimens for the condition and provide an estimate of the probable benefits and probable costs.

(6) If the state health officer chooses to discontinue notification, submission of laboratory test results, or submission of specimens for the condition, the state health officer shall notify the board, local health officers, health care providers, laboratory directors, health care facilities, and the department of agriculture that the applicable provisional condition or requested changes to the notifiable condition has been discontinued.

(7) If the board directs the state health officer to discontinue notification, submission of laboratory test results, or submission of specimens for the condition, the state health officer shall notify local health officers, health care providers, laboratory directors, health care facilities, and the department of agriculture that the applicable provisional condition or requested changes to the notifiable condition has been discontinued.

PART II: NOTIFIABLE CONDITIONS—HEALTH CARE PROVIDERS AND HEALTH CARE FACILITIES

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-101 Notifiable conditions ((~~and the~~)) —Health care providers and health care facilities.

((~~This section describes the conditions that Washington's health care providers must notify public health authorities of on a statewide basis. The board finds that the conditions in Table HC-1 of this section are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington.~~

~~(1) Principal health care providers shall notify public health authorities of the conditions identified in Table HC-1 of this section as individual case reports following the requirements in WAC 246-101-105, 246-101-110, 246-101-115, and 246-101-120.~~

~~(2) Other health care providers in attendance, other than the principal health care provider, shall notify public health authorities of the conditions identified in Table HC-1 of this section unless the condition notification has already been made.~~

~~(3) Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.~~

~~Table HC-1 (Conditions Notifiable by Health Care Providers)~~

~~Notifiable Condition~~	~~Time Frame for Notification~~	~~Notifiable to Local Health Department~~	~~Notifiable to State Department of Health~~
~~Acquired Immunodeficiency Syndrome (AIDS)~~	~~Within 3 business days~~	~~√~~	
~~Animal Bites (when human exposure to rabies is suspected)~~	~~Immediately~~	~~√~~	
~~Anthrax~~	~~Immediately~~	~~√~~	
~~Arboviral Disease (acute disease only including, but not limited to, West Nile virus, eastern and western equine encephalitis, dengue, St. Louis encephalitis, La Crosse encephalitis, Japanese encephalitis, and Powassan)~~	~~Within 3 business days~~	~~√~~	
~~Asthma, occupational~~	~~Monthly~~		~~√~~

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Birth Defects - Autism Spectrum Disorders	Monthly		√
Birth Defects - Cerebral Palsy	Monthly		√
Birth Defects - Alcohol Related Birth Defects	Monthly		√
Botulism (foodborne, infant, and wound)	Immediately	√	
Brucellosis (*Brucella* species)	Within 24 hours	√	
Burkholderia mallei (Glanders) and *pseudomallei* (Melioidosis)	Immediately	√	
Campylobacteriosis	Within 3 business days	√	
Chancroid	Within 3 business days	√	
Chlamydia trachomatis infection	Within 3 business days	√	
Cholera	Immediately	√	
Cryptosporidiosis	Within 3 business days	√	
Cyclosporiasis	Within 3 business days	√	
Diphtheria	Immediately	√	
Disease of suspected bioterrorism origin	Immediately	√	
Domoic acid poisoning	Immediately	√	
E. coli - Refer to "Shiga toxin-producing *E. coli*"	Immediately	√	
Emerging condition with outbreak potential	Immediately	√	
Giardiasis	Within 3 business days	√	
Gonorrhea	Within 3 business days	√	
Granuloma inguinale	Within 3 business days	√	
Haemophilus influenzae (invasive disease, children under age 5)	Immediately	√	
Hantavirus pulmonary syndrome	Within 24 hours	√	
Hepatitis A (acute infection)	Within 24 hours	√	
Hepatitis B (acute infection)	Within 24 hours	√	
Hepatitis B surface antigen + pregnant women	Within 3 business days	√	
Hepatitis B (chronic infection) - Initial diagnosis, and previously unreported prevalent cases	Monthly	√	
Hepatitis C (acute infection)	Within 3 business days	√	
Hepatitis C (chronic infection)	Monthly	√	
Hepatitis D (acute and chronic infection)	Within 3 business days	√	
Hepatitis E (acute infection)	Within 24 hours	√	
Herpes simplex, neonatal and genital (initial infection only)	Within 3 business days	√	
Human immunodeficiency virus (HIV) infection	Within 3 business days	√	
Influenza, novel or unsubtypable strain	Immediately	√	
Influenza-associated death (lab confirmed)	Within 3 business days	√	
Legionellosis	Within 24 hours	√	
Leptospirosis	Within 24 hours	√	
Listeriosis	Within 24 hours	√	
Lyme Disease	Within 3 business days	√	
Lymphogranuloma venereum	Within 3 business days	√	

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Malaria	Within 3 business days	√	
Measles (rubeola) - Acute disease only	Immediately	√	
Meningococcal disease (invasive)	Immediately	√	
Monkeypox	Immediately	√	
Mumps (acute disease only)	Within 24 hours	√	
Outbreaks of suspected foodborne origin	Immediately	√	
Outbreaks of suspected waterborne origin	Immediately	√	
Paralytic shellfish poisoning	Immediately	√	
Pertussis	Within 24 hours	√	
Pesticide poisoning (hospitalized, fatal, or cluster)	Immediately		√
Pesticide poisoning (all other)	Within 3 business days		√
Plague	Immediately	√	
Poliomyelitis	Immediately	√	
Prion disease	Within 3 business days	√	
Psittacosis	Within 24 hours	√	
Q Fever	Within 24 hours	√	
Rabies (Confirmed Human or Animal)	Immediately	√	
Rabies, suspected human exposure (suspected human rabies exposures due to a bite from or other exposure to an animal that is suspected of being infected with rabies)	Immediately	√	
Relapsing fever (borreliosis)	Within 24 hours	√	
Rubella (including congenital rubella syndrome) (acute disease only)	Immediately	√	
Salmonellosis	Within 24 hours	√	
SARS	Immediately	√	
Serious adverse reactions to immunizations	Within 3 business days	√	
Shiga toxin-producing *E. coli* infections (enterohemorrhagic *E. coli* including, but not limited to, *E. coli* O157:H7)	Immediately	√	
Shigellosis	Within 24 hours	√	
Smallpox	Immediately	√	
Syphilis	Within 3 business days	√	
Tetanus	Within 3 business days	√	
Trichinosis	Within 3 business days	√	
Tuberculosis	Immediately	√	
Tularemia	Immediately	√	
Vaccinia transmission	Immediately	√	
Vancomycin-resistant *Staphylococcus aureus* (not to include vancomycin-intermediate)	Within 24 hours	√	
Varicella-associated death	Within 3 business days	√	
Vibriosis	Within 24 hours	√	
Viral hemorrhagic fever	Immediately	√	
Yellow fever	Immediately	√	

~~Notifiable Condition~~	~~Time Frame for Notification~~	~~Notifiable to Local Health Department~~	~~Notifiable to State Department of Health~~
~~Yersiniosis~~	~~Within 24 hours~~	~~√~~	
~~Other rare diseases of public health significance~~	~~Within 24 hours~~	~~√~~	
~~Unexplained critical illness or death~~	~~Within 24 hours~~	~~√~~	

~~(√) Indicates which agency should receive case and suspected case reports.~~))

(1) For the purposes of this section:

(a) "Local health jurisdiction" means where the patient resides, or, in the event the patient residence cannot be determined, the local health jurisdiction in which the patient received treatment.

(b) "Unexplained critical illness or death" means a severe illness or death with infectious hallmarks, but no known etiology, in a previously healthy person one to forty-nine years of age excluding those with chronic medical conditions such as malignancy, diabetes, AIDS, or cirrhosis.

(2) The conditions identified in Table HC-1 are notifiable to public health authorities under this table and this chapter.

Table HC-1 (Conditions Notifiable by Health Care Providers and Health Care Facilities)

Notifiable Condition (Agent)	**Laboratory Confirmation Required Before Submitting Case Report**	**Time Frame for Notification from Identification of a Case**	**Who Must Be Notified**	**Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)**
Acquired immunodeficiency syndrome (AIDS)		Within 3 business days	DOH (for facilities) and LHJ (for providers)	Both
Amoebic meningitis		Immediately	LHJ	Both
Anaplasmosis		Within 3 business days	LHJ	Both
Anthrax (*Bacillus anthracis* and confirmed *Bacillus cereus* biovar *anthracis* only - Do not report all *Bacillus cereus*)	Yes	Immediately	LHJ	Both
Arboviral disease (acute disease only) including, but not limited to: Chikungunya Dengue Eastern and western equine encephalitis Japanese encephalitis La Crosse encephalitis Powassan virus infection St. Louis encephalitis West Nile virus infection Zika virus infection See also "Yellow fever"		Within 3 business days	LHJ	Both
Asthma, occupational		Within 30 days	Washington state department of labor and industries (L&I)	Both
Babesiosis		Within 3 business days	LHJ	Both
Baylisascariasis		Within 24 hours	LHJ	Both

Notifiable Condition (Agent)	Laboratory Confirmation Required Before Submitting Case Report	Time Frame for Notification from Identification of a Case	Who Must Be Notified	Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)
Birth defects - Abdominal wall defects (inclusive of gastroschisis and omphalocele)		Within 30 days	LHJ	Facilities
Birth defects - Autism spectrum disorders		Within 30 days	DOH	Both
Birth defects - Cerebral palsy		Within 30 days	DOH	Both
Birth defects - Down syndrome		Within 30 days	DOH	Facilities
Birth defects - Alcohol related birth defects		Within 30 days	DOH	Both
Birth defects - Hypospadias		Within 30 days	DOH	Facilities
Birth defects - Limb reductions		Within 30 days	DOH	Facilities
Birth defects - Neural tube defects (inclusive of anencephaly and spina bifida)		Within 30 days	DOH	Facilities
Birth defects - Oral clefts (inclusive of cleft lip with/without cleft palate)		Within 30 days	DOH	Facilities
Blood lead level RST results *(See WAC 246-101-200)*		Providers and facilities performing blood lead level RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.		
Botulism, foodborne, infant, and wound		Immediately	LHJ	Both
Brucellosis		Within 24 hours	LHJ	Both
Campylobacteriosis		Within 3 business days	LHJ	Both
Cancer (*See chapter 246-102 WAC*)				
Candida auris infection or colonization		Within 24 hours	LHJ	Both
Carbapenem-resistant Enterobacteriaceae infections limited to: *Klebsiella* species *E. coli* *Enterobacter* species	Yes	Within 3 business days	LHJ	Both
Chagas disease		Within 3 business days	LHJ	Both
Chancroid		Within 3 business days	LHJ	Both
Chlamydia trachomatis infection	Yes	Within 3 business days	LHJ	Both
Cholera (*Vibrio cholerae* O1 or O139)	Yes	Immediately	LHJ	Both
Coccidioidomycosis		Within 3 business days	LHJ	Both

Notifiable Condition (Agent)	Laboratory Confirmation Required Before Submitting Case Report	Time Frame for Notification from Identification of a Case	Who Must Be Notified	Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)
Coronavirus infection (severe communicable) SARS-associated coronavirus MERS-associated coronavirus Novel coronavirus (COVID-19)	Yes	Immediately	LHJ	Both
Cryptococcus gattii or undifferentiated *Cryptococcus* species (i.e., *Cryptococcus* not identified as C. *neoformans*)	Yes	Within 3 business days	LHJ	Both
Cryptosporidiosis		Within 3 business days	LHJ	Both
Cyclosporiasis		Within 3 business days	LHJ	Both
Cysticercosis		Within 3 business days	LHJ	Both
Diphtheria		Immediately	LHJ	Both
Domoic acid poisoning		Immediately	LHJ	Both
E. coli (*See "Shiga toxin-producing E. coli"*)				
Echinococcosis		Within 3 business days	LHJ	Both
Ehrlichiosis		Within 3 business days	LHJ	Both
Giardiasis		Within 3 business days	LHJ	Both
Glanders (*Burkholderia mallei*)	Yes	Immediately	LHJ	Both
Gonorrhea		Within 3 business days	LHJ	Both
Granuloma inguinale		Within 3 business days	LHJ	Both
Gunshot wounds (nonfatal)		Within 30 days	DOH	Facilities
Haemophilus influenzae (invasive disease, children under 5 years of age)	Yes	Immediately	LHJ	Both
Hantaviral infection		Within 24 hours	LHJ	Both
Hepatitis A (acute infection)	Yes	Within 24 hours	LHJ	Both
Hepatitis B (acute infection)	Yes	Within 24 hours	LHJ	Both
Hepatitis B, report pregnancy in hepatitis B virus infected patients (including carriers)	Yes	Within 3 business days	LHJ	Both
Hepatitis B (chronic infection) - Initial diagnosis, and previously unreported prevalent cases	Yes	Within 3 business days	LHJ	Both

Notifiable Condition (Agent)	Laboratory Confirmation Required Before Submitting Case Report	Time Frame for Notification from Identification of a Case	Who Must Be Notified	Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)
Hepatitis B (perinatal) - Initial diagnosis, and previously unreported cases	Yes	Within 3 business days	LHJ	Both
Hepatitis C (acute infection)	Yes	Within 24 hours	LHJ	Both
Hepatitis C (acute infection) RTS results *(See WAC 246-101-200)*		Providers and facilities performing hepatitis C (acute infection) RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.		
Hepatitis C (chronic infection)	Yes	Within 3 business days	LHJ	Both
Hepatitis C (perinatal) - Initial diagnosis, and previously unreported cases	Yes	Within 24 hours	LHJ	Both
Hepatitis C (chronic infection) RST results *(See WAC 246-101-200)*		Providers and facilities performing hepatitis C (chronic infection) RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.		
Hepatitis D (acute and chronic infection)	Yes	Within 24 hours	LHJ	Both
Hepatitis E (acute infection)	Yes	Within 24 hours	LHJ	Both
Herpes simplex, neonatal and genital (initial infection only)		Within 3 business days	LHJ	Providers
Histoplasmosis		Within 3 business days	LHJ	Both
Human immunodeficiency virus (HIV) infection		Within 3 business days	LHJ	Both
Human immunodeficiency virus (HIV) infection RST results *(See WAC 246-101-200)*		Providers and facilities performing HIV infection RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.		
Human prion disease		Within 3 business days	LHJ	Both
Hypersensitivity pneumonitis, occupational		Within 30 days	L&I	Both
Influenza, novel or unsubtypable strain		Immediately	LHJ	Both
Influenza-associated death (laboratory confirmed)		Within 3 business days	LHJ	Both
Legionellosis		Within 24 hours	LHJ	Both
Leptospirosis		Within 24 hours	LHJ	Both
Listeriosis		Within 24 hours	LHJ	Both
Lyme disease		Within 3 business days	LHJ	Both
Lymphogranuloma venereum		Within 3 business days	LHJ	Both
Malaria		Within 3 business days	LHJ	Both

Notifiable Condition (Agent)	Laboratory Confirmation Required Before Submitting Case Report	Time Frame for Notification from Identification of a Case	Who Must Be Notified	Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)
Measles (rubeola) - Acute disease only		Immediately	LHJ	Both
Melioidosis (*Burkholderia pseudomallei)*	Yes	Immediately	LHJ	Both
Meningococcal disease, invasive		Immediately	LHJ	Both
Monkeypox		Immediately	LHJ	Both
Mumps, acute disease only		Within 24 hours	LHJ	Both
Outbreaks and suspected outbreaks		Immediately	LHJ	Both
Paralytic shellfish poisoning		Immediately	LHJ	Both
Pertussis		Within 24 hours	LHJ	Both
Pesticide poisoning (hospitalized, fatal, or cluster)		Immediately	DOH	Both
Pesticide poisoning (all other)		Within 3 business days	DOH	Both
Plague		Immediately	LHJ	Both
Poliomyelitis		Immediately	LHJ	Both
Pregnancy in patient with hepatitis B virus		See "Hepatitis B, report pregnancy in hepatitis B virus infected patients (including carriers)"		
Psittacosis		Within 24 hours	LHJ	Both
Q fever		Within 24 hours	LHJ	Both
Rabies (confirmed human or animal)		Immediately	LHJ	Both
Rabies, suspected human exposure (suspected human rabies exposures due to a bite from or other exposure to an animal that is suspected of being infected with rabies)		Immediately	LHJ	Both
Relapsing fever (borreliosis)		Within 3 business days	LHJ	Both
Rickettsia infection		Within 3 business days	LHJ	Both
Rubella, acute disease only (including congenital rubella syndrome)		Immediately	LHJ	Both
Salmonellosis		Within 24 hours	LHJ	Both
Serious adverse reactions to immunizations		Within 3 business days	LHJ	Both
Shiga toxin-producing *E. coli* (STEC) infections/enterohemorrhagic *E. coli* infections	Yes	Immediately	LHJ	Both
Shigellosis		Within 24 hours	LHJ	Both
Smallpox		Immediately	LHJ	Both
Syphilis		Within 3 business days	LHJ	Both

Notifiable Condition (Agent)	Laboratory Confirmation Required Before Submitting Case Report	Time Frame for Notification from Identification of a Case	Who Must Be Notified	Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)
Taeniasis		Within 3 business days	LHJ	Both
Tetanus		Within 3 business days	LHJ	Both
Tick paralysis		Within 3 business days	LHJ	Both
Trichinosis		Within 3 business days	LHJ	Both
Tuberculosis disease (confirmed or highly suspicious, i.e., initiation of empiric treatment)		Within 24 hours	LHJ	Both
Tularemia		Immediately	LHJ	Both
Typhus		Within 3 business days	LHJ	Both
Vaccinia transmission		Immediately	LHJ	Both
Vancomycin-resistant *Staphylococcus aureus* (not to include vancomycin-intermediate)	Yes	Within 24 hours	LHJ	Both
Varicella-associated death		Within 3 business days	LHJ	Both
Vibriosis (*Vibrio* species not including *Vibrio cholerae* O1 or O139) *See* Cholera (*Vibrio cholerae* O1 or O139)	Yes	Within 24 hours	LHJ	Both
Viral hemorrhagic fever		Immediately	LHJ	Both
Yellow fever		Immediately	LHJ	Both
Yersiniosis		Within 24 hours	LHJ	Both
Unexplained critical illness or death		Within 24 hours	LHJ	Both

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-105 Duties ((~~of the~~))—Health care providers and health care facilities. ((~~Health care providers shall:~~

~~(1) Notify the local health department where the patient resides, or, in the event that patient residence cannot be determined, the local health department in which the health care providers practice, regarding:~~

~~(a) Cases or suspected cases of notifiable conditions specified as notifiable to local health departments in Table HC-1 of WAC 246-101-101;~~

~~(b) Cases of conditions designated as notifiable by the local health officer within that health officer's jurisdiction;~~

~~(c) Outbreaks or suspected outbreaks of disease including, but not limited to, suspected or confirmed outbreaks of varicella, influenza, viral meningitis, health care-associated infection suspected due to contaminated food products or devices, or environmentally related disease;~~

~~(d) Known barriers which might impede or prevent compliance with orders for infection control or quarantine; and~~

~~(e) Name, address, and other pertinent information for any case, suspected case or carrier refusing to comply with prescribed infection control measures.~~

~~(2) Notify the department of conditions designated as notifiable to the local health department when:~~

~~(a) A local health department is closed or representatives of the local health department are unavailable at the time a case or suspected case of an immediately notifiable condition occurs;~~

~~(b) A local health department is closed or representatives of the local health department are unavailable at the time an outbreak or suspected outbreak of communicable disease occurs.~~

~~(3) Notify the department of pesticide poisoning that is fatal, causes hospitalization or occurs in a cluster.~~

~~(4) Notify the department regarding cases of notifiable conditions specified as notifiable to the department in Table HC-1 of WAC 246-101-101.~~

~~(5) Assure that positive preliminary test results and positive final test results for notifiable conditions of specimens referred to laboratories outside of Washington for testing are correctly notified to the local health department of the patient's residence or the department as specified in Table Lab-1 of WAC 246-101-201. This requirement can be satisfied by:~~

~~(a) Arranging for the referral laboratory to notify either the local health department, the department, or both; or~~

~~(b) Forwarding the notification of~~)) (1) Unless a health care facility has assumed the notification duties of the principal health care provider under subsection (4) of this section, the principal health care provider shall submit individual case reports:

(a) To the required public health authority under Table HC-1 of WAC 246-101-101 and the requirements of WAC 246-101-110 and 246-101-115, and this section;

(b) To the local health jurisdiction as required by the local health officer within that health officer's jurisdiction.

(2) A health care facility shall submit individual case reports:

(a) To the required public health authority under Table HC-1 of WAC 246-101-101 and the requirements of WAC 246-101-110 and 246-101-115, and this section that occur or are treated in their facilities.

(b) To the local health jurisdiction as required by the local health officer within that health officer's jurisdiction.

(3) This section does not require a health care provider or a health care facility to confirm the absence of cases of conditions listed in Table HC-1 of WAC 246-101-101.

(4) A health care facility may assume the notification requirements established in this chapter for a health care provider practicing within the health care facility.

(5) A health care facility shall not assume the notification requirements established in this chapter for a laboratory that is a component of the health care facility.

(6) Health care providers and health care facilities shall:

(a) Provide the laboratory with the following information for each test ordered for a notifiable condition:

(i) Patient's first and last name;

(ii) Patient's physical address including zip code;

(iii) Patient's date of birth;

(iv) Patient's sex;

(v) For hepatitis B tests only, pregnancy status (pregnant/not pregnant/unknown) of patients twelve to fifty years of age only;

(vi) Patient's best contact telephone number;

(vii) Patient's medicaid status, for blood lead level tests for patients less than seventy-two months of age only;

(viii) Requesting health care provider's name;

(ix) Requesting health care provider's phone number;

(x) Address where patient received care;

(xi) Specimen type;

(xii) Specimen collection date; and

(xiii) Condition being tested for.

(b) For specimens associated with a notifiable condition sent to a laboratory outside of Washington state, provide the laboratory with the information under (a) of this subsection, Table Lab-1 of WAC 246-101-201, and WAC 246-101-220 and 246-101-225.

(c) If the presumptive or final test results are consistent with Table Lab-1 of WAC 246-101-201, the health care provider or health care facility shall either:

(i) Confirm the laboratory submitted the case report consistent with WAC 246-101-220 and 246-101-225; or

(ii) Submit the ((~~test result~~)) presumptive and final test results from the ((~~referral~~)) out-of-state laboratory ((~~to the local health department, the department, or both.~~

~~(6)~~)) with the case report according to the requirements of this chapter.

(d) Cooperate with public health authorities during investigation of:

(((~~(a) Circumstances of a case or suspected~~)) (i) A case of a notifiable condition ((~~or other communicable disease~~)); and

(((~~(b)~~))) (ii) An outbreak or suspected outbreak ((~~of disease~~)).

(((~~(7)~~))) (e) Maintain an infection control program as described in WAC 246-320-176 for hospitals and WAC 246-330-176 for ambulatory surgical facilities;

(f) Provide adequate and understandable instruction in disease control measures to each patient who has been diagnosed with a case of a communicable disease, and to contacts who may have been exposed to the disease((~~.~~

~~(8) Maintain responsibility for deciding date of discharge for hospitalized tuberculosis patients.~~

~~(9) Notify the local health officer of intended discharge of tuberculosis patients in order to assure appropriate outpatient arrangements are arranged.~~

~~(10) By July 1, 2011, when ordering a laboratory test for a notifiable condition as identified in Table HC-1 of WAC 246-101-101, providers must provide the laboratory with the following information for each test order:~~

~~(a) Patient name;~~

~~(b) Patient address including zip code;~~

~~(c) Patient date of birth;~~

~~(d) Patient sex;~~

~~(e) Name of the principal health care provider;~~

~~(f) Telephone number of the principal health care provider;~~

~~(g) Type of test requested;~~

~~(h) Type of specimen;~~

~~(i) Date of ordering specimen collection.~~)); and

(g) Notify the local health jurisdiction of:

(i) Known barriers that might impede or prevent compliance with infection control measures; and

(ii) Name, address, and other pertinent information for any case or carrier refusing to comply with infection control measures.

(7) Health care providers and health care facilities may provide health information, demographic information, or infectious or noninfectious condition information in addition to the information required under this chapter when the provider or facility determines that the additional information will aid the public health authority in protecting and improv-

ing the public's health through prevention and control of infectious and noninfectious conditions.

(8) When a health care provider or health care facility submits information under subsection (7) of this section, they shall submit the information under the requirements of WAC 246-101-110.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-110 Means of notification—Health care providers and health care facilities. Health care providers ((~~shall adhere to the following timelines and procedures:~~

~~(1) Conditions designated as immediately notifiable must be reported to the local health officer or the department, as specified in Table HC-1 of WAC 246-101-101, immediately as the time of diagnosis or suspected diagnosis. This applies twenty-four hours a day, seven days a week. Each local health jurisdiction, as well as the department, maintains after hours emergency phone contacts for this purpose. A party sending a report by secure facsimile copy or secure electronic transmission during normal business hours must confirm immediate receipt by a live person.~~

~~(2) Conditions designated as notifiable within twenty-four hours must be reported to the local health officer or the department, as specified in Table HC-1 of WAC 246-101-101, within twenty-four hours of diagnosis or suspected diagnosis, seven days a week. Reports during normal public health business hours may be sent by secure electronic transmission, telephone, or secure facsimile copy of a case report. A party sending a report outside of normal public health business hours must use the after-hours emergency phone contact for the appropriate jurisdiction.~~

~~(3) Conditions designated as notifiable within three business days must be reported to the local health officer or department, as specified in Table HC-1 of WAC 246-101-101, within three business days. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report; and~~

~~(4) Conditions designated as notifiable on a monthly basis must be reported to the local health officer or the department, as specified in Table HC-1 of WAC 246-101-101, on a monthly basis. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report~~)) and health care facilities shall:

(1) Submit a case report for each case under Table HC-1 of WAC 246-101-101, 246-101-115, and this section by secure electronic data transmission;

(2) Submit a case report to the department instead of the local health jurisdiction when:

(a) The local health jurisdiction is closed or representatives of the local health jurisdiction are unavailable:

(i) For immediately notifiable conditions; or

(ii) At the time an outbreak or suspected outbreak of a communicable disease occurs.

(b) The patient who is the subject of the case report resides outside Washington state and is a visitor to Washington state;

(3) Call the public health authority designated for the condition in Table HC-1 of WAC 246-101-101 immediately and confirm receipt of a case report for conditions designated as:

(a) Immediately notifiable; or

(b) Notifiable within twenty-four hours if the case report is submitted outside of the local health jurisdiction's normal business hours.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-115 Content of ((~~notifications~~)) case reports—Health care providers and health care facilities. (1) ((~~For each condition listed in Table HC-1 of WAC 246-101-101,~~)) Health care providers and health care facilities shall provide the following information ((~~for~~)) in each case ((~~or suspected case~~)) report for a notifiable condition, excluding occupational traumatic injury hospitalizations:

(a) Patient's first and last name;

(b) Patient's physical address including zip code;

(c) ((~~Patient telephone number;~~

~~(d)~~)) Patient's date of birth;

(((~~(e)~~))) (d) Patient's sex;

(((~~(f)~~))) (e) For hepatitis B acute or chronic infection case reports, pregnancy status (pregnant/not pregnant/unknown) of patients twelve to fifty years of age;

(f) Patient's best contact telephone number;

(g) Name of the principal health care provider;

(h) Telephone number of the principal health care provider;

(i) Address where patient received care;

(j) Name of the person providing the report;

(k) Telephone number of the person providing the report;

(l) Diagnosis or suspected diagnosis of ((~~disease or~~)) the condition; and

(((~~(g)~~))) (m) Pertinent laboratory ((~~data~~)) results, if available((~~;~~

~~(h) Name of the principal health care provider;~~

~~(i) Telephone number of the principal health care provider;~~

~~(j) Address of the principal health care provider;~~

~~(k) Name and telephone number of the person providing the report; and~~

~~(l) Other information as the department may require on forms generated by the department~~)).

(2) The local health officer ((~~or~~)) and the state health officer may ((~~require other~~)) request additional information of epidemiological or public health value when conducting a case investigation or to otherwise prevent and control a specific notifiable condition.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-120 Handling ((~~of case reports and medical~~)) confidential information—Health care providers and health care facilities. (1) All records and specimens ((~~containing~~)) related to a case that contain or are accompanied by patient identifying information are confidential.

Patient identifying information includes information that can directly or indirectly identify a patient.

(2) Health care providers, health care facilities, and health care facility personnel shall maintain the confidentiality of patient health care information consistent with chapter 70.02 RCW and any other applicable confidentiality laws.

(3) Health care providers and health care facilities shall:

(a) Establish and implement policies and procedures to maintain confidentiality of health care information under this section, and chapters 70.02 and 70.24 RCW.

(((~~(2) Health care providers who know of a person with a notifiable condition, other than a sexually transmitted disease, shall release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease, including the local health department.~~

~~(3) Health care providers with knowledge of a person with sexually transmitted disease, and following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:~~

~~(a) May disclose the identity of a person or release identifying information only as specified in RCW 70.24.105; and~~

~~(b) Shall under RCW 70.24.105(6), use only the following customary methods for exchange of medical information:~~

~~(i) Health care providers may exchange medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. This means that information shared impacts the care or treatment decisions concerning the patient; and the health care provider requires the information for the patient's benefit.~~

~~(ii) Health care providers responsible for office management are authorized to permit access to a patient's medical information and medical record by medical staff or office staff to carry out duties required for care and treatment of a patient and the management of medical information and the patient's medical record.~~

~~(c) Health care providers~~)) (b) When conducting a clinical HIV research project ((~~shall~~)), report the identity of an individual participating in the project unless:

(i) The project has been approved by an institutional review board; and

(ii) The project has a system in place to remind referring health care providers of ((~~their reporting obligations~~)) notification requirements under this chapter.

(((~~(4) Health care providers shall establish and implement policies and procedures to maintain confidentiality related to a patient's medical information.~~))

PART III: NOTIFIABLE CONDITIONS— LABORATORIES AND LABORATORY DIRECTORS

NEW SECTION

WAC 246-101-200 Rapid screening testing. An individual or entity including, but not limited to, health care providers and health care facilities, that conduct an RST for any of the following conditions, meets the definition of a laboratory under this chapter, and shall comply with WAC 246-101-201 through 246-101-230:

(1) Blood lead level testing;
(2) Hepatitis C (acute infection);
(3) Hepatitis C (chronic infection); or
(4) HIV infection.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-201 Notifiable conditions ((~~and~~))— Laboratories. ((~~This section describes the conditions about which Washington's laboratories must notify public health authorities of on a statewide basis. The board finds that the conditions in Table Lab-1 of this section are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington. The board also finds that submission of specimens for many of these conditions will further prevent the spread of disease.~~

~~(1) Laboratory directors shall notify public health authorities of positive preliminary test results and positive final test results of the conditions identified in Table Lab-1 of this section as individual case reports and provide specimen submissions following the requirements in WAC 246-101-205, 246-101-210, 246-101-215, 246-101-220, 246-101-225, and 246-101-230.~~

~~(2) Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.~~

~~Table Lab-1 (Conditions Notifiable by Laboratory Directors)~~

~~Notifiable Condition~~	~~Time Frame for Notification~~	~~Notifiable to Local Health Department~~	~~Notifiable to Department of Health~~	~~Specimen Submission to Department of Health (Type & Timing)~~
~~Arboviruses (West Nile virus, eastern and western equine encephalitis, dengue, St. Louis encephalitis, La Crosse encephalitis, Japanese encephalitis, Powassan, California serogroup, Chikungunya)~~	~~2 business days~~	~~√~~		~~On request~~

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Acute: IgM positivity PCR positivity Viral isolation				
Bacillus anthracis (Anthrax)	Immediately	√		Culture (2 business days)
Blood Lead Level	Elevated Levels - 2 business days Nonelevated Levels - Monthly		√	
Bordetella pertussis (Pertussis)	Within 24 hours	√		Culture, when available (2 business days)
Borrelia burgdorferi (Lyme disease)	2 business days	√		On request
Borrelia hermsii or *recurrentis* (Relapsing fever, tick- or louse-borne)	Within 24 hours	√		On request
Brucella species (Brucellosis)	Within 24 hours	√		Cultures (2 business days)
Burkholderia mallei and *pseudomallei*	Immediately	√		Culture (2 business days); additional specimens when available
Campylobacter species (Campylobacteriosis)	2 business days	√		On request
CD4 + (T4) lymphocyte counts and/or CD4 + (T4) (patients aged thirteen or older)	Monthly	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Chlamydophila psittaci (Psittacosis)	Within 24 hours	√		On request
Chlamydia trachomatis	2 business days	√		
Clostridium botulinum (Botulism)	Immediately	√		Serum and/or stool; any other specimens available (i.e., foods submitted for suspected food-borne case; debrided tissue submitted for suspected wound botulism) (2 business days)
Corynebacterium diphtheriae (Diphtheria)	Immediately	√		Culture (2 business days)
Coxiella burnetii (Q fever)	Within 24 hours	√		Culture (2 business days)
Cryptococcus non *v. neoformans*	N/A	N/A		Culture (2 business days) or other specimens upon request

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Cryptosporidium (Cryptosporidiosis)	2 business days	√		On request
Cyclospora cayetanensis (Cyclosporiasis)	2 business days	√		Specimen (2 business days)
E. coli - Refer to "Shiga toxin-producing *E. coli*"	Immediately	√		
Francisella tularensis (Tularemia)	Immediately	√		Culture or other appropriate clinical material (2 business days)
Giardia lamblia (Giardiasis)	2 business days	√		On request
Haemophilus influenzae (children < 5 years of age)	Immediately	√		Culture, from sterile sites only, when type is unknown (2 business days)
Hantavirus	Within 24 hours	√		On request
Hepatitis A virus (acute) by IgM positivity (Hepatocellular enzyme levels to accompany report)	Within 24 hours	√		On request
Hepatitis B virus (acute) by IgM positivity	Within 24 hours	√		On request
Hepatitis B virus - HBsAg (Surface antigen) - HBeAg (E antigen) - HBV DNA	Monthly	√		
Hepatitis C virus	Monthly	√		
Hepatitis D virus	2 business days	√		On request
Hepatitis E virus	Within 24 hours	√		On request
Human immunodeficiency virus (HIV) infection (for example, positive Western Blot assays, P24 antigen or viral culture tests)	2 business days	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Human immunodeficiency virus (HIV) infection (ll viral load detection test results - detectable and undetectable)	Monthly	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Influenza virus, novel or unsubtypable strain	Immediately	√		Isolate or clinical specimen (2 business days)
Legionella species (Legionellosis)	Within 24 hours	√		Culture (2 business days)
Leptospira species (Leptospirosis)	Within 24 hours	√		On request
Listeria monocytogenes (Listeriosis)	Within 24 hours	√		Culture (2 business days)

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Measles virus (rubeola) Acute: IgM positivity PCR positivity	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
Mumps virus Acute: IgM positivity PCR positivity	Within 24 hours	√		Isolate or clinical specimen associated with positive result (2 business days)
Mycobacterium tuberculosis (Tuberculosis)	2 business days		√	Culture (2 business days)
Mycobacterium tuberculosis (Tuberculosis) (Antibiotic sensitivity for first isolates)	2 business days		√	
Neisseria gonorrhoeae (Gonorrhea)	2 business days	√		
Neisseria meningitidis (Meningococcal disease)	Immediately	√		Culture (from sterile sites only) (2 business days)
Plasmodium species (Malaria)	2 business days	√		On request
Poliovirus Acute: IgM positivity PCR positivity	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
Rabies virus (human or animal)	Immediately	√ (Pathology Report Only)		Clinical specimen associated with positive result (2 business days)
Salmonella species (Salmonellosis)	Within 24 hours	√		Culture (2 business days)
SARS-associated coronavirus	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
Shiga toxin-producing *E. coli* (enterohemorrhagic *E. coli* including, but not limited to, *E. coli* O157:H7)	Immediately	√		Culture (2 business days) or specimen if no culture is available
Shigella species (Shigellosis)	Within 24 hours	√		Culture (2 business days)
Treponema pallidum (Syphilis)	2 business days	√		Serum (2 business days)
Trichinella species	2 business days	√		On request
Vancomycin-resistant *Staphylococcus aureus*	Within 24 hours	√		Culture (2 business days)
Variola virus (smallpox)	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Vibrio cholerae O1 or O139 (Cholera)	Immediately	√		Culture (2 business days)
Vibrio species (Vibriosis)	Within 24 hours	√		Culture (2 business days)
Viral hemorrhagic fever: Arenaviruses Bunyaviruses Filoviruses Flaviviruses	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
Yellow fever virus	Immediately	√		Serum (2 business days)
Yersinia enterocolitica or *pseudotuberculosis*	Within 24 hours	√		On request
Yersinia pestis (Plague)	Immediately	√		Culture or other appropriate clinical material (2 business days)

(√) Indicates which agency should receive case and suspected case reports.

(3) The local health department may request laboratory reporting of additional test results pertinent to an investigation of a notifiable condition (e.g., hepatocellular enzyme levels for hepatitis or negative stool test results on salmonellosis rescreening).

(4) Laboratory directors may notify the local health department, the department, or both of other laboratory results.)) (1) For the purposes of Table Lab-1:

(a) "At least annually" means deidentified negative screening results may be submitted in a single report no less than once per year, but may be submitted more frequently as a single report or as individual screening results.

(b) "Deidentified negative screening result" means an initial test result that indicates the absence of disease, and that has personally identifiable information removed from it using the Health Insurance Portability and Accountability Act of 1996 Safe Harbor method defined in 45 C.F.R. 164.514. A deidentified negative screening result does not include a negative test result associated with a previous positive test result, such as a negative nucleic acid or viral load test that is performed after a positive antibody or antigen test.

(c) "LHJ" means where the patient resides, or, in the event that patient residence cannot be determined, the local health jurisdiction in which the ordering health care provider practices, or the local health jurisdiction in which the laboratory operates.

(d) "Within two business days" means specimens must be in transit to the Washington state public health laboratories within two business days of:

(i) Completing a test and the specimen being ready for packaging; or

(ii) Receiving a request from a local health jurisdiction or the department, provided the specimen is still available at the time of the request.

(2) This chapter does not require a laboratory to:

(a) Test for agents (conditions) or speciate if the laboratory does not perform the test as part of its normal work. A laboratory director shall only report a case of a condition if it is identified as part of their normal testing protocols; or

(b) Retain specimens indefinitely in anticipation of a request from a local health jurisdiction or the department.

(3) The agents (conditions) in Table Lab-1 are notifiable by a laboratory director as indicated in Table Lab-1 and this chapter.

Table Lab-1 (Conditions Notifiable by Laboratory Directors)

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Amoebic meningitis	Positive result by any method	Immediately to LHJ	Specimen associated with positive result, if available	Within 2 business days
Anaplasma species (Anaplasmosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result, if available	Within 2 business days of request by LHJ or DOH
Babesia species (Babesiosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result, if available	Within 2 business days of request by LHJ or DOH
Bacillus anthracis (Anthrax)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Bacillus cereus, biovar *anthracis* subspecies only	Confirmed positive result by any method	Immediately to LHJ	Do not ship specimen	Do not ship specimen
Baylisascaris (Baylisascariasis)	Positive result by any method	Within 24 hours to LHJ	Specimen associated with positive result, if available	Within 2 business days
Blood lead level	Elevated results equal to or greater than 5 micrograms per deciliter for: RST Venous	Within 2 business days to DOH	N/A	N/A
	Nonelevated results less than 5 micrograms per deciliter for: RST Venous	Within 30 days to DOH		
Bordetella pertussis (Pertussis)	Positive results by: Culture Nucleic acid detection ((nucleic acid testing (NAT)) or (nucleic acid amplification testing (NAAT))	Within 24 hours to LHJ	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Borrelia burgdorferi or *Borrelia mayonii* (Lyme disease)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Borrelia hermsii, *parkeri*, *turicatae*, *miyamotoi*, or *recurrentis* (Relapsing fever, tick- or louse-borne)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Brucella species (Brucellosis)	Positive result by any method excluding Immunoglobulin G (IgG)	Within 24 hours to LHJ	Isolate, excluding confirmed positive *B. melitensis*, *B. abortus*, or *B. suis* If no isolate available, specimen associated with positive result	Within 2 business days
Burkholderia mallei (Glanders)	Positive result by any method excluding IgG	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Burkholderia pseudomallei (Melioidosis)	Positive result by any method excluding IgG	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
California serogroup viruses, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Campylobacter species (Campylobacteriosis)	Positive result by: Culture Nucleic acid detection (NAT or NAAT) Antigen detection	Within 2 business days to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Candida auris	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Carbapenem-resistant Enterobacteriaceae: *Klebsiella* species *E. coli* *Enterobacter* species	Positive for known carbapenemase resistance gene (including, but not limited to, KPC, NDM, VIM, IMP, OXA-48) demonstrated by nucleic acid detection (NAT or NAAT), or whole genome sequencing Positive on a phenotypic test for carbapenemase production including, but not limited to, Metallo-B-lactamase test, modified Hodge test (MHT) (for *E. coli* and *Klebsiella* species only), CarbaNP, Carbapenem Inactivation Method (CIM) or modified CIM (mCIM) Resistant to any carbapenem including, but not limited to, doripenem, ertapenem, imipenem or meropenem	Within 2 business days to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
CD4 + counts[1], or CD4 + percents[2], or both (patients aged thirteen or older)	All results	Within 30 days to DOH except in King County where this is notifiable to the LHJ	N/A	N/A
Chikungunya virus, acute (Arbovirus)	Positive result by any method excluding Immunoglobulin G (IgG)	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Chlamydia psittaci (Psittacosis)	Positive result by any method excluding IgG	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Chlamydia trachomatis	Positive and indeterminate result by any method	Within 2 business days to LHJ	N/A	N/A
Chlamydia trachomatis	Deidentified negative screening result	At least annually to DOH	N/A	N/A
Clostridium botulinum (Botulism)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
			If no isolate available, specimen associated with presumptive positive result	
Coccidioides (Coccidioidomycosis)	Positive result by any method	Within 2 business days to LHJ	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Coronavirus SARS-associated coronavirus MERS-associated coronavirus Novel coronavirus (COVID-19)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate, if no isolate available, specimen associated with presumptive positive result	Within 2 business days of request by LHJ or DOH
Corynebacterium diphtheriae (Diphtheria)	Positive result by: Culture Nucleic acid detection (NAT or NAAT)	Immediately to LHJ	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Coxiella burnetii (Q fever)	Positive result by any method	Within 24 hours LHJ	Specimen associated with presumptive positive result	Within 2 business days
Crimean-Congo hemorrhagic fever virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Cryptococcus gattii or undifferentiated *Cryptococcus* species (i.e., *Cryptococcus* not identified as C. *neoformans*)	Positive results by any method excluding cryptococcal antigen	Within 2 business days to LHJ	Isolate If no isolate available, specimen associated with positive result (excluding serum)	Within 2 business days
			Serum	Within 2 business days of request by LHJ or DOH
Cryptosporidium (Cryptosporidiosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Cyclospora cayetanensis (Cyclosporiasis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Dengue virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
E. coli - Refer to "Shiga toxin-producing *E. coli*"				
Eastern and western equine encephalitis virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Ebola virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive specimen	Within 2 business days
Echinococcus granulosus or *E. multilocularis* (Echinococcosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Ehrlichia species (Ehrlichiosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Francisella tularensis (Tularemia)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Giardia duodenalis, G. lamblia, G. intestinalis (Giardiasis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Guanarito virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Haemophilus influenzae (children < 5 years of age)	Positive result for specimen from a normally sterile site by: Culture Nucleic acid detection (NAT or NAAT)	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Hantavirus including, but not limited to: Andes virus Bayou virus Black Creek Canal virus Dobrava-Belgrade virus Hantaan virus Seoul virus Sin nombre virus	Positive result by any method	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days
Hepatitis A virus	Positive results for: IgM Nucleic acid detection (NAT or NAAT) Hepatocellular enzyme levels to accompany report, if available, for positive IgM results	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Hepatitis B virus	Positive results for: IgM anti-HBc HBsAg HBeAg HBV Nucleic acid detection (NAT or NAAT) either qualitative or quantitative, for example PCR or genotyping If associated with a positive result listed above, and available: Hepatocellular enzyme levels Pregnancy status Negative IgM anti-HBc result	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Hepatitis C virus	Positive result by any method Positive and nonpositive results for: HCV nucleic acid detection (NAT or NAAT) for qualitative, quantitative, and genotype tests If associated with a positive result and available: Hepatocellular enzyme levels Pregnancy status Negative result for IgM anti-HAV Negative result for IgM anti-HBc	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Hepatitis C virus	Deidentified negative screening result	At least annually to DOH	N/A	N/A
Hepatitis D virus	Positive result by any method If associated with a positive result and available: Hepatocellular enzyme levels	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Hepatitis E virus	Positive result by any method If associated with a positive result and available: Hepatocellular enzyme levels	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Histoplasma capsulatum (histoplasmosis)	Positive result by any method	Within 2 business days to LHJ	Isolate	Within 2 business days
			Serum	Within 2 business days of request by LHJ or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Human immunodeficiency virus (HIV)	Positive and indeterminate results and subsequent negative results associated with those positive or indeterminate results for the tests below: Antibody detection tests (including RST) Antigen detection tests (including RST) Viral culture All HIV nucleic acid detection (NAT or NAAT) tests: Qualitative and quantitative Detectable and undetectable HIV antiviral resistance testing genetic sequences	Within 2 business days to DOH except in King County where this is notifiable to the LHJ	N/A	N/A
Human immunodeficiency virus (HIV)	Deidentified negative screening result	At least annually to DOH	N/A	N/A
Human prion disease	Positive result by any method excluding Tau protein	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Influenza virus, novel or unsubtypable strain	Positive novel and unsubtypable result	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
Japanese encephalitis virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Junin virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
La Crosse encephalitis, virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Lassa virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Legionella species (Legionellosis)	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available but respiratory specimen available *and* associated with a positive test (as in the case of a PCR positive), respiratory specimen associated with positive result	Within 2 business days
Leptospira species (Leptospirosis)	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Listeria monocytogenes (Listeriosis)	Positive result for specimen from a normally sterile site by: Culture Nucleic acid detection (NAT or NAAT)	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
Lujo virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Machupo virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Marburg virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Measles virus - See "Rubeola (measles virus)"				
Mumps virus	Positive result for: Culture Nucleic acid detection (NAT or NAAT) IgM	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
			Specimen associated with positive IgM	Within 2 business days of request by LHJ or DOH
Mycobacterium tuberculosis complex (Tuberculosis)	Positive result for: Culture Nucleic acid detection (NAT or NAAT) Drug susceptibilities (molecular and culture based)	Within 2 business days to DOH	Mycobacterium tuberculosis complex positive isolate (earliest available isolate for the patient)	Within 2 business days
Neisseria gonorrhoeae (Gonorrhea)	Positive and indeterminate result by any method	Within 2 business days to LHJ	N/A	N/A
Neisseria gonorrhoeae (Gonorrhea)	Deidentified negative screening result	At least annually to DOH	N/A	N/A
Neisseria meningitidis (Meningococcal disease)	Positive result for specimen from a normally sterile site by any method	Immediately to LHJ	Isolate from a normally sterile site	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Plasmodium species (Malaria)	Positive results for: Nucleic acid detection (NAT or NAAT) Malaria-specific antigens by rapid diagnostic test PCR Microscopy (thick or thin smear)	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Poliovirus (Poliomyelitis)	IgM positivity; PCR positivity	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
Powassan virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Rabies virus	Positive result by any method	Immediately to LHJ	Specimen associated with positive result	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Rickettsia species including, but not limited to: *Rickettsia rickettsii* *Rickettsia africae* *Rickettsia conorii* *Rickettsia typhi* *Rickettsia parkeri* *Rickettsia philipii*	Positive results by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Rubella	Positive result by: Culture IgM Nucleic acid detection (NAT or NAAT)	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
			Other specimen	Within 2 business days of request by LHJ or DOH
Rubeola (measles virus)	Positive result by: Culture IgM Nucleic acid detection (NAT or NAAT)	Immediately to LHJ	Isolate and specimen associated with positive culture Isolate and specimen association with positive NAT or NAAT result	Within 2 business days
			Specimen associated with positive IgM Other specimen	Within 2 business days of request by LHJ or DOH
Sabia virus (Viral hemorrhagic fever)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Salmonella species (Salmonellosis, typhoid fever)	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
Shiga toxin-producing *E. coli*/enterohemorrhagic *E. coli* (STEC)	Positive result by any method	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Shigella species (Shigellosis)	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
St. Louis encephalitis virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Taenia solium (Taeniasis or Cysticercosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Treponema pallidum (Syphilis)	Positive and indeterminate result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days
Treponema pallidum (Syphilis)	Deidentified negative screening result	At least annually to DOH	N/A	N/A
Trichinella species (Trichinellosis)	Positive serologic test for *Trichinella*	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Trypanosoma cruzi (Chagas disease)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days
Vaccinia (vaccine-acquired smallpox)	Any request for testing associated with a suspect case	Immediately to LHJ	Any specimen collected from a suspect case	Immediately
Vancomycin-resistant *Staphylococcus aureus*	Resistance to vancomycin	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
Variola virus (smallpox)	Any request for testing associated with a suspect case	Immediately to LHJ	Specimen collected from a suspect case	Immediately
Vibrio cholerae O1 or O139 (Cholera)	Positive result by any method	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
Vibrio species (Vibriosis) not including *Vibrio cholerae* O1 or O139 (Cholera) See *"Vibrio cholerae* O1 or O139 (Cholera)"	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
West Nile virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Case Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
Yellow fever virus (Arbovirus)	Positive result by any method excluding IgG	Immediately to LHJ	Specimen associated with positive result	Within 2 business days
Yersinia enterocolitica, Y. pseudotuberculosis, Y. intermedia, Y. fredericksenii, or *Y. kristensenii* (Yersiniosis)	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Yersinia pestis (Plague)	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
Zika virus, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH

1 "CD4 + counts" means CD4 + (T4) lymphocyte counts.

2 "CD4 + percents" means CD4 + (T4) percents of total lymphocytes.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-205 ((~~Responsibilities and~~)) Duties ((~~of the~~))—Laboratory director~~s~~. (1) A laboratory director((~~s~~)) shall:

(a) ((~~Notify the local health department where the patient resides, or, in the event that patient residence cannot be determined, the local health department in which the ordering health care provider practices, or the local health department in which the laboratory operates, regarding:~~

~~(i) Positive preliminary test results and positive final test results of notifiable conditions specified as notifiable to the local health department in Table Lab-1.~~

~~(ii) Positive preliminary test results and positive final test results of conditions specified as notifiable by the local health officer within that health officer's jurisdiction.~~)) Submit case reports:

(i) To the local health jurisdiction or the department as required in Table Lab-1 of WAC 246-101-201, and under the requirements of WAC 246-101-220, 246-101-225, and this section; and

(ii) To the local health jurisdiction as required by the local health officer within that health officer's jurisdiction.

(b) Notify the department of conditions designated as notifiable to the local health ((~~department~~)) jurisdiction when:

(i) A local health ((~~department~~)) jurisdiction is closed or representatives of the local health ((~~department~~)) jurisdiction are unavailable at the time a ((~~positive preliminary test result or positive~~)) presumptive or final test result of an immediately notifiable condition occurs; or

(ii) ((~~A local health department is closed or representatives of the local health department are unavailable at the time an outbreak or suspected outbreak of communicable disease occurs.~~

~~(c) Notify the department of positive preliminary test results or positive final test results for conditions designated notifiable to the department in Table Lab-1.~~

~~(d) Notify the department of nonelevated blood lead levels on a monthly basis.~~

~~(e) Submit specimens for conditions noted in Table Lab-1 to the Washington state public health laboratories or other laboratory designated by the state health officer for diagnosis, confirmation, storage, or further testing.~~

~~(f) Ensure that positive preliminary test results and positive final test results for notifiable conditions of specimens referred to other laboratories for testing are correctly notified to the correct local health department or the department. This requirement can be satisfied by:~~

~~(i) Arranging for the referral laboratory to notify either the local health department, the department, or both; or~~

~~(ii) Forwarding the notification of the test result from the referral laboratory to the local health department, the department, or both.~~

~~(g)~~)) The notifiable test result pertains to a patient who resides outside of and is visiting Washington state as indi-

cated by information provided by the requesting health care provider or health care facility.

(c) Submit specimens required in Table Lab-1 of WAC 246-101-201 under the requirements of WAC 246-101-210 and 246-101-215, and this section;

(d) Cooperate with public health authorities during investigation of:

(i) The circumstances of a case ((~~or suspected case~~)) of a notifiable condition ((~~or other communicable disease~~)); ((~~and~~)) or

(ii) An outbreak or suspected outbreak of disease.

(2) A laboratory director((~~s~~)) may designate responsibility for working and cooperating with public health authorities to certain employees as long as designated employees are:

(a) Readily available; and

(b) Able to provide requested information in a timely manner.

(3) ((~~By July 1, 2011, when referring~~)) A laboratory director may refer a specimen of a notifiable condition to a reference laboratory for testing.

(4) When a laboratory director refers a specimen ((~~to another~~)) of a notifiable condition to a reference laboratory for ((~~a test for a notifiable condition~~)) testing, the laboratory director((~~s~~)) shall:

(a) Provide the reference laboratory with Table Lab-1 of WAC 246-101-201, and WAC 246-101-220 and 246-101-225; and the following information for each ((~~test referral~~)) specimen:

(((~~(a) Patient name;~~

~~(b) Full address of patient, or patient zip code at a minimum, when available in laboratory database;~~

~~(c) Date of birth or age of patient, when available in laboratory database;~~

~~(d) Sex of patient, when available in laboratory database;~~

~~(e) Name of the principal health care provider;~~

~~(f) Telephone number of the principal health care provider;~~

~~(g) Address of the principal health care provider, when available;~~

~~(h) Type of test requested;~~

~~(i) Type of specimen; and~~

~~(j) Date of specimen collection.~~

~~(4) By January 1, 2013, laboratory databases must have the ability to receive, store, and retrieve all of the data elements specified in subsection (3)(a) through (j) of this section.~~))

(i) Patient's first and last name;

(ii) Patient's physical address including zip code;

(iii) Patient's date of birth;

(iv) Patient's sex;

(v) For hepatitis B virus case reports, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;

(vi) Patient's best contact telephone number;

(vii) Patient's medicaid status, for blood lead level tests for patients less than seventy-two months of age only;

(viii) Requesting health care provider's name;

(ix) Requesting health care provider's phone number;

(x) Address where patient received care;

(xi) Name of submitting laboratory;

(xii) Telephone number of submitting laboratory;

(xiii) Specimen type;

(xiv) Specimen collection date;

(xv) Date laboratory received specimen; and

(xvi) Test method requested.

(b) Ensure the case report is submitted appropriately either by:

(i) Arranging for the reference laboratory to submit the case report under Table Lab-1 of WAC 246-101-201, and WAC 246-101-220 and 246-101-225; or

(ii) Submitting the case report under Table Lab-1 of WAC 246-101-201, and WAC 246-101-220 and 246-101-225.

(4) A laboratory director may provide health information, demographic information, or infectious or noninfectious condition information in addition to the information required under this chapter when the provider or facility determines that the additional information will aid the appropriate public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.

(5) When a laboratory director submits information under subsection (4) of this section, they shall submit the information under the requirements of WAC 246-101-220.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-210 Means of specimen submission—Laboratory directors and laboratories. (1) ((~~When submitting specimens as indicated in Table Lab-1 of WAC 246-101-201, laboratories shall adhere to the following timelines and procedures:~~

~~(a) Specimens designated for submission within two business days must be in transit within two business days from the time the specimen is ready for packaging;~~

~~(b) Specimens designated for submission on request may be requested by the local health departments or the department. The laboratory shall ship a requested specimen within two business days of receiving the request, provided the specimen is still available at the time of the request. This is not intended to require laboratories to save specimens indefinitely in anticipation of a request.~~

~~(2) Local health jurisdictions may temporarily waive specimen submission for circumstances at their discretion by communication with individual laboratories.~~)) A laboratory director shall submit specimens under Table Lab-1 of WAC 246-101-201 and this chapter.

(2) For test results notifiable to local health jurisdictions, the local health officer may temporarily waive specimen submission requirements and notify laboratories, including the Washington state public health laboratories, of the basis for the waiver, which requirements are being waived and how long the waiver will be in effect.

(3) ((~~Laboratories~~)) A laboratory shall forward ((~~all~~)) required specimens ((~~submissions~~)) to:

Washington State Public Health Laboratories
Washington State Department of Health
1610 N.E. 150th Street
Shoreline, WA 98155

(4) The state health officer may designate additional laboratories as public health ((~~referral~~)) reference laboratories.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-215 Content of documentation accompanying specimen submission—Laboratory directors. ((~~For each condition listed in Table Lab-1 of WAC 246-101-201,~~)) A laboratory director((~~s~~)) shall provide the following information with each specimen ((~~submission:~~

~~(1) Type of specimen tested;~~

~~(2) Name of reporting laboratory;~~

~~(3) Telephone number of reporting laboratory;~~

~~(4) Date of specimen collection;~~

~~(5) Requesting health care provider's name;~~

~~(6) Requesting health care provider's phone number;~~

~~(7) Requesting health care provider's address, when available;~~

~~(8) Test result;~~

~~(9) Name of patient;~~

~~(10) Sex of patient, when available in laboratory database;~~

~~(11) Date of birth or age of patient, when available in laboratory database;~~

~~(12) Full address of patient, or patient zip code at a minimum, when available in laboratory database;~~

~~(13) Telephone number of patient, when available in laboratory database;~~

~~(14) Other information of epidemiological value, when available~~)) submitted under this chapter to the Washington state public health laboratories:

(1) Patient's first and last name;

(2) Patient's physical address including zip code;

(3) Patient's date of birth;

(4) Patient's sex;

(5) For hepatitis B virus, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;

(6) Patient's best contact telephone number;

(7) Requesting health care provider's name;

(8) Requesting health care provider's phone number;

(9) Address where patient received care;

(10) Name of submitting laboratory;

(11) Telephone number of submitting laboratory;

(12) Specimen type;

(13) Specimen collection date;

(14) Date laboratory received specimen;

(15) Test method used; and

(16) Test result.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-220 Means of notification ((~~for positive preliminary test results and positive final test results~~))—Laboratory directors. A laboratory director((~~s~~)) shall ((~~adhere to the following timelines and procedures:~~

~~(1) Conditions designated as immediately notifiable must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, immediately at the time of positive preliminary test result or positive final test result. This applies twenty-four hours a day, seven days a week. Each local health jurisdiction, as well as the department, maintains after-hours emergency telephone contacts for this purpose. A party sending notification by secure facsimile copy or secure electronic transmission during normal business hours must confirm immediate receipt by a live person.~~

~~(2) Conditions designated as notifiable within twenty-four hours must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, within twenty-four hours of positive preliminary test result or positive final test result, seven days a week. Reports during normal public health business hours may be sent by secure electronic transmission, telephone, or secure facsimile copy of a case report. A party sending a report outside of normal public health business hours must use the after-hours emergency phone contact for the appropriate jurisdiction.~~

~~(3) Conditions designated as notifiable within two business days must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, within two business days. Notification may be sent by secure electronic transmission, telephone, or secure facsimile copy of a case report; and~~

~~(4) Conditions designated as notifiable on a monthly basis must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, on a monthly basis. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report~~)):

(1) Submit case reports as required under this chapter by secure electronic data transmission.

(2) Call the local health jurisdiction in which the case occurred immediately and confirm receipt of a presumptive or final test result for a condition designated as:

(a) Immediately notifiable; or

(b) Notifiable within twenty-four hours when submitting the test result outside the local health jurisdiction's normal business hours.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-225 Content of ((~~notifications for positive preliminary test results and positive final test results~~)) case reports—Laboratory directors. (1) ((~~For each condition listed in Table Lab-1 of WAC 246-101-201,~~)) A laboratory director((~~s must~~)) shall provide the following information ((~~for~~)) in each ((~~positive culture or suggestive test result~~)) case report required under this chapter:

(((~~(a) Type of specimen tested;~~

~~(b) Name of reporting laboratory;~~

~~(c) Telephone number of reporting laboratory;~~

~~(d) Date of specimen collection;~~

~~(e) Date specimen received by reporting laboratory;~~

~~(f) Requesting health care provider's name;~~

~~(g) Requesting health care provider's phone number;~~

~~(h) Requesting health care provider's address, when available;~~

~~(i) Test result;~~

~~(j) Name of patient;~~

~~(k) Sex of patient, when available in laboratory database;~~

~~(l) Date of birth or age of patient, when available in laboratory database; and~~

~~(m) Full address of patient, or patient zip code at a minimum, when available in laboratory database.~~)) (a) Patient's first and last name;

(b) Patient's physical address including zip code;

(c) Patient's date of birth;

(d) Patient's sex;

(e) For hepatitis B virus, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;

(f) Patient's best contact telephone number;

(g) Patient's medicaid status, for blood lead tests for patients less than seventy-two months of age only;

(h) Requesting health care provider's name;

(i) Requesting health care provider's phone number;

(j) Address where patient received care;

(k) Name of submitting laboratory;

(l) Telephone number of submitting laboratory;

(m) Specimen type;

(n) Specimen collection date;

(o) Date laboratory received specimen;

(p) Test method used; and

(q) Test result.

(2) The local health ((~~officers and~~)) officer or the state health officer may ((~~require laboratory directors to report other~~)) request additional information of epidemiological or public health value when conducting a case investigation or otherwise for prevention and control of a specific notifiable condition.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-230 Handling ((~~of case reports and medical~~)) confidential information—Laboratory directors. (1) All records and specimens ((~~containing~~)) related to a case that contain or are accompanied by patient identifying information are confidential. ((~~The Washington state public health laboratories, other laboratories approved as public health referral laboratories, and any persons, institutions, or facilities submitting specimens or records containing patient-identifying information~~)) Patient identifying information includes information that can directly or indirectly identify a patient.

(2) A laboratory shall maintain the confidentiality of ((~~identifying information accompanying submitted laboratory specimens~~)) health information consistent with chapter 70.02 RCW and any other applicable confidentiality laws.

(((~~(2)~~))) (3) A laboratory director((~~s~~)) shall establish and implement policies and procedures to maintain confidentiality related to ((~~a patient's medical~~)) health information.

(((~~(3) Laboratory directors and personnel working in laboratories who know of a person with a notifiable condition, other than a sexually transmitted disease, shall release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease.~~

~~(4) Laboratory directors and personnel working in laboratories with knowledge of a person with sexually transmitted disease, and following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:~~

~~(a) May disclose identity of a person or release identifying information only as specified in RCW 70.24.105; and~~

~~(b) Shall under RCW 70.24.105(6), use only the following customary methods for exchange of medical information:~~

~~(i) Laboratory directors and personnel working in laboratories may exchange medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. This means that information shared impacts the care or treatment decisions concerning the patient; and the laboratory director or personnel working in the laboratory require the information for the patient's benefit.~~

~~(ii) Laboratory directors are authorized to permit access to a patient's medical information and medical record by laboratory staff or office staff to carry out duties required for care and treatment of a patient, the management of medical information, and the management of the patient's medical record.~~))

PART IV: NOTIFIABLE CONDITIONS—DUTIES OF OTHERS

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-405 ((~~Responsibilities of~~)) Duties—Veterinarians. (1) A veterinarian((~~s~~)) shall((~~:~~

~~(a) Notify the local health officer of the jurisdiction in which the human resides of any suspected human case or suspected human outbreak based on the human's exposure to a confirmed animal case of any disease listed in Table V-1 of this section:~~

~~Table V-1 (Conditions Notifiable by Veterinarians)~~

~~Notifiable Condition~~	~~Time Frame for Notification~~	~~Notifiable to Local Health Department~~
~~Anthrax~~	~~Immediately~~	~~√~~
~~Arboviral Disease~~	~~Within 24 hours~~	~~√~~
~~Brucellosis (*Brucella* species)~~	~~Within 24 hours~~	~~√~~
~~*Burkholderia mallei* (Glanders)~~	~~Immediately~~	~~√~~

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department
Disease of suspected bioterrorism origin (including but not limited to anthrax)	Immediately	√
E. coli - Refer to "Shiga toxin-producing *E. coli*"	Immediately	√
Emerging condition with outbreak potential	Immediately	√
Influenza virus, novel or unsubtypable strain	Immediately	√
Leptospirosis	Within 24 hours	√
Plague	Immediately	√
Psittacosis	Within 24 hours	√
Q Fever	Within 24 hours	√
Rabies (suspected human or animal)	Immediately	√
Shiga toxin-producing *E. coli* infections (enterohemorrhagic *E. coli* including, but not limited to, *E. coli* O157:H7)	Immediately	√
Tularemia	Immediately	√

(√) Indicates that the condition is notifiable to the local health department.

(b))) cooperate with public health authorities in ((the)) their:

(a) Investigation of human and animal cases, ((suspected cases,)) outbreaks, ((and)) suspected outbreaks, and clusters of zoonotic disease((.

(c) Cooperate with public health authorities in the implementation of infection control measures including isolation and quarantine.

(d) Comply with requirements in chapter 16-70 WAC for submitting positive specimens and isolates for specific diseases, and provide information requested by the department or local health jurisdiction.

(2) The department of health shall:

(a) Coordinate with the state veterinarian at the department of agriculture to develop, maintain, and implement a procedure for notifying the department of animal cases of the conditions listed in Table V-1 of this section.

(b) Notify the local health jurisdiction of reported animal cases of the conditions in Table V-1 of this section)); and

(b) Implementation of infection control measures.

(2) Cooperation with public health authorities includes, but is not limited to:

(a) Providing information requested by the department or local health jurisdiction; and

(b) Following infection control measures for:

(i) Humans under chapter 246-100 WAC;

(ii) Dogs, cats, ferrets, and hybrids under WAC 246-100-197; and

(iii) Other animals under chapter 16.36 RCW.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-410 ((Responsibilities of food service)) Duties—Food establishments. The person in charge of a food ((service)) establishment shall:

(1) For the purposes of this section "food establishment" has the same meaning as defined and referenced under WAC 246-215-01115.

(2) Notify the local health ((department)) jurisdiction of potential foodborne disease as required in WAC ((246-215-260)) 246-215-02215.

(((2))) (3) Cooperate with public health authorities in ((the)) their investigation and control of cases, ((suspected cases,)) outbreaks, and suspected outbreaks ((of foodborne or waterborne disease)). This includes, but is not limited to, the release of the name and other pertinent information about food handlers diagnosed with a notifiable condition or other communicable disease ((as it relates to a foodborne or waterborne disease investigation)).

(((3))) (4) Not release information about food handlers with a notifiable condition or other communicable disease to other employees or the general public.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-415 ((Responsibilities of child day)) Duties—Child care facilities. (1) For the purposes of this section "child care facility" means an agency that regularly provides early childhood education and early learning services for a group of children for less than twenty-four hours a day and is subject to licensing under chapter 74.15 or 43.216 RCW, or both.

(2) A child ((day)) care ((facilities)) facility shall:

(((1))) (a) Notify the local health ((department)) jurisdiction of cases, ((suspected cases,)) outbreaks, and suspected outbreaks of notifiable conditions in Table HC-1 of WAC 246-101-101 that may be associated with the child ((day)) care facility.

(((2))) (b) Consult with a health care provider or the local health ((department)) jurisdiction for information about the control and prevention of infectious ((or communicable disease)) conditions, as necessary.

(((3))) (c) Cooperate with public health authorities in ((the)) their investigation and control of cases, ((suspected cases,)) outbreaks, and suspected outbreaks ((of disease)) that may be associated with the child ((day)) care facility.

(((~~(4)~~))) (d) Establish and implement policies and procedures to maintain confidentiality related to ((~~medical~~)) health information in their possession.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-420 ((~~Responsibilities of~~)) Duties—Schools. A school((~~s~~)) shall:

(1) Notify the local health ((~~department~~)) jurisdiction of cases, ((~~suspected cases,~~)) outbreaks, and suspected outbreaks of ((~~disease~~)) notifiable conditions in Table HC-1 of WAC 246-101-101 that may be associated with the school.

(2) Cooperate with the local health ((~~department~~)) jurisdiction in monitoring influenza.

(3) Consult with a health care provider or the local health ((~~department~~)) jurisdiction for information about the control and prevention of infectious ((~~or communicable disease~~)) conditions, as necessary.

(4) Cooperate with public health authorities in ((~~the~~)) their investigation and control of cases, ((~~suspected cases,~~)) outbreaks, and suspected outbreaks ((~~of disease~~)) that may be associated with the school.

(5) Release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease consistent with applicable confidentially laws.

(6) ((~~Schools shall~~)) Establish and implement policies and procedures to maintain confidentiality related to ((~~medical~~)) health information in their possession.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-425 ((~~Responsibilities of~~)) Duties—The general public. (1) Members of the general public shall cooperate with:

(a) ((~~Cooperate with~~)) Public health authorities in ((~~the~~)) their investigation and control of cases, ((~~suspected cases,~~)) outbreaks, and suspected outbreaks ((~~of notifiable conditions or other communicable diseases~~)); and

(b) ((~~Cooperate with the~~)) Implementation of infection control measures((~~, including isolation and quarantine~~)).

(2) Members of the general public may notify the local health ((~~department~~)) jurisdiction of any case, ((~~suspected case,~~)) outbreak, or ((~~potential~~)) suspected outbreak ((~~of communicable disease~~)).

PART V: NOTIFIABLE CONDITIONS ((~~AND~~))—LOCAL HEALTH JURISDICTIONS ((~~AND THE DEPARTMENT~~))

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-505 Duties ((~~of the~~))—Local health officer or the local health ((~~department~~)) jurisdiction. (1) A local health officer((~~s~~)) or ((~~the~~)) local health ((~~department~~)) jurisdiction shall:

(a) Review and determine appropriate action for:

(i) Each ((~~reported~~)) case ((~~or suspected case~~)) of a notifiable condition submitted to the local health jurisdiction;

(ii) Any ((~~disease or~~)) condition considered a threat to public health; and

(iii) Each ((~~reported~~)) outbreak or suspected outbreak of disease ((~~, requesting~~)) submitted to the local health jurisdiction, and request assistance from the department in carrying out any of these investigations when necessary.

(b) Establish a system at the local health ((~~department~~)) jurisdiction for maintaining confidentiality of ((~~written~~)) records ((~~and written and telephoned notifiable conditions case reports~~)) under WAC 246-101-515;

(c) Notify health care providers, laboratories, and health care facilities within the ((~~jurisdiction of the~~)) local health ((~~department~~)) jurisdiction of requirements in this chapter;

(d) Notify the department of cases of ((~~any~~)) conditions notifiable to the local health ((~~department (except animal bites) upon completion of the case investigation~~)) jurisdiction under WAC 246-101-510 and 246-101-513;

(e) ((~~Distribute appropriate notification forms to persons responsible for reporting;~~

~~(f)~~)) Notify the principal health care provider named in the case report, if possible, prior to initiating a case investigation ((~~by the local health department~~));

(((~~(g) Carry out the HIV partner notification requirements of WAC 246-100-072;~~

~~(h)~~))) (f) Allow laboratories to contact the health care provider ordering the diagnostic test before initiating patient contact if requested and the delay is unlikely to jeopardize public health; and

(((~~(i)~~))) (g) Conduct investigations and institute infection control measures in accordance with chapter 246-100 WAC.

(2) The local health ((~~department~~)) jurisdiction may:

(a) Adopt alternate arrangements for meeting the ((~~reporting~~)) requirements under this chapter through cooperative agreement between the local health ((~~department~~)) jurisdiction and any health care provider, laboratory, or health care facility((~~;~~)). The alternative must provide the same level of public health protection as the reporting requirement for which an alternative is sought;

(b) Receive health information, demographic information, and infectious or noninfectious condition information in addition to that required under this chapter from health care providers, health care facilities, laboratories, the department of agriculture, and the department of labor and industries when the entity submitting the information determines that the additional information will aid the public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.

(3) When the local health jurisdiction receives information under subsection (2)(b) of this section, the local health jurisdiction shall handle the information under the requirements of WAC 246-101-515.

(4) Each local health officer has the authority under chapter 70.05 RCW to:

(a) Carry out additional steps ((~~determined to be~~)) necessary to verify a diagnosis reported by a health care provider;

(b) Require any person suspected of having a notifiable condition to submit to examinations ((~~required~~)) necessary to determine the presence or absence of the condition;

(c) Investigate any case ((~~or suspected case~~)) of a ((~~reportable disease or~~)) notifiable condition or other ((~~illness, communicable or otherwise~~)) infectious or noninfectious condition, if deemed necessary; and

(d) Require the notification of additional conditions of public health importance occurring within the jurisdiction of the local health officer.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-510 Means of notification—Local health officer or local health jurisdiction. (1) A local health ((~~departments~~)) jurisdiction shall:

(a) Maintain a twenty-four-hour telephone number to receive confirmation calls of case reports submitted under this chapter for:

(i) Immediately notifiable conditions; and

(ii) Conditions designated as notifiable within twenty-four hours.

(b) Notify the department immediately ((~~by telephone or secure electronic data transmission of any case or suspected case of:~~

~~(a) Botulism;~~

~~(b) Cholera;~~

~~(c) Diphtheria;~~

~~(d) Disease of suspected bioterrorism origin (including, but not limited to, anthrax);~~

~~(e) Emerging condition with outbreak potential;~~

~~(f) Influenza, novel strain;~~

~~(g) Measles;~~

~~(h) Paralytic shellfish poisoning;~~

~~(i) Plague;~~

~~(j) Poliomyelitis;~~

~~(k) Rabies, human;~~

~~(l) SARS;~~

~~(m) Smallpox;~~

~~(n) Tularemia;~~

~~(o) Viral hemorrhagic fever; and~~

~~(p) Yellow fever.~~

~~(2) Immediate notifications of cases and suspected cases shall include:~~

~~(a) Patient name;~~

~~(b) Patient's notifiable condition; and~~

~~(c) Condition onset date.~~

~~(3) For each case of any condition notifiable to the local health department, submit to the department case report either on a form provided by the department or in a format approved by the department. Case reports must be sent by secure electronic transmission or telephone within seven days of completing the case investigation. If the case investigation is not complete within twenty-one days of notification, pertinent information collected from the case investigation must be sent to the department and shall include:~~

~~(a) Patient name;~~

~~(b) Patient's notifiable condition or suspected condition;~~

~~(c) Source or suspected source; and~~

~~(d) Condition onset date.~~

~~(4) Local health officials will report asymptomatic HIV infection cases to the department according to a standard code developed by the department.~~

~~(5) When notified of an outbreak or suspected outbreak of illness due to an infectious agent or toxin, the local health department shall:~~

~~(a) Notify the department immediately by telephone or secure electronic data transmission.~~

~~(b) Include in the initial notification:~~

~~(i) Organism or suspected organism;~~

~~(ii) Source or suspected source; and~~

~~(iii) Number of persons affected.~~

~~(c) Within seven days of completing the outbreak investigation, submit~~)) using either telephone or secure electronic data transmission:

(i) Upon receiving a case report for a condition that is immediately notifiable to the local health jurisdiction under this chapter, excluding Meningococcal disease, invasive (Neisseria meningitides); Shiga toxin-producing *E. coli* (STEC)/enterohemorrhagic *E. coli*; and Vaccinia (vaccine-acquired smallpox); and

(ii) Of an outbreak or suspected outbreak within their jurisdiction;

(c) Notify the department using a secure electronic disease surveillance system within three business days of receiving a case report for a condition that is not immediately notifiable to the local health jurisdiction under this chapter;

(d) If after submitting a notification to the department, the local health officer determines no further investigation is necessary, indicate in the secure electronic disease surveillance system that no further investigation is warranted within three business days of the determination.

(e) Immediately reassign cases to the department upon determining the patient who is the subject of the case:

(i) Is a resident of another local health jurisdiction; or

(ii) Resides outside Washington state.

(f) Submit a case report to the department using a secure electronic disease surveillance system for each case report received by the local health jurisdiction for which the local health officer determined an investigation was necessary:

(i) Within seven days of completing the investigation for any condition notifiable to the local health jurisdiction; or

(ii) Within twenty-one days of receiving the case report if the investigation is not complete.

(g) Submit an outbreak report to the department ((~~a report on forms provided by the department or in a format approved by the department~~)) using secure electronic data transmission within seven days of completing an outbreak investigation. The department may waive this requirement if ((~~telephone or secure electronic data transmission~~)) notification under (b)(ii) of this subsection provided ((~~pertinent~~)) sufficient information.

(2) The local health officer shall confirm that each case is based on clinical criteria, or laboratory criteria, or both prior to submitting the case report to the department. This criteria includes, but is not limited to, the Centers for Disease Control and Prevention, National Notifiable Diseases Surveillance System, Council of State and Territorial Epidemiologists case definitions.

NEW SECTION

WAC 246-101-513 Content of notifications, case reports, and outbreak reports—Local health officer. A local health officer shall provide the following information for each notification, case report, and outbreak report submitted under WAC 246-101-510:

(1) Notifications must include:

(a) Patient's first and last name;

(b) Patient's notifiable condition;

(c) Date local health jurisdiction was notified;

(d) Condition symptom onset date (preferred), or alternatively, diagnosis date;

(e) Patient's date of birth; and

(f) Patient's sex.

(2) Case reports must include:

(a) Patient's first and last name;

(b) Patient's date of birth;

(c) Patient's race (if available);

(d) Patient's ethnicity (if available);

(e) For hepatitis B acute or chronic infection case reports, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;

(f) Investigation start date;

(g) Investigation completion date;

(h) Initial notification source;

(i) Hospitalization status of patient;

(j) Whether the patient died during this illness;

(k) Probable geographic region of exposure (i.e., county, state, or country other than the United States of America);

(l) Travel out of the country (as applicable);

(m) Whether the case is associated with an ongoing outbreak investigation; and

(n) The data used to verify the case meets clinical criteria, or laboratory criteria, or both. This includes, but is not limited to, the Centers for Disease Control and Prevention, National Notifiable Diseases Surveillance System, Council of State and Territorial Epidemiologists case definitions.

(3) Outbreak reports must include:

(a) Organism or suspected organism;

(b) Source or suspected source; and

(c) Number of persons infected and potentially exposed.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-515 Handling ((~~of case reports and medical~~)) confidential information—Local health officers and local health jurisdictions. (1) All records and specimens related to a case, that contain or are accompanied by patient identifying information are confidential. Patient identifying information includes information that can directly or indirectly identify a patient.

(2) Local health officers and local health jurisdiction employees shall maintain the confidentiality of health information consistent with chapter 70.02 RCW and RCW 42.56.360(2).

(3) Local health officers or local health ((~~departments~~)) jurisdictions shall establish and ((~~maintain~~)) implement confidentiality policies and procedures related to employee handling of ((~~all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:~~

~~(a) To employees of the local health department, another local health department, or other official agencies needing to know for the purpose of administering public health laws and these regulations;~~

~~(b) To health care providers, designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for disease prevention and control;~~

~~(2)~~)) health information under this chapter and chapters 70.02 and 70.24 RCW and RCW 42.56.360(2).

(4) Local health officers shall ((~~require and maintain signed confidentiality agreements with~~)):

(a) Require all local health ((~~department~~)) jurisdiction employees with access to ((~~identifying~~)) health information ((~~related to a case or suspected case of a person diagnosed with a notifiable condition. The agreements will be renewed~~)) to sign confidentiality agreements;

(b) Retain current signed confidentiality agreements;

(c) Reference in confidentiality agreements the penalties for violation of chapter 70.24 RCW and administrative actions that may be taken by the local health jurisdiction if the confidentiality agreement is violated; and

(d) Renew confidentiality agreements at least annually ((~~and will include reference to criminal and civil penalties for violation of chapters 70.02 and 70.24 RCW and other administrative actions that may be taken by the local health department.~~

~~(3) Local health departments may release statistical summaries and epidemiological studies based on individual case reports if no individual is identified or identifiable~~)).

AMENDATORY SECTION (Amending WSR 06-16-117, filed 8/1/06, effective 9/1/06)

WAC 246-101-520 Special conditions—AIDS and HIV—Local health officers and local health jurisdictions. (1) The local health officer and local health ((~~department~~)) jurisdiction personnel shall maintain individual case reports for AIDS and HIV as confidential records consistent with the requirements of this section.

(2) The local health officer and local health ((~~department~~)) jurisdiction personnel ((~~must~~)) shall:

(a) Use identifying information ((~~on~~)) of HIV-infected individuals only:

(i) ((~~For purposes of contacting~~)) To contact the HIV-positive individual to provide test results and post-test counseling or referring the individual to social and health services; or

(ii) To contact persons who have experienced substantial exposure, including sex and injection equipment-sharing partners, and spouses; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services and counseling and disease prevention, provided that the identity or identifying information of the HIV-infected person is not disclosed outside of the local health jurisdiction; or

(iv) As specified in WAC 246-100-072; or

(v) To provide case reports to the ((~~state health~~)) department; or

(vi) To conduct investigations under RCW 70.24.022 or 70.24.024.

(b) Destroy case report identifying information on asymptomatic HIV-infected individuals received as a result of this chapter within ((~~three months~~)) ninety days of receiving a complete case report, or maintain HIV case reports in secure systems ((~~that meet the following standards and are~~)) consistent with the ((~~2006~~)) 2011 *Data Security and Confidentiality Guidelines* ((~~developed~~)) *for HIV, Viral Hepatitis, Sexually Transmitted Disease, and Tuberculosis Programs: Standards to Facilitate Sharing and Use of Surveillance Data for Public Health Action* published by the Centers for Disease Control and Prevention.

(3) The local health officer shall:

(((~~i~~))) (a) Describe the secure systems ((~~must be described~~)) in written policies ((~~that are reviewed~~)) and review the policies annually ((~~by the local health officer~~));

(((~~ii~~))) (b) Limit access to case report information ((~~must be limited~~)) to local health ((~~department~~)) jurisdiction staff who need ((~~it~~)) the information to perform their job duties ((~~and~~));

(c) Maintain a current list of ((~~these~~)) local health jurisdiction staff ((~~must be maintained by the local health officer~~)) with access to case report information;

(((~~iii) All~~)) (d) Enclose physical locations containing electronic or paper copies of surveillance data ((~~must be enclosed~~)) in a locked, secured area with limited access and not accessible by window;

(((~~iv~~))) (e) Store paper copies or electronic media containing surveillance information ((~~must be housed~~)) inside locked file cabinets that are in the locked, secured area;

(((~~v~~))) (f) Destroy information by either shredding it with a crosscut shredder ((~~must be available for destroying information and~~)) or appropriately sanitizing electronic media ((~~must be appropriately sanitized~~)) prior to disposal;

(((~~vi~~))) (g) Store files or databases containing confidential information ((~~must reside~~)) on either stand-alone computers with restricted access or on networked drives with proper access controls, encryption software, and firewall protection;

(((~~vii~~))) (h) Protect electronic communication of confidential information ((~~must be protected~~)) by encryption standards ((~~that are reviewed annually by the local health officer~~)) and review the standards annually; and

(((~~viii~~))) (i) Make available locking briefcases ((~~must be available~~)) for transporting confidential information((~~;~~

~~(c)~~)).

(4) The local health officer and local health jurisdiction staff shall:

(a) If maintaining identifying information on asymptomatic HIV-infected individuals more than ninety days following receipt of a completed case report, cooperate with the department ((~~of health~~)) in biennial review of system security measures described in subsection (2)(b) of this ((~~subsection~~)) section.

(((~~d~~))) (b) Destroy documentation of referral information established in WAC 246-100-072 containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within ((~~three months~~)) ninety days, whichever occurs first, unless such documentation is being used in an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health ((~~pursuant to~~)) under RCW 70.24.022 or 70.24.024.

(((~~e~~))) (c) Not disclose identifying information received as a result of this chapter unless:

(i) Explicitly and specifically required to do so by state or federal law; or

(ii) Authorized by written patient consent.

(((~~(2) Local health department personnel are authorized to use HIV identifying information obtained as a result of this chapter only for the following purposes:~~

~~(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;~~

~~(b) Referral of the infected individual to social and health services;~~

~~(c) Linkage to other public health databases, provided that the identity or identifying information on the HIV-infected person is not disclosed outside of the health department; and~~

~~(d) Investigations pursuant to RCW 70.24.022 or 70.24.024.~~

~~(3) Public health databases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or databases maintained by law enforcement officials.~~

~~(4) Local health officials will report HIV infection cases to the state health department.~~

~~(5) Local health officers must require and maintain signed confidentiality agreements with all health department employees with access to HIV identifying information. These agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.24 RCW and other administrative actions that may be taken by the department.~~

~~(6)~~)) (5) Local health officers ((~~must~~)) shall investigate potential breaches of the confidentiality of HIV identifying information by health ((~~department~~)) jurisdiction employees. The local health officer shall report all breaches of confidentiality ((~~must be reported~~)) to the state health officer ((~~or their designee~~)) for review and appropriate action.

(((~~(7) Local health officers and local health department personnel must assist the state health department to reascertain the identities of previously reported cases of HIV infection.~~))

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-525 Special condition—Influenza—Local health jurisdictions. A local health ((~~departments~~)) jurisdiction shall:

(1) Maintain a surveillance system for influenza during the ((~~appropriate~~)) influenza season which may include:

(a) Monitoring of excess school absenteeism;

(b) ((~~Sample check with~~)) Requesting information from health care providers((~~, clinics, nursing homes, and hospitals~~)) and health care facilities regarding influenza-like illnesses; and

(c) Monitoring ((~~of~~)) workplace absenteeism and other mechanisms.

(2) ((~~Encourage~~)) Request submission of appropriate clinical specimens from a sample of patients with influenza-like illness to the Washington state public health laboratories or other laboratory approved by the state health officer.

PART VI: NOTIFIABLE CONDITIONS—DEPARTMENT OF HEALTH

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-605 Duties ((~~of the~~))—Department ((~~of health~~)). (1) The department shall:

(a) Upon request, provide consultation and technical assistance to local health ((~~departments and~~)) jurisdictions, the department of labor and industries, and the department of agriculture when they are investigating notifiable conditions ((~~reports upon request~~)).

(b) Upon request, provide consultation and technical assistance to health care providers, laboratories, health care facilities, and others required to ((~~make notifications to public health authorities of notifiable conditions upon request~~)) comply with this chapter.

(c) Develop, maintain, and make available for local health ((~~departments~~)) jurisdictions guidance on investigation and control measures for notifiable ((~~communicable disease~~)) conditions.

(d) ((~~Develop and~~)) Make case report forms available ((~~forms for the submission of notifiable conditions data~~)) to local health ((~~departments~~)) jurisdictions, health care providers, laboratories, health care facilities, and others required to ((~~make notifications to public health authorities of notifiable conditions~~)) comply with this chapter.

(e) Maintain a twenty-four hour telephone number ((~~for reporting notifiable conditions~~)) to receive:

(i) Confirmation calls for immediately notifiable condition case reports; and

(ii) Notification of immediately notifiable case reports or outbreaks and suspected outbreaks from local health jurisdictions.

(f) Develop routine data dissemination mechanisms that describe and analyze notifiable conditions case investigations and data((~~. These may include annual and monthly reports and other mechanisms for data dissemination as developed by the department~~)) in accordance with WAC 246-101-615.

(g) Conduct investigations and institute infection control measures as necessary.

(h) Document the known environmental, human, and other variables associated with a case ((~~or suspected case~~)) of pesticide poisoning.

(i) Report the results of the pesticide poisoning investigation to the principal health care provider named in the case report ((~~form~~)) and to the local health officer in whose jurisdiction the ((~~exposure has~~)) case occurred.

(2) The department may:

(a) Negotiate ((~~alternate arrangements~~)) alternatives for meeting ((~~reporting~~)) requirements under this chapter through cooperative agreement between the department and any health care provider, laboratory, ((~~or~~)) health care facility, or state agency. An alternative must provide the same level of public health protection as the reporting requirement for which an alternative is sought.

(b) ((~~Consolidate reporting for notifiable conditions from any~~)) Under an approved cooperative agreement, relieve a health care provider, laboratory, or health care facility((~~, and relieve that health care provider, laboratory, or health care facility from reporting directly to each~~)) of the duty to notify a local health ((~~department~~)) jurisdiction, if the department can ((~~provide the report~~)) consolidate and submit notifications to the local health ((~~department~~)) jurisdiction within the ((~~same time as the local health department would have otherwise received it~~)) time frame for notification required under Table HC-1 of WAC 246-101-101 and Table Lab-1 of WAC 246-101-201.

(c) Receive health information, demographic information, and infectious or noninfectious condition information in addition to that required under this chapter from health care providers, health care facilities, laboratories, and public health authorities.

(3) When the department receives information under subsection (2)(c) of this section, the department shall handle the information under the requirements of WAC 246-101-610.

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-610 Handling of ((~~case reports and medical~~)) confidential information and information exempt from public disclosure—State health officer and department. (1) All records and specimens related to a case that contain or are accompanied by patient identifying information are confidential. Patient identifying information includes information that can directly or indirectly identify a patient.

(2) The state health officer and department employees shall maintain the confidentiality of health information in accordance with chapter 70.02 RCW and RCW 42.56.360(2).

(3) The state health officer ((~~or designee~~)) shall establish and ((~~maintain~~)) implement confidentiality policies and procedures related to employee handling of ((~~all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:~~

~~(a) To employees of the local health department, other local health departments, or other official agencies needing to know for the purpose of administering public health laws and these regulations.~~

~~(b) To health care providers, specific designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for disease prevention and control.~~

~~(c) For research approved by an institutional review board as indicated under chapter 42.48 RCW. The institutional review board applies federal and state privacy laws to research requests for confidential information.~~

~~(2)~~)) health information under this chapter and in accordance with chapters 70.02 and 70.24 RCW and RCW 42.56.360(2).

(4) The state health officer or department shall:

(a) Require all department employees, contractors, and others with access to ((~~identifying~~)) health information ((~~related to a case or suspected case of a person diagnosed with a notifiable condition shall be required~~)) to sign ((~~a~~)) confidentiality agreements((~~. The~~));

(b) Retain current signed confidentiality agreements;

(c) Reference in confidentiality agreements the penalties for violation of chapter 70.24 RCW and administrative actions that may be taken by the department if the confidentiality agreement is violated; and

(d) Renew confidentiality agreements ((~~shall be renewed~~)) at least annually ((~~and shall include reference to criminal and civil penalties for violation of chapters 70.02 and 70.24 RCW and other administrative actions that may be taken by the department~~)).

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-615 ((~~Requirements for~~)) Data dissemination and notification—Department. The department shall:

(1) Distribute periodic epidemiological summary reports and an annual review of public health issues to local health officers ((~~and~~)), local health ((~~departments~~)) jurisdictions, and the department of labor and industries.

(2) ((~~Upon execution of a data sharing agreement,~~)) Make available ((~~any data or other~~)) case investigation documentation ((~~in its possession regarding~~)) for notifiable conditions reported directly to the department to local health officers or ((~~their designees within two days of a request~~)) the department of labor and industries within twenty-four hours of receipt by the department.

(3) Make other data necessary to conduct case investigations or epidemiological summaries available within two business days of a request from a public health authority.

(((~~3~~))) (4) Periodically distribute statistical summaries and epidemiological studies based on individual case reports if no ((~~individual~~)) patient is identified or identifiable.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-630 Special condition—Antibiotic resistant disease—Department. The department shall((~~:~~

~~(1)~~)) maintain a surveillance system for monitoring antibiotic resistant disease ((~~that may include~~)) including, but not limited to:

(((~~a~~))) (1) Development of a sentinel network of laboratories to provide information regarding antibiotic resistant disease; and

(((~~b~~))) (2) Sample checks with health care providers((~~, clinics, and hospitals~~)) and health care facilities regarding antibiotic resistant disease.

(((~~2) Encourage submission of appropriate clinical~~)) (3) Request the health care providers and laboratories submit specimens from a sample of patients with antibiotic resistant disease to the Washington state public health laboratories or other laboratory approved by the state health officer.

AMENDATORY SECTION (Amending WSR 06-16-117, filed 8/1/06, effective 9/1/06)

WAC 246-101-635 Special conditions—AIDS and HIV—Department. The following provisions apply ((~~for~~)) to the use of AIDS and HIV notifiable conditions case reports, related information, and data and is in addition to the requirements established under WAC 246-101-610:

(1) Department personnel ((~~must~~)) shall not disclose identifying information ((~~received as a result of receiving information regarding a notifiable conditions report of~~)) related to a case of AIDS or HIV unless:

(a) Explicitly and specifically required to do so by state or federal law; or

(b) Authorized by written patient consent.

(2) Department personnel ((~~are authorized to~~)) may use HIV identifying information ((~~received as a result of receiving information regarding a notifiable conditions report of~~)) related to a case of AIDS or HIV only for the following purposes:

(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;

(b) Referral of the infected individual to social and health services; and

(c) Linkage to other public health databases, provided that the identity or identifying information ((~~on~~)) of the HIV-infected person is not disclosed outside ((~~of~~)) the ((~~health~~)) department.

(3) ((~~For the purposes of this chapter, public health databases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or databases maintained by law enforcement officials.~~

~~(4)~~)) The state health officer ((~~must~~)) shall require and maintain signed confidentiality agreements with all department employees with access to HIV identifying information. The state health officer shall ensure these agreements ((~~will be~~)) are renewed at least annually and include reference to ((~~criminal and civil~~)) penalties for violation of chapter 70.24 RCW and ((~~other~~)) administrative actions that may be taken by the department.

(((~~5~~))) (4) The state health officer ((~~must~~)) shall investigate potential breaches of the confidentiality of HIV identifying information by department employees. All breaches of confidentiality shall be reported to the state health officer or their authorized representative for review and appropriate action.

(((~~6~~))) (5) The department ((~~must~~)) shall maintain all HIV case reports in a name-based surveillance system solely for the purpose of complying with HIV reporting guidelines from the ((~~federal~~)) Centers for Disease Control and Prevention, and ((~~must~~)) shall not disclose or otherwise use any information contained in that system for any other purpose, except as expressly permitted by this section.

(((~~7) Authorized representatives of the department must review available records to reascertain the identities of previously reported cases of asymptomatic HIV infection and retain those cases in a confidential name-based system.~~

~~(8)~~)) (6) The department ((~~must~~)) shall:

(a) Maintain HIV case reports in secure systems that meet the following standards and are consistent with the

((2006)) 2011 *Data Security and Confidentiality Guidelines* ((developed)) *for HIV, Viral Hepatitis, Sexually Transmitted Disease, and Tuberculosis Programs: Standards to Facilitate Sharing and Use of Surveillance Data for Public Health Action* published by the Centers for Disease Control and Prevention((:

(a))):

(b) Describe secure systems ((must be described)) in written policies ((that are reviewed)) and review the policies annually ((by the overall responsible party));

(((b))) (c) Limit access to case report information ((must be limited)) to ((health)) department staff who need it to perform their job duties ((and));

(d) Maintain a current list of ((these)) department staff ((must be maintained by the overall responsible party)) with access to case report information;

(((c))) (e) Enclose all physical locations containing electronic or paper copies of surveillance data ((must be enclosed)) in a locked, secured area with limited access and not accessible by window;

(((d))) (f) Store paper copies or electronic media containing surveillance information ((must be housed)) inside locked file cabinets that are in the locked, secured area;

(((e))) (g) Destroy information by either shredding it with a crosscut shredder ((must be available for destroying information and)) or appropriately sanitizing electronic media ((must be appropriately sanitized)) prior to disposal;

(((f))) (h) Store files or databases containing confidential information ((must reside)) on either stand-alone computers with restricted access or on networked drives with proper access controls, encryption software, and firewall protection;

(((g))) (i) Protect electronic communication of confidential information ((must be protected)) by encryption standards ((that are reviewed)) and review the standards annually ((by the overall responsible party));

(((h))) (j) Use locking briefcases ((must be available)) for transporting confidential information.

(((9))) (7) The state health officer ((or designee must)) shall conduct a biennial review of local health jurisdictions system security measures described in WAC 246-101-520 (((1)(b) at local health jurisdictions)) that are maintaining records by name.

(((10))) (8) When providing technical assistance to a local health ((department)) jurisdiction, authorized representatives of the department may temporarily, and subject to the time limitations in WAC 246-101-520, receive the names of reportable cases of HIV infection for the purpose of partner notification, or special studies. Upon completion of the activities by representatives of the ((state health)) department, named information will be provided to the local health ((department)) jurisdiction subject to the provisions of WAC 246-101-520.

((11) By December 2007, the state health officer, in cooperation with local health officers, will report to the board on:

(a) The ability of the HIV reporting system to meet surveillance performance standards established by the federal Centers for Disease Control and Prevention;

(b) The cost of the reporting system for state and local health departments;

(c) The reporting system's effect on disease control activities;

(d) The impact of HIV reporting on HIV testing among persons at increased risk of HIV infection; and

(e) The availability of anonymous HIV testing in the state.

(12))) (9) The state health officer ((must)) shall provide a report to the state board of health if federal policy no longer requires that HIV surveillance systems be name-based.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-640 Special condition—Birth defects. The department shall enter into a data sharing agreement with the office of the superintendent of public instruction (the superintendent) to access data from databases maintained by the superintendent containing student health information for the purpose of identifying cases of autism or other conditions of public health interest.

PART VII: NOTIFIABLE CONDITIONS—DEPARTMENT OF LABOR AND INDUSTRIES

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-705 Duties ((of the))—Department of labor and industries. (1) The department of labor and industries shall:

(a) Be responsible for the investigation of cases identified as notifiable to the department of labor and industries under this chapter;

(b) Provide consultation and technical assistance to local health ((departments)) jurisdictions and the department investigating ((notifiable conditions reports)) cases;

(((b))) (c) Upon request, provide consultation and technical assistance to health care providers, laboratories, health care facilities, and others required to ((make notifications to public health authorities of notifiable conditions upon request)) notify and cooperate with public health authorities under this chapter;

(((c))) (d) Provide technical assistance to businesses and labor organizations for understanding the use of notifiable conditions data collected and analyzed by the department of labor and industries; and

(((d))) (e) Develop routine data dissemination mechanisms that describe and analyze notifiable conditions case investigations and data. These may include annual and monthly reports and other mechanisms for data dissemination as developed by the department of labor and industries.

(2) The department of labor and industries may:

(a) Receive data through ((any)) cooperative ((relationship)) agreement negotiated by the department of labor and industries and ((any)) a health care provider, laboratory, or health care facility;

(b) Receive health information, demographic information, and infectious or noninfectious condition information in addition to that required under this chapter from health care providers and health care facilities.

(3) When the department of labor and industries receives information under this section, the department of labor and industries shall handle the information under the requirements of WAC 246-101-710.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-710 Handling of ((~~case reports and medical information~~)) confidential information—Department of labor and industries. (1) ((~~The department of labor and industries shall establish and maintain confidentiality procedures related to employee handling of all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:~~

~~(a) To employees of the local health department, the department, or other official agencies needing to know for the purpose of administering public health laws and these regulations; and~~

~~(b) To health care providers, specific designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for occupational condition prevention and control.~~

~~(2)~~)) All records and specimens related to a case that contain or are accompanied by patient identifying information are confidential. Patient identifying information includes information that can directly or indirectly identify a patient.

(2) The director of the department of labor and industries and department of labor and industries employees shall maintain the confidentiality of health information consistent with chapter 70.02 RCW and RCW 42.56.360(2).

(3) The director of the department of labor and industries shall ((~~require and maintain signed confidentiality agreements with~~)):

(a) Require all employees, contractors, and others with access to ((~~identifying~~)) health information ((~~related to a case or suspected case of a person diagnosed with a notifiable condition. Such agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.02 RCW, other chapters of pertinent state law, and other administrative actions that may be taken by the department of labor and industries.~~

~~(3) The department of labor and industries may release statistical summaries and epidemiological studies based on individual case reports if no individual is identified or identifiable~~)), to sign confidentiality agreements;

(b) Retain signed confidentiality agreements;

(c) Reference in confidentiality agreements the administrative actions that may be taken by the department of labor and industries if the confidentiality agreement is violated; and

(d) Renew confidentiality agreements at least annually.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-715 ((~~Requirements for~~)) Data dissemination and notification—Department of labor and industries. The department of labor and industries shall:

(1) Distribute periodic epidemiological summary reports and an annual review of public health issues to local health officers ((~~and~~)), local health ((~~departments~~)) jurisdictions, and the department.

(2) Make available case investigation documentation for notifiable conditions reported directly to the department of labor and industries, data necessary to conduct case investigations, or epidemiological summaries to local health officers or ((~~their designees upon execution of a data sharing agreement~~)) the department within two business days of a request.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-730 Special condition—Hospitalized burns. The department of labor and industries shall maintain a surveillance system for monitoring hospitalized burn((~~s~~)) patients that may include:

(1) Development of a sentinel network of burn treatment centers and hospitals to provide information regarding hospitalized burn((~~s~~)) patients; and

(2) Sample checks with health care providers((~~, clinics,~~)) and ((~~hospitals~~)) health care facilities regarding hospitalized burn((~~s~~)) patients.

PART VIII: NOTIFIABLE CONDITIONS—DEPARTMENT OF AGRICULTURE

NEW SECTION

WAC 246-101-805 Duties—Department of agriculture. (1) For the purposes of this section, "new, emerging, or unusual animal diseases or disease clusters with potential public health significance" means zoonotic or potentially zoonotic diseases in animals that have never or rarely been observed in Washington state (new or emerging); or appear in a new species or show evidence of higher pathogenicity than expected (unusual); or appear in a higher than expected number of animals clustered in time or space (cluster).

(2) The department of agriculture shall:

(a) Submit an individual case report for each animal case of a condition identified in Table Agriculture-1 to the department immediately upon being notified of the animal case using secure electronic data transmission under this table and this chapter.

(b) Call the department and confirm receipt immediately after submitting a case report for the following conditions:

(i) Anthrax (*Bacillus anthracis* or *Bacillus cereus* biovar *anthracis*);

(ii) Influenza virus in swine, influenza H5 and H7 (avian);

(iii) Livestock exposed to toxic substances which may threaten public health;

(iv) Plague (*Yersinia pestis*);

(v) Rabies (suspected human or animal);

(vi) Transmissible Spongiform Encephalopathy; and

(vii) Tularemia (*Francisella tularensis*).

Table Agriculture-1 (Conditions Notifiable by the Department of Agriculture)

Notifiable Condition (Agent)
Anthrax (*Bacillus anthracis*or *B. cereus* biovar *anthracis*)
Arboviral Diseases California serogroup Chikungunya Dengue Eastern equine encephalitis Japanese encephalitis La Crosse encephalitis Powassan St. Louis encephalitis Western equine encephalitis West Nile virus Zika
Brucellosis (*Brucella* species)
Coccidioidomycosis (*Coccidioides* species)
Cryptococcus gattii or undifferentiated *Cryptococcus* species (i.e., *Cryptococcus* not identified as C. *neoformans*)
Cysticercosis (*Taenia solium*)
Echinococcosis (*Echinococcus* species)
Ehrlichiosis (*Ehrlichia* species)
Glanders (*Burkholderia mallei*)
Influenza virus in swine, influenza H5 and H7 (avian)
Leptospirosis (*Leptospira* species)
Livestock exposed to toxic substances which may threaten public health
Psittacosis (*Chlamydia psittaci*)
Plague (*Yersinia pestis*)
Q Fever (*Coxiella burnettii*)
Rabies (suspected human or animal)
Shiga toxin-producing *E. coli* infections/enterohemorrhagic *E. coli* infections
Transmissible Spongiform Encephalopathy
Trichinosis (*Trichinella spiralis*)
Tuberculosis
Tularemia (*Francisella tularensis*)
Vancomycin-resistant (*Staphylococcus aureus*)
Zoonotic Viral Hemorrhagic Fever
New, emerging, or unusual animal diseases or disease clusters with potential public health significance.

(3) The department of agriculture may provide additional health information, demographic information, or infectious or noninfectious condition information than is required under this chapter to the department, local health jurisdiction, or both when it determines that the additional information will aid the public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.

(4) When the department of agriculture submits information under subsection (3) of this section, they shall submit the information using secure electronic data transmission.

(5) The department shall:

(a) Consult with the department of agriculture on all animal cases; and

(b) Notify the local health jurisdiction of animal cases submitted to the department.

NEW SECTION

WAC 246-101-810 Content of case reports—Department of agriculture. (1) The state department of agriculture shall provide the following information for each animal case required under WAC 246-101-805:

(a) Animal species;

(b) Animal county of current residence;

(c) Diagnosis or suspected diagnosis of the condition;

(d) Contact name;

(e) Contact address;

(f) Contact telephone number;

(g) Pertinent laboratory data, if available; and

(h) Other information of public health significance collected under chapter 16-70 WAC.

(2) The local health officer or state health officer may request additional information of epidemiological or public health value when conducting a case investigation or for control of a notifiable condition.

(3) The state health officer and local health officer shall handle all information received under this chapter including, but not limited to, information collected under this subsection and WAC 246-101-805 and information collected during case investigations or for investigation or control of a notifiable condition, consistent with WAC 246-101-515, 246-101-610, and RCW 42.56.380.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-101-001	Provisions of general applicability.
WAC 246-101-301	Notifiable conditions and health care facilities.
WAC 246-101-305	Duties of the health care facility.
WAC 246-101-310	Means of notification.
WAC 246-101-315	Content of notifications.
WAC 246-101-320	Handling of case reports and medical information.
WAC 246-101-401	Notifiable conditions and the responsibilities and duties of others.
WAC 246-101-501	Notifiable conditions and local health departments.
WAC 246-101-601	Notifiable conditions and the department of health.
WAC 246-101-620	Requirements for notification to the department of labor and industries.
WAC 246-101-625	Content of notifications to the department of labor and industries.
WAC 246-101-701	Notifiable conditions and the department of labor and industries.
WAC 246-101-720	Requirements for notification to local health departments.
WAC 246-101-725	Requirements for notification to the department of health.

WSR 20-07-109

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed March 18, 2020, 8:40 a.m.]

Continuance of WSR 20-06-030.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-915A-010, physical therapists and physical therapist assistants, the board of physical therapy (board) is proposing to update the effective date in WAC 246-915A-010 for the physical therapy compact per RCW 18.74.500, Article IX(2). This rule adopts the effective date of the compact rules to October 27, 2019.

Hearing Location(s): On April 20, 2020, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board of physical therapy will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

Please join my meeting from your computer, tablet or smartphone https://global.gotomeeting.com/join/959760653.

You can also dial-in using your phone. Call in: +1 (872) 240-3212. Access Code: 959-760-653.

New to GoToMeeting? Get the app now and be ready when your first meeting starts: https://global.goto meeting.com/install/959760653.

Date of Intended Adoption: April 20, 2020.

Submit Written Comments to: Kris Waidely, Program Manager, Board of Physical Therapy, P.O. Box 47852, Olympia, WA 98504-7852, email https://fortress.wa.gov/doh/policyreview, by April 13, 2020.

Assistance for Persons with Disabilities: Kris Waidely, Program Manager, phone 360-236-4847, TTY 711, email Kris.waidely@doh.wa.gov, by April 13, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to travel restrictions and in our effort to protect the public's health while continuing our commitment to engage the public, the board will hold a virtual public hearing on April 20, 2020. Board members will listen remotely. We encourage and accept public comments from interested individuals using the GoToMeetings application, as well as submission of written comments online at https://fortress.wa.gov/doh/policyreview or via USPS to P.O. Box 47852, Olympia, WA 98504-7852.

Statutory Authority for Adoption: RCW 18.74.500, Article IX(2), and 18.74.023.

Statute Being Implemented: RCW 18.74.500, Article IX (2).

March 17, 2020
Renee Fullerton
Executive Director

AMENDATORY SECTION (Amending WSR 19-12-056, filed 5/31/19, effective 7/1/19)

WAC 246-915A-010 Physical therapy licensure compact—Compact commission rules. (1) The physical therapy licensure compact (compact) is established in Washington under RCW 18.74.500. Its purpose is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services.

(2) The rules of the physical therapy compact commission, in effect as of October ((~~28, 2018~~)) 27, 2019, are adopted and incorporated by reference.

(3) A copy of the rules is available for public inspection from the department of health at https://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/PhysicalTherapyLicensureCompact/RulesinProgress or by calling the department of health's office of customer service at 360-236-4700.

(4) A licensee may exercise a compact privilege as provided in RCW 18.74.500, Article IV. Applicable fees are set forth in WAC 246-915A-990.

WSR 20-07-110
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Psychology)
[Filed March 18, 2020, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-18-019.

Title of Rule and Other Identifying Information: Chapter 246-924 WAC, the examining board of psychology (board) is proposing amending and adding a new section to the chapter to implement the requirements of SB 5054 regarding probationary licensure and a reciprocity program between Washington and other United States states or territories. The board is proposing further amendments to the chapter to implement the requirements of ESSB [ESHB] 1768 regarding the reduction of supervised experience requirements for certain applicants and referencing administrative procedures for licensed psychologists to obtain a cooccurring disorder specialist enhancement. The board is also proposing changes to clarify terms and conditions in WAC 246-924-010, 246-924-049, 246-924-059, 246-924-095, 246-924-480, and 246-924-495 regarding telemedicine, and licensure requirements for practicum, postdoctoral supervised experience, exams, and temporary permits.

Hearing Location(s): On April 21, 2020, at 12:00 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board of psychology will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting online, and register https://attendee.gotowebinar.com/register/5010885011238184205.

After registering, you will receive a confirmation email containing information about joining the webinar.

You can also dial-in using your phone: Call in: United States +1 914-614-3221. Access Code: 245-502-569.

Date of Intended Adoption: April 21, 2020.

Submit Written Comments to: Stacey Saunders, P.O. Box 47850, Olympia, WA 98504-7850, email https://fortress.wa.gov/doh/policyreview, by April 21, 2020.

Assistance for Persons with Disabilities: Nancy Delgado, phone 360-236-4951, TTY 711, email nancy.delgado@doh.wa.gov, by April 14, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule is to implement the statutory changes established in ESHB 1768 and SB 5054 as passed by the 2019 Washington state legislature. Changes specific to the legislation would address the creation of a reciprocity program and probationary license for out-of-state licensed psychologists to practice in Washington, establishing a process to transition from a probationary license into a permanent or full license, and reduction of supervised experience hours for certain psychology applicants with prior work experience as a licensed substance use disorder professional. For clarity and precision, the board is also looking to clarify additional rule sections regarding licensure requirements such a practicum, postdoctoral supervised experience and exams with the intent of further reducing barriers to licensure.

Reasons Supporting Proposal: Rule making would establish the administrative requirements necessary to implement recently passed statutes. The intent of the underlying statute and the proposed rules to implement them is the reduction of barriers to licensure of psychologists in Washington state. The proposed rule provides needed clarification of administrative procedures and provides enforceable standards for newly created license types (probationary licenses) to facilitate our newly created licensure reciprocity program, and license enhancement (cooccurring disorder specialists enhancement). Further barrier reductions include reduction in supervised experience requirements for certain behavioral health licensure applicants who also have a substance use disorder credential.

Statutory Authority for Adoption: SB 5054 (chapter 351, Laws of 2019), ESSB [ESHB] 1768 (chapter 444, Laws of 2019); RCW 18.83.050

Statute Being Implemented: SB 5054 (chapter 351, Laws of 2019), ESSB [ESHB] 1768 (chapter 444, Laws of 2019).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Examining board of psychology, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Wise, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4987; Implementation and Enforcement: James Chaney, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2831.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by

contacting Jeff Wise, P.O. Box 47850, Olympia, WA 98504-7850, phone 360-236-4987, TTY 711, email jeff.wise@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule proposal does not impact small businesses; these rules pertain only to providers.

March 17, 2020
Rachaud Smith, Psy.D., Chair
Examining Board of Psychology

AMENDATORY SECTION (Amending WSR 91-04-020, filed 1/28/91, effective 2/28/91)

WAC 246-924-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly states otherwise.

(1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(2) "APA" means American Psychological Association.

(3) "APPIC" means Association of Psychology Postdoctoral and Internship Centers.

(4) "CPA" means Canadian Psychological Association.

(5) "Face to face" means in-person contact in the same physical space not assisted by technology.

(6) "Office on AIDS" means that section within the department of social and health services or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(7) "Out-of-state" means any state or territory of the United States.

(8) "Probationary license" means a temporary license issued to out-of-state applicants qualifying for licensure reciprocity in Washington state under the restrictions and conditions of RCW 18.225.140 and this chapter.

(9) "Reciprocity" means licensure of out-of-state licensed psychologists based on substantial equivalence between Washington state scope of practice and the scope of practice of the other state or territory, subject to a probationary licensure period to complete outstanding Washington state licensure requirements as determined necessary to gain full licensure.

AMENDATORY SECTION (Amending WSR 07-24-093, filed 12/5/07, effective 9/1/09)

WAC 246-924-043 Education and experience requirements for licensure. (1) To obtain a license, applicants must complete:

(a) A doctoral degree program as described in WAC 246-924-046.

(b) A practicum of at least 300 hours as described in WAC 246-924-049; and

(c) An experience requirement consisting of no fewer than two years supervised experience totaling 3000 hours that includes:

(i) A minimum of 1500 hours of supervised experience that must be completed as an internship experience as outlined in WAC 246-924-056.

(ii) The remaining 1500 supervised hours may be obtained through:

(A) A preinternship as described in WAC 246-924-053;

(B) Accumulation of supervised experience hours in excess of the 1500 hours required in (c)(i) of this subsection that meet the requirements in WAC 246-924-056;

(C) A postdoctoral experience as described in WAC 246-924-059; ((~~or~~

~~(C)~~)) (D) A combination of preinternship and postdoctoral experience.

(iii) For applicants who demonstrate proof of being credentialed as a substance use disorder professional for three years in the previous ten years, the total hours required in (c)(ii) of this subsection are reduced from 1500 to 1020 hours.

(2) The order of supervised experience must be graduated from more intensive to less intensive supervision.

AMENDATORY SECTION (Amending WSR 07-24-093, filed 12/5/07, effective 9/1/09)

WAC 246-924-049 Practicum. (1) Applied experience: The doctoral degree program required in WAC 246-924-046 must include a practicum of at least ((~~two semesters or three quarters~~)) nine months and ((~~at least~~)) 300 hours of direct experience, 100 hours of which must ((~~be in~~)) meet the requirements in subsection (2) of this section for supervision. No more than 300 practicum hours may count towards licensure requirements. Additional hours accrued following completion of the nine month practicum may count towards licensure requirements if the hours meet all preinternship requirements in WAC 246-924-053.

(2) Supervision must include the following:

((~~(1)~~)) (a) Discussion of services provided by the student;

((~~(2)~~)) (b) Selection of ((~~service~~)) treatment plan for and review of each case or work unit of the student;

(3) Discussion of and instruction in theoretical concepts underlying the work;

(4) Discussion of the management of professional practice and other administrative or business issues;

(5) Evaluation of the supervisory process by the student and the supervisor;

(6) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(7) Discussion of relevant state laws and rules;

(8) Discussion of ethical principles including principles applicable to the work;

(9) Review of standards for providers of psychological services; and

(10) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

AMENDATORY SECTION (Amending WSR 07-24-093, filed 12/5/07, effective 9/1/09)

WAC 246-924-059 ((~~Post-doctoral~~)) Postdoctoral supervised experience. If 3000 hours of supervised experi-

ence has not been completed at the end of the doctoral degree program, then up to 1500 hours of supervised ((~~post-doctoral~~)) postdoctoral experience can be used to satisfy the total requirement. ((~~Post-doctoral~~)) Postdoctoral supervised experience must be completed only if an applicant does not already have 3000 hours of supervised experience.

(1) Organization of the ((~~post-doctoral~~)) postdoctoral supervised experience.

(a) The supervisor is ethically and legally responsible for all supervisee work covered by the supervision agreement. Therefore, the supervisor has authority to alter service plans and direct the course of psychological work.

(b) Supervisees must use titles indicating their training status, such as "psychological resident," "psychological intern," or "psychological supervisee."

(c) Clients must be informed of the identity and responsibilities of the supervisor and how they can speak directly to the supervisor.

(d) Services rendered by the supervisee must not be represented to third parties as having been rendered by the supervisor. Insurance forms must be filled out indicating the nature of the supervisory relationship.

(2) The supervisor and supervisee must have a written agreement for supervision, including:

(a) The area(s) of professional activity in which supervision will occur;

(b) Hours of supervision and/or ratio of supervision to professional activity;

(c) Fees for supervision, if any;

(d) Processes for supervision including mode(s) of supervision, expectations for recordkeeping, evaluation, and feedback;

(e) Relevant business arrangements;

(f) How the supervisee will represent himself or herself; and

(g) How disagreements will be handled.

(3) Mode of supervision.

(a) The preferred mode of supervision is face-to-face discussion between the supervisor and the supervisee.

(b) The nature of the supervision may depend on the following:

(i) The theoretical orientation of the supervisor;

(ii) The training and experience of the supervisee; and

(iii) The duration of the supervisory relationship.

(4) Some direct observation of the supervisee's work is required and the supervisor may use the following:

(a) Detailed process notes and progress reports;

(b) Audio and/or videotapes;

(c) Client supplied information such as behavioral ratings; and

(d) One-way mirror observation.

(5) Supervised experience must be appropriate to the area(s) of professional activity the person intends to practice.

(6) There must be at least one hour of individual supervision for every twenty hours of psychological work.

(7) The supervisor and the supervisee must keep records of experience and supervision hours.

(8) At the end of the supervision period, the supervisor must prepare and forward to the board a written evaluation, including the number of successfully completed supervised hours of psychological work and any hours not successfully completed.

If any hours were not successfully completed, the board may require additional hours of supervision.

(9) Supervision of the ((~~post-doctoral~~)) postdoctoral supervised experience.

(a) At least fifty percent of the ((~~post-doctoral~~)) postdoctoral supervision must be provided by a licensed psychologist.

(b) Up to fifty percent of the supervision may be provided by the following:

(i) A licensed psychologist with two years post-license experience;

(ii) A psychiatrist with three years of experience beyond residency;

(iii) A licensed mental health counselor, a licensed marriage and family therapist, a licensed advanced social worker, or a licensed independent clinical social worker, if the supervisor has five years post-license experience;

(iv) A doctoral level psychologist with three years ((~~post-doctoral~~)) postdoctoral experience who is exempt from licensure under RCW 18.83.200 (1), (2), (3) or (4), if the supervision occurs in the exempt setting.

(10) Supervision must include the following:

(a) Discussion of services provided by the student;

(b) Selection, service plan, and review of each case or work unit of the student;

(c) Discussion of and instruction in theoretical concepts underlying the work;

(d) Discussion of the management of professional practice and other administrative or business issues;

(e) Evaluation of the supervisory process by the student and the supervisor;

(f) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(g) Discussion of relevant Washington laws and rules;

(h) Discussion of ethical principles including principles applicable to the work;

(i) Review of standards for providers of psychological services; and

(j) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

(11) An applicant may not sign off as supervising their own postdoctoral hours.

NEW SECTION

WAC 246-924-085 Co-occurring disorder enhancement specialist eligibility. A psychologist licensed under chapter 18.83 RCW and this chapter is eligible to apply for a co-occurring disorder specialist enhancement to their existing license according to the conditions of RCW 18.205.105 and chapter 246-804 WAC.

AMENDATORY SECTION (Amending WSR 08-09-100, filed 4/21/08, effective 5/22/08)

WAC 246-924-095 Failure of written examinations. An applicant who fails ((~~either~~)) the examination for professional practice in psychology required under WAC 246-924-070 may sit for reexamination as follows:

(1) First reexamination: At any following examination administration date;

(2) Second or subsequent reexamination: A minimum of two months after the failure of the previous examination.

AMENDATORY SECTION (Amending WSR 16-16-026, filed 7/22/16, effective 8/22/16)

WAC 246-924-480 Temporary permits. (1) Temporary permits are:

(a) Issued under RCW 18.83.082; and

(b) Valid for no more than ninety days within one calendar year from the date they are issued.

(2) If the board finds that another state's licensing requirements are deemed not equivalent because a stated requirement is omitted or deficient, the applicant is not eligible for the temporary permit unless the applicant demonstrates proof of graduation from an APA- or CPA-accredited doctoral program and successful completion of an APA-, APPIC-, or CPA-approved internship.

(3) There is no charge for a temporary permit.

(4) Candidates applying for a temporary permit must:

(a) Verify that he or she is credentialed to practice psychology in another state that has been deemed substantially equivalent by the board, or is a member of an organization listed in WAC 246-924-100(3); and

(b) Submit a completed application on a form provided by the board.

NEW SECTION

WAC 246-924-493 Probationary license. (1) The department shall issue a probationary license to out-of-state applicants seeking licensure in Washington state as a psychologist according to the conditions and restrictions of the reciprocity program established in RCW 18.83.170 and this chapter.

(2) The out-of-state license must be from a state or territory identified on a list published by the department as eligible for reciprocity for the purposes of a probationary license for the practice of psychology.

(3) An initial probationary license is valid for one year. To receive an initial probationary license, an applicant must submit to the department a completed application to include:

(a) Verification of their out-of-state license;

(b) Proof of passing the jurisprudence exam according to WAC 246-924-070; and

(c) The fee according to WAC 246-924-990.

(4) A probationary license may be renewed a single time and is valid for one year after the date of renewal. To renew a probationary license, an applicant must submit to the department a completed application to include:

(a) Completion of four hours of education in ethics according to WAC 246-924-240;

(b) Training in suicide assessment, treatment, and management according to WAC 246-924-990;

(c) AIDS education according to WAC 246-924-110; and

(d) The fee according to WAC 246-924-990.

(5) Continuing education. With the exception of the requirements in subsection (4) of this section, continuing education requirements will apply once a probationary licensee transitions to a full license.

(6) Supervised experience. If it is determined additional supervised experience is required for full licensure, the supervised experience hours must meet the requirements for postdoctoral supervised experience in WAC 246-924-059.

AMENDATORY SECTION (Amending WSR 08-09-100, filed 4/21/08, effective 5/22/08)

WAC 246-924-495 Qualifications for granting a license. Candidates applying for initial licensure under RCW 18.83.170 must meet the following requirements:

(1) Submit a completed application form provided by the department.

(2) Pay the application and examination fees described in WAC 246-924-990.

(3) Provide evidence of completing a doctoral degree program described in WAC 246-924-046.

(4) Provide evidence of completing the practicum requirement set forth in WAC 246-924-049.

(5) Provide evidence of completing the internship experience requirement as defined in WAC 246-924-056.

(6) Provide evidence of completion of supervised experience requirement as defined in WAC ((~~246-924-053 and 246-924-059~~)) 246-924-043 (1)(c)(ii) and, if applicable, WAC 246-924-043 (1)(c)(iii).

(7) Pass the national Examination of Professional Practice of Psychology (EPPP) described in WAC 246-924-070.

(8) Pass the jurisprudence examination in WAC 246-924-070.

WSR 20-07-118

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 18, 2020, 10:38 a.m.]

The department of labor and industries (L&I) is withdrawing the CR-102 Proposed rule making regarding eRules Phase 10 (chapter 296-307 WAC, Safety standards for agriculture, Parts B through H, J through N, P through Y-10), filed on February 18, 2020, and published under WSR 20-05-074.

L&I will file a new CR-102 Proposed rule making once a new public hearing date can be determined. The public hearing set for March 24, 2020, is being postponed to adhere to the recommendations for social distancing and out of an abundance of caution due to the evolving public health emergency caused by the coronavirus (COVID-19) outbreak.

If you have any questions, please contact Tracy West, rules coordinator, at 360-902-6954.

Tracy West
Rules Coordinator

WSR 20-07-119
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed March 18, 2020, 10:53 a.m.]

Continuance of WSR 20-06-075.

Preproposal statement of inquiry was filed as WSR 20-01-127.

Title of Rule and Other Identifying Information: Amending WAC 308-409-020 Application process to license as an appraisal management company, 308-409-030 Licensure and renewal, 308-409-050 Fees and charges, and adding new WAC 308-409-075 Standards of practice.

Hearing Location(s): On April 7, 2020, at 1:30 p.m., at the Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Building 2, Conference Room 2108, Olympia, WA 98502. See the "Purpose of the proposal" section below.

Date of Intended Adoption: April 8, 2020.

Submit Written Comments to: Dee Sharp, Department of Licensing, Appraisal Management Company Program, P.O. Box 9021, Olympia, WA 98507, email dolbpdamc@dol.wa.gov, fax 360-586-0998, by April 6, 2020.

Assistance for Persons with Disabilities: Contact Dee Sharp, phone 360-664-6504, fax 360-570-4981, TTY 711, email dolbpdamc@dol.wa.gov, by April 6, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to the COVID-19 outbreak in our state, the department of licensing, appraisal management company program has changed the following appraisal management company public rules hearing:

From: April 7, 2020, at 1:30 p.m., at the Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Building 2, Conference Room 2108, Olympia, WA 98502.

To: April 7, 2020, at 1:30 p.m., as a telephonic public rules hearing, Call in Number: 360-407-3780, PIN Code: 948829 #.

March 20 [18], 2020
Damon Monroe
Rules Coordinator

WSR 20-07-121
PROPOSED RULES
DEPARTMENT OF HEALTH
(Podiatric Medical Board)
[Filed March 18, 2020, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-18-018.

Title of Rule and Other Identifying Information: WAC 246-922-700 Acute perioperative pain, 246-922-780 Coprescribing of opioids for patients receiving medication assistant treatment, and 246-922-790 Prescription monitoring program—Required registration, queries, and documentation. The podiatric medical board (board) is proposing amendments to the requirements for checking the prescription monitoring program (PMP) when prescribing opioids, as well as correcting other typographical errors.

Hearing Location(s): On April 30, 2020, at 1:00 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the podiatric medical board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting online https://global.gotomeeting.com/join/458100637.

You can also dial-in using your phone: Call in: +1 (646) 749-3122, Access Code: 458-100-637.

Date of Intended Adoption: April 30, 2020.

Submit Written Comments to: Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, email https://fortress.wa.gov/doh/policyreview, by April 24, 2020.

Assistance for Persons with Disabilities: Contact Susan Gragg, phone 360-236-4941, TTY 711, email podiatric@doh.wa.gov, by April 24, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The podiatric medical board (board) is proposing amendments regarding the requirement for podiatric physicians to check the PMP when prescribing opioids; the proposed rule would change the requirement from the second refill or renewal to the first refill or renewal.

In addition, the board is proposing three typographical error corrections: WAC 246-922-700 Acute perioperative pain, when the board initially adopted this rule section to implement ESHB 1427, it was discovered after adoption that a cut-and-paste error had occurred. The board intended to state "a three day supply or less will often be sufficient; more than a fourteen-day supply will rarely be needed." This language is almost identical to language in WAC 246-922-695 for acute nonoperative pain; however, the verbiage in WAC 246-922-695 stated "a seven-day supply will rarely be needed." The copy-and-paste error was made in that the seven-day supply verbiage was not updated to a fourteen-day supply for WAC 246-922-700. The proposed rule amendment will correct that error.

WAC 246-922-780 Coprescribing of opioids for patients receiving medication assistant treatment, it was discovered that the title incorrectly says "medical assistant treatment" when is [it] should be "medication assisted treatment." This proposed rule amendment will correct that error.

WAC 246-922-790 Prescription monitoring program—Required registration, queries, and documentation, it was also discovered that a reference in subsection (8) referred to WAC 246-922-755 but should have referred to WAC 246-922-775. This proposed rule amendment will also correct that error.

Reasons Supporting Proposal: In 2017, the legislature passed ESHB 1427 (chapter 297, Laws of 2017) directing the board, along with four other health profession boards and commissions, to adopt rules establishing requirements for prescribing opioid drugs for seven health professions.

The board participated in a workgroup task force with those boards and commissions to develop model rules that each board and commission would then customize to align

with the specific practice areas to which they would be applied. With an effective date of November 1, 2018, the board held one of the first rule adoption hearings and adopted rule language that closely mirrored the task force model rules. The other boards and commissions subsequently modified the model rule language with more restrictive PMP query requirements.

The board is considering amendments to more closely align their PMP query requirement with the other board and commissions. In addition, after the effective date, it was discovered there were typographical errors in three section[s] of the adopted rules. The board will consider correcting these errors, as well as consider changes to the PMP query requirement.

Statutory Authority for Adoption: RCW 18.22.015 and 18.22.800.

Statute Being Implemented: RCW 18.22.800.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state podiatric medical board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Gragg, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4941.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, TTY 711, email podiatric@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impose any costs on businesses. Minor costs may be imposed on individual providers.

March 18, 2020
Randy Andersen, DPM, Chair
Podiatric Medical Board

AMENDATORY SECTION (Amending WSR 18-20-085, filed 10/1/18, effective 11/1/18)

WAC 246-922-700 Acute perioperative pain. The podiatric physician shall comply with the requirements in this section when prescribing opioid analgesics for perioperative pain and shall document completion of these requirements in the patient record:

(1) The podiatric physician, or his or her authorized designee, shall conduct queries of the PMP in accordance with the provisions of WAC 246-922-790 and document their review and any concerns in the patient record.

(2) If the podiatric physician prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. A three-day supply or less will often be sufficient; more than a ((~~seven-day~~)) fourteen-day supply will rarely be needed. The podiatric physician shall not prescribe beyond a fourteen-day supply from the time of discharge without clinical documentation in the patient record to justify the need for such a quantity. For more specific best practices, the podiatric physician may refer to clinical practice guidelines including, but not limited to, those produced by the agency medical directors' group, the Centers for Disease Control and Prevention, or the Bree Collaborative.

(3) The podiatric physician shall reevaluate the patient who does not follow the expected course of recovery. If documented improvement in function or pain control has not occurred, the podiatric physician shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(4) Follow-up visits for pain control should include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional planned diagnostic evaluations or other treatments.

(5) If the podiatric physician elects to prescribe a combination of opioids with a Schedule II-V medication listed in WAC 246-922-775 or prescribes opioids to a patient known to be receiving a medication listed in WAC 246-922-775 from another practitioner, such prescribing must be in accordance with WAC 246-922-775.

(6) If the podiatric physician elects to treat a patient with opioids beyond the six-week time period of acute perioperative pain, the podiatric physician shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-922-705 and 246-922-710 shall apply unless there is documented improvement in function or pain control and there is a documented plan and timing for discontinuation of all opioid medications.

AMENDATORY SECTION (Amending WSR 18-20-085, filed 10/1/18, effective 11/1/18)

WAC 246-922-780 Coprescribing of opioids for patients receiving medication ((~~assistant~~)) assisted treatment. (1) Where practicable, the podiatric physician providing acute nonoperative pain or acute perioperative pain treatment to a patient known to be receiving MAT shall prescribe opioids for pain relief either in consultation with the MAT prescribing practitioner or a pain specialist.

(2) The podiatric physician shall not discontinue MAT medications when treating acute nonoperative pain or acute perioperative pain without documentation of the reason for doing so, nor shall these medications be used to deny necessary operative intervention.

AMENDATORY SECTION (Amending WSR 18-20-085, filed 10/1/18, effective 11/1/18)

WAC 246-922-790 Prescription monitoring program—Required registration, queries, and documentation. (1) The podiatric physician shall register to access the PMP or demonstrate proof of having registered to access the PMP if the podiatric physician prescribes opioids in Washington state.

(2) The podiatric physician is permitted to delegate performance of a required PMP query to an authorized designee in accordance with WAC 246-470-050.

(3) At a minimum, the podiatric physician shall ensure a PMP query is performed prior to the prescription of an opioid at the following times:

(a) Upon the ((~~second~~)) first refill or renewal of an opioid prescription for acute nonoperative pain or acute perioperative pain;

(b) The time of transition from acute to subacute pain; and

(c) The time of transition from subacute to chronic pain.

(4) For chronic pain management, the podiatric physician shall ensure a PMP query is performed at a minimum frequency determined by the patient's risk assessment, as follows:

(a) For a high-risk patient, a PMP query shall be completed at least quarterly.

(b) For a moderate-risk patient as determined using the risk assessment tool described in WAC 246-922-715, a PMP query shall be completed at least semiannually.

(c) For a low-risk patient as determined using the risk assessment tool described in WAC 246-922-715, a PMP query shall be completed at least annually.

(5) The podiatric physician shall ensure a PMP query is performed for any chronic pain patient immediately upon identification of aberrant behavior.

(6) The podiatric physician shall ensure a PMP query is performed when providing episodic care to a patient who the podiatric physician knows to be receiving opioids for chronic pain, in accordance with WAC 246-922-770.

(7) For the purposes of this section, the requirement to consult the PMP does not apply when the PMP or the electronic medical record (EMR) cannot be accessed by the podiatric physician due to a temporary technological or electrical failure.

(8) If the podiatric physician is working in a practice, group, or institution that integrates access to the PMP into the workflow of the EMR, the podiatric physician shall ensure a PMP query is performed for all prescriptions of opioids and coprescribed medications listed in WAC ((~~246-922-755~~)) 246-922-775(1) for acute pain.

(9) Pertinent concerns discovered in the PMP must be documented in the patient record.

WSR 20-07-122
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed March 18, 2020, 11:20 a.m.]

Continuance of WSR 20-05-057.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-282-990(4), sanitary control of shellfish fees, annual paralytic shellfish poisoning (PSP) testing fee redistribution.

Hearing Location(s): On August 4, 2020, at 1:00 p.m., at the Department of Health (DOH), Town Center 3, Room 224, 243 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: August 11, 2020.

Submit Written Comments to: Peter Beaton, Washington State Department of Health, Division of Environmental Health, P.O. Box 47820, Olympia, WA 98504-7820, email https://fortress.wa.gov/doh/policyreview, by August 4, 2020.

Assistance for Persons with Disabilities: Contact Lisette Anson, phone 360-236-3301, TTY 711, email lisette.anson@doh.wa.gov, by July 28, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DOH is delaying this public hearing due to concerns with the COVID-19 outbreak.

Statutory Authority for Adoption: RCW 43.70.250, 43.20B.020.

Statute Being Implemented: RCW 43.70.250, 43.20B.-020.

March 18, 2020
John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 19-10-026, filed 4/23/19, effective 5/24/19)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	$263
Shellstock Shipper	
0 - 49 Acres	$297
50 or greater Acres	$476
Scallop Shellstock Shipper	$297
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	$542
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	$656
Plants with floor space > 5000 sq. ft.	$1,210

(2) The fee for each export certificate is $55.00.

(3) Annual biotoxin testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category Type of Operation	Number of Harvest Sites	Fee
Harvester	≤ 2	$353
Harvester	3 or more	$535
Shellstock Shipper		$198
Wholesale		
Company		
Shellstock Shipper	≤ 2	$393
0 - 49 acres		

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Shellstock Shipper 0 - 49 acres	3 or more	$610
Shellstock Shipper 50 or greater acres	N/A	$961
Shucker-Packer (plants < 2000 ft²)	≤ 2	$752
Shucker-Packer (plants < 2000 ft²)	3 or more	$1,076
Shucker-Packer (plants 2000 - 5000 ft²)	≤ 2	$882
Shucker-Packer (plants 2000 - 5000 ft²)	3 or more	$1,297
Shucker-Packer (plants > 5000 ft²)	N/A	$2,412

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

(i) At the time of first licensure; or

(ii) January 1st of each year for companies licensed as harvesters; or

(iii) July 1st of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting geoduck are as follows:

Harvester	Cert #	Fee
Department of Natural Resources	NA	$((~~11,268~~)) 10,584
Jamestown S'Klallam Tribe	WA-0588-SS	$((~~1,662~~)) 2,964
Lower Elwha Klallam Tribe	WA-0587-HA	$((~~2,217~~)) 3,810
Lummi Indian Business Council	WA-0098-SS	$((~~185~~)) 635
Port Gamble S'Klallam Tribe	WA-0859-HA	$((~~3,140~~)) 2,540
Puyallup Tribe of Indians	WA-1137-HA	$((~~10,898~~)) 9,949
Skokomish Indian Tribe	WA-0577-HA	$1,270
Suquamish Tribe	WA-0694-SS	$((~~20,318~~)) 13,971
Swinomish Indian Tribal Community	WA-1420-SS	$((~~1,108~~)) 423
Taylor Shellfish Company, Inc.	WA-0046-SP	$7,409
The Tulalip Tribes	WA-0997-HA	$((~~3,510~~)) 4,445
((~~Taylor Shellfish Company, Inc.~~	~~WA-0046-SP~~	~~$3,694~~))

(5) Fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

WSR 20-07-125
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 18, 2020, 11:46 a.m.]

Continuance of WSR 20-06-057.

Preproposal statement of inquiry was filed as WSR 19-01-098.

Title of Rule and Other Identifying Information: Medical aid rules—Conversion factors and maximum daily fees: WAC 296-20-135, 296-23-220, and 296-23-230.

Hearing Location(s): On April 9, 2020, at 9:00 a.m. Telephonic hearing only. Please call 1-866-715-6499 (or 719-325-2776). When prompted for the passcode, enter 3227743177# (pound sign must be entered). The telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: May 19, 2020.

Submit Written Comments to: Emily Stinson, P.O. Box 44322, Olympia, WA 98504-4322, email Emily.Stinson@Lni.wa.gov, fax 360-902-4249, by April 16, 2020.

Assistance for Persons with Disabilities: Contact Emily Stinson, phone 360-902-5974, fax 360-902-4249, email Emily.Stinson@Lni.wa.gov, by April 2, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of labor and industries (L&I) is filing a continuance of the proposal in order to comply with the governor's emergency proclamation restricting the size of gatherings due to the evolving public health emergency caused by the coronavirus (COVID-19) outbreak. The hearing will be held by conference call to allow for oral public comments and testimony on the proposal rather than holding in-person meeting. However, we encourage the submittal of written comments.

This is an annual rule making and the determination of conversation factor adjustments are done according to WAC 296-20-132.

In addition, the written comment period is being extended one week, to April 16, 2020.

Reasons Supporting Proposal: This rule will provide medical aid updates regarding rate setting for some professional health care services for injured workers.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Emily Stinson, Tumwater, Washington, 360-902-5974; Implementation and Enforcement: Vickie Kennedy, Tumwater, Washington, 360-902-4997.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

March 18, 2020
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 18-10-082, filed 5/1/18, effective 7/1/18)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of $64.74. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of $((~~3.47~~)) 3.57 per minute, which is equivalent to $((~~52.05~~)) 53.55 per 15 minutes. The base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 18-10-082, filed 5/1/18, effective 7/1/18)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist, a physical therapist assistant serving under the direction of a licensed physical therapist as required in RCW 18.74.180 (3)(a), or a licensed athletic trainer serving under the direction of a licensed physical therapist as required in RCW 18.250.010 (4)(a)(v). In addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or $((~~127.70~~)) 131.48 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 18-10-082, filed 5/1/18, effective 7/1/18)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or $((~~127.70~~)) 131.48 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

WSR 20-07-126
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 18, 2020, 11:47 a.m.]

Continuance of WSR 20-06-059.

Preproposal statement of inquiry was filed as WSR 19-20-101.

Title of Rule and Other Identifying Information: Proposed changes to the electrical rules in chapter 296-46B WAC, Electrical safety standards, administration, and installation.

Hearing Location(s): On April 9, 2020, at 10:00 a.m. Telephonic hearing only. Please call 1-866-715-6499. When prompted for the passcode, enter 9862128073# (pound sign must be entered). The telephonic hearing starts at 10:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: May 19, 2020.

Submit Written Comments to: Alicia Curry, Department of Labor and Industries (L&I), Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email Alicia.Curry@Lni.wa.gov, fax 360-902-5292, by April 16, 2020.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, by March 26, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I is filing a continuance of the proposal in order to comply with the governor's emergency proclamation restricting the size of gatherings due to the evolving public health emergency caused by the coronavirus (COVID-19) outbreak. The hearing will be held by conference call to allow for oral public comments and testimony on the proposal rather than holding in-person meeting. However, we encourage the submittal of written comments.

The proposed rules were developed with opportunity for public proposals, review and recommendation of all proposals by a technical advisory committee, and review and recommendations by the electrical board.

In addition, the written comment period is being extended one week, to April 16, 2020.

Reasons Supporting Proposal: The NEC sets the standard for safe electrical installation and inspection in homes, businesses, industry and institutions to protect people and property from electrical hazards. These rules are necessary to ensure the new safety codes that affect electrical work align with existing rules before the NEC is implemented.

Statutory Authority for Adoption: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.010 and 19.28.031.

Statute Being Implemented: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.010 and 19.28.031.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Thornton, Program Manager, Tumwater, Washington, 360-902-6234; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Alicia Curry, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. As discussed in the cost-benefit analysis document, those changes that are not exempt from the Regulatory Fairness Act requirement will either result in a cost savings to customers or no increased costs over current practice or the baseline. As such, the proposed rule does not impose more-than-minor-costs.

March 18, 2020
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-010 General.

Adopted standards.

(1) The ((~~2017~~)) 2020 edition of the National Electrical Code (NFPA 70 - ((~~2017~~)) 2020) published August, 2019 including Annex A, B, ((~~and~~)) C, and subsequent Errata and Tentative Interim Amendments issued by the National Fire Protection Association; Commercial Building Telecommunications Cabling Standard (ANSI/TIA-568-C series, February 2009); Commercial Building Standard for Telecommunications Pathway and Spaces (TIA-569-B, October 2004); Commercial Building Grounding and Bonding Requirements for Telecommunications (ANSI-TIA-607-B, August 2011); Residential Telecommunications Cable Standard (ANSI/TIA/EIA 570-B-2004); and the National Electrical Safety Code (NESC C2-2017 excluding Appendixes A and B) are hereby adopted by reference as part of this chapter.

((~~On July 1, 2020, the 2020 edition of the National Electrical Code (NFPA 70-2020 including Annex A, B, and C is hereby adopted by reference as part of this chapter and replaces the 2017 edition.~~))

This chapter will be followed where there is any conflict between this chapter and the above adopted standards.

The National Electrical Code will be followed where there is any conflict between the National Electrical Code and, ANSI/TIA/EIA 568-C, ANSI/TIA/EIA 569-B, ANSI/TIA/EIA 607-B, ANSI/TIA/EIA 570-B, or the NESC C2.

Adopted standards apply to installations when issue dates of electrical permits are on and after adoption dates except for:

(a) New one- and two-family dwellings, or multifamily dwellings where the issue date of building permits for the premises is before the adoption date; or

(b) New installations where plan review is required by WAC 296-46B-900 when plans are received and accepted for review before the adoption date.

Inspections - General.

(2) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(3) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department or the city that has electrical inspection jurisdiction when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector or to the city that has electrical inspection jurisdiction. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in chapter 296-46B WAC, Part C.

(4) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to allow the inspector to visually inspect the installation to verify conformance with the NEC and any other electrical requirements of this chapter with the exception of not more than 8 feet of electrical conduit in a foundation of a one- or

two-family dwelling or residential outbuilding for use as service entrance raceway.

(5) All required equipment grounding conductors installed in concealed cable or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.

(6) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector and, where siding nails or fasteners which penetrate into the wall cavity are to be used, all siding must be installed; or

(b) All wiring and device boxes must be a minimum of 2 1/2 inches from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1/16 inch thick and of appropriate width and height installed to cover the area of the wiring or box.

(7) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must conform to applicable electrical product standards recognized by the department, be listed, or field evaluated. For any equipment that requires an amusement operating permit under chapter 67.42 RCW, the operating permit is prima facie evidence of an appropriate standard. Other than as authorized by the chief electrical inspector or a city authorized to do electrical inspection, equipment must not be energized until such standards are met.

(8) The state department of transportation is recognized as the inspection authority for telecommunications systems installations within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction, and of materials, devices, appliances, and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

Inspection move on buildings and structures.

(9) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

(10) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

(11) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(c) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997 must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "suitable for use as service equipment" will be considered to be approved as "suitable for use only as service equipment."

(ii) CSA listed panelboards used as panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the Washington requirements in effect at the time the wiring was installed.

(h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

Wiring methods for designated building occupancies.

(12) Wiring methods in educational or institutional facilities as defined in this chapter must be metallic or nonmetallic raceways, MI, MC, or AC cable. Places of assembly located within these facilities must comply with NEC 518.4(A).

(13) Assisted living facility generator systems may be wired and installed per NEC 517.

(14) Lawfully installed existing electrical installations that do not comply with the provisions of this chapter and remain in compliance with the code at the time of the installation, will be permitted to be continued without change (i.e., without circuitry or occupancy change). Additions, alterations, modifications, or repairs to the electrical system must conform to the current requirements of this chapter.

(15) See WAC 296-46B-406R for tamper-resistant receptacle requirements in psychiatric patient care facilities.

Traffic management systems.

(16) The department or city authorized to do electrical inspections will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

(a) Traffic illumination systems;

(b) Traffic signal systems;

(c) Traffic monitoring systems;

(d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system; and

(e) Signalization system(s) necessary for the operation of a light rail system.

A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.

(17) The department or city authorized to do electrical inspections recognizes that traffic signal conductors, pole and bracket cables, signal displays, traffic signal controllers/cabinets and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW provided they conform with the following standards or are listed on the Washington state department of transportation (WSDOT) qualified products list.

(a) WSDOT/APWA standard specifications and plans;

(b) WSDOT *Design Manual*;

(c) International Municipal Signal Association (IMSA);

(d) National Electrical Manufacturer's Association (NEMA);

(e) Federal Standards 170/Controller Cabinets;

(f) Manual for *Uniform Road, Bridge, and Municipal Construction*;

(g) Institute of Transportation Engineers (ITE); or

(h) Manual of *Uniform Traffic Control Devices (MUTCD)*.

(18) Associated induction detection loop or similar circuits will be accepted by the department or city authorized to do electrical inspections without inspection.

(19) For the licensing requirements of chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for another jurisdiction(s) under a valid interlocal agreement, as permitted by chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the department or city authorized to do electrical inspections prior to work being performed for this provision to apply.

(20) Jurisdictions, with an established electrical inspection authority, and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in chapter 19.28 or 39.34 RCW.

(21) Underground installations.

(a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.

(b) The department or city authorized to do electrical inspections will conduct inspections in open trenching within its jurisdiction. The electrical work permit purchaser must coordinate the electrical inspection. A written request (e.g., letter, email, fax, etc.) for inspection, made to the department or city authorized to do electrical inspections office having the responsibility to perform the inspection, must be made a minimum of two working days prior to the day inspection is needed (e.g., two working days 10:00 a.m. Tuesday request for a 10:00 a.m. Thursday inspection, excluding holidays and weekends).

If, after proper written request, the department or city authorized to do electrical inspections fails to make an electrical inspection at the time requested, underground conduit may be covered after inspection by the local government jurisdiction's project inspector/designee. Written documentation of a local government jurisdiction inspection must be provided to the department or city authorized to do electrical inspections when requested. Written documentation will include:

(i) Date and time of inspection;

(ii) Location;

(iii) Installing firm;

(iv) Owner;

(v) Type of conduit;

(vi) Size of conduit;

(vii) Depth of conduit; and

(viii) Project inspector/designee name and contact information.

(22) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components.

(a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection (17) of this section.

(b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s) with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.

(23) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-100 General definitions. All definitions listed in the National Electrical Code and chapter 19.28 RCW are recognized in this chapter unless other specific definitions are given in this chapter and chapter 19.28 RCW. The definitions in this section apply to all parts of this chapter. Some sections may have definitions specific to that section.

"Accreditation" is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to evaluate electrical products that are for sale in the state of Washington.

"Administrative law judge" means an administrative law judge (ALJ) appointed pursuant to chapter 34.12 RCW and serving in board proceedings pursuant to chapter 19.28 RCW and this chapter.

"ANSI" means American National Standards Institute. Copies of ANSI standards are available from the National Conference of States on Building Codes and Standards, Inc.

"Appeal" is a request for review of a department action by the board as authorized by chapter 19.28 RCW.

"Appellant" means any person, firm, partnership, corporation, or other entity that has filed an appeal or request for board review.

"Appliance" means household appliance.

"ASTM" means the American Society for Testing and Materials. Copies of ASTM documents are available from ASTM International.

"AWG" means American Wire Gauge.

"Basement" means that portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane and not a basement where the finished surface of the floor above the basement is:

(a) More than 6 feet above grade plane;

(b) More than 6 feet above the finished ground level for more than 50% of the total building perimeter; or

(c) More than 12 feet above the finished ground level at any point. Also see "mezzanine" and "story."

"Board" means the electrical board established and authorized under chapter 19.28 RCW.

"Category list" is a list of manufacturing safety standards or product types determined by the department.

A "certified electrical product" is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

A "certification mark" is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

"Certificate of competency" includes the certificates of competency for master journey level electrician, master specialty electrician, journey level, and specialty electrician.

A laboratory "certification program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by an electrical products certification laboratory.

A "complete application" includes the submission of all appropriate fees, documentation, and forms.

"Chapter" means chapter 296-46B WAC unless expressly used for separate reference.

"Construction," for the purposes of chapter 19.28 RCW, means electrical construction.

"Coordination (selective)" as defined in NEC 100 must be determined and documented by a professional engineer registered under chapter 18.43 RCW.

"Department" means the department of labor and industries of the state of Washington.

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

"Egress - Unobstructed (as applied to NEC 110.26 (C)(2)(a))" means an egress path that allows a worker to travel to the exit from any other area in the room containing the equipment described in NEC 110.26 (C)(2) without having to pass through that equipment's required working space.

"Electrical equipment" includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006 (9). Any conduit/raceway of a type listed for electrical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

An "electrical products certification laboratory" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

An "electrical products evaluation laboratory" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

"Field evaluated" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

"Field evaluation mark" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with

appropriate standards or that the product has been evaluated for specific end uses.

A "field evaluation program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

The "filing" is the date the document is actually received in the office of the chief electrical inspector.

"Final judgment" means any money that is owed to the department under this chapter, including fees and penalties, or any money that is owed to the department as a result of an individual's or contractor's unsuccessful appeal of a citation.

"Fished wiring" is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

"Household appliance" means utilization equipment installed in a dwelling unit that is built in standardized sizes or types and is installed or connected as a unit to perform one or more household functions such as food preparation, cooking, and cleaning. Includes appliances typically installed in a dwelling unit kitchen, clothes washing, drying, and water heating appliances, portable room air conditioning units and portable heaters, etc. Fixed electric space-heating equipment covered in NEC 424 (furnaces, baseboard and wall heaters, electric heat cable, etc.) and fixed air-conditioning/heat pump equipment (NEC 440) are not household appliances. Household appliance does not mean any utilization equipment that:

(a) Supplies electrical power, other than Class 2, to other utilization equipment; or

(b) Receives electrical power, other than Class 2, through other utilization equipment.

HVAC/refrigeration specific definitions:

(a) "HVAC/refrigeration" means heating, ventilation, air conditioning, and refrigeration.

(b) "HVAC/refrigeration component" means electrical power and limited energy components within the "HVAC/ refrigeration system," including, but not limited to: Pumps, compressors, motors, heating coils, controls, switches, thermostats, humidistats, low-voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, air monitoring devices, zone control valves and equipment for monitoring of HVAC/ refrigeration control panels and low-voltage connections. This definition excludes equipment and components of non-"HVAC/refrigeration control systems."

(c) "HVAC/refrigeration control panel" means an enclosed, manufactured assembly of electrical components designed specifically for the control of a HVAC/refrigeration system. Line voltage equipment that has low voltage, NEC Class 2 control or monitoring components incidental to the designed purpose of the equipment is not an HVAC/refrigeration control panel (e.g., combination starters).

(d) "HVAC/refrigeration control system" means a network system regulating and/or monitoring a HVAC/refrigeration system. Equipment of a HVAC/refrigeration control system includes, but is not limited to: Control panels, data centers, relays, contactors, sensors, and cables related to the monitoring and control of a HVAC/refrigeration system(s).

(e) "HVAC/refrigeration equipment" means the central unit primary to the function of the "HVAC/refrigeration system." HVAC/refrigeration includes, but is not limited to: Heat pumps, swamp coolers, furnaces, compressor packages, and boilers.

(f) "HVAC/refrigeration system" means a system of HVAC/refrigeration: Wiring, equipment, and components integrated to generate, deliver, or control heated, cooled, filtered, refrigerated, or conditioned air. This definition excludes non-HVAC/refrigeration control systems (e.g., fire alarm systems, intercom systems, building energy management systems, and similar non-HVAC/refrigeration systems).

"IBC" means the International Building Code. Copies of the IBC are available from the International Code Council.

An "individual" or "party" or "person" means an individual, firm, partnership, corporation, association, government subdivision or unit thereof, or other entity.

An "installation" includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925. An installation is not the passive testing or operational programming of an electrical system, component, equipment, or wire. See "passive testing."

An "identification plate" is suitable for the environment and is a printed or etched adhesive label approved by the department or a phenolic or metallic plate or other similar material engraved in block letters at least 1/4 inch high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting colors. Screws, rivets, permanent adhesive, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

"Job site" means a specific worksite having a single address or specific physical location (e.g., a single-family residence, a building, a structure, a marina, an individual apartment building with a specific address, etc.).

"Journey level electrician" means a person who has been issued a journey level electrician certificate of competency by the department. The terms "journey level" and "journeyperson" in chapter 19.28 RCW are synonymous.

"Labeled" means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

A "laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

A "laboratory operations control manual" is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

"License" means a license required under chapter 19.28 RCW.

"Like-in-kind" means having the same overcurrent protection requirements and similar characteristics such as voltage requirement, current draw, short circuit characteristics, and function within the system and being in the same location. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

For the purpose of WAC 296-46B-940, a "lineworker" is a person employed by a serving electrical utility or employed

by a licensed general electrical contractor who carries, on their person, evidence that they:

(a) Have graduated from a department-approved lineworker's apprenticeship course; or

(b) Are currently registered in a department-approved lineworker's apprenticeship course and are working under the direct one hundred percent supervision of a journey level electrician or a graduate of a lineworker's apprenticeship course approved by the department. The training received in the lineworker's apprenticeship program must include training in applicable articles of the currently adopted National Electrical Code.

"Listed" means equipment has been listed and identified by a laboratory approved by the state of Washington for the appropriate equipment standard per this chapter.

"Low voltage" means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.121(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.121(A).

(d) Circuits of telecommunications systems as defined in chapter 19.28 RCW.

"Member of the firm" means the member(s) on file with the department of licensing for sole proprietorships/partnerships or with the secretary of state for corporations.

"Mezzanine" is the intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located. Also see "basement" and "story."

"NEC" means National Electrical Code. Copies of the NEC are available from the National Fire Protection Association.

"NEMA" means National Electrical Manufacturer's Association. Copies of NEMA standards are available from the National Electrical Manufacturer's Association.

"NESC" means National Electrical Safety Code. Copies of the NESC are available from the Institute of Electrical and Electronics Engineers, Inc.

"NETA" means International Electrical Testing Association, Inc. Copies of the NETA standards and information are available from the International Electrical Testing Association, Inc.

"NFPA" means the National Fire Protection Association. Copies of NFPA documents are available from the National Fire Protection Association.

"NRTL" means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 C.F.R. 1910.7.

A "new building" for the purposes of RCW 19.28.261 includes the setting of a manufactured, mobile, or modular building.

"Passive testing" (e.g., pressing of test buttons, use of testing equipment like voltage testers, clamp-on meters, removal of a device head where the wiring is terminated on a separate base plate, etc.) means testing that does not require any:

(a) Physical modification to the electrical system wiring; or

(b) Wiring to be disconnected or terminated, except as necessary for an approved electrical testing laboratory or approved engineer performing an equipment evaluation.

"Point of contact" or "point of connection" means the service point.

"Proceeding" means any matter regarding an appeal before the board including hearings before an administrative law judge.

"Public area or square" is an area where the public has general, clear, and unrestricted access.

A "quality control manual" is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

"RCW" means the Revised Code of Washington. Copies of electrical RCW are available from the department and the office of the code reviser.

"Readily accessible" means the definition as defined in NEC 100. In addition, it means that, except for keys, no tools or other devices are necessary to gain access (e.g., covers secured with screws, etc.).

"Service" or "served" means that as defined in RCW 34.05.010(19) when used in relation to department actions or proceedings.

A "sign," when required by the NEC, for use as an identification method (e.g., legibly marked, legible warning notice, marked, field marked, permanent plaque/directory, etc.) means "identification plate."

A "stand-alone amplified sound or public address system" is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

"Story" is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Next above means vertically and not necessarily directly above. Also see "basement" and "mezzanine."

"Structure," for the purposes of this chapter and in addition to the definition in the NEC, means something constructed either in the field or factory that is used or intended for supporting or sheltering any use or occupancy as defined by the IBC.

"Supervision" for the purpose of supervising electrical trainees, means that the appropriately certified supervising electrician is on the same job site as the trainee being supervised. The trainee is not considered to be on the same job site if the supervising electrician and the trainee are working:

(a) In separate buildings at a single address (e.g., a campus, multibuilding industrial complex, multibuilding apartment complex, etc.) except for a single-family residence; or

(b) On an outdoor project (e.g., irrigation system, farm, street lighting, traffic signalization, etc.) where the trainee is more than 1000 feet from the supervising electrician or where

the trainee is more than 200 feet from the supervising electrician and out of sight.

"System design review" means a set of design documents that include the manufacturer's installation information, a legible one-line diagram of the system design, and calculations used to determine voltage and current within the system. The one-line diagram must show the system equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points. The review must be available to the inspector during all inspections.

A "telecommunications local service provider" is a regulated or unregulated (e.g., by the Federal Communications Commission or the utilities and transportation commission as a telephone or telecommunications provider) firm providing telecommunications service ahead of the telecommunications network demarcation point to an end-user's facilities.

"TIA/EIA" means the Telecommunications Industries Association/Electronic Industries Association which publishes the TIA/EIA Telecommunications Building Wiring Standards. Standards and publications are adopted by TIA/EIA in accordance with the American National Standards Institute (ANSI) patent policy.

A "training school" is a Washington public community or technical college or not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

"Under the control of a utility" for the purposes of RCW 19.28.091 and 19.28.101 is when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

"UL" means Underwriters Laboratory.

"Utility" means an electrical utility.

"Utility system" means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact and is defined in section 90.2 (b)(5) of the National Electrical Code, 1981 edition (see RCW 19.28.010(1)).

"Utilization voltage" means the voltage level employed by the utility's customer for connection to lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

"Variance" is a modification of the electrical requirements as adopted in chapter 19.28 RCW or any other requirements of this chapter that may be approved by the chief electrical inspector if assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

"WAC" means the Washington Administrative Code. Copies of this chapter of the WAC are available from the department and the office of the code reviser.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

WAC 296-46B-110 General—Requirements for electrical installations.

003 Examination, identification, installation, and use of equipment.

(1) Listed electrical conduit can only be installed and used in accordance with its listing (i.e., as an electrical raceway for electrical conductors). If used as a sleeve for electrical conductors or other listed electrical conduits, the installation of a listed electrical conduit will be assumed to be for use as an electrical raceway and must be installed as allowed by chapter 19.28 RCW and this chapter (e.g., owner exemption, electrical contractor, etc.).

EXCEPTION: Electrical nonmetallic elbow fittings may be connected to piping other than electrical conduit for the purposes of enclosing mechanical piping systems provided the elbows are distinctively marked to indicate their use as nonelectrical fittings prior to installation. For underground installations outside of buildings, elbows used for purposes other than electrical must be substantially painted to match the color of piping to which they are connected.

011 Deteriorating agents.

(2) Electrical equipment and wiring that has been submerged or exposed to water must comply with the following:

(a) All breakers, fuses, controllers, receptacles, lighting switches/dimmers, electric heaters, and any sealed device/equipment (e.g., relays, contactors, etc.) must be replaced.

(b) All other electrical equipment (e.g., wiring, breaker panelboards, disconnect switches, switchgear, motor control centers, boiler controls, HVAC/R equipment, electric motors, transformers, appliances, water heaters, and similar appliances) must be replaced or reconditioned by the original manufacturer or by its approved representative.

022 Identification of disconnecting means.

(3) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker /fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the disconnecting means.

030 Over 1000 volts - General.

(4) Each cable operating at over 1000 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-210 Wiring and protection—Branch circuits.

008(A) Dwelling units GFCI requirements.

(1) In a garage or unfinished basement, a red receptacle, with a red cover plate, supplying a fire alarm system is not required to have ground-fault circuit-interrupter protection. The receptacle must be identified for use only with the fire alarm system by an identification plate or engraved cover with letters at least 1/4 inch high.

(2) All fixed electrical equipment with exposed grounded metal parts within an enclosed shower area or within 5 feet of the top inside edge of a bathtub must have ground fault circuit interrupter protection.

008(B) Other than dwelling units - GFCI requirements.

(3) GFCI requirements. GFCI protection for personnel will not be required for:

(a) Three-phase receptacles unless specifically required elsewhere in the NEC; or

(b) Receptacles other than 125-volt, single phase, 15- or 20-ampere used for: Recreational vehicle supply equipment or for attachment of a mobile home supply cord ((~~other than 125-volt, single phase, 15- or 20-ampere receptacles~~)).

For the purposes of NEC 210.8(B), kitchen means any area where utensils, dishes, etc., are cleaned or where food or beverages are prepared or cooked.

011 Branch circuits.

(4) A raceway system or one dedicated 15-ampere minimum, 120 volt circuit must be taken to all unfinished space areas adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. One circuit or raceway is required for each 480 square feet or less of unfinished space area. If the total adjacent unfinished space area is less than 480 square feet, the circuit can be an extension of an existing circuit. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

013 Ground fault protection of equipment.

(5) Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be available at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

025 Common area branch circuits.

(6) For the purpose of NEC 210.25, loads for septic or water well systems that are shared by no more than two dwelling units may be supplied from either of the two dwelling units if approved by the local building official and local health department.

052 (A)(2) Dwelling unit receptacle outlets.

(7) For the purpose of NEC 210.52 (A)(2)(1), "similar openings" include the following configurations that are a permanent part of the dwelling configuration or finish:

(a) Window seating; and

(b) Bookcases or cabinets that extend from the floor to a level at least 5 feet 6 inches above the floor.

Any outlets eliminated by such window seating, bookcases, or cabinets must be installed elsewhere within the room.

((**~~052(C) Countertops.~~**

~~(8) A receptacle in a wall countertop space shall be permitted to serve as the receptacle for a peninsular countertop space where the spaces are contiguous and the receptacle is located within 8 feet of the outside edge of the peninsular countertop.~~))

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.

012 Lighting load calculations.

In determining feeder and service entrance conductor sizes and equipment ratings, a building that is designed and constructed to comply with the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC 220.12. The requirements of NEC 220.12 ((~~Exception No. 1~~)) (B), items 1, 2, and 3 do not apply.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.

019 Clearances from buildings for conductors.

(1) Add the following exception to NEC 225.19(A): Where the voltage between conductors does not exceed 300 and the roof area is guarded or isolated, a reduction in clearance to 3 feet shall be permitted.

((**~~030 Number of supplies.~~**

~~(2) For the purposes of NEC 225.30(A) and this section, a building/structure that is supplied from a remote service, may be supplied by no more than six feeders originating from the service equipment and with each feeder terminating in a single disconnecting means at the building/structure. The service equipment must contain overcurrent protection appropriate to each feeder. The building disconnecting means required by NEC 225.32 must be grouped, within sight, and all be within 10' of each other.~~))

032 Location of outside feeder disconnecting means.

(((~~(3)~~))) (2) The disconnecting means required by NEC 225.32 must be provided to disconnect all ungrounded conductors that supply or pass through a building/structure in accordance with the requirements of NEC 225.32 with the following exceptions.

(a) Outside location: A feeder disconnecting means, including that required by NEC 700, 701, or 702 for a generator, is considered in the building if installed on the outside of the building/structure or within sight and within fifteen feet of the building/structure. The building disconnecting means may supply only one building/structure unless the secondary building(s)/structure(s) has a separate building disconnecting

means meeting the requirements of the NEC and this subsection. The disconnecting means must have an identification plate with at least one-half-inch high letters identifying:

(i) The building/structure served; and

(ii) Its function as the building/structure main disconnect(s).

(b) Inside location: The feeder disconnecting means may be installed anywhere inside a building or structure when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for the feeder conductors.

036 Suitable for use as service equipment.

((~~(4)~~)) (3) A generator disconnecting means installed per subsection ((~~(3)~~)) (2)(a) or (b) of this section, is not required to be suitable for use as service equipment.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-250 Wiring and protection—Grounding and bonding.

028 (D)(3) Separately derived system with more than one enclosure.

(1) NEC 250.28 (D)(3) is amended to read: Where a separately derived system supplies more than a single enclosure, the system bonding jumper for each enclosure shall be sized in accordance with 250.28 (D)(1) based on the largest ungrounded feeder/tap conductor serving that enclosure, or a single system bonding jumper shall be installed at the source and sized in accordance with 250.28 (D)(1) based on the equivalent size of the largest supply conductor determined by the largest sum of the areas of the corresponding conductors of each set.

052 Grounding electrodes.

(2) Except for mobile/manufactured homes, a concrete encased grounding electrode must be installed and used at each new building or structure that is built upon a permanent concrete foundation. The electrode must comply, with NEC 250.52 (A)(3). Inspection of the electrode may be accomplished by the following methods:

(a) At the time of inspection of other work on the project, providing the concrete encased electrode is accessible for a visual inspection;

(b) At the time of the service inspection providing the installer has provided a method so the inspector can verify the continuity of the electrode conductor along its entire length, with a minimum 20 foot linear span between testing points (e.g., attaching a length of copper wire to one end of the electrode that reaches the location of the grounding electrode conductor that will enable the inspector to measure the resistance with a standard resistance tester). The concrete encased electrode does not have to be accessible for a visual inspection; or

(c) Other method when prior approval, on a job site basis, is given by the inspector.

If a special inspection trip is required to inspect a grounding electrode conductor, a trip fee will be charged for that inspection in addition to the normal permit fee.

Exception: If the concrete encased grounding electrode is not available for connection, a ground ring must be installed per NEC 250 or other grounding electrode installed per NEC 250 verified to measure 25 ohms or less to ground. Resistance verification testing must be performed by an independent firm having qualified personnel and proper equipment. A copy of the testing procedures used and a written resistance test record signed by the person performing the test must be available at the time of inspection. The resistance test record must include test details including, but not limited to, the type of test equipment used, the last calibration date of the test equipment, and all measurements taken during the test.

053 (A)(2) Resistance of rod, pipe, and plate electrodes.

(3) For rod, pipe, and plate electrodes other than those installed in accordance with the exception in subsection (2) of this section, if a ground resistance test is not performed to ensure a resistance to ground of 25 ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of 6 feet apart. A temporary construction service is not required to have more than one made electrode.

(4) For services only, when multiple buildings or structures are located adjacent, but structurally separate from each other, any installed rod, pipe, or plate electrodes used for those services must be installed so that each building's or structure's electrodes are not less than 6 feet apart from the adjacent building's or structure's electrodes.

064 Grounding electrode conductor installation - Physical protection.

(5) Grounding electrode conductors will be considered to be not exposed to physical damage when the conductor(s) are:

(a) Buried more than 12 inches deep in the earth outside the building's footprint;

(b) Encased or covered by 2 inches of concrete or asphalt;

(c) Located inside the building footprint and protected by the building's structural elements or when inside and determined, by the inspector, to not be subject to physical damage; or

(d) Enclosed by a metal or nonmetallic raceway or enclosure. The raceway or enclosure must be approved to protect from severe physical damage if it is not protected by appropriate physical barriers from contact with vehicles, lawn mowers, and other equipment that might damage the conductor or enclosure.

068 Accessibility.

(6) The termination point of a grounding electrode conductor tap to the grounding electrode conductor must be accessible unless the connection is made using an exothermic or irreversible compression connection.

090 Bonding.

(7) Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by an electrical equipment manufacturer's instructions.

(8) Hot and cold water plumbing lines are not required to be bonded together if, at the time of inspection, the inspector can determine the lines are mechanically and electrically joined by one or more metallic mixing valves.

104(B) Bonding - Other metal piping.

(9) For flexible metal gas piping, installed new or extended from an existing rigid metal piping system, either:

(a) Provide a copy of the manufacturer's bonding instructions to the inspector at the time of inspection and follow those instructions; or

(b) The bonding conductor for the gas system must:

(i) Be a minimum 6 AWG copper; and

(ii) Terminate at:

(A) An accessible location at the gas meter end of the gas piping system on either a solid iron gas pipe or a cast flexible gas piping fitting using a listed grounding connector; and

(B) Either the service equipment enclosure, service grounding electrode conductor or electrode, or neutral conductor bus in the service enclosure.

184 Solidly grounded neutral systems over 1000 volts.

(10) In addition to the requirements of NEC 250.184(A), the following applies for:

(a) Existing installations.

(i) The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(A) The existing system uses the concentric shield as a neutral conductor;

(B) Each individual conductor contains a separate concentric shield sized to no less than thirty-three and one-half percent of the ampacity of the phase conductor for three-phase systems or one hundred percent of the ampacity of the phase conductor for single-phase systems;

(C) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(D) Existing cable (i.e., existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

• A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the ((~~2011~~)) 2019 ANSI/NETA maintenance test specifications; and

• A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical engineer and that the cable shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of seven years from the date of testing. Cable will not be required to be tested at a shorter interval.

(ii) A concentric shield used as a neutral conductor in a multigrounded system fulfills the requirements of an equipment grounding conductor.

(b) New installations.

(i) New installations do not include extensions of existing circuits.

(ii) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

WAC 296-46B-334 Wiring methods and materials—Nonmetallic-sheathed cable.

010 Nonmetallic-sheathed cable.

(1) The building classification, for subsections (2), (3), and (4) of this section, will be as determined by the building official. For the purposes of this section, Type III, IV-HT and V may be as defined in the International Building Code adopted in the state of Washington. The installer must provide the inspector documentation substantiating the type of building construction and finish material rating(s) prior to any electrical inspection.

(2) This section replaces NEC 334.10(2). In multifamily dwellings, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV-HT, and V construction except as prohibited in NEC 334.12.

(3) This section replaces NEC 334.10(3). In all other structures, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV-HT, and V construction except as prohibited in NEC 334.12. All cable(s) must be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

(4) This section replaces NEC 334.10(4). Cable trays in structures of Types III, IV-HT, and V construction, where the cable(s) is identified for the use, except as prohibited in NEC 334.12.

015 Exposed work.

(5) Where Type NMC cable is installed in shallow chases in plaster, masonry, concrete, adobe or similar material, the cable must be protected against nails or screws by:

(a) A steel plate at least 1/16 inch thick and covered with plaster, adobe, or similar finish; or

(b) Being recessed in a chase at least 2 3/4 inches deep, as measured from the finished surface, and covered with plaster, adobe, or similar finish. The cable(s) must be at least 2 1/2 inches from the finished surface.

(6) The requirements for nonmetallic sheathed cable protection in NEC 334.15(C) do not apply in crawl spaces.

AMENDATORY SECTION (Amending WSR 18-11-115, filed 5/22/18, effective 7/1/18)

WAC 296-46B-555 Special occupancies—Marinas, boatyards, floating buildings, and commercial and noncommercial docking facilities. (1) ((~~Until September 1, 2019, the ground-fault protection level specified in 2017 NEC 555.3 is amended to allow a maximum of: 100 mA for overcurrent devices supplying feeder conductors not supplying primary windings of transformers; and 30 mA for overcurrent devices supplying branch circuit conductors, outlets, and feeder conductors supplying primary windings of transformers. On September 1, 2019, ground-fault protection for~~

~~marinas, boatyards, and commercial and noncommercial docking facilities will be as published in the 2020 NEC.~~

~~(2)~~)) For the purposes of NEC ((~~555.5~~)) 555.7, transformer terminations must be located a minimum of 12 inches above the deck of a dock (datum plane requirements do not apply for this section).

(((~~3~~))) (2) For the purposes of NEC ((~~555.7~~)) 555.4, adjacent means within sight.

(((~~4~~))) (3) For the purposes of NEC ((~~555.9~~)) 555.30, all electrical connections must be installed a minimum of 12 inches above the deck of a pier unless the connections are ((~~approved for wet locations~~)) within junction boxes identified for wet locations, utilizing sealed wire connector systems listed and identified for submersion (datum plane requirements do not apply for this section).

(((~~5~~))) (4) For the purposes of NEC ((~~555.10~~)) 555.31, all enclosures must be corrosion resistant. All gasketed enclosures must be arranged with a weep hole to discharge condensation.

(((~~6~~))) (5) For the purposes of NEC ((~~555.11~~)) 555.32, gasketed enclosures are only required for wet locations.

(((~~7~~))) (6) For the purposes of NEC ((~~555.13~~)) 555.34, the following wiring methods are allowed:

(a) All wiring installed in a damp or wet location must be suitable for wet locations.

(b) Extra-hard usage portable power cables rated not less than 75°C, 600 volts, listed for wet locations and sunlight resistance and having an outer jacket rated for the environment are permitted. Portable power cables are permitted as a permanent wiring method under or within docks and piers or where provided with physical protection. The requirements of NEC ((~~555.13 (B)(4)(b)~~)) 555.34 (B)(3)(b) do not apply.

(c) Overhead wiring must be installed at the perimeter of areas where boats are moored, stored, moved, or serviced to avoid possible contact with masts and other parts of boats. NEC Article 398 open wiring on insulators is not an approved wiring method in or above any portion of a marina or docking facility.

(d) For the purposes of NEC ((~~555.13 (B)(5)~~)) 555.34 (B)(4), the wiring methods of Chapter 3 NEC will be permitted.

(((~~8~~))) (7) For the purposes of NEC ((~~555.19~~)) 555.33, receptacles must be mounted not less than 12 inches above the deck surface of the pier or dock (datum plane requirements do not apply for this section). Shore power receptacles that provide shore power for boats must be rated not less than 20 amperes and must be single outlet type and must be of the locking and grounding type or pin and sleeve type.

Floating buildings.

(8) Where shore power is provided, a disconnecting means must be located within sight of each floating building or similar facility. The disconnecting means must be installed adjacent to but not in or on the floating building or similar facility.

(9) NEC 555.53 is amended to read: The overcurrent protective device(s) that supply the floating building shall have ground-fault protection not exceeding 30 mA.

(10) Conductors operating in excess of 600 volts, nominal may not be installed on floating portions of a floating building or similar facility.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-705 Interconnected electric power production sources. (1) For utility interactive systems, any person making interconnections between a power production source and the utility distribution network must consult the serving utility and is required to meet all additional utility standards.

((~~031 Location of overcurrent protection.~~)) 011 Supply side source connections.

(2) In addition to the requirements of NEC ((~~705.31~~)) 705.11, electric power production source conductors connected to the supply side of the service disconnecting means must be installed using wiring methods specified for service conductors in WAC 296-46B-230(7). The disconnecting means providing overcurrent protection for the electric power production source conductors must comply with NEC 230.82 (6). This disconnect is not required to be grouped with the service disconnecting means for the building or structure. Grounding and bonding must be in accordance with ((~~all applicable requirements for an additional service disconnect~~)) NEC 250.25.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-901 General—Electrical work permits and fees.

General.

(1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made, equipment must not be energized, or services connected unless:

(a) A valid electrical work permit is obtained and posted per subsection (5) of this section;

(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;

(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and

(d) Driving directions are provided for the inspectors' use.

(2) Except as allowed for annual permits and two-family dwellings, an electrical work permit is valid for only one specific job site address.

Permit - Responsibility for.

(3) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed solely by that entity. When the original purchaser is replaced, another entity may request, in writing, written approval from the chief electrical inspector to take responsibility for the work of the original installing entity under the original permit. If permission is not granted the entity must obtain a new permit for the remaining work.

Two or more entities may never work under the same permit. Each electrical work permit application must be signed by the electrical contractor's administrator (or desig-

nee) or the person, or authorized representative of the firm, partnership, corporation, or other entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a handwritten signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department or city that is authorized to do electrical inspections.

(4) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.

(5) Except as allowed for Class B permits, where an electrical work permit is required, the work permit must be obtained and posted at the job site or the electrical work permit number must be conspicuously posted and identified as the electrical work permit number on or adjacent to the electrical service or feeder panel supplying power to the work prior to beginning any electrical work and at all times until the electrical inspection process is completed.

Exceptions:

(a) For an owner, an electrical work permit for emergency like-in-kind repairs to an existing electrical system(s) must be obtained no later than the next business day after the work is begun.

(b) For an electrical contractor, in a city's jurisdiction where the city is authorized to do electrical inspections and does not have a provisional permit system, an electrical work permit for emergency like-in-kind repairs to an existing electrical system(s) must be obtained and posted, per the city's requirements at the job site no later than the next business day after the work is begun.

(6) Fees must be paid in accordance with the inspection fee schedule in Part C of this chapter. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review. In a city where the department is doing inspections as the city's contractor, a supplemental fee may apply.

Permit - Requirements for.

(7) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems or equipment except for:

(a) Travel trailers;

(b) Class A basic electrical work which includes:

(i) The **like-in-kind replacement** of lamps; a single set of fuses; a single battery smaller than 150 amp hour; contactors, relays, timers, starters, circuit boards, or similar control components; one household appliance; circuit breakers; single-family residential luminaires and line voltage smoke or carbon monoxide alarms; a maximum of five snap switches, dimmers, receptacle outlets, thermostats, heating elements, luminaire ballasts or drivers/power supplies for single LED luminaires with an exact same ballast or driver/power supply; component(s) of electric signs, outline lighting, or skeleton neon tubing when replaced on-site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; one ten horsepower or smaller motor.

For the purposes of this section, "circuit breaker" means a circuit breaker that is used to provide overcurrent protection only for a branch circuit, as defined in NEC 100.

(ii) Induction detection loops described in WAC 296-46B-300(2) and used to control gate access devices;

(iii) Heat cable repair; and

(iv) Embedding premanufactured heat mats in tile grout where the mat is listed by an approved testing laboratory and comes from the manufacturer with preconnected lead-in conductors. All listing marks and lead-in conductor labels must be left intact and visible for evaluation and inspection by the installing electrician and the electrical inspector.

(v) The disconnection of electrical circuits from their overcurrent protection device for the specific purpose of removing the electrical wiring or equipment for disposal.

Unless specifically noted, the exemptions listed do not include: The replacement of an equipment unit, assembly, or enclosure that contains an exempted component or combination of components (e.g., an electrical furnace/heat pump, industrial milling machine, etc.) or any appliance/equipment described in this section for Class B permits.

In the department's jurisdiction, a provisional electrical work permit label may be posted in lieu of an electrical work permit. If a provisional electrical work permit label is used, an electrical work permit must be obtained within two working days after posting the provisional electrical work permit label. See WAC 296-46B-907(2) for provisional label requirements.

(c) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

(i) Low-voltage thermocouple derived circuits;

(ii) Low-voltage circuits for residential: Garage doors and built-in vacuum systems;

(iii) Low-voltage circuits for underground: Landscape sprinkler systems, landscape lighting, and antennas for wireless animal containment fences.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(A) The power supplying the installation must be derived from a listed Class 2 power supply;

(B) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(C) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(D) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(8) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equip-

ment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four-pair cables or more than one twenty-five-pair cable. Therefore, installations of greater than sixty standard four-pair cables or ten standard twenty-five-pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single-family, duplex, and multifamily dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross-connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

Inspection and approval.

(9) Requests for inspections.

(a) Requests for inspections must be made no later than three working days after an entity completes its electrical/telecommunications installation or one working day after any part of the installation has been energized, whichever occurs first.

(b) Requests for after hours, weekend inspections, or temporary installations that will be energized for less than 48 hours must be made by contacting the local electrical inspection supervisor at least three working days prior to the requested date of inspection. The portal-to-portal inspection fees required for after hours or weekend inspections are in addition to the cost of the original electrical work permit.

(c) Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

(10) Inspections will not be made until all permit fees are paid in full.

Permit - Duration/refunds.

(11) Electrical work permits will expire one year after the date of purchase unless permission is granted by the chief electrical inspector or when the permit is closed or completed by the inspector. Refunds are not available for:

(a) Expired electrical work permits;

(b) Electrical work permit fee items, within the department's jurisdiction, where the electrical installation has begun or an inspection requested for that work; or

(c) The first twenty-five dollars of each permit purchase - Application fee.

All refund requests must be made using the Request for Refund application form.

Permit - Annual telecommunications.

(12) The chief electrical inspector or city that is authorized to do electrical inspections can allow annual permits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full-time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit. Upon request, the chief electrical inspector may allow the annual permit to be used for multiple worksites or addresses.

Permit - Annual electrical.

(13) The chief electrical inspector or city that is authorized to do electrical inspections can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Upon request, the chief electrical inspector may allow the annual permit to be used for multiple worksites or addresses.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a plant or building location. This type of permit does not include new or increased service or new square footage.

Permit - Temporary construction project installations.

(14) For temporary electrical installations, the department will consider a permit applicant to be the owner per RCW 19.28.261 under the conditions below:

Any person, firm, partnership, corporation, or other entity registered as a general contractor under chapter 18.27 RCW will be permitted to install a single electrical service per address for the purposes of temporary power during the construction phase of a project, when all of the following conditions are met:

(a) The installation is limited to the mounting and bracing of a preassembled pole or pedestal mounted service, the installation of a ground rod or ground plate, and the connection of the grounding electrode conductor to the ground rod or plate;

(b) The total service size does not exceed 200 amperes, 250 volts nominal;

(c) The service supplies no feeders;

(d) Branch circuits not exceeding 50 amperes each are permitted, provided such branch circuits supply only receptacles that are either part of the service equipment or are mounted on the same pole;

(e) The general contractor owns the electrical equipment;

(f) The general contractor has been hired by the property owner as the general contractor for the project;

(g) The general contractor must purchase an electrical work permit for the temporary service, request inspection, and obtain approval prior to energizing the service.

Posting of corrections.

(15) Electrical installations found to be not in compliance with approved standards must be corrected within fifteen calendar days of notification by the department as required in RCW 19.28.101(3). The notifications will be posted electronically on the electrical permit inspection results. A printed copy of the correction notification will be posted by the inspector at the job site for permits not purchased electronically.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-906 Inspection fees. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

(1) **Residential.**

(a) **Single- and two-family residential (New Construction).**

Notes:
(1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)
(2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.
(3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.
(4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft.	$94.20
Each additional 500 sq. ft. or portion of	$30.10
(ii) Each outbuilding or detached garage - Inspected at the same time as a dwelling unit on the property	$39.20
(iii) Each outbuilding or detached garage - Inspected separately	$62.00
(iv) Each swimming pool - Inspected with the service	$62.00
(v) Each swimming pool - Inspected separately	$94.20
(vi) Each hot tub, spa, or sauna - Inspected with the service	$39.20
(vii) Each hot tub, spa, or sauna - Inspected separately	$62.00
(viii) Each septic pumping system - Inspected with the service	$39.20
(ix) Each septic pumping system - Inspected separately	$62.00

(b) **Multifamily residential and miscellaneous residential structures, services and feeders (New Construction).**

Each service and/or feeder

Ampacity	Service/Feeder	Additional Feeder
0 to 200	$101.60	$30.10
201 to 400	$126.30	$62.00
401 to 600	$173.50	$86.30
601 to 800	$222.70	$118.60
801 and over	$317.60	$238.20

(c) **Single or multifamily altered services or feeders including circuits.**

(i) Each altered service and/or altered feeder

Ampacity	Service/Feeder
0 to 200	$86.30
201 to 600	$126.30
601 and over	$190.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)	$46.70

(d) **Single or multifamily residential circuits only (no service inspection).**

Note:
Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above)	$62.00
(ii) Each additional circuit (see note above)	$6.60

(e) **Mobile homes and modular homes.**

(i) Mobile home or modular home service or feeder only	$62.00
(ii) Mobile home service and feeder	$101.60

(f) **Mobile home park sites and RV park sites.**

Note:
For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

(i) First site service or site feeder	$62.00
(ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder	$39.20

(2) **Commercial/industrial.**

(a) **New service or feeder, and additional new feeders inspected at the same time (includes circuits).**

Note:
For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated using this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Ampacity	Service/Feeder	Additional Feeder
0 to 100	$101.60	$62.00
101 to 200	$123.70	$79.00
201 to 400	$238.20	$94.20
401 to 600	$277.60	$110.80
601 to 800	$359.10	$151.00
801 to 1000	$438.40	$182.70
1001 and over	$478.30	$255.00

(b) **Altered services/feeders (no circuits).**

(i) Service/feeder

Ampacity	Service/Feeder
0 to 200	$101.60
201 to 600	$238.20
601 to 1000	$359.10
1001 and over	$398.90

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) $86.30

(c) **Circuits only.**

Note:
Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(table) above.

(i) First 5 circuits per branch circuit panel $79.00

(ii) Each additional circuit per branch circuit panel $6.60

(d) **Over 600 volts surcharge per permit.** $79.00

(3) **Temporary service(s).**

Notes:
(1) See WAC 296-46B-590 for information about temporary installations.
(2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections will be the greater of the fee from this subsection or the portal-to-portal fee.

Temporary services, temporary stage or concert productions.

Ampacity	Service/Feeder	Additional Feeder
0 to 60	$54.30	$27.80
61 to 100	$62.00	$30.10
101 to 200	$79.00	$39.20
201 to 400	$94.20	$46.80
401 to 600	$126.30	$62.00
601 and over	$143.30	$71.30

(4) **Irrigation machines, pumps, and equipment.**

Irrigation machines.

(a) Each tower - When inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL $6.60

(b) Towers - When not inspected at the same time as a service and feeder - 1 to 6 towers $94.20

(c) Each additional tower $6.60

(5) **Miscellaneous - Commercial/industrial and residential.**

(a) **A Class 2 low-voltage thermostat** and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.

(i) First thermostat $46.80

(ii) Each additional thermostat inspected at the same time as the first $14.50

(b) **Class 2 or 3 low-voltage systems and telecommunications systems.** Includes all telecommunications installations, fire alarm, nurse call, energy management control systems, industrial and automation control systems, lighting control systems, and similar Class 2 or 3 low-energy circuits and equipment not included in WAC 296-46B-908 for Class B work.

(i) First 2500 sq. ft. or less $54.30

(ii) Each additional 2500 sq. ft. or portion thereof $14.50

(c) **Signs and outline lighting.**

(i) First sign (no service included) $46.80

(ii) Each additional sign inspected at the same time on the same building or structure $22.10

(d) **Berth at a marina or dock.**

Note:
Five berths or more will be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL above.

(i) Berth at a marina or dock $62.00

(ii) Each additional berth inspected at the same time $39.20

(e) **Yard pole, pedestal, or other meter loops only.**

(i) Yard pole, pedestal, or other meter loops only $62.00

(ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations $14.50

(f) **Inspection appointment requested for outside of normal working hours.**

Regular fee plus surcharge of: $118.60

(g) **Generators.**

Note:
Permanently installed generators: Refer to the appropriate residential or commercial new/altered service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators $86.30

(h) **Electrical - Annual permit fee.**

Note:
See WAC 296-46B-901(13).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	$2,284.20
4 to 6 plant electricians	24	$4,571.00
7 to 12 plant electricians	36	$6,856.20
13 to 25 plant electricians	((~~52~~)) 48	$9,143.00
More than 25 plant electricians	52	$11,429.80

(i) **Telecommunications - Annual permit fee.**

Notes:
(1) See WAC 296-46B-901(12).
(2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum	$188.80
Each additional hour, or portion thereof, of portal-to-portal inspection time	$94.20

(j) **Permit requiring ditch cover inspection only.**

Each 1/2 hour, or portion thereof	$46.80
(k) **Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor.**	$79.00

(6) **Carnival inspections.**

(a) **First carnival field inspection each calendar year.**

(i) Each ride and generator truck	$22.10
(ii) Each remote distribution equipment, concession, or gaming show	$6.60
(iii) If the calculated fee for first carnival field inspection above is less than $100.50, the minimum inspection fee will be:	$118.60

(b) **Subsequent carnival inspections.**

(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show	$118.60
(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show	$6.60

(c) **Concession(s) or ride(s) not part of a carnival.**

(i) First field inspection each year of a single concession or ride, not part of a carnival	$94.20
(ii) Subsequent inspection of a single concession or ride, not part of a carnival	$62.00

(7) **Trip fees.**

(a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.)	$94.20
(b) Submitter notifies the department that work is ready for inspection when it is not ready.	$46.80
(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection.	$46.80
(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work.	$46.80
(e) Each trip necessary to remove a noncompliance notice.	$46.80
(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted.	$46.80
(g) Installations that are covered or concealed before inspection.	$46.80

(8) **Progress inspections.**

Note:
The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.

On partial or progress inspections, each 1/2 hour.	$46.80

(9) **Plan review.**

(a) Plan review fee is 35% of the electrical work permit fee as determined by WAC 296-46B-906.	35%
(b) Plan review submission fee .	$79.00
(c) Supplemental submissions of plans per hour or fraction of an hour of review time.	$94.20
(d) Plan review handling fee.	$22.10

(10) **Out-of-state inspections.**

(a) Permit fees will be charged according to the fees listed in this section.

(b) Travel expenses:

All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.

(11) **Other inspections.**

Inspections not covered by above inspection fees must be charged portal-to-portal per hour:	$94.20

(12) **Variance request processing fee.**

Variance request processing fee. This fee is nonrefundable once the transaction has been validated.	$94.20

(13) **Class B basic electrical work labels.**

(a) Block of twenty Class B basic electrical work labels (not refundable).	$258.70
(b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour timed from leaving the previous inspection until the reinspection is completed). See WAC 296-46B-908(5).	$46.80
(c) Reinspection of Class B basic electrical work because of a failed inspection of another Class B label (per 1/2 hour from previous inspection until the reinspection is completed). See WAC 296-46B-908(5).	$46.80

(14) **Provisional electrical work permit labels.**

Block of twenty provisional electrical work permit labels.	$258.70

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-908 Class B permits.

Class B electrical work permit - Use.

(1) The Class B basic electrical random inspection process (Class B process) may only be used by:

(a) Licensed electrical/telecommunication contractors; or

(b) Health care, commercial, or industrial facilities using an employee(s) who is an appropriately certified electrician(s) after requesting, in writing, and receiving permission from the chief electrical inspector.

Each entity doing work must use a separate label.

(2) The Class B random inspection process is only available if the label is validated and the label or label number is posted before beginning the work.

(a) For Class B labels obtained after February 28, 2013:

(i) Prior to, or immediately upon posting the Class B label/number, the purchaser must use the department's online Class B system to enter the job site information for an unused Class B label obtained by the purchaser. If the posting occurs on a weekend or a federal/state holiday, the purchaser must use the online system to enter the information no later than the first business day after posting the label/number;

(ii) The person identified as the installer on the Class B label must post the Class B label or label number, in a conspicuous permanent manner, at the:

(A) Main service/feeder location supplying the structure or system; or

(B) Purchaser's equipment, or on the equipment conductors if the equipment is not in place.

(iii) The Class B label is valid immediately upon the purchaser completing the job site information in the department's online Class B system, and posting of the Class B label or label number per (a)(ii) of this subsection.

(b) For Class B labels obtained before March 1, 2013:

(i) The purchaser must fully enter the job site information on the job site and contractor portions of the Class B label.

(ii) The person identified as the installer on the Class B label must post the completed job site copy, in a conspicuous permanent manner, at the:

(A) Main service/feeder location supplying the structure or system;

(B) Purchaser's equipment, or on the conductors if the equipment is not available.

(iii) The purchaser must return the contractor copy to the Department of Labor and Industries, Electrical Section, Chief Electrical Inspector, P.O. Box 44460, Olympia, WA 98504-4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

(iv) The Class B label is valid immediately upon posting on the job site.

(3) Class B labels will be sold in blocks and are nonrefundable and nontransferable.

(4) Class B label installations will be inspected on a random basis as determined by the department.

(5) A progress inspection fee is required for any inspection required when a correction(s) is issued as a result of the inspection of a Class B label.

(6) Any entity using the Class B process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(7) A separate label is required for each line item listed below in subsection (10) of this section. For example, if the work includes an item under subsection (10)(a) and (b)(i) of this section, two labels are required.

(8) An entity using a Class B basic inspection label is restricted to using no more than two labels per week per job site.

(9) All Class B work must be completed within fifteen days after the label is validated. If the work is not completed, another Class B may be posted.

Except that, in a one- or two-family residential structure, a label is valid for ninety days after the label is validated, so long as all work described on the label is performed by the purchaser.

(10) Class B work includes the following:

(a) Extension of not more than one branch electrical circuit limited to 120 volts and 20 amps each where:

(i) No cover inspection is necessary. For the purposes of this section, cover inspection does not include work covered by any surface that may be removed for inspection without damaging the surface; and

(ii) The extension does not supply more than two outlets as defined by the NEC.

(b) Single like-in-kind replacement of:

(i) A motor larger than 10 horsepower; or

(ii) The internal wiring of a furnace, air conditioner, refrigeration unit or household appliance; or

(iii) An electric/gas/oil furnace not exceeding 240 volts and 100 amps and associated Class 2 low voltage wiring (i.e., altered and/or new low-voltage control wiring from the furnace to an existing and/or new thermostat, heat pump, air conditioner, condenser, etc.), when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

(iv) An individually controlled electric room heater (e.g., baseboard, wall, fan forced air, etc.), air conditioning unit, heat pump unit, or refrigeration unit not exceeding 240 volts, 40 minimum circuit amps and associated Class 2 low voltage wiring when the unit is connected to an existing branch circuit; or

(v) Circuit modification required to install not more than five residential load control devices in a residence where installed as part of an energy conservation program sponsored by an electrical utility and where the circuit does not exceed 240 volts and 40 amps; or

(vi) A single, line-voltage flexible supply whip associated with (b)(i), (iii), or (iv) of this subsection, not over 6 feet in length, provided there are no modifications to the branch circuit/feeder load being supplied by the whip. May be done on the same Class B label with the replacement unit if done at the same time.

(c) The following low voltage systems:

(i) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings; or

(ii) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC; or

(iii) The installation of Class 2 or 3 device(s) or wiring for thermostat, audio, security, burglar alarm, intercom, amplified sound, public address, or access control systems where the installation does not exceed twenty devices or five thousand square feet. This does not include fire alarm, nurse call, lighting control, industrial automation/control or energy management systems; or

(iv) Telecommunications cabling and equipment requiring inspection in RCW 19.28.470 where the installation does not exceed twenty devices or five thousand square feet;

(d) The replacement of not more than ten standard receptacles with GFCI ((~~or~~)), AFCI, or dual function AFCI/GFCI receptacles;

(e) The conversion of not more than ten snap switches to dimmers or occupancy sensors for the use of controlling a luminaire(s) conversion;

(f) The like-in-kind replacement of a maximum of twenty: Paddle fans, luminaires not exceeding 277 volts and 20 amperes; snap switches, dimmers, receptacle outlets, line voltage thermostats, heating elements, luminaire ballasts, or drivers/power supplies for single LED luminaires;

(g) The replacement of not more than two luminaires with paddle fans if a listed fan box has been previously installed to support the luminaires;

(h) The replacement of not more than four batteries rated not larger than 150 amp hours each that supply power to a single unit of equipment (e.g., uninterruptable power supply, photovoltaic storage system, control panel, etc.);

(i) The installation or repair of equipment powered by a stand-alone solar photovoltaic source where the:

(i) Electrical equipment requires no field assembly except for the attachment and electrical connection of the solar photovoltaic source to the equipment, the installation and attachment to a grounding electrode, and the placement of the equipment on a pad, pole, or other structure;

(ii) Solar photovoltaic source and the equipment operates at less than 15 volts DC;

(iii) Solar photovoltaic source is the only source of external power; and

(iv) Equipment and the solar photovoltaic source are appropriately labeled as a single unit. The label must be by an approved electrical testing laboratory or for equipment used for traffic control labeled according to WAC 296-46B-010 (21).

(j) The installation or replacement of a single electric sign on an existing single 120-volt, 20-amp maximum branch circuit;

(k) The like-in-kind replacement of output cables consisting of a length of flexible EV cable and an electric vehicle connector when connected to fixed in place electric vehicle supply equipment.

(11) Class B basic electrical work does not include any work in:

(a) Areas classified as Class I, Class II, Class III, or Zone locations per NEC 500; or

(b) Areas regulated by NEC 517 or 680; or

(c) Any work where electrical plan review is required; or

(d) Fire alarm, nurse call, lighting control, industrial automation/control or energy management systems.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-915 Civil penalty schedule.

Notes: Each day that a violation occurs on a job site may be a separate offense.

Once a violation of chapter 19.28 RCW or chapter 296-46B WAC becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the following tables.

In case of serious noncompliance or a serious violation of the provisions of chapter 19.28 RCW or as described in WAC 296-46B-990, the department may double the penalty amount, up to ten thousand dollars shown in subsections (1) through (((~~13~~))) (14) of this section.

A person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW or chapter 296-46B WAC is liable for a civil penalty based upon the following schedule.

(1) **Offering to perform, submitting a bid for, advertising, installing or maintaining cables, conductors or equipment:**

(a) That convey or utilize electrical current without having a valid electrical contractor's license; or

(b) Used for information generation, processing, or transporting of signals optically or electronically in telecommunications systems without having a valid telecommunications contractor's license.

First offense:	$1,000
Second offense:	$2,000
Third offense:	$3,000
Each offense thereafter:	$10,000

(2) **Employing an individual for the purposes of chapter 19.28 RCW who does not possess a valid certificate of competency or training certificate to do electrical work.**

First offense:	$250
Each offense thereafter:	$500

(3) **Performing electrical work without having a valid certificate of competency or electrical training certificate.**

(a) Failing to visibly display a certificate (must possess a valid, active certificate).

First offense:	$50
Each offense thereafter:	$100

(b) Performing electrical work while not possessing a valid certificate or working outside the scope of a certificate.

First offense:	$250
Each offense thereafter:	$500

(4) **Employing electricians and electrical trainees for the purposes of chapter 19.28 RCW in an improper ratio. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.**

First offense:	$250
Each offense thereafter:	$500

(5) **Failing to provide proper supervision to an electrical trainee as required by chapter 19.28 RCW. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.**

First offense:	$250
Each offense thereafter:	$500

(6) **Working as an electrical trainee without proper supervision as required by chapter 19.28 RCW.**

First offense:	$50
Second offense:	$250
Each offense thereafter:	$500

(7) **Offering, bidding, advertising, or performing electrical or telecommunications installations, alterations or maintenance outside the scope of the firm's specialty electrical or telecommunications contractors license.**

First offense: $500

Second offense: $1,500

Third offense: $3,000

Each offense thereafter: $6,000

(8) **Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which are not listed by an approved laboratory.**

First offense: $500

Second offense: $1,000

Each offense thereafter: $2,000

Definition:
The sale or exchange of electrical equipment associated with hot tubs, spas, swimming pools or hydromassage bathtubs includes to: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) **Covering or concealing installations prior to inspection.**

First offense: $250

Second offense: $1,000

Each offense thereafter: $2,000

(10) **Failing to make corrections within fifteen days of notification by the department.**

Exception:
Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense: $250

Second offense: $1,000

Each offense thereafter: $2,000

(11) **Failing to get an inspection or obtain an electrical/telecommunications work permit or post a provisional electrical work permit label prior to beginning the electrical/telecommunications installation or alteration.**

Exception:
In cases of emergency repairs, for owners, to existing electrical/telecommunications systems, this penalty will not be charged if the permit is obtained and posted no later than the business day following beginning work on the emergency repair.

(a) Standard/provisional permit offenses:

First offense: $250

Second offense: $1,000

Each offense thereafter: $2,000

(b) Class B offenses:

Failure to post a Class B label or number for Class B eligible work:

First offense: $100

Second offense: $250

Each offense thereafter: $1,000

(c) For other Class B offenses:

First offense: $100

Second offense: $250

Each offense thereafter: $1,000

(12) **Violating chapter 19.28 RCW duties of the electrical/telecommunications administrator or master electrician.**

(a) Failing to be a member of the firm or a supervisory employee and must be available during working hours to carry out the duties of an administrator or master electrician.

First offense: $1,000

Second offense: $1,500

Each offense thereafter: $3,000

(b) Failing to ensure that all electrical work complies with the electrical installation laws and rules of the state.

First offense: $100

Second offense: $250

Third offense: $1,000

Each offense thereafter: $3,000

(c) Failing to ensure that the proper electrical safety procedures are used.

First offense: $500

Second offense: $1,500

Each offense thereafter: $3,000

(d) Failing to ensure that inspections are obtained and that all electrical labels, permits, and certificates required to perform electrical work are used.

Standard/provisional permit offenses:

First offense: $250

Each offense thereafter: $500

Class B offenses:

First offense: $100

Second offense: $250

Each offense thereafter: $1,000

(e) Failing to ensure that all electrical licenses, required to perform electrical work are used (i.e., work performed must be in the allowed scope of work for the contractor).

First offense: $500

Second offense: $1,500

Third offense: $3,000

Each offense thereafter: $6,000

(f) Failing to see that corrective notices issued by an inspecting authority are complied with within fifteen days.

Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense: $250

Second offense: $1,000

Each offense thereafter: $2,000

(g) Failing to notify the department in writing within ten days if the master electrician or administrator terminates the relationship with the electrical contractor.

First offense: $500

Second offense: $1,000

Each offense thereafter: $3,000

(13) **Causing or failing to correct a serious violation.**

A serious violation is a violation of chapter 19.28 RCW or 296-46B WAC that creates a hazard of fire or a danger to life safety.

First offense: $1,000

Second offense: $3,000

Each offense thereafter: $5,000

(14) **Violating any of the provisions of chapter 19.28 RCW or chapter 296-46B WAC which are not identified in subsections (1) through (12) of this section.**

(a) RCW 19.28.161 through 19.28.271 and the rules developed pursuant to them.	
First offense:	$250
Each offense thereafter:	$500
(b) All other chapter 19.28 RCW provisions and the rules developed pursuant to them.	
First offense:	$250
Second offense:	$750
Each offense thereafter:	$2,000

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater).

Specialties.

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater). **Specialty** (limited) electrical licenses and/or certificates are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures located on the same property and under the same ownership as the dwelling structure(s) such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring of:

(A) Any portion of any occupancy of types I or II construction; or

(B) Occupancies defined in WAC 296-46B-900(1), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores; or

(C) Services, generators, HVAC/refrigeration equipment, fire pumps or other equipment that serve other than one- and two-family dwellings, or multifamily dwellings of types III, IV, or V construction or ancillary structures; or

(D) Interconnected electric power production sources not connected to equipment that supplies one- and two-family dwellings, or multifamily dwellings of types III, IV or V construction, or ancillary structures; or

(E) Any portion of wiring for conveyances regulated under chapter 70.87 RCW serving more than one residential dwelling unit.

(iii) For the purposes of this section, classification of types of construction are as determined by the local building official.

(iv) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls, and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

Also see RCW 18.106.010 (10)(c).

(c) **Domestic pump (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems. Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls.

Also see RCW 18.106.010 (10)(c).

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, repair, or install retrofit kits within housings of existing exterior luminaires that are mounted on a pole or other structure with like-in-kind or retrofit kit components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) Form or pour a concrete pole base used to support a sign;

(C) Operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) Assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

(i) For the purposes of this section, when a line voltage connection is removed and reconnected to a replacement component located inside the control cabinet, the replacement must be like-in-kind or replaced using the equipment manufacturer's authorized replacement component. The line voltage circuit is limited to 120 volts 20 amps maximum and must have a means of disconnect.

(ii) The limited energy systems (06) specialty may repair or replace line voltage connections terminated inside the cabinet to power supplies internal to the low voltage equipment provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the circuit.

(iii) The limited energy systems (06) specialty may not replace or modify the line voltage circuit or cabling or alter the means of connection of the line voltage circuit to the power supply or to the control cabinet.

Limited energy electrical contractors may perform all telecommunications work under their specialty **(06)** electrical license and administrator's certificate.

(f) **HVAC/refrigeration systems:**

(i) See WAC 296-46B-100 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard;

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip other than a reduction in the HVAC unit's rated maximum overcurrent protection size. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

Exception: If HVAC/R equipment is being replaced, this specialty may remove and replace a disconnecting means enclosure mounted on the surface of the HVAC/R equipment with a like-in-kind disconnecting means enclosure rated not more than 20 amperes and 120 volts using the existing wiring method. When performing this work, this specialty may install up to ten feet of raceway to provide physical protection for nonmetallic cables, but the raceway may not terminate in a panelboard.

(B) Install, repair, replace, or maintain:

• Integrated building control systems, other than HVAC/refrigeration systems;

• Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

• Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

• Raceway/conduit systems;

• Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other; or

• Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration **(06A):**

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

• Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three stories on/above grade; or

Regardless of the number of stories above grade if the installation:

((~~• Does not pass between stories;~~))

• Is made in a previously occupied and wired space; and

• Is restricted to the HVAC/refrigeration system;

• Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.

• Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - Restricted **(06B):**

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.

(C) This specialty may not install, repair, replace, or maintain:

• The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

• Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(g) **Nonresidential maintenance (07):** Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential **(02)** specialty electrician examination.

(i) This specialty includes the installation and connections of temporary conductors and equipment for the purpose of load testing, not to exceed 600 volts.

(ii) For the purposes of replacement of electrical equipment, where the new equipment has a lower ampere rating than the equipment being replaced and there are no modifications to the ampacity rating of the existing conductors, this specialty may replace a device(s) that provides overcurrent or overload protection for the new equipment with a device(s) having a lower ampere rating in accordance with the nameplate rating of the new equipment.

(iii) This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A):** Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of ((~~lamps,~~)) ballasts, sockets, and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B):** This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors,

raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: Ovens, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(C) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates,

doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

• There are no modifications to the characteristics of the branch circuit/feeder;

• The circuit/feeder does not exceed 600 volts, 20 amperes; and

• The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the **(06)** limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-925 Electrical/telecommunications contractor's license.

General.

(1) The department will issue an electrical/telecommunications contractor's license that will expire twenty-four months following the date of issue to a person, firm, partnership, corporation or other entity that complies with requirements for such license in chapter 19.28 RCW. An electrical /telecommunications contractor's license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of each member(s) (see WAC 296-46B-100 definition for member), are submitted with the application. The department may issue an electrical/telecommunications contractor's license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor's licenses that expire each month. The department may prorate the electrical/telecommunications contractor's license fee according to the license period.

The applicant, upon application and renewal, must provide the department with the Social Security number, date of birth, and legal address of each member(s).

(2) Combination specialty contractor's license. The department may issue a combination specialty contractor's license to a firm that qualifies for more than one specialty electrical contractor's license. The assigned administrator must be certified in all specialties applicable to the combination specialty contractor's license. The license will plainly indicate the specialty licenses' codes included in the combination license. An administrator assigned to a telecommunications contractor must be certified as a telecommunications administrator. A combination license will not be issued for telecommunications **(09).**

(3) See RCW 19.28.041(7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (10)(c).

(4) The department may deny application, renewal, change of assignment of administrator/master electrician, reinstatement, or issuance of an electrical/telecommunications contractor's license if a firm, an owner, partner, member, or corporate officer owes money as a result of an outstanding final judgment(s) under chapter 19.28 RCW.

Electrical/telecommunications contractor bond, cash or securities deposit.

(5) Bond, cash, or securities deposit.

(a) The electrical/telecommunications contractor may furnish the department with a cash or security deposit to meet the bond requirements in lieu of posting a bond. A cash or security deposit assigned to the department for bond requirements will be held in place for one year after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as an electrical/telecommunications contractor. Upon written request, the cash or security deposit will then be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

(b) See RCW 19.28.041(7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (10)(c).

Telecommunications contractor insurance.

(6) To obtain a telecommunications contractor's license, the applicant must provide the department with an original certificate of insurance naming the department of labor and industries, electrical section as the certificate holder. Insurance coverage must be no less than twenty thousand dollars for injury or damages to property, fifty thousand dollars for injury or damage including death to any one person, and one hundred thousand dollars for injury or damage including death to more than one person. The insurance will be considered a continuing obligation unless canceled by the insurance company. The insurance company must notify the depart-

ment in writing ten days prior to the effective date of said cancellation or failure to renew.

(7) The telecommunications contractor may furnish the department with an assigned account to meet the insurance requirements in lieu of a certificate of insurance. An account assigned to the department for insurance requirements will be held in place for three years after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as a telecommunications contractor. Upon written request, the account then will be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Electrical/telecommunications contractor exemptions.

(8) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

Low-voltage thermocouple derived circuits and low-voltage circuits for:

(a) ((~~Built-in~~)) Residential: Garage doors and built-in vacuum systems ((~~and garage doors~~)); and

(b) Underground: Landscape sprinkler systems, landscape lighting, and antennas for wireless animal containment fences.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(c) The power supplying the installation must be derived from a listed Class 2 power supply;

(d) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(e) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(f) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(9) Firms who clean and/or replace lamps in luminaires are not included in the requirements for licensing in chapter 19.28 RCW. This exemption does not apply to electric signs as defined in the NEC.

(10) Firms who install listed plug and cord connected utilization equipment are not included in the requirements for licensing in chapter 19.28 RCW. The plug and cord must be a single listed unit consisting of a molded plug and cord and not exceeding 250 volt 60 ampere single phase. The plug and cord can be field installed per the manufacturer's instructions and the product listing requirements. The utilization equipment must be a single manufactured unit, including the plug and cord, that does not require any electrical field assembly except for the installation of the plug and cord and is allowed to be plug and cord connected by the NEC. Firms who perform field electrical servicing, maintaining, or repairing of plug and cord connected utilization equipment other than household appliances are not included in this exemption.

(11) Firms regulated by the Federal Communications Commission or the utilities and transportation commission, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(12) Unregulated firms, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(13) Leaseholders. For electrical installations, maintenance, or alterations to existing buildings only, any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner authorizing the leaseholder to perform electrical work, on the property the leaseholder occupies, will be allowed to purchase an electrical permit(s) and do electrical work on or within the property described in the lease. The lessee and/or his or her regularly employed employees must perform the electrical installation, maintenance and alteration.

The lessee who performs the electrical maintenance or installation work must be the sole occupant of the property or space. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. For the purposes of this section, electrical work associated with setting a manufactured, mobile, or modular building is considered electrical work on a new building. Refer to RCW 19.28.261 for exemptions from licensing and certification.

(14) Assisting a householder. A friend, neighbor, relative, or other person (including a certified electrician) may assist a householder, at his/her residence in the performance of electrical work on the condition that the householder is present when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work. For the purposes of this subsection, a residence is a single-family residence.

(15) Volunteering to do electrical work. There are no exceptions from the electrical contractor's license or electrician certification requirements to allow persons to perform volunteer electrical work for anyone other than a householder or a nonprofit organization as allowed by RCW 19.28.091(7). For the purpose of this section, volunteer means that there is no remuneration or receiving of goods or services in return for electrical installations performed.

(16) Farms or place of business. See RCW 19.28.261 for licensing/certification exemptions allowed for the owner(s) of a farm or other place of business and for the employees of the owner.

(17) The licensing and certification requirements of chapter 19.28 RCW do not apply to persons or firms who remove electrical wiring and/or equipment for the purpose of disposal when all conductors, raceways, and equipment to be disposed of have been physically separated from the source of power by a properly certified electrician employed by a licensed electrical contractor, or person(s) meeting the exemptions listed in RCW 19.28.261. Removal of a component or only a portion of an equipment unit is considered

electrical maintenance and does not qualify for this exemption.

Exemptions - Electrical utility and electrical utility's contractor.

(18) Electrical utility exemptions.

(a) Utility system exemption - RCW 19.28.010(1) and 19.28.091(1).

(i) Neither a serving electrical utility nor a contractor or subcontractor employed by the serving electrical utility is required to have an electrical contractor's license for work on the "utility system" or on service connections or on meters or other apparatus used to measure the consumption of electricity.

(ii) Exemption from inspection. The work of a serving electrical utility and its contractor(s) on the work exempted by NEC 90.2 (b)(5), 1981 edition, is not subject to inspection.

(b) Street/area lighting exemption - RCW 19.28.091 (2)(a).

(i) On:

(A) Publicly owned streets, parks, athletic/play fields, beaches, and similar areas where the public has general, clear, and unrestricted access; or

(B) Outside area lighting installed on a utility owned pole(s) that is used to support the utility's electric distribution wiring or equipment that supplies a private property owner's property, the serving electrical utility is considered to be an owner and is not required to have an electrical contractor's license or electrical permit to install or work on wiring or equipment, owned by the utility and used in the lighting of those streets/areas.

(ii) On other privately or publicly owned property (e.g., private streets, parking lots, businesses, schools, etc.), the serving utility is not required to have an electrical contractor's license or electrical permit to install or work on outside street/area lighting where the light(s) is supplied directly from the utility system and installed according to the NESC or NEC.

This work is considered to be utility type work.

An electric utility is not allowed to install or work on street/area lighting:

(A) When the area is privately or publicly owned and the public does not have general, clear, and otherwise unrestricted access such as: Industrial property, residential property, or other property where the public's access is restricted in any manner.

(B) Where the lighting is supplied from a source of power derived from a customer-owned electrical system.

(C) Where the lighting or wiring is attached to a building or other customer-owned structure.

(D) If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

(c) Customer-owned equipment exemption - RCW 19.28.091 (2)(b). A serving electrical utility is not required to have an electrical contractor's license to work on electrical equipment owned by a commercial, industrial, or public institution customer if:

(i) The utility has not solicited such work; and

(ii) Such equipment:

(A) Is located outside a building or structure; and

(B) The work performed is ahead of the secondary side of the customer's transformer(s) which supplies power at the customer's utilization voltage.

If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

This work is considered to be utility type work.

The owner will provide the electrical work permit and be responsible for requesting inspections and for ensuring the work is installed per chapter 19.28 RCW and this chapter.

Exemptions - Electrical utility telecommunications transition equipment installations, maintenance and repair.

(19) No license, inspection or other permit will be required by the department of any electric utility or, of any person, firm, partnership or corporation or other entity employed or retained by an electric utility or its contractor, because of work in connection with the installation, maintenance, or repair of telecommunications transition equipment located ahead of the utility's telecommunications network demarcation point on the outside of a building or other structure when the work is performed by a qualified person consistent with the requirements of the National Electric Code (NEC) except as provided in (a) and (b) of this subsection:

(a) The following exceptions to the NEC will be permitted:

(i) An additional service disconnect supplying power to the transition equipment can be connected on the supply side of the main service disconnect supplying general power to the building;

(ii) Service entrance disconnects may be separated when clearly labeled;

(iii) The service disconnect used for supplying power to the transition equipment must be connected to the grounding electrode system using:

(A) #8 AWG copper or larger grounding electrode conductor if protected from physical damage; or

(B) #6 AWG copper or larger grounding electrode conductor if not protected from physical damage;

(iv) Use of equipment or materials that have been listed/field evaluated by a recognized independent testing laboratory or the department;

(v) Low-voltage circuits do not require a separate disconnecting means and may be grounded to the transition equipment grounding system;

(vi) Any other variance to the NEC must be approved by the department.

(b) A variance recommended by a joint utility standards group composed of representatives of both public and private utilities or certified by a professional engineer will be approved by the department unless the recommendation is inconsistent with meeting equivalent objectives for public safety.

(c) For the purposes of this section, a qualified worker is employed by a utility or its contractor and is familiar with the construction or operation of such lines and/or equipment that concerns his/her position and who is proficient with respect to the safety hazards connected therewith, or, one who has passed a journey status examination for the particular branch of the electrical trades with which he/she may be connected

or is in a recognized training or apprenticeship course and is supervised by a journey level person.

(d) Although the utility is responsible for inspection and approval of the installation, including the selection of material and equipment, the department reserves the right to audit worker qualifications and inspect such installations semiannually for conformance with the requirements of (a), (b) and (c) of this subsection but will not collect a permit fee for such inspection or audit.

(e) If a utility fails to meet the requirements of this section, the department may require the utility to develop and submit a remedial action plan and schedule to attain compliance with this section which may be enforced by the department.

(f) This exemption will be in addition to any other exemption provided in chapter 19.28 RCW, this chapter or other applicable law.

Exemptions - Independent electrical power production equipment exemption.

(20) An independent electrical power production entity is not required to have an electrical contractor's license to work on electrical equipment used to produce or transmit electrical power if:

(a) The entity is:

(i) The owner or operator of the generating facility is regulated by the Federal Energy Regulatory Commission (FERC);

(ii) A municipal utility, or other form of governmental electric utility, or by an electrical cooperative or mutual corporation; or

(iii) The owner or operator of the generating facility is an independent electrical power producer and the facility generates electrical power only for sale to one or more:

(A) Electrical utilities regulated by FERC, municipal utility, or other form of governmental utility, or to an electric cooperative or mutual corporation; and

(B) The electrical power generated by the facility is not used for self-generation or any other on- or off-site function other than sale to one or more utilities regulated by FERC or by one or more state public utilities commissions, or to a PUD, municipal utility, or other form of governmental electric utility, or to an electric cooperative or mutual corporation.

(b) The entity must supply the chief electrical inspector a valid master business license issued by the department of licensing, state of Washington so that the entity's status as a revenue generating business can be confirmed.

(c) The entity has entered into an agreement to sell electricity to a utility or to a third party; and

(d) The electrical equipment is used to transmit electricity from the terminals of an electrical generating unit located on premises to the point of interconnection with a utility system.

(e) The electrical power production facility's generation capacity exceeds 100 KVA.

(f) Notwithstanding that a generating facility may be granted an exemption pursuant to this section, the facility will be subject to all the requirements of chapter 19.28 RCW if the facility at any time in the future ceases to comply with the requirements for exemption. All site facilities not exclusively and directly required to generate and/or distribute the electrical power generated on the site are subject to all the licensing and inspection requirements of chapter 19.28 RCW. All facility services, feeders, and circuits not exclusively and directly required to generate and/or distribute the electrical power (e.g., lights, outlets, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection. Facility circuits supplied to equipment required for the function of generation equipment (e.g., block heaters, power supplies, wind generator tower circuits, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection up to and including the equipment termination point.

(g) The generation equipment must not be mounted on or in any building or structure not required for generation of power (e.g., schools, offices, residences, apartment buildings, hospitals, etc.).

Exemptions - Telegraph and telephone utility and telegraph and telephone utility's contractor.

(21) Telegraph and telephone utility exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.151. For the purposes of this exemption, "building or buildings used exclusively for that purpose" may mean any separate building or space of a building where the space is separated from the remainder of the building by a two-hour fire wall. The telecommunications or telegraph equipment within such a space must supply telephone or telegraph service to other customer's buildings (i.e., telecommunications or telegraph equipment cannot solely supply the building containing the telephone/telegraph space).

Exemptions - Manufacturers of electrical/telecommunications products.

(22) Manufacturers of electrical/telecommunications systems products will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing:

(a) Provided the product:

(i) Has not been previously energized;

(ii) Has been recalled by the Consumer Product Safety Commission;

(iii) Is within the manufacturer's written warranty period, a period not to exceed one year from date of original installation of the new product; or

(iv) The manufacturer is working under the written request and supervision of an appropriately licensed electrical contractor.

(b) Except for the replacement of individual components, as allowed above, this exemption does not include the on-site assembly, installation, removal, or replacement of the electrical product. Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring.

(c) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory.

(d) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

Premanufactured electric power generation equipment assemblies and control gear.

(23) Premanufactured electric power generation equipment assemblies and control gear.

(a) Manufacturers of premanufactured electric power generation equipment assemblies and control gear will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided:

(i) For transfer equipment, the product has not been previously energized or is within the manufacturer's written warranty period;

(ii) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring;

(iii) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory; or

(iv) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(b) Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment. Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(c) Modifications of a transfer switch must not include changes to the original intended configuration or changes or contact with externally field-connected components.

(d) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW:

(i) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(ii) Installation of the transfer switch;

(iii) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

(iv) Connections between the power generation unit, transfer switch, control gear, and any building or structure; or

(v) Test connections with any part of:

(A) The utility's transmission or distribution system; or

(B) The building or structure.

(24) The installation, maintenance, or repair of a medical device deemed in compliance with chapter 19.28 RCW is exempt from licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.-101. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(25) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption. For the purposes of RCW 19.28.091(8), the like-in-kind replacement includes the appliance or any component part of the appliance such as, but not limited to, the thermostat in a water heater.

(26) Nothing in this section will alter or amend any other exemptions from or requirement for licensure or inspection, chapter 19.28 RCW or this chapter.

Photovoltaic equipment.

(27) See WAC 296-46B-690 for specific exemptions related to photovoltaic installations.

Submersible well pump installers.

(28) Firms that install submersible pumps and associated wiring in well casings, (excluding connection of pump wiring at the top of the wellhead) are not included in the requirements for licensing in chapter 19.28 RCW.

EXCEPTION: For testing purposes of a new submersible pump, well drillers and submersible pump installers registered under chapter 18.27 RCW may temporarily connect a submersible well pump to a portable generator with cord and plug output. All temporary wiring and equipment must be removed immediately upon completion of testing.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

WAC 296-46B-935 Administrator certificate.

General.

(1) The department will deny application, renewal, change of assignment, reinstatement, or issuance of an administrator or master electrician certificate if an individual owes money as a result of an outstanding final judgment(s) under chapter 19.28 RCW.

(2) For special accommodation see WAC 296-46B-960.

(3) An applicant will not be issued a specialty administrator certificate that is a subspecialty of a certificate the applicant currently holds (i.e., the applicant is not eligible to take the domestic well administrator examination if the applicant currently possesses a pump and irrigation administrator certificate).

Qualifying for examination.

(4) There are no qualification requirements for taking an administrator certificate examination. Applicants should contact the testing agency directly.

Original - Administrator certificates.

(5) The scope of work for electrical administrators is described in WAC 296-46B-920. The department will issue an original administrator certificate to a general administrator, or specialty administrator who:

(a) Successfully completes the appropriate administrator examination; and

(b) Submits the appropriate examination passing report from the testing agency with the applicant's: Date of birth, mailing address, and Social Security number; and

(c) Pays all appropriate fees as listed in WAC 296-46B-909.

For an examination report to be considered, all the above must be submitted within ninety days after the completion of the examination. After ninety days, the applicant will be required to successfully retake the complete examination. An individual's original administrator certificate will expire on their birth date at least one year, and not more than three years, from the date of original issue.

Combination - Specialty administrator certificate.

(6) The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate will plainly indicate the specialty administrator's certificate(s) the holder has qualified for. Telecommunications cannot be issued a combination because the renewal requirements are different from those required for electrical administrators.

Renewal - Administrator certificate.

(7) An individual must apply for renewal of their administrator certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years, with the exception of telecommunications administrators, who will be renewed for two years.

(8) An individual may renew their administrator certificate within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-909.

(9) All renewals received more than ninety days after the expiration date of the certificate will be denied. The administrator will be required to pass the appropriate administrator examination before being recertified.

(10) All applicants for certificate renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees as listed in WAC 296-46B-909; and

(c) Complete the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed.

Telecommunications administrators are not required to provide continuing education information.

Continuing education for pump and irrigation **(03)** and domestic pump **(03A)** administrators may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(11) An individual who has not completed the required hours of continuing education can renew an administrator's certificate if the individual applies for renewal on or before the certificate expires and pays the appropriate renewal fee. However, the certificate will be placed in an inactive status.

When the certificate is placed in inactive status, an assigned administrator will be automatically unassigned from the electrical contractor. The electrical contractor will be notified of the unassignment and has ninety days to replace the administrator. An assignment fee will then be required per WAC 296-46B-909.

The inactive certificate will be returned to current status upon validation, by the department, of the required continuing education requirements. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended administrator's certificate by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period. Before the suspended administrator's certificate can be activated, the holder must pass the appropriate administrator examination in accordance with RCW ((~~19.28.211(2)~~)) 19.28.061 (2)(a).

(13) An individual may not renew a revoked administrator's certificate.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-940 Electrician/certificate of competency required.

General.

(1) The department will deny application, renewal, reinstatement, or issuance of a certificate or permit if an individual owes money as a result of an outstanding final judgment(s) under chapter 19.28 RCW.

(2) The scope of work for electricians is described in WAC 296-46B-920.

Electrician - Certificate of competency required.

(3) To work in the electrical construction trade, an individual must possess, wear, and visibly display on the front of the upper body, a current valid:

(a) Master journey level electrician certificate of competency issued by the department;

(b) Journey level electrician certificate of competency issued by the department;

(c) Master specialty electrician certificate of competency issued by the department;

(d) Specialty electrician certificate of competency issued by the department; or

(e) Electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journey level electrician, journey level electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

The certificate may be worn inside the outer layer of clothing when outer protective clothing (e.g., rain gear when outside in the rain, arc flash, welding gear, etc.) is required. The certificate must be worn inside the protective clothing so that when the protective clothing is removed, the certificate is visible. A cold weather jacket or similar apparel is not protective clothing.

The certificate may be worn inside the outer layer of clothing when working in an attic or crawl space or when operating equipment (e.g., drill motor, conduit threading machine, etc.) where wearing the certificate may pose an unsafe condition for the individual.

The certificate must be immediately available for examination at all times.

When working as a certified electrician, the electrician must not display a training certificate.

When supervising a trainee(s), the supervising electrician's certificate must be appropriate for the work being performed by the trainee(s). For the purposes of this section, supervising a trainee is considered to be working in the electrical construction trade.

Any person working as an electrician or trainee must also possess a government issued photo identification and immediately present that identification when requested by the inspector.

(4) The department issues master electrician and electrician certificates of competency in the following areas of electrical work:

(a) General journey level **(01);**

(b) Specialties:

(i) Residential **(02);**

(ii) Pump and irrigation **(03);**

(iii) Domestic pump **(03A);**

(iv) Signs **(04);**

(v) Limited energy system **(06);**

(vi) HVAC/refrigeration **(06A);**

(vii) HVAC/refrigeration - Restricted **(06B);**

(viii) Nonresidential maintenance **(07);**

(ix) Nonresidential lighting maintenance and lighting retrofit **(07A);**

(x) Residential maintenance **(07B);**

(xi) Restricted nonresidential maintenance **(07C);**

(xii) Appliance repair **(07D);**

(xiii) Equipment repair **(07E);** and

(xiv) Door, gate, and similar systems **(10).**

Original certificates of competency.

(5) The department will issue an original certificate of competency to master, journey level, or specialty electricians who meet the eligibility requirements listed in:

(a) RCW 19.28.191 (1)(a) or (b) and chapter 19.28 RCW; and

(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909;

(b) RCW 19.28.191 (1)(d) and (e);

(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909; or

(c) RCW 19.28.191 (1)(f) through (g);

(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-909.

(6) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.

Renewal - Master electrician, journey level, and specialty electrician certificates of competency.

(7) An individual must apply for renewal of their electrician certificate of competency on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.

(8) An individual may renew their certificate of competency within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-909.

(9) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(10) All applicants for certificate of competency renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Complete the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed.

Continuing education for pump and irrigation **(03)** and domestic pump **(03A)** electricians may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(11) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period. Before the suspended certificate of competency can be activated, the holder must pass the appropriate electrician or master electrician competency examination in accordance with RCW 19.28.211(2).

(13) An individual may not renew a revoked certificate of competency.

Exemptions - Lineworker.

(14) When performing the work described and allowed in WAC 296-46B-925 (18)(a) or (b)(i), when employed by the serving utility or its contractor or subcontractor(s), a lineworker is exempt from the requirements of chapter 19.28 RCW.

(15) When performing the work described and allowed in WAC 296-46B-925 (18)(b)(ii) or (c), when employed by the serving utility or its licensed electrical contractor or subcontractor(s), a lineworker must meet the requirements of RCW 19.28.261 (5)(b) or be an appropriately certified electrician. See the definition of a lineworker in WAC 296-46B-100.

Exemptions - Plumbers.

(16) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption. For the purposes of RCW 19.28.091(8), the like-in-kind replacement includes the appliance or any component part of the appliance such as, but not limited to, the thermostat in a water heater.

Exemptions - Submersible well pump installers.

(17) When performing the work described and allowed in WAC 296-46B-925(28), regular employees of well drillers or pump installers registered under chapter 18.27 RCW are exempt from the electrician certification requirements of chapter 19.28 RCW.

Reciprocal agreements between Washington and other states.

(((~~(17)~~))) (18) The department may negotiate reciprocal agreements with states that have equivalent requirements for certification of journey level or specialty electricians. These agreements allow electricians from those reciprocal states to become certified in the state of Washington without examination and allow Washington certified electricians to become certified in the other states without taking competency examinations. An individual may only apply for reciprocity from another state(s) one time in Washington.

(((~~(18)~~))) (19) An individual will be issued a reciprocal electrician certificate of competency if all the following conditions are met:

(a) The department has a valid reciprocal agreement with the other state in the journey level or specialty category requested;

(b) The individual makes a complete application for a reciprocal certificate on the form provided by the department. A complete application includes:

(i) Application for reciprocal certificate of competency;

(ii) Evidence that the individual meets the eligibility requirements listed in RCW 19.28.191, by presenting a current, valid journeyperson or specialty electrician certificate or certified letter from the issuing state attesting to possession of such certificate by the applicant:

(A) Evidence from an apprenticeship training director that any journey level category applicant has successfully completed an apprenticeship program that is equivalent to an apprenticeship program approved under chapter 49.04 RCW approved by the department for the electrical construction trade in which the applicant worked in the electrical construction trade for a minimum of eight thousand hours; or

(B) Evidence that any journey level category applicant has worked in the electrical construction trade for a minimum of sixteen thousand hours.

(iii) All appropriate fees as listed in WAC 296-46B-909.

(c) The individual obtained the reciprocal state's certificate of competency as a journey level or specialty electrician by examination and the individual held the reciprocal state's certificate for a period of at least one year.

(((~~(19)~~))) (20) An individual is not eligible for a reciprocal electrician certificate of competency if the individual:

(a) Has failed to renew a similar Washington electrician certificate of competency as required in RCW 19.28.211; or

(b) Has a similar Washington electrician certificate of competency in suspended, revoked, or inactive status under this chapter; or

(c) Owes money as a result of an outstanding final judgment(s) to the department; or

(d) Has ever taken and failed a Washington exam for the certificate being applied for; or

(e) Was a resident of the state of Washington at the time the examination was taken in the other state.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

WAC 296-46B-970 Continuing education and classroom education requirements. (1) DEFINITIONS - For purposes of this section.

"Applicant" means the entity submitting an application for review.

"Application" means a submittal made by an applicant seeking instructor or class approval.

"Calendar day" means each day of the week, including weekends and holidays.

"Class" means continuing education or basic trainee class.

"Currently adopted code," for this section means the code adopted in WAC 296-46B-010(1) or any more recently published National Electric Code.

"Date of notification" means the date of a request for additional information from the department or the approval/denial letter sent to the applicant by the department.

"Electrical theory" means basic principles of electricity such as: Magnetism, ohm's law, and circuit properties such as voltage, current, power, resistance, inductance, capacitance, reactance, impedance, etc., in series, parallel, and combination AC and DC circuits.

"Examination" is any examination required by this section. Each examination must be unique and must provide randomized questions, except for classroom training. Each examination question bank must be at least two times larger than the number of questions in any individual examination. Examinations must not direct or point the individual to a correct answer or reference. Individuals must be responsible to determine the correct answer without the assistance of the sponsor. No more than twenty percent of an examination's questions may have a true/false answer. Competency is demonstrated by scoring at least seventy-five percent on the examination.

"Individual" means a master electrician, administrator or electrician seeking credit for continuing education or a trainee seeking credit for basic trainee class for renewal or certification.

"Instructor" means an individual who is authorized to instruct an approved continuing education or basic trainee class.

"Working day" means Monday through Friday, excluding state of Washington holidays.

(2) GENERAL.

(a) The department and the electrical board have the right to monitor all approved classes without notice and at no charge.

If the department or electrical board determines that the class or instructor does not meet or exceed the minimum requirements for approval, course length, or instructor qualifications, the department may revoke the class and/or instructor approval and/or reduce the number of credited hours for the class.

(b) Department-offered classes and the instructors used for department classes are automatically approved.

(c) Instructors who meet the minimum requirements using subsection (5)(d)(iv) of this section may only instruct classes sponsored by the manufacturer(s) who verified the instructors' qualifications.

(d) An individual will not be given credit for the same approved continuing education class taken more than once. A course sponsor may not submit an individual's name on a roster(s) for multiple classes (i.e., multiple class numbers) when the classes are given simultaneously (e.g., code update, industry related, and/or basic trainee class that have similar class content given during the same class session). Credit will not be granted for a class that is not approved per this section.

(e) Electrical administrators, master electricians, and electricians:

(i) To be eligible for renewal of an administrator certificate, master electrician or electrician certificate of competency, the individual must have completed at least eight hours of approved continuing education for each year of the prior certification period. The individual is not required to take the classes in separate years.

(A) At least eight hours of the total required continuing education must be on the changes in the currently adopted code.

(B) Four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and/or its related WAC.

(ii) An individual changing an electrical administrator and an electrician certificate of competency into a master electrician's certificate of competency as allowed in RCW 19.28.191 (1)(a) or (b) must have completed at least eight hours of approved continuing education for each year of the electrician's prior certificate period. The individual is not required to take the classes in separate years.

(A) At least eight hours of the total required continuing education must be on the changes in the currently adopted code.

(B) Four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and/or its related WAC.

(iii) Any portion of a year of a prior administrator or electrician certificate period is equal to one year for the purposes of the required continuing education.

(iv) An individual who has both an electrician certificate and an administrator certification may use the same class to fulfill the requirements for continuing education.

(f) Training certificates: To be eligible for renewal of a training certificate, the individual must have completed:

(i) At least forty-eight hours of approved basic trainee classes. The individual cannot use a basic trainee class as credit for the continuing education requirements for renewing an electrician or administrator certificate(s) when the class is also used to satisfy the training certificate renewal requirements; or

(ii) Equivalent electrical training classes taken as a part of an approved:

• Apprenticeship program under chapter 49.04 RCW; or

• Electrical training program under RCW 19.28.191 (1)(h).

Equivalent classes must be submitted to and approved by the chief electrical inspector thirty calendar days prior to offering the class.

(g) A continuing or basic trainee class attended or completed by an individual before the class's effective date cannot be used to meet the certificate renewal/certification requirements.

(3) CLASS AND INSTRUCTOR - GENERAL APPROVAL PROCESS.

(a) The department will review the application for completeness and conformance with the requirements in this section.

(b) The department will deny approval of applications that do not meet the minimum requirements.

(c) All applications will be considered to be new applications (i.e., Classes and instructors may not be renewed. All applications must include all information necessary to show conformance with the minimum requirements).

(d) Application process:

(i) The applicant must submit a complete application to the department at least thirty calendar days prior to offering or instructing a class.

(ii) The department will only consider material included with the application when reviewing an application.

(iii) All applications must include:

(A) Applicant's name, address, contact name, email address, and telephone number;

(B) All required fees.

(e) Review process:

(i) When the application is received:

(A) The department must review the application for completeness within seven working days after receipt.

(B) If the application is incomplete, the department must, within two working days, notify the applicant of the status of the review and what additional information is required.

• The applicant must provide any additional information requested by the department within five working days after the date of notification.

• The department will deny the application if the additional required information is not received within the five working days after the date of notification for additional information.

(C) The department must complete the review and approval/denial process within fifteen working days upon receipt of a complete application or additional requested information and within two working days notify the applicant of the approval/denial in writing or electronically.

(ii) A notification of denial must include:

(A) Applicant's name and telephone number;

(B) Date of denial;

(C) Sponsor's name and class title if applicable;

(D) Instructor's name if applicable; and

(E) The reason for denial.

(iii) A notification of approval:

(A) For classes must include:

• Applicant's name and telephone number;

• Sponsor's name and telephone number;

• Sponsor number;

• Class title;

• Class number;

• Number of hours approved for the class. The department may reduce the hours requested in the application if the review shows that the requested number of hours is excessive;

• Effective date for this class;

• Expiration date of class;

• Category for which the class is approved (i.e., code update, RCW/WAC update, industry related, basic trainee class, or pumping industry);

• Type of class (i.e., classroom, correspondence, internet); and

• Whether the class is open to the public.

(B) For instructors, must include:

• Applicant's name and telephone number;

• Instructor's name and telephone number;

• Effective date for the approval; and

• Expiration date of the approval.

(iv) The applicant may request a review, by the electrical board, of the department's denial or modification of the application. The applicant must submit a written request for review to the Secretary of the Electrical Board - Chief Electrical Inspector - Within twenty days of notification of the denial/modification. The request must include a review fee of one hundred nine dollars and fifty cents. The review fee is nonrefundable.

(4) CLASS APPROVAL PROCESS.

(a) Class applications must include:

(i) Sponsor's name, address, contact name, email address, telephone number, and sponsor's number (if a class was previously approved);

(ii) Class title;

(iii) Number of education hours requested for the class;

(iv) Category of class for which approval is sought (e.g., code update, RCW/WAC update, industry related, basic trainee class, or pumping industry);

(v) Statement that all requirements of this section will be complied with;

(vi) Statement of whether the class is open to the public;

(vii) Class syllabus (e.g., presentation method(s), description of the training, specific NEC/RCW/WAC articles taught, theory subjects, time allowed for various subject matter components, examination question samples, etc.) describing how the class meets the minimum requirements, described below, for the type of class being offered;

(viii) The applicant must show that the sponsor regularly employs at least one staff member who meets the requirements for instructors in this section;

(ix) List of resources (e.g., texts, references, etc.).

(b) Class approval will be valid for three years except:

(i) If the class is "code update" and a new NEC is adopted by the department within the class approval period, the class approval will be considered automatically revoked; or

(ii) If the class is modified after the application is approved, the class approval will be considered automatically revoked (i.e., change in syllabus, hours, examination, etc.).

(c) Minimum requirements:

(i) Class length:

(A) The minimum allowed length of a class is two hours; however, the minimum length for a basic trainee class is four hours that may be delivered in multiple classroom components of not less than two hours each.

(B) Class length must be based on two-hour increments (e.g., 2, 4, 6, 8, etc.)

(C) Class length must be based on the following:

• Classroom instruction will be based on the total hours the individual is in the classroom. A continuing education class may be divided into multiple components so long as each component is not less than two hours in length and all components are completed within a one-month period. A basic trainee class may be divided into multiple components so long as each component is not less than two hours in length and all components are completed within a ((~~two~~)) six-month period.

• Distance learning continuing education classes (i.e., correspondence and internet continuing education classes) will be based on clock hours necessary to complete the class if it was presented in a classroom setting.

(ii) Class content:

(A) Industry-related classes must be based on:

• Codes or rules included in the currently adopted National Electrical Code (see definition of currently adopted), the electrical law/rule;

• Electrical theory based on ((~~currently published documents that are~~)) original copyrighted material that is readily available for retail purchase; and/or

• Materials and methods that pertain to electrical construction, building management systems, electrical maintenance, or workplace electrical safety such as *NFPA 70E - ((~~Handbook~~)) Standard for Electrical Safety in the Workplace*. First aid type classes must be approved and will be limited to four hours of credit towards the individual's total continuing education requirement.

(B) Code update classes must be based on the currently adopted (see definition) National Electrical Code and must specify the code articles to be addressed in the class presentation.

(C) RCW/WAC update classes must be based on the latest adopted versions of chapter 19.28 RCW and/or chapter 296-46B WAC.

(D) All basic trainee classes must be classroom instruction only and based upon basic electrical theory based on original copyrighted material that is readily available for retail purchase, currently adopted (see definition for currently adopted) National Electrical Code, and/or use of the electrical laws or rules. Correspondence and internet classes are not allowed. All basic trainee classes must include an appropriate

written competency examination(s) to ensure the participant has mastered the basic concepts of the class. The examination must consist of at least five questions per two hours of class credit.

(E) For all pumping industry classes, curriculum must include fifty percent electrical and fifty percent plumbing instruction.

(F) The sponsor of any distance learning class (e.g., correspondence/internet continuing education) must provide the following additional information with the application:

• How the sponsor will provide an orientation session with the instructor or an affiliated representative of the sponsor.

• The application must include a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the class material.

• In the case of internet based continuing education classes, describe how the class software addresses automatic shutdown after a period of inactivity.

• How will the sponsor provide security to ensure that the student who receives credit for the class is the student who enrolled in and completed the class. The approved sponsor and the student must certify that the student has completed the class and the required number of clock hours.

• The application must describe the process and the acceptable methods of how students can contact approved instructors to answer questions regarding the class.

• The application must describe the consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process and must directly support the student's achievement of the class learning objectives.

• The application must demonstrate that the class includes the same or reasonably similar information content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction.

• The application must demonstrate how the sponsor determined the number of clock hours requested.

• The application must demonstrate how mastery of the material is evaluated (e.g., describing how the material is divided into major learning units and describing how these learning units are divided into modules of instruction, describing how the student's progress toward completion of the mastery requirement will be measured, and describing how the class will provide a mechanism of individual remediation to correct any deficiencies in each module of instruction).

(5) INSTRUCTOR APPROVAL PROCESS:

(a) Except first-aid training, all instructors must be approved per this section.

(b) The instructor application will include:

(i) Instructor's name, address, telephone number, email address;

(ii) Copies of credentials or other information showing conformance with the instruction minimum qualifications.

(c) Instructor approval will be valid for three years except:

(i) If the instructor's credentials are invalidated (e.g., suspension or revocation by the issuing entity) for any reason, approval will be automatically revoked.

(ii) When the instructor approval expires or is revoked, a new application must be submitted to regain approved instructor status.

(d) Minimum requirements:

The application must show that the instructor meets one of the following:

(i) Has a valid Washington administrator, master electrician, or electrician's certificate and has appropriate knowledge of and experience working as an electrical/electronic trainer; or

(ii) Is currently an instructor in a two-year program in the electrical construction trade licensed by the Washington work force training and education coordinating board. The instructor's normal duties must include providing electrical/electronic education; or

(iii) Is a high school vocational teacher, community college, college, qualified instructor with a state of Washington approved electrical apprenticeship program, or university instructor. The instructor's normal duties must include providing electrical/electronic education; or

(iv) Works for and is approved by a manufacturer of electrical products to teach electrical continuing education; or

(v) Is an electrical engineer registered under chapter 18.43 RCW; or

(vi) Subject matter experts approved by the chief electrical inspector who can demonstrate appropriate knowledge of, and experience in the electrical construction trade and working as an electrical/electronic trainer.

(6) FORMS:

(a) The department will develop an appropriate form(s) for the applicant's use when submitting for instructor or class approval;

(b) Applicants must use the department's form when submitting an application for review.

(7) CLASS ATTENDANCE:

(a) The department is not responsible for providing verification of an individual's continuing education or basic trainee classroom training history with the class sponsor;

(b) Electrical approved classes offered in Washington:

(i) The sponsor must provide the department with an accurate online course attendance/completion roster for each class given. Class attendance will only be verified based on the online attendance/completion roster provided by the sponsor.

(A) Within seven days of a student completing the class, the course sponsor must provide the attendance/completion roster in an internet format provided by the department.

(B) The attendance/completion roster must show each individual's name, Washington certificate number, class number, and date of completion.

(ii) Individuals will not be granted credit for a class unless the sponsor's online attendance/completion roster shows the individual successfully completed the class.

(c) For classes approved under chapter 18.106 RCW for the pumping industry, a class number will be created for electrical continuing education. Sponsors for these classes must

verify attendance for the electrical credit using the format described in subsection (b) of this section.

(8) Noncompliance with this section by a course sponsor or instructor.

(a) Before a course sponsor or instructor is revoked or suspended for noncompliance with this section, the course sponsor or instructor will be given written notice of the department's intention to suspend or revoke. The notification will describe the allegations and provide the necessary procedures to request a hearing before the electrical board as described in RCW 19.28.341.

(b) The department may also file a civil penalty action under chapter 19.28 RCW for fraudulent, inaccurate, or material misrepresentation activity.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

WAC 296-46B-971 Training schools. (1) The department must evaluate and approve training school programs in the electrical trade as regulated by chapter 19.28 RCW for equivalency to hours of supervised work experience. Approved training programs must be from a Washington state public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

(2) The minimum total hours for an electrical technical training program must be determined per RCW 19.28.191.

(3) Training school programs must be approved before their graduates may request credit for equivalent work experience hours toward journey level or specialty electrician certification. Until December 31, 2003, existing electrical training programs, in effect after January 1, 2000, may apply for retroactive approval of their program to determine the number of hours that will be credited for the program graduates. After December 31, 2003, all training programs must be approved by the department prior to beginning instruction.

(4) Training schools must submit the curriculum of each journey level or specific specialty electrical training program to the department for approval. The curriculum must include a detailed description of each course that is included in the total training hours required by RCW 19.28.191. The curriculum must be reviewed by the department whenever significant changes in program content or course length are implemented or at an interval not to exceed three years. After department review, the program may be renewed. In evaluating the relevance of the curriculum, the department will consider the following criteria:

(a) Scope of work for the appropriate electrician certification.

(b) Understanding whole systems related to and integrated with electrical equipment installation, maintenance, troubleshooting, and appliance repair (e.g., refrigeration, pumps, hydraulics, thermodynamics, compressed air, and similar systems).

(c) Courses not directly related to electrical technical instruction or specific scope of work, but required to complete the specific training program (i.e., mathematics, technical writing, business, safety, first aid, ergonomics, etc.), must not exceed ten percent of the total student/instructor contact time of the program.

(5) Within thirty days after ((~~beginning a program, the program sponsor must supply the department with a roster of individuals enrolled in the program. The roster must show each student's name, date of enrollment, Washington training or electrician certificate number, and the training program number. Within thirty days after each graduation cycle, approved training school programs must provide the department with a roster of individuals that have successfully completed the program. The roster must show each student's name, date of completion, Washington training or electrician certificate number, and the training program title~~)) one or more students successfully completes an accredited training school program, the program must provide the department with a completion roster in an electronic table format. Each roster must include all of the following:

(a) Name of the accredited training school;

(b) Name of the accredited training school program as referred to in the department's letter of accreditation;

(c) Submitter information:

(i) Name;

(ii) Title;

(iii) Email address; and

(iv) Telephone number.

(d) Student information:

(i) Full name;

(ii) Date of first instruction;

(iii) Date of completion; and

(iv) Washington electrical training certificate number.

(6) All school training activities involving electrical work or appliance repair done outside of in-school lab facilities must be done under a valid Washington electrical contractor's license. All students performing such work must have a valid training certificate and work under a supervising journey level or specialty electrician in a ratio, per RCW 19.28.161, in compliance with RCW 19.28.161.

(7) Individuals in a two-year electrical construction trade training program for journey level electrician must obtain the additional two years of work experience required in new industrial or commercial installation prior to the beginning, or after the completion, of the technical school program.

All student electrical training hours obtained when working for contractors or other employers in intern programs arranged by the school must be evaluated as part of the training program hours. Additional work experience credit gained in an intern program is not allowed.

This does not prohibit trainees in a training program for specialty electricians from having concurrent employment and obtaining additional specialty work experience while attending school. All such concurrent work must be documented in an affidavit of experience per WAC 296-46B-942(8).

The following supervision requirements must be met when working as an intern or student:

(a) Intern when working for contractors or other employers as a:

(i) General electrician, there must be not more than one noncertified individual for every certified master journey level electrician or journey level electrician.

(ii) Specialty electrician, there must be not more than two noncertified individuals for every certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journey level electrician, or journey level electrician.

(b) Student when working for a public community or technical college, or not-for-profit nationally accredited trade or technical school licensed by the work force training and education coordinating board under chapter 28C.10 RCW as a journey level or specialty electrician in the training program, the ratio requirements are one certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journey level electrician, or journey level electrician working as a specialty electrician to no more than four students enrolled in and working as part of an electrical construction program. All such work will be considered to be an integral part of the training program and work experience credit will not be allowed except as a part of the program.

When the ratio of certified electricians to noncertified individuals on a job site is one certified electrician to three or four noncertified individuals, the certified electrician must:

(i) Directly supervise and instruct the noncertified individuals and the certified electrician may not directly make or engage in an electrical installation; and

(ii) Be on the same job site as the noncertified individual for a minimum of one hundred percent of each working day.

The public community or technical colleges, or not-for-profit nationally accredited trade or technical schools must be an appropriately licensed electrical contractor when performing work outside the classroom.

(8) The department will use the criteria in this section to evaluate the hours of credit that may be allowed for United States armed forces experience and training in the electrical construction, electrical maintenance, and appliance repair trades. See WAC 296-46B-945.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

WAC 296-46B-990 Failure to comply with the electrical contractor licensing, administrator certification, or electrician certification laws.

General.

(1) If the compliance officer or electrical inspector/auditor determines that an individual, employer, or employee has violated chapter 19.28 RCW or this chapter, the department will issue a citation that describes the violation.

Suspension or revocation - Of an electrical contractor's license, administrator's certificate, master electrician's certificate of competency, electrician's certificate of competency, or training certificate.

(2) The department may revoke or suspend, for such time as it determines appropriate, an electrical contractor's license, administrator's certificate, master electrician's certificate of competency, electrician's certificate of competency, or training certificate if:

(a) The license, certificate, or permit was obtained through error or fraud;

(b) The license, certificate, or permit holder is judged to be incompetent to work in the electrical construction trade as an electrical contractor, administrator, master electrician, journey level electrician, specialty electrician, electrical technician, or electrical trainee;

(c) For serious noncompliance as described below. See RCW 19.28.241 and 19.28.341 for other grounds and procedures.

(d) The license or certificate holder incompletely or inaccurately reported continuing or basic trainee class education units on an application for renewal; or

(e) The certificate holder falsely, incompletely, or inaccurately reported previous work experience.

The department will deny an application for any license/certificate during the period of revocation or suspension of the same or another license/certificate under chapter 19.28 RCW.

(3) For the purposes of this section, serious noncompliance includes, but is not limited to, any of the following:

(a) Causing or failing to correct a serious violation. A serious violation is a violation of chapter 19.28 RCW or chapter 296-46B WAC that creates a hazard of fire or a danger to life safety. A serious violation is also a violation that presents imminent danger to the public. Imminent danger to the public is present when installations of wire and equipment that convey or utilize electric current have been installed in such a condition that a fire-hazard or a life-safety hazard is present. Imminent danger to the public is also present when unqualified, uncertified, or fraudulently certified electricians or administrators; or unlicensed or fraudulently licensed contractors are continuously or repeatedly performing or supervising the performance of electrical work covered under chapter 19.28 RCW. For the purposes of this section, a certified electrician is considered qualified, provided the electrician is working within his or her certification;

(b) The license or certificate was obtained, used, or allowed to be used through error or fraud;

(c) Submitting a fraudulent document to the department;

(d) Willful, intentional, or continuous noncompliance with the provisions of chapter 19.28 RCW or this chapter. For the purposes of this section, continuous noncompliance will be defined as three or more citations demonstrating a disregard of the electrical law, rules, or regulations within a period of three years, or where it can be otherwise demonstrated that the contractor, master electrician, electrician, or administrator has continuously failed to comply with the applicable electrical standards;

(e) Failure to make any books or records, or certified copies thereof, available to the department for an audit to verify the hours of experience submitted by an electrical trainee;

(f) Making a false statement or material misrepresentation on an application, statement of hours, or signed statement required by the department;

(g) The certificate holder falsely or inaccurately reported continuing or basic trainee class education units on an application for renewal;

(h) Installing a shortened rod/pipe grounding electrode, improper splicing of conductors in conduits/raceways or concealed within walls, or installing a fake equipment grounding conductor;

(i) Refusing to present a government issued photo identification when requested by an electrical inspector while working as an electrician or trainee as required by WAC 296-46B-940(3);

(j) Cheating on an electrical certification examination.

For any act of serious noncompliance, the person, firm, partnership, corporation, or other entity may be referred to the county prosecutor for criminal prosecution under chapter 9A.72 RCW. The department may also file a civil action under chapter 19.28 RCW.

(4) Before a license or certificate is revoked or suspended, the certificate holder will be given written notice of the department's intention to suspend or revoke. Notification will be sent by registered mail to the certificate holder's last known address. The notification will list the allegations against the certificate holder, and provide the certificate holder with the procedures necessary to request a hearing before the electrical board as described in WAC 296-46B-995.

Confiscation - Of an electrical contractor's license, administrator certificate, electrician certificate of competency, or training certificate.

(5) The department may confiscate a license or certificate that is counterfeit, revoked, expired, suspended, or altered. The individual may be referred to the county prosecutor for criminal prosecution under chapter 9A.72 RCW. The department may also file a civil action under chapter 19.28 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-46B-553	Special occupancies—Floating buildings.

WSR 20-07-127
PROPOSED RULES
DEPARTMENT OF HEALTH
(Pharmacy Quality Assurance Commission)
[Filed March 18, 2020, 11:55 a.m.]

Continuance of WSR 20-06-078.

Preproposal statement of inquiry was filed as WSR 18-01-124, 18-09-066, 18-01-123, and 18-09-063.

Title of Rule and Other Identifying Information: Chapter 246-945 WAC, the pharmacy quality assurance commission (commission) is proposing a new chapter of rule to consolidate multiple chapters of existing rules into one administrative chapter that covers the practice of pharmacy, including: General provisions, general licensing, professional standards, and operational standards.

Hearing Location(s): On April 23, 2020, at 9:05 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the pharmacy commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting online and register: Registration: https://register.gotowebinar.com/register/4608058035683290381.

You can also dial-in using your phone: Call in: 1(562) 247-8321, Access Code: 598-070-370.

Date of Intended Adoption: April 23, 2020.

Submit Written Comments to: Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504, email https://fortress.wa.gov/doh/policyreview, by April 9, 2020.

Assistance for Persons with Disabilities: Contact Doreen Beebe, phone 360-236-4834, TTY 711, email doreen.beeebe@doh.wa.gov [doreen.beebe@doh.wa.gov], by April 16, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to increased state and federal restrictions on in-person gatherings, the commission is rescheduling this hearing and changing the venue to an online meeting platform. In our effort to protect the public's health while continuing our commitment to engage the public, the board will hold a virtual public hearing on April 23, 2020. Commission members will listen remotely. We encourage and accept public comments from interested individuals using the GoToMeetings application, as well as submission of written comments at https://fortress.wa.gov/doh/policyreview or via USPS to P.O. Box 47852, Olympia, WA 98504.

Statutory Authority for Adoption: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590.

March 18, 2020
Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

Chapter 246-945 WAC

PHARMACY QUALITY ASSURANCE COMMISSION

PART 1 - GENERAL PROVISIONS

NEW SECTION

WAC 246-945-001 Definitions. The definitions in chapters 18.64 and 18.64A RCW and those in this section apply throughout this chapter unless otherwise stated.

(1) "ACPE" means accreditation council for pharmacy education.

(2) "Active ingredient" means any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of humans or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in that drug product in a modified form intended to furnish the specified activity or effect.

(3) "Adulterated" refers to a drug that was produced and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with WAC 246-945-550 as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

(4) "Animal control agency" means any agency authorized by law to euthanize or destroy animals; to sedate animals prior to euthanasia or to engage in chemical capture of animals.

(5) "Approved legend drugs" means any legend drug approved by the commission for use by registered humane societies or animal control agencies for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs.

(6) "Audit trail" means all materials and documents required for the entire process of filling a prescription, which shall be sufficient to document or reconstruct the origin of the prescription, and authorization of subsequent modifications of that prescription.

(7) "Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(8) "Blood component" means that part of the blood separated by physical or mechanical means.

(9) "Central fill pharmacy" means a pharmacy contracting with an originating pharmacy, or having the same owner as an originating pharmacy, that provides centralized prescription filling on behalf of the originating pharmacy pursuant to these rules.

(10) "Chemical capture program" means wildlife management programs registered under RCW 69.41.080 and 69.50.320 to use approved legend drugs and controlled substance for chemical capture. Chemical capture includes immobilization of individual animals in order for the animals to be moved, treated, examined, or for other legitimate purposes.

(11) "Collaborative drug therapy agreement" or "CDTA" means a written guideline or protocol previously established and approved by a practitioner authorized to prescribe drugs that enables a pharmacist to exercise prescriptive authority.

(12) "Controlled substances" has the same meaning as RCW 69.50.101.

(13) "Controlled substance wholesaler" means a wholesaler licensed under RCW 18.64.046 to possess and sell controlled substances to a licensed pharmacy or other legally licensed or authorized person.

(14) "Commission" means the pharmacy quality assurance commission.

(15) "Counterfeit" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer, or distributor.

(16) "CPE" means continuing pharmacy education accredited by the ACPE.

(17) "Consultation" means:

(a) A communication or deliberation between a pharmacist and a patient, a patient's agent, or a patient's health care provider in which the pharmacist uses professional judgment to provide advice about drug therapy.

(b) A method by which the pharmacist meets patient information requirements as set forth in WAC 246-945-325.

(18) "Credential" means a license, certification, or registration under the chapters specified in RCW 18.130.040 issued to a person to practice a regulated health care profession. Whether the credential is a license, certification, or registration is determined by the law regulating the profession.

(19) "DEA" means the United States Drug Enforcement Administration.

(20) "Delegated tasks" means tasks that are performed pursuant to a pharmacist's direction, without the exercise of the pharmacy ancillary personnel's own judgment and discretion, and which do not require the pharmacy ancillary personnel's to exercise the independent professional judgment that is the foundation of the practice of the profession of pharmacy.

(21) "Department" means the Washington state department of health.

(22) "Dose" means the amount of drug to be administered at one time.

(23) "Drug(s) of concern" are those drugs identified by the commission as demonstrating a potential for abuse by all professionals licensed to prescribe, dispense, or administer such substances in this state.

(24) "Drug price advertising" means the dissemination of nonpromotional information pertaining to the prices of legend or prescription drugs.

(25) "Drug product" means a finished dosage form (e.g., tablet, capsule, solution) that contains an active drug ingredient generally, but not necessarily, in association with inactive ingredients. The term also includes a finished dosage form that does not contain an active ingredient but is intended to be used as a placebo.

(26) "Drug sample" means a unit of prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

(27) "Drug standard and information sources" means industry recognized reference and resources.

(28) "Drug storage area" means an area where legend drugs, controlled substances, or other restricted items are stored, compounded, or dispensed.

(29) "Drug utilization review" includes, but is not limited to, the following activities:

(a) Evaluation of prescriptions and patient records for known allergies, rational therapy-contraindications, appropriate dose, and route of administration and appropriate directions for use;

(b) Evaluation of prescriptions and patient records for duplication of therapy;

(c) Evaluation of prescriptions and patient records for interactions between drug-drug, drug-food, drug-disease, and adverse drug reactions; and

(d) Evaluation of prescriptions and patient records for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(30) "Electronic means" an electronic device used to send, receive, and/or store prescription information, including computers, facsimile machines, etc.

(31) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

(32) "Enrolled student" means a student who has accepted an offer of admission in writing and the student has made the appropriate deposit securing admission to an accredited school or college of pharmacy.

(33) "Equivalent manager" means an individual authorized to act on behalf of a pharmaceutical firm not licensed as a pharmacy to serve as the primary contact for the department and is responsible for managing the facility operations which includes, but is not limited to, actively involved in and aware of the daily operations of the facility.

(34) "Export wholesaler" means any wholesaler authorized by the commission to export legend drugs and nonprescription (OTC) drugs to foreign countries.

(35) "FDA" - United States Food and Drug Administration.

(36) "Full-line wholesaler" means a drug wholesale distributor that is licensed under RCW 18.64.046 to possess and sell legend drugs, controlled substance and nonprescription drugs to a licensed pharmacy or other legally licensed or authorized person.

(37) "FPGEC" means foreign pharmacy graduate examination committee.

(38) "FPGEE" means foreign pharmacy graduate equivalency examination.

(39) "Generic substitution" means the act of switching between a branded drug and its therapeutically equivalent generic version.

(40) "Hospital" means any institution licensed under chapter 70.41 or 71.12 RCW or designated under RCW 72.23.020.

(41) "Hospital pharmacy" means that portion of a hospital licensed under RCW 18.64.043 which is engaged in the manufacture, production, preparation, dispensing, sale, or distribution of drugs, components, biologicals, chemicals, devices and other materials used in the diagnosis and treatment of injury, illness and diseases.

(42) "Hospital pharmacy associated clinic" or "HPAC" means an individual practitioner's office or multipractitioner clinic owned, operated, or under common control of a parent hospital or health system, where the physical address of the office or clinic is identified on a hospital pharmacy license.

(43) "Immediate supervision" means supervision by a pharmacist who is immediately available at all times the delegated tasks are being performed; who is aware of delegated tasks being performed; and who provides personal assistance, direction and approval throughout the time the delegated tasks are being performed.

(a) "Immediately available" means the pharmacist and pharmacy ancillary personnel or interns are on the same physical premises, or if not, technology is used to enable real time, two-way communications between the pharmacist and technician(s).

(b) Use of technology: A pharmacist, as an adjunct to assist in the immediate supervision of the pharmacy ancillary personnel or intern, may employ technological means to communicate with or observe the pharmacy ancillary personnel or intern. A pharmacist shall make certain all applicable state and federal laws including, but not limited to, confidentiality, are fully observed when employing technological means of communication and observation. If technology is being used to provide immediate supervision of pharmacy ancillary personnel or intern such technology shall be sufficient to provide the personal assistance, direction and approval required to meet the standard of practice for the delegated tasks.

(44) "Inoperable" means a credential status indicating that an individual cannot practice because he or she is not actively participating or enrolled in a required training program when this condition is a requirement of the credential. Inoperable status is not the result of enforcement action. The health care professional can resume practice when appropriately enrolled in a required training program and the credential is reactivated.

(45) "Internal test assessment" means, but is not limited to, conducting those tests of quality assurance necessary to ensure the integrity of the test.

(46) "Investigational drug" means any article that has an investigational drug application (INDA) has been approved by the FDA.

(47) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(48) "Law enforcement" means any general or limited authority Washington peace officer or federal law enforcement officer or tribal officer.

(49) "Lot" means a batch or a specific identified portion of a batch having uniform character and quality within specified limits, or in the case of a drug product produced by continuous process, it is a specific identified amount produced in a unit of time or quantity in a manner that assures it is having uniform character and quality within specified limits.

(50) "Manual signature" means a printed or wet signature.

(51) "Misbranded" applies to all drugs the package or label of which bears any statement, design or device regarding such article or the ingredients or substances contained therein which is false or misleading in any particular way, and drug product which is falsely branded as to the state, territory or country in which it is manufactured or produced.

(52) "NABP" means the National Association of Boards of Pharmacy.

(53) "NDC" means National Drug Code.

(54) "Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

(55) "Nuclear pharmacist" means a pharmacist licensed under RCW 18.64.080 who holds an endorsement that meets the requirements of WAC 246-945-180.

(56) "Originating pharmacy" means a pharmacy that receives a prescription from a patient, the patient's agent, or a prescriber, outsources prescription filling or processing functions to another pharmacy, and ultimately dispenses the prescription drug or device to the patient or the patient's agent. This does not include pharmacies engaged in shared pharmacy services in accordance with RCW 18.64.570.

(57) "Over-the-counter drugs" (OTC) means "nonlegend" or "nonprescription" drugs, and any drugs which may be lawfully sold without a prescription.

(58) "Over-the-counter only wholesaler" means any wholesaler licensed under RCW 18.64.046 to possess and sell OTC drugs to any outlets credentialed for resale.

(59) "Pharmaceutical firm" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into Washington state.

(60) "Pharmacy intern" means a person who is registered with the commission under RCW 18.64.080(3) as a pharmacy intern.

(61) "Pharmacy services" means any services provided that meet the definition of the practice of pharmacy, RCW 18.64.011.

(62) "Plan of correction" is a proposal devised by the applicant or credential holder that includes specific corrective actions that must be taken to correct identified unresolved deficiencies with time frames to complete them.

(63) "Precursor drugs" as defined in chapter 69.43 RCW.

(64) "Prescription drug" means any drug, including any biological product, except for blood and blood components intended for transfusion or biological products that are also medical devices, required by federal statute or regulation to be dispensed only by a prescription, including finished dosage forms and bulk drug substances subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

(65) "Protocol" means a written set of procedures, steps or guidance.

(66) "Radiopharmaceutical service" means, but is not limited to:

(a) The preparing, compounding, dispensing, labeling, and delivery of radiopharmaceuticals;

(b) The participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews;

(c) The proper and safe storage and distribution of radiopharmaceuticals;

(d) The maintenance of radiopharmaceutical quality assurance;

(e) The responsibility for advising, where necessary or where regulated, of therapeutic values, hazards and use of radiopharmaceuticals; or

(f) The offering or performing of those acts, services, operations or transactions necessary in the conduct, operation management and control of a nuclear pharmacy.

(67) "Radiopharmaceutical" means any substance defined as a drug in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act which exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator which is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing salts which contain trace quantities of naturally occurring radionuclides. The term "radioactive drug" includes a "radioactive biological product."

(68) "Radiopharmaceutical quality assurance" means, but is not limited to, the performance of appropriate chemical, biological and physical tests on radiopharmaceuticals and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment authentication of product history and the keeping of proper records.

(69) "Readily retrievable" means a record that is kept by automatic data processing systems or other electronic or mechanized recordkeeping systems in such a manner that it can be separated out from all other records in a reasonable time.

(70) "License transfer" means the process used by licensed pharmacists to transfer their existing pharmacist license to Washington using NABP's Electronic Licensure Transfer Program® (e-LTP™).

(71) "Reverse distributor" means a pharmaceutical wholesaler that receives drugs for destruction, return credit, or otherwise disposes of drugs received from a registrant that holds a credential to dispense or possess drugs.

(72) "Secretary" means the secretary of the Washington state department of health.

(73) "Strength" means:

(a) The concentration of the drug product; and/or

(b) The potency, that is, the therapeutic activity of the drug product as indicated by appropriate laboratory tests or by adequately developed and controlled clinical data.

(74) "U.S. jurisdiction" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(75) "USP" means the United States Pharmacopeia.

(76) "Therapeutic substitution" means the act of dispensing an alternative drug that is believed to be therapeutically similar but may be chemically different, in a different category, or with different pharmacokinetic properties. This substitution is based on the premise that the substituted drug will provide similar clinical efficacy, desired outcome, and safety profile.

(77) "TOEFL iBT" means an internet based test which measures the ability to use and understand English. It evaluates the combined use of reading, listening, speaking and writing skills.

(78) "Virtual manufacturer" means an individual or facility that sells his or her own prescription drugs, but never physically possesses the drugs.

(79) "Virtual wholesaler" means an individual or facility that sells a prescription drug and/or device, but never physically possesses the product.

(80) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(a) The sale, purchase, or trade of a drug, an offer to sell, purchase or trade a drug, or the dispensing of a drug pursuant to a prescription;

(b) The lawful distribution of drug samples by manufacturers' representatives or distributors' representatives;

(c) The sale, purchase, or trade of blood and blood components intended for transfusion;

(d) Intracompany sales, being defined as any transaction or transfer between any division, subsidiary, parent and/or affiliated or related company under the common ownership and control of a corporate entity, unless such transfer occurs between a wholesale distributor and a health care entity or practitioner; or

(e) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons, for purposes of this section, "emergency medical reasons" includes transfers of prescription drugs by retail pharmacy to another retail pharmacy or practitioner to alleviate a temporary shortage, except that the gross dollar value of such transfers shall not exceed five percent of the total prescription drug sale revenue of either the transferor or transferee pharmacy during any twelve consecutive month period.

Subpart A - Commission Operations

NEW SECTION

WAC 246-945-002 Administrative proceedings and appeals. (1) The commission adopts the model procedural rules for boards as adopted by the department, and contained in chapter 246-11 WAC, including subsequent amendments.

(2) The commission adopts the administrative procedures and requirements for credentialed heath care providers as adopted by the department and contained in chapter 246-12 WAC, including subsequent amendments under chapter 246-12 WAC.

(3) Where there is a conflict between the rules incorporated in subsections (1) and (2) of this section, the commission's rule shall supersede.

NEW SECTION

WAC 246-945-005 Commission inspections and investigations. (1) Records subject to commission inspection. A pharmaceutical firm shall make available for inspection upon request by the commission or designee records created, maintained, or retained in compliance with statutes or rules enforced by the commission. It is unlawful to refuse to permit or to obstruct a commission inspection.

(2) Initial inspections. Prior to starting a business, as applicable, and upon presentation of appropriate identification, a pharmaceutical firm shall permit the commission, or its designee, to enter and inspect the premises and to audit the records of each entity for compliance with laws enforced by or under the commission's jurisdiction.

(3) Periodic commission inspection. A pharmaceutical firm is subject to periodic inspections to determine compliance with the laws regulating the practice of pharmacy.

(a) Statement of deficiency.

(i) At the end of the inspection, the commission, or its designee, will conduct an exit meeting with the responsible pharmacy manager, or designee, or equivalent manager, addressing unresolved deficiencies identified during the inspection.

(ii) The commission, or its designee, shall provide a written statement of deficiency to the pharmaceutical firm within ten business days of the exit meeting.

(iii) The statement of deficiency may include unresolved deficiencies identified at the end of a periodic commission inspection, describing the unresolved deficiencies in detail with a reference to all applicable laws.

(b) Plan of correction. A pharmaceutical firm shall submit a plan of correction to the commission, or its designee, addressing each identified unresolved deficiency within ten business days of receipt of a statement of deficiency.

(i) The commission, or its designee, shall notify the pharmacy within ten business days, whether or not a submitted plan of correction adequately addresses the unresolved deficiencies identified in the statement of deficiency.

(ii) Implementation of the corrective action is required within the time frames set in the approved plan of correction, and are subject to verification by the commission, or its designee, which may require the pharmacy to submit a progress report(s) attesting to the correction of deficiencies, or a follow-up inspection.

(c) Pharmaceutical firms with deficiencies that represent an imminent or immediate risk or threat to public health, safety, or welfare may be subject to summary suspension of the pharmacy license, at the discretion of the commission.

(4) Self-inspections. The responsible pharmacy manager, or equivalent manager, is required to conduct an annual self-inspection of the pharmaceutical firm on the self-inspection worksheet(s) provided by the commission. The self-inspection must be completed within the month of March each year.

(a) The responsible pharmacy manager, or equivalent manager, shall sign and date the completed self-inspection worksheet(s), and maintain completed worksheets for two years from the date of completion.

(b) When a change in responsible pharmacy manager, or equivalent manager occurs, the new responsible pharmacy manager, or equivalent manager, shall conduct a self-inspection as required under this section. The new responsible pharmacy manager, or equivalent manager, shall sign and date the self-inspection worksheet(s) within thirty days of becoming responsible pharmacy manager, or equivalent manager, and maintain completed worksheets for two years from the date of completion.

(5) Inspection informal dispute process.

(a) A pharmaceutical firm may dispute within ten business days:

(i) Any or all deficiencies included on a statement of deficiency issued by the commission;

(ii) The rejection of the first submitted plan of correction;

(iii) The pharmaceutical firm may request a one-time extension.

(b) A pharmaceutical firm shall submit a dispute under this subsection to the commission in writing. The dispute must be in detail and include any supporting documentation for commission consideration.

(c) The commission may review and consider a second rejection of a plan of correction.

(d) The commission shall consider any dispute and notify the pharmaceutical firm of its determination.

(6) Investigations. A pharmaceutical firm shall cooperate with commission investigations conducted to confirm compliance with laws enforced by the commission, to gather information pertinent to a complaint received by the commission, or to enforce disciplinary actions.

Subpart B - Prescription Labeling, Records, and Advertising

NEW SECTION

WAC 246-945-010 Prescription and chart order—Minimum requirements. (1) For the purposes of this section, prescription does not include chart orders as defined in RCW 18.64.011(3).

(2) For the purposes of WAC 246-945-010 through 246-945-013, prescription includes written and electronic prescriptions.

(3) A prescription for a noncontrolled legend drug must include, but is not limited to, the following:

(a) Prescriber's name;

(b) Name of patient, authorized entity, or animal name and species;

(c) Date of issuance;

(d) Drug name, strength, and quantity;

(e) Directions for use;

(f) Number of refills (if any);

(g) Instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted, unless substitution is permitted under a prior-consent authorization;

(h) Prescriber's manual or electronic signature, or prescriber's authorized agent signature if allowed by law; and

(i) If the prescription is written, it must be written on tamper-resistant prescription pad or paper approved by the commission pursuant to RCW 18.64.500;

(4) A prescription for a controlled substance must include all the information listed in subsection (1) of this section and the following:

(a) Patient's address;

(b) Dosage form;

(c) Prescriber's address;

(d) Prescriber's DEA registration number; and

(e) Any other requirements listed in 21 C.F.R., Chapter II.

(5) A chart order must meet the requirements of RCW 18.64.550 and any other applicable requirements listed in 21 C.F.R., Chapter II.

(6) A controlled substance listed in Schedule II can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011 unless there is an "emergency."

(a) For the purposes of this subsection, an "emergency" exists when the immediate administration of the drug is necessary for proper treatment and no alternative treatment is available, and further, it is not possible for the practitioner to provide a written or electronic prescription for the drug at that time.

(b) If a Schedule II drug is dispensed in an emergency, the practitioner must deliver a signed prescription to the dispenser within seven days after authorizing an emergency oral prescription or if delivered by mail it must be postmarked within the seven day period, and further the pharmacist must note on the prescription that it was filled on an emergency basis.

(7) A controlled substance listed in Schedule III, IV, or V, can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011, or an oral prescription. An oral prescription for a controlled substance listed in Schedule III, IV, or V must be promptly reduced to a written or electronic prescription that complies with WAC 246-945-011.

(8) A noncontrolled legend drug can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011, or an oral prescription. An oral prescription for a noncontrolled legend drug must be promptly reduced to a written or electronic prescription that complies with WAC 246-945-011.

NEW SECTION

WAC 246-945-011 Prescription validity. (1) Prior to dispensing and delivering a prescription, a pharmacist shall verify its validity.

(2) A prescription shall be considered invalid if:

(a) At the time of presentation, the prescription shows evidence of alteration, erasure, or addition by any person other than the person who wrote it;

(b) The prescription does not contain the required information as provided in WAC 246-945-010;

(c) The prescription is expired; or

(d) The prescription is for a controlled substance and does not comply with the requirements in RCW 69.50.308.

(3) A prescription is considered expired when:

(a) The prescription is for a controlled substance listed in Schedule II through V and the date of dispensing is more than six months after the prescription's date of issue.

(b) The prescription is for a noncontrolled legend drug or OTC's and the date of dispensing is more than twelve months after the prescription's date of issue.

NEW SECTION

WAC 246-945-012 Prescription refills. (1) A prescription for a controlled substance listed in Schedule II cannot be refilled.

(2) A prescription for a controlled substance listed in Schedule III, IV, or V may be refilled a maximum of five times as indicated by the prescriber. The prescription will expire six months after the date of issue pursuant to WAC 246-945-011 even if there are refills remaining.

(3) A prescription for a noncontrolled legend drug may be refilled as indicated by the prescriber in accordance with RCW 18.64.520. There is no limit on the number of refills, but the prescription will expire after twelve months from the date of issue pursuant to WAC 246-945-011.

NEW SECTION

WAC 246-945-013 Partial filling of prescriptions. (1) A pharmacist may partially fill a prescription for noncontrolled legend drugs and controlled substances listed in Schedule III through V provided that:

(a) The partial fill is requested by the patient or the prescriber;

(b) The partial filling is recorded in the same manner as a refilling;

(c) The total quantity dispensed and delivered in all partial fillings must not exceed the total quantity prescribed; and

(d) Partial fills for controlled substances listed in Schedule III through V comply with 21 C.F.R. Sec. 1306.23.

(2) A pharmacist may partially fill a prescription for a controlled substance listed in Schedule II within the limits of RCW 18.64.265, 21 U.S.C. Sec. 829, and 21 C.F.R. Sec. 1306.13.

NEW SECTION

WAC 246-945-015 Minimum requirements for dispensing practitioners. (1) A practitioner authorized to prescribe or administer a legend drug including a controlled substance, other than a pharmacy, can dispense a legend drug including a controlled substance directly to an ultimate user without a prescription.

(2) All practitioners authorized to prescribe legend drugs and who dispense legend drugs directly to the ultimate user shall affix a label to the prescription container that meets the requirements of RCW 69.41.050.

NEW SECTION

WAC 246-945-016 Prescriptions—Outpatient labels—Minimum requirements. (1) All licensees of the commission who dispense legend drugs to outpatients shall affix a label to the prescription container that meets the requirements of RCW 69.41.050 and 18.64.246, and shall also include:

(a) Drug quantity;

(b) The number of refills remaining, if any;

(c) The following statement, "Warning: State or federal law prohibits transfer of this drug to any person other than the person for whom it was prescribed.", except when dispensing to an animal, when a warning sufficient to convey "for veterinary use only" may be used;

(d) The name and species of the patient, if a veterinary prescription; and

(e) The name of the facility or entity authorized by law to possess a legend drug, if patient is the facility or entity.

(2) In addition to the requirements in subsection (1) of this section, a compounded product must meet the labeling requirements of USP chapters <795>, <797>, <800>, and <825>. For compounded products, the BUD shall be equivalent to the expiration date required by RCW 18.64.246.

(3) For the purposes of determining an expiration date as required in RCW 18.64.246, the dispenser shall take the following factors into account:

(a) The nature of the drug;

(b) The container in which it was packaged by the manufacturer and the expiration date;

(c) The characteristics of the patient's container, if the drug is repackaged for dispensing;

(d) The expected conditions to which the drug may be exposed;

(e) The expected length of time of the course of therapy; and

(f) Any other relevant factors.

NEW SECTION

WAC 246-945-017 Prescriptions—Hospital inpatient labels—Minimum requirements. (1) All licensees of the commission who dispense legend drugs to hospital inpatients shall ensure all drug containers are labeled clearly, legibly and adequately to show the drug's name (generic and/or trade) and strength, when applicable.

(2) In addition to the requirements in subsection (1) of this section, a compounded product dispensed to a hospital inpatient must meet the labeling requirements of USP chapters <795>, <797>, <800>, and <825>.

NEW SECTION

WAC 246-945-018 Prescriptions—Labeling—Prepackage medications. Prepackage medications dispensed pursuant to RCW 70.41.480, medications dispensed in unit dose form, medications dispensed by a pharmacy to a long-term care facility must include a label with the following information:

(1) Drug name;

(2) Drug strength;

(3) Expiration date in accordance with WAC 246-945-016(3);

(4) The manufacturer's name and lot number, if not maintained in a separate record; and

(5) The identity of the pharmacist or provider responsible for the prepackaging, if not maintained in a separate record.

NEW SECTION

WAC 246-945-020 Records retention period and commission access to records. (1) Unless an alternative standard for a specified record type, form, or format is expressly stated a pharmaceutical firm must maintain and retain records required as evidence of compliance with statutes and rules enforced by the commission in a readily retrievable form and location for at least two years from the date the record was created or received, whichever date is later.

(2) A pharmaceutical firm must allow the commission, or its designee, access to the pharmaceutical firm's records upon request for the purposes of monitoring compliance with statutes and rules enforced by the commission.

NEW SECTION

WAC 246-945-025 Prescription drug price advertising. (1) A pharmacy may advertise legend or prescription drug prices provided:

(a) The advertising complies with all state and federal laws, including regulations of the FDA and the Washington State Consumer Protection Act, chapter 19.86 RCW.

(b) The advertising is solely directed towards providing consumers with drug price information and does not promote the use of a prescription drug or drugs to the public.

(c) The drug price advertising shall contain all the following information for all drug products or brand names used in the advertisement:

(i) The proprietary name of the drug product advertised, if any;

(ii) The generic name of the drug product advertised, if any;

(iii) The strength of the drug product advertised. If the drug product advertised contains more than one active ingredient and a relevant strength can be associated with it without indicating each active ingredient, the generic name and quantity of each active ingredient is not required; and

(iv) The price charged for a specified quantity of the drug product.

(2) Advertising of any generic drug that in any way compares a generic drug to a brand name drug may not in any manner imply that the brand name drug is the product offered for sale.

(3) A person, partnership, corporation, association, or agency may not advertise controlled substances for sale to the general public in any manner that promotes or tends to promote the use or abuse of those drugs. Controlled substances may not be physically displayed to the public.

(4) Upon request from the patient, no pharmacy shall refuse to disclose the cost to the specific patient of a prescription drug without third-party reimbursement or discounts.

Subpart C - Legend Drugs and Controlled Substances

NEW SECTION

WAC 246-945-030 Identification of legend drugs for purposes of chapter 69.41 RCW. (1) Those drugs determined by the FDA to require a prescription under federal law should be classified as legend drugs under state law because their toxicity, potential for harmful effect, methods of use, or collateral measures necessary to their use indicate they are only safe for use under the supervision of a practitioner.

(2) The commission finds that under state law, legend drugs are those drugs designated as legend drugs under federal law, as of the date of adoption of this rule, and listed in at least one of the following publications:

(a) The 39th Edition, including supplements, of the *Approved Drug Products with Therapeutic Equivalence Evaluations "Orange Book"* (available at https://www.fda.gov/drugs/drug-approvals-and-databases/approved-drug-products-therapeutic-equivalence-evaluations-orange-book).

(b) The 2019 version, including monthly updates, of the *Approved Animal Drug Products "Green Book"* (available at https://www.fda.gov/animal-veterinary/products/approved-animal-drug-products-green-book).

(c) The 2019 *List of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations "Purple Book"* (available at https://www.fda.gov/drugs/therapeutic-biologics-applications-bla/purple-book-lists-licensed-biological-products-reference-product-exclusivity-and-biosimilarity-or).

(3) Copies of the reference material listed in subsection (2) of this section are available for public inspection at the commission's office at Department of Health, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501.

(4) The commission also identifies those ephedrine products specified in WAC 246-945-031 as legend drugs under state law.

(5) There may be changes in the marketing status of drugs after the publication of the above references. Upon application of a manufacturer or distributor, the commission may grant authority for the over-the-counter distribution of certain drugs designated as legend drugs in these references. These determinations will be made after public hearing and will be published as an amendment to this chapter.

NEW SECTION

WAC 246-945-031 Ephedrine prescription restrictions. (1) The commission, under RCW 69.41.075, identifies ephedrine, or any of its salts in a solid or aqueous form normally intended for oral administration, in any quantity, as a legend drug subject to the restrictions of RCW 69.41.030.

(2) The following products containing ephedrine or its salts in the amount of 25 mg. or less per solid dosage unit or per 5 ml. of liquid forms in combination with other ingredients in therapeutic amounts are exempt from subsection (1) of this section:

	TRADE NAME	EPHEDRINE CONTENT
1.	AMESAC capsule (Russ)	25 mg. ephedrine HCL
2.	AZMA AID tablet (Various, e.g., Purepac)	24 mg. ephedrine HCL
3.	BRONC-EASE PLUS (Natur-Pharma)	25 mg. ephedrine HCL
4.	BRONCHODILATOR AND EXPECTORANT (PDK Labs)	25 mg. ephedrine HCL
5.	BRONITIN tablet (Whitehall)	24 mg. ephedrine HCL
6.	BRONKAID tablet (Breon)	24 mg. ephedrine sulfate
7.	BRONKOLIXER (Sterling Winthrop)	12 mg. ephedrine
8.	BRONKOTABS tablet (Breon)	24 mg. ephedrine sulfate
9.	EFEDRON nasal jelly (Hyrex)	0.6% ephedrine HCL in 20 g.
10.	MINI THINS asthma relief (BDI Pharmaceuticals)	25 mg. ephedrine

	TRADE NAME	EPHEDRINE CONTENT
11.	PAZO HEMORRHOID suppository (Bristol-Meyers)	3.86 mg. ephedrine sulfate
12.	PAZO HEMORRHOID ointment (Bristol-Meyers)	0.2% ephedrine sulfate
13.	PRIMATENE tablet (Whitehall)	24 mg. ephedrine HCL
14.	PRIMATENE M tablet (Whitehall)	24 mg. ephedrine HCL
15.	PRIMATENE P tablet (Whitehall)	24 mg. ephedrine HCL
16.	QUELIDRINE (Abbott)	5 mg. ephedrine HCL
17.	TEDRAL tablet (Parke-Davis)	24 mg. ephedrine HCL
18.	THEODRINE tablet (Rugby)	25 mg. ephedrine HCL
19.	VATRONOL nose drops (Vicks Health Care)	0.5% ephedrine sulfate

(3) Ma Huang or other botanical products of genus ephedra used in their natural state and containing 25 mg. or less of ephedrine per recommended dosage as a preparation for human consumption are not legend drugs for the purposes of this section.

(4) Any reformulation of listed products which increases the ephedrine content to more than 25 mg. of ephedrine per solid dosage unit or per 5 ml. of liquid forms shall negate the exemption. The manufacturers of listed products shall notify the commission of any reformulation which increases the ephedrine content to more than 25 mg. of ephedrine per solid dosage unit or per 5 ml. of liquid forms prior to distributing that product in the state of Washington.

(5) Manufacturers of products containing 25 mg. or less of ephedrine per solid dosage unit or per 5 ml. of liquid forms in combination with other ingredients in therapeutic amounts may gain exemption from subsection (1) of this section if, prior to the distributing of any such product in the state of Washington, the manufacturer:

(a) Provides the commission with the formulation of any such product;

(b) Provides the commission samples of all dosage forms in which the product is to be marketed in the packaging in which the product is to be marketed; and

(c) Receives the commission's approval to market such product.

NEW SECTION

WAC 246-945-032 Child-resistant containers. (1) All legend drugs shall be dispensed in a child-resistant container as required by federal law or regulation, including 16 C.F.R., Part 1700, unless:

(a) Authorization is received from the prescriber to dispense in a container that is not child-resistant.

(b) Authorization is obtained from the patient or a representative of the patient to dispense in a container that is not child-resistant.

(2) No pharmacist or pharmacy employee may designate themselves as the patient's agent.

NEW SECTION

WAC 246-945-033 Over-the-counter drugs. Except as provided in 21 C.F.R. 206.1 et seq., no nonimprinted solid dosage form drug that is intended for OTC sale may be distributed into or sold in the state of Washington unless it has been found by the commission to be exempt from the provisions of this chapter or has received an exemption from the FDA pursuant to 21 C.F.R. 206.7.

NEW SECTION

WAC 246-945-035 Drug sample prohibitions. (1) Except as provided in subsection (2) of this section, a pharmacy shall not possess, distribute or dispense legend drug samples.

(2) A pharmacy of a licensed hospital or health care entity which receives and distributes drug samples at the request of an authorized practitioner pursuant to RCW 69.45.050 may possess, distribute or dispense legend drug samples.

NEW SECTION

WAC 246-945-037 Regulated steroids. The following drugs are classified as steroids for the purposes of RCW 69.41.310. The drugs designated shall include the following and any synthetic derivatives or any isomer, ester, salt, or derivative of the following that act in the same manner on the human body:

(1) Anabolicum;
(2) Anadrol;
(3) Anatrofin;
(4) Anavar;
(5) Androxon;
(6) Andriol;
(7) Android;
(8) Bolandiol;
(9) Bolasterone;
(10) Boldenone;
(11) Boldenone undecylenate;
(12) Bolenol;
(13) Bolfortan;
(14) Bolmantalate;
(15) Cheque;
(16) Chlorotestosterone;
(17) Clostebol;
(18) Deca Durabolin;
(19) Dehydrochlormethyl-testosterone;
(20) Delatestyl;
(21) Dianabol; and
(22) Dihydrolone.

NEW SECTION

WAC 246-945-038 Availability and identity of amygdalin. (1) Amygdalin (laetrile) may be manufactured and dis-

tributed through intrastate commerce in Washington in accordance with all applicable state laws and regulations.

(2) Amygdalin (laetrile) imported into the state of Washington shall be imported in conformity with federal regulations or court decisions.

(3) Under the direction of the commission batches of amygdalin (laetrile) must be made with the costs for required testing, including purity and potency, to be borne by the manufacturer and wholesale distributor. The manufacturer and wholesale distributor is responsible for the quality of the drug product, in accordance with RCW 18.64.270.

NEW SECTION

WAC 246-945-040 Uniform Controlled Substance Act. (1) The commission adopts 21 C.F.R. as its own. The following sections do not apply: Sec. 1301.13, Sec. 1301.33, Sec. 1301.35-.46, Sec. 1303, Sec. 1308.41-.45, and Sec. 1316.31-.67. Any inconsistencies between 21 C.F.R. Sec. 1300 through 1321 and this chapter should be resolved in favor of this chapter. Nothing in this chapter applies to the production, processing, distribution, or possession of marijuana as authorized and regulated by the Washington state liquor and cannabis board.

(2) Registration. A separate registration is required for each place of business, as defined in 21 C.F.R. Sec. 1301.12, where controlled substances are manufactured, distributed, or dispensed. Application for registration must be made on forms supplied by the commission, and all requested information must be supplied unless the information is not applicable, which must be indicated by the applicant. An applicant for registration must hold the appropriate license provided for in chapter 18.64 RCW.

(3) Recordkeeping and Inventory. Every registrant shall keep and maintain inventory records required by 21 C.F.R. Sec. 1304.04. Registrants are also required to keep a record of receipt and distribution of controlled substances. Records shall include:

(a) Invoices, orders, receipts, or any other document regardless of how titled, establishing the date, supplier, and quantity of drug received, and the name of the drug;

(b) Distribution records, including invoices, or any other document regardless of how titled from wholesalers, manufacturers, or any other entity to which the substances were distributed and prescriptions records for dispensers;

(c) In the event of a significant loss or theft, two copies of DEA 106 (report of theft or loss of controlled substances) must be transmitted to the federal authorities and a copy must be sent to the commission;

(d) For transfers of controlled substances from one dispenser to another, a record of the transfer must be made at the time of transfer indicating the drug, quantity, date of transfer, who it was transferred to, and from whom. Records must be retained by both the transferee and the transferor. These transfers can only be made in emergencies pursuant to 21 C.F.R. Sec. 1307.11.

(4) Credential holders and pharmaceutical firms shall maintain records for Schedule II drugs separately from all other records.

(5) Credential holders and pharmaceutical firms may maintain records for Schedule III, IV, and V drugs either separately or in a form that is readily retrievable from the business records of the registrant.

(6) A federal order form is required for each distribution of a Schedule I or II controlled substance. Credential holders and pharmaceutical firms must keep and make readily available these forms and other records to the commission or its designee.

NEW SECTION

WAC 246-945-043 Designation of nonnarcotic stimulant drugs for the purposes of RCW 69.50.402 (1)(c). The commission hereby designates, the following Schedule II controlled substances as nonnarcotic stimulants for purposes of RCW 69.50.402 (1)(c):

(1) Amphetamine sulfate in any of its generic forms.

(2) Dextroamphetamine sulfate in any of its generic forms and under the following brand names:

(a) Dexedrine (SKF);

(b) Dexedrine spansules (SKF).

(3) Dextroamphetamine HCL in any of its generic forms.

(4) Dextroamphetamine tannate in any of its generic forms.

(5) Methamphetamine HCL (Desoxyephedrine HCL) in any of its generic forms and under the following brand name: Desoxyn (Abbott).

(6) Amphetamine complex in any of its generic forms and under the following brand names:

(a) Biphetamine 12 1/2 (Pennwalt);

(b) Biphetamine 20 (Pennwalt).

(7) Combined amphetamines sold under the following brand names: Obetrol-10 and 20 (Obetrol).

(8) Phenmetrazine HCL in any of its generic forms and under the following brand name: Preludin (Boehringer-Ingelheim).

(9) Methylphenidate HCL in any of its generic forms and under the following brand name: Ritalin (Ciba).

(10) Lisdexamfetamine in any of its generic forms and under the following brand name: Vyvanse.

NEW SECTION

WAC 246-945-045 Prescribing, dispensing, or administering of Schedule II nonnarcotic stimulants. The Schedule II stimulants listed in WAC 246-945-043 may be prescribed, dispensed, or administered to patients for the following disease states or conditions:

(1) Disease states or conditions listed in RCW 69.50.402 (1)(c)(ii); and

(2) Moderate to severe binge eating disorder in adults.

NEW SECTION

WAC 246-945-047 Sodium pentobarbital registration disciplinary action. In addition to any criminal or civil liabilities that may occur, the commission may deny, suspend, or revoke registration upon determination that:

(1) The registration was procured through fraud or misrepresentation;

(2) The registrant or any agent or employee of the registrant has violated any of the federal or state laws related to drugs, or has violated any of the rules or regulations of the commission.

NEW SECTION

WAC 246-945-050 Commission authority to control. Pursuant to the authority granted to the commission in RCW 69.50.201, the commission has considered the following factors with regards to each of the substances listed in this chapter and in chapter 69.50 RCW:

(1) The actual or relative potential for abuse;

(2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) The risk to the public health;

(7) The potential of the substance to produce psychic or psychological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under the Uniform Controlled Substances Act (chapter 69.50 RCW).

NEW SECTION

WAC 246-945-051 Schedule I. The commission finds that the following substances have high potential for abuse and have no accepted medical use in treatment in the United States or that they lack accepted safety for use in treatment under medical supervision. In addition to the substances scheduled in RCW 69.50.204 the commission places each of the following controlled substances by whatever official name, common or usual name, chemical name, or brand name in Schedule I.

(1) Opiates. Unless specifically exempted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(a) (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide); some other names: Acetyl fentanyl;

(b) 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers; some other names: U-47700;

(c) 3,4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl]benzamide; some other names: AH-7921;

(d) Dextrorphan;

(e) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers; some other names: Acryl fentanyl and acryloylfentanyl;

(f) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers; some other names: Butyryl fentanyl;

(g) N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers; some other names: Furanyl fentanyl;

(h) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers; some other names: 4-fluoroisobutyryl fentanyl and para-fluoroisobutyryl fentanyl;

(i) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers; some other names: Beta-hydroxythiofentanyl; and

(j) Propheptazine.

(2) Opium derivatives. Unless specifically exempted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: Methylhydromorphine.

(3) Hallucinogenic substances. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation. For purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(a) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one; some other names: Butylone and bk-MBDB;

(b) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one; some other names: Pentylone and bk-MBDP;

(c) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine; some other names: 2C-P;

(d) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine; some other names: 2C-E;

(e) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine; some other names: 2C-D;

(f) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine; some other names: 2C-N;

(g) 2-(2,5-Dimethoxyphenyl)ethanamine; some other names: 2C-H;

(h) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; some other names: 25B-NBOMe and 2C-B-NBOMe;

(i) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine; some other names: 2C-C;

(j) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; some other names: 25C-NBOMe and 2C-C-NBOMe;

(k) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine; some other names: 2C-I;

(l) 2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine; some other names: 25I-NBOMe and 2C-I-NBOMe;

(m) 2,5-dimethoxyamphetamine; some other names: 2,5-dimethoxy-alpha-methylphenethylamine and 2,5-DMA;

(n) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine; some other names: 2C-T-2;

(o) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine; some other names: 2C-T-4;

(p) 3,4-Methylenedioxymethcathinone; some other names: Methylone;

(q) 3,4-methylenedioxy-N-ethylamphetamine; some other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)-phenethylamine, N-ethyl MDA, MDE, and MDEA;

(r) 3,4-Methylenedioxypyrovalerone; some other names: MDPV;

(s) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methyl-phenethylamine; some other names: 4-bromo-2,5-DMA;

(t) 4-methoxyamphetamine; some other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA;

(u) 4-methyl-2,5-diamethoxyamphetamine;

(v) 4-methyl-2,5-dimethoxy-amphetamine; some other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

(w) 4-Methylmethcathinone; some other names: Mephedrone;

(x) 5-methoxy-N,N-dimethyltryptamine; some other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole and 5-MeO-DMT;

(y) Alpha-ethyltryptamine; some other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(z) Beta-keto-N-Methylbenzodioxolylpropylamine; some other names: bk-MBDB and Butylone;

(aa) Ethylamine analog of phencyclidine; some other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

(bb) Ibogaine; some other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; and Tabernanthe iboga;

(cc) Marijuana Extract - Meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, other than the separated resin (whether crude or purified) obtained from the plant;

(dd) N-hydroxy-3,4-methylenedioxyamphetamine; some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)-phenethylamine; and N-hydroxy MDA;

(ee) Pyrrolidine analog of phencyclidine; some other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; and PHP;

(ff) Thiophene analog of phencyclidine; some other names: 1-[1-(2-thienyl)-cyclohexyl]-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP.

(4) Stimulants. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(a) Cathinone; also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone;

(b) *N*,*N*-dimethylamphetamine; some other names: N,N-alpha-trimethyl-benzeneethanamine; and N,N-alpha-trimethylphenethylene.

(5) Cannabimimetic agents and synthetic cannabinoids. Any of the following synthetic cannabimimetics and cannabinoids, commonly known as spice, their salts, isomers, and salts of isomers, unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quality of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) (1-pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl)methanone; some other names: UR-144;

(b) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: THJ-2201;

(c) [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone; some other names: 5-fluoro-UR-144 and XLR11;

(d) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole; some other names: AM2201;

(e) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole; some other names: AM694;

(f) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole; some other names: JWH-200;

(g) 1-butyl-3-(1-naphthoyl)indole; some other names: JWH-073;

(h) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl) indole; some other names: SR-18 and RCS-8;

(i) 1-hexyl-3-(1-naphthoyl)indole; some other names: JWH-019;

(j) 1-pentyl-3-(1-naphthoyl)indole; some other names: JWH-018 and AM678;

(k) 1-pentyl-3-(2-chlorophenylacetyl)indole; some other names: JWH-203;

(l) 1-pentyl-3-(2-methoxyphenylacetyl)indole; some other names: JWH-250;

(m) 1-pentyl-3-(4-chloro-1-naphthoyl)indole; some other names: JWH-398;

(n) 1-pentyl-3-(4-methyl-1-naphthoyl)indole; some other names: JWH-122;

(o) 1-pentyl-3-[(4-methoxy)-benzoyl]indole; some other names: SR-19 and RCS-4;

(p) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole; some other names: JWH-081;

(q) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol; some other names: CP-47,497;

(r) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol; some other names: Cannabicyclohexanol or CP-47,497 C8-homolog;

(s) Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: MDMB-FUBINACA;

(t) Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: 5F-ADB; and 5F-MDMB-PINACA;

(u) Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: 5F-AMB;

(v) Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and

geometric isomers, salts, and salts of isomers; some other names: MDMB-CHMICA; and MMB-CHMINACA;

(w) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide; some other names: APINACA and AKB48;

(x) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: ADB-FUBINACA;

(y) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: MAB-CHMINACA; and ADB-CHMINACA;

(z) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide; some other names: ADB-PINACA;

(aa) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide; some other names: AB-FUBINACA;

(bb) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: AB-CHMINACA;

(cc) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: AB-PINACA;

(dd) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: 5F-APINACA; and 5F-AKB48;

(ee) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate; some other names: 5-fluoro-PB-22; and 5F-PB-22;

(ff) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate; some other names: PB-22; and QUPIC.

(6) Synthetic cathinones, commonly known as bath salts, and its derivatives. Unless specifically exempted or listed in another schedule, any of the following synthetic cathinone and derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific designation:

(a) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one; some other names: Naphyrone;

(b) 2-(methylamino)-1-phenylpentan-1-one; some other names: Pentedrone;

(c) 3-fluoro-N-methylcathinone; some other names: 3-FMC;

(d) 4-fluoro-N-methylcathinone; some other names: 4-FMC and flephedrone;

(e) 4-methyl-alpha-pyrrolidinopropiophenone; some other names: 4-MePPP;

(f) 4-methyl-N-ethylcathinone; some other names: 4-MEC;

(g) Alpha-pyrrolidinobutiophenone; some other names: Alpha-PBP;

(h) Alpha-pyrrolidinopentiophenone; some other names: Alpha-PVP;

(i) N-Ethylpentylone, its optical, positional, and geometric isomers, salts, and salts of isomers; some other names: 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one).

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

NEW SECTION

WAC 246-945-052 Schedule II. The commission finds that the following substances have a high potential for abuse and have currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions and that the abuse of the following substances may lead to severe psychic or psychological dependence. In addition to the substances listed in RCW 69.50.206, the commission places each of the following drugs and other substances by whatever official name, common or usual name, chemical name, or brand name in Schedule II.

(1) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including:

(a) Decocainized coca leaves or extractions which do not contain cocaine or ecgonine; or

(b)[^{123}I]ioflupane.

(2) Opiates. Unless specifically exempted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene exempted: Thiafentanil.

(3) Hallucinogenic substances.

(a) Dronabinol[(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration;

(b) Nabilone; some other names: (±)-trans-3-(1,1-dimethlheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.

(4) Immediate precursors. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances: Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

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

NEW SECTION

WAC 246-945-053 Schedule II immediate precursors. The commission finds and designates the following substances as being the principal compound used or produced primarily for use and which are an immediate chemical intermediary used or likely to be used, in the manufacture of a Schedule II controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(1) Unless specifically exempted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or their salts or isomers having potential for abuse associated

with the preparation of controlled substances shall be a Schedule II controlled substance.

(a) Anthranilic acid;
(b) Ephedrine;
(c) Hydriodic acid;
(d) Methylamine;
(e) Phenylacetic acid;
(f) Pseudoephedrine;
(g) Methephedrine;
(h) Lead acetate; and
(i) Methyl formamide.

(2) Any drug or compound containing ephedrine, or any of its salts or isomers, or pseudoephedrine, or any of its salts or isomers that are prepared for dispensing or over-the-counter distribution and are in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances for the purpose of this section.

(3) Any cosmetic containing lead acetate that is distributed in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances.

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

NEW SECTION

WAC 246-945-054 Schedule III. The commission finds that the following substances have a potential for abuse less than the substances listed in Schedule I under RCW 69.50.204 and WAC 246-945-051 and Schedule II under RCW 69.50.206 and WAC 246-945-052, and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to moderate or low physical dependency or high psychological dependency. In addition to substances listed in RCW 69.50.208, the commission places each of the following drugs and other substances by whatever official name, common or usual name, chemical name, or brand name in Schedule III.

(1) Depressants. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system: Perampanel, and its salts, isomers, and salts of isomers.

(2) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids that promotes muscle growth, and includes:

(a) 17alpha-methyl-3alpha,17beta-dihydroxy-5alpha-androstane;

(b) 17alpha-methyl-3beta,17beta-dihydroxy-5alpha-androstane;

(c) 17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) some other names: '17-alpha-methyl-1-testosterone';

(d) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-dine-3,17-dione);

(e) Norandrostenediol:

(i) 19-nor-4-androstenediol (3alpha, 17beta-dihydroxyestr-4-ene);

(ii) 19-nor-4-androstenediol (3beta, 17beta-dihydroxyestr-4-ene);

(iii) 19-nor-5-androstenediol (3beta, 17beta-dihydroxyestr-5-ene);

(iv) 19-nor-5-androstenediol (3alpha, 17beta-dihydroxyestr-5-ene).

(f) Norandrostenedione:

(i) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(ii) 9-nor-5-androstenedione (estr-5-en-3,17-dione).

(g) Androstanediol:

(i) 3alpha,17beta-dihydroxy-5alpha-androstane;

(ii) 3beta,17beta-dihydroxy-5alpha-androstane.

(h) Boldione (androsta-1,4-dine-3,17-dione);

(i) Desoxymethyltestosterone (17alpha-methyl-5alpha-androst-2-en-17beta-ol); some other names: 'madol'.

(j) Mestanolone (17alpha-methyl-17beta-hydroxy-5alpha-androstan-3-one);

(k) Methasterone (2alpha,17alpha-dimethyl-5alpha-androstan-17beta-ol-3-one);

(l) Prostanozol (17beta-hydroxy-5alpha-androstano[3,2-c]pyrazole).

(m) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

(3) Exempt anabolic steroid products. The following anabolic steroid products in Table A of this subsection containing compounds, mixtures, or preparations are exempt from the recordkeeping, refill restrictions, and other Controlled Substances Act requirements:

Table A

Trade Name	Company	Form	Ingredients	Quantity
Andro-Estro 90-4	Rugby Laboratories, Rockville Centre, NY	Vial	Testosterone enanthate; Estradiol valerate	90 mg/mL; 4 mg/mL
Androgyn L.A.	Forest Pharmaceuticals, St. Louis, MO	Vial	Testosterone enanthate; Estradiol valerate	90 mg/mL; 4 mg/mL
Component E-H in process granulation	Ivy Laboratories, Inc., Overland Park, KS	Pail or drum	Testosterone propionate; Estradiol benzoate	10 parts; 1 part

Trade Name	Company	Form	Ingredients	Quantity
Component E-H in process pellets	Ivy Laboratories, Inc., Overland Park, KS	Pail	Testosterone propionate; Estradiol benzoate	25 mg/2.5 mg/pellet
Component TE-S in process granulation	Ivy Laboratories, Inc., Overland Park, KS	Pail or drum	Trenbolone acetate; Estradiol USP	5 parts; 1 part
Component TE-S in process pellets	Ivy Laboratories, Inc., Overland Park, KS	Pail	Trenbolone acetate; Estradiol USP	120 mg/24 mg/pellet
depANDROGYN	Forest Pharmaceuticals, St. Louis, MO	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Depo-Testadiol	The Upjohn Company, Kalamazoo, MI	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
depTESTROGEN	Martica Pharmaceuticals, Phoenix, AZ	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
DEPTO-T.E.	Quality Research Pharm., Carmel, IN	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Duomone	Wintec Pharmaceutical, Pacific, MO	Vial	Testosterone enanthate; Estradiol valerate	90 mg/mL; 4 mg/mL
DUO-SPAN II	Primedics Laboratories, Gardena, CA	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
DURATESTRIN	W. E. Hauck, Alpharetta, GA	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Essian	Pharmaceutics International Inc., Hunt Valley, MD	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Essian H.S.	Pharmaceutics International Inc., Hunt Valley, MD	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg
Esterified Estrogens and Methyltestosterone, USP (0.625 mg/1.25 mg)	Interpharm, Inc.	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg
Esterified Estrogens and Methyltestosterone, USP (1.25 mg/2.5 mg)	Interpharm, Inc.	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Esterified Estrogens/ Methyltestosterone, (0.625 mg/1.25 mg) Tablet	ANDAPharm, LLC	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg
Esterified Estrogens/ Methyltestosterone, (1.25 mg/2.5 mg) Tablet	ANDAPharm, LLC	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Estratest	Solvay Pharmaceuticals, Marietta, GA	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Estratest H.S.	Solvay Pharmaceuticals, Marietta, GA	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg
Masculinizing Feed for Fish (Investigational)	Rangen, Inc., Buhl, ID	Plastic Bags	Methyltestosterone	60 mg/kg fish feed
Menogen	Sage Pharmaceuticals, Shreveport, LA	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Menogen H.S.	Sage Pharmaceuticals, Shreveport, LA	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg

Trade Name	Company	Form	Ingredients	Quantity
Methyltestosterone and Esterified Estrogens (2.5 mg/1.25 mg)	Lannett Company, Inc.	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Methyltestosterone and Esterified Estrogens (Half Strength) (1.25 mg/0.625 mg)	Lannett Company, Inc.	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg
PAN ESTRA TEST	Pan American Labs; Covington, LA	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Premarin with Methyltestosterone	Ayerst Labs Inc., New York, NY	TB	Conjugated estrogens; Methyltestosterone	0.625 mg; 5.0 mg
Premarin with Methyltestosterone	Ayerst Labs Inc., New York, NY	TB	Conjugated estrogens; Methyltestosterone	1.25 mg; 10.0 mg
Synovex H in-process bulk pellets	Syntex Animal Health, Palo Alto, CA	Drum	Testosterone propionate; Estradiol benzoate	25 mg; 2.5 mg/pellet
Synovex H in-process granulation	Syntex Animal Health, Palo Alto, CA	Drum	Testosterone propionate; Estradiol benzoate	10 parts; 1 part
Synovex Plus in-process bulk pellets	Fort Dodge Animal Health, Fort Dodge, IA	Drum	Trenbolone acetate; Estradiol benzoate	25 mg; 3.5 mg/pellet
Synovex Plus in-process granulation	Fort Dodge Animal Health, Fort Dodge, IA	Drum	Trenbolone acetate; Estradiol benzoate	25 parts; 3.5 parts
Syntest D.S.	Syntho Pharmaceuticals, Inc.	TB	Esterified estrogens; Methyltestosterone	1.25 mg; 2.5 mg
Syntest H.S.	Syntho Pharmaceuticals, Inc.	TB	Esterified estrogens; Methyltestosterone	0.625 mg; 1.25 mg
TEST-ESTRO Cypionates	Rugby Laboratories, Rockville Centre, NY	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Testoderm 4 mg/d	Alza Corp., Palo Alto, CA	Patch	Testosterone	10 mg
Testoderm 6 mg/d	Alza Corp., Palo Alto, CA	Patch	Testosterone	15 mg
Testoderm in-process film	Alza Corp., Palo Alto, CA	Sheet	Testosterone	0.25 mg/cm^2
Testoderm with Adhesive 4 mg/d	Alza Corp., Palo Alto, CA	Patch	Testosterone	10 mg
Testoderm with Adhesive 6 mg/d	Alza Corp., Palo Alto, CA	Patch	Testosterone	15 mg
Testoderm with Adhesive in-process film	Alza Corp., Palo Alto, CA	Sheet	Testosterone	0.25 mg/cm^2
Testosterone Cyp 50 Estradiol Cyp 2	I.D.E.-Interstate, Amityville, NY	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Testosterone Cypionate/Estradiol Cypionate Injection	Best Generics, North Miami Beach, FL	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Testosterone Cypionate/Estradiol Cypionate Injection	Goldline Labs, Ft. Lauderdale, FL	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL

Trade Name	Company	Form	Ingredients	Quantity
Testosterone Cypionate/Estradiol Cypionate Injection	Schein Pharmaceuticals, Port Washington, NY	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL
Testosterone Cypionate/Estradiol Cypionate Injection	Steris Labs Inc., Phoenix, AZ	Vial	Testosterone cypionate; Estradiol cypionate	50 mg/mL; 2 mg/mL

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

NEW SECTION

WAC 246-945-055 Schedule IV. The commission finds that the following substances have a low potential for abuse relative to substances in Schedule III under RCW 69.50.208 and WAC 246-945-054, and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. In addition to substances listed in RCW 69.50.210, the commission places each of the following drugs and substances by whatever official name, common or usual name, chemical name, or brand name in Schedule IV.

(1) Narcotic drugs. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set in this subsection: 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol).

(2) Depressants. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alfaxalone;

(b) Fospropofol;

(c) Suvorexant.

(3) Any material, compound, mixture, or preparation which contains any quantity of Lorcaserin, including its salts, isomers, and salts of such isomers, wherever the existence of such salts, isomers, and salts of isomers is possible.

(4) Stimulants. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Cathine ((+) - norpseudoephedrine);

(b) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(5) Other substances. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts: Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl] amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.

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

NEW SECTION

WAC 246-945-056 Schedule V. The commission finds that the following substances have low potential for abuse relative to substances in Schedule IV under RCW 69.50.210 and WAC 246-945-055 and have currently accepted medical use in treatment in the United States and that the substances have limited physical dependence or psychological dependence liability relative to the substance in Schedule IV. In addition to the substances listed in RCW 69.50.212, the commission places each of the following drugs and substances by whatever official name, common or usual name, chemical name, or brand name in Schedule V.

Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide); also referred to as BRV; UCB-34714; Briviact;

(2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester].

(3) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols, also known as Epidiolex.

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

NEW SECTION

WAC 246-945-060 Other controlled substance registrants—Requirements. (1) All persons and firms, except persons exempt from registration, must register with the com-

mission in order to legally possess or use controlled substances.

(2) Persons or firms which are not classified as pharmacies, wholesalers, manufacturers, or researchers will be classified as other controlled substance registrants. Examples of persons or firms in this classification include analytical laboratories, dog handlers/trainers who use dogs for drug detection purposes, school laboratories and other agencies which have a legitimate need to use precursor chemicals as defined in WAC 246-945-053.

(3) The applicant for a controlled substance registration must complete and return an application form supplied by the commission. A list of the controlled substances to be used, the purpose for such use, and the names of the persons authorized to access the controlled substances must be listed on the application or on an addendum.

(4) All controlled substances must be stored in a substantially constructed locked cabinet. The registrant shall maintain records in sufficient detail in order to account for the receipt, use, and disposition of all controlled substances. The registrant shall inventory all controlled substances in the possession of the registrant every two years on the anniversary of the issuances of the registration and shall maintain the inventory list for two years. The registrant shall return unwanted, outdated, or unusable controlled substances to the source from which it was obtained or surrendered to the DEA.

NEW SECTION

WAC 246-945-063 Precursor definitions. The definitions in this section apply to WAC 246-945-065 through 246-945-088.

(1) "Registered product" means any nonprescription product containing any detectable quantity of ephedrine, pseudoephedrine, and phenylpropanolamine or their salts or isomers, or salts of isomers.

(2) "Retailer" means a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW that sells, dispenses, or otherwise provides restricted products to purchasers.

(3) "Sale" means the transfer, selling, or otherwise furnishing of any restricted product to any person.

NEW SECTION

WAC 246-945-065 Precursor substance control. (1) For the purpose of this chapter, in addition to the substances in RCW 69.43.010, a precursor substance is any of the following substances or their salts or isomers:

(a) Gamma-butyrolactone (GBL); and

(b) Hydriodic acid.

(2) A precursor substance defined in subsection (1) of this section does not include any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine or any cosmetic if that drug or cosmetic can be lawfully sold, transferred, or furnished over-the-counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

NEW SECTION

WAC 246-945-070 Reports of precursor receipt. (1) Any manufacturer, wholesaler, retailer, or any other person who receives from any source outside the state of Washington any precursor substance listed in WAC 246-945-065 or RCW 69.43.010 shall submit a report of such transaction within fourteen days of the receipt of that substance.

(2) The report shall contain the following information:

(a) Name of substance;

(b) Quantity received;

(c) Date received;

(d) Name and address of firm or person receiving substance; and

(e) Name and address of the source selling, transferring, or furnishing the substance.

(3) The report shall be on a form approved by the commission. In lieu of an approved form the commission will accept a copy of an invoice, packing list, or other shipping document which contains the information in subsection (2) of this section. Under this option purchase price information appearing on the document can be deleted.

NEW SECTION

WAC 246-945-072 Precursor substance monthly reporting. (1) A permit holder who regularly transfers the same precursor substance to the same recipient may apply to the commission for authorization to submit the report of said transactions on a monthly basis. Requests for monthly reporting authorization must be received at the commission office at least thirty days prior to the commission meeting at which the request will be considered. The commission will review each request to determine if the requirements of RCW 69.43.-010(4), are met and will notify the permit holder of its decision and the reporting format that will be authorized.

(2) A permit holder may also petition the commission to accept the monthly report on a computer-generated basis. The report may be furnished in hard copy, on commission-approved data storage methods or by computer interface with a commission-operated computer. The permit holder is responsible for the accuracy of the report and the prompt correction of any data entry or transmission errors.

(3) The authorization to use monthly reports or computer-generated monthly reports may be rescinded at the commission's discretion and with thirty days' notice.

NEW SECTION

WAC 246-945-075 Suspicious transactions and reporting requirements. (1) A manufacturer, wholesaler or distributor who sells, transfers, or furnishes a regulated product to any licensee shall report any suspicious transaction in writing to the commission.

(2) For the purpose of this rule, a regulated product is defined as a product specified in RCW 69.43.010(1) or WAC 246-945-065.

(3) For the purposes of this rule, a "suspicious transaction" is defined as any sale or transfer that meets any of the following criteria:

(a) Any sale or transfer that would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter 69.50 RCW, based on such factors as:

(i) The amount of the substance involved;

(ii) The method of payment;

(iii) The method of delivery; or

(iv) Any past dealings with any participant in the transaction.

(b) Any sale or transfer involving payment for a regulated product in cash or money orders in a total amount of more than two hundred dollars.

(c) Any sale or transfer of a regulated product that meets the criteria identifying suspicious orders in the U.S. Department of Justice, Drug Enforcement Administration, Diversion Control Program Report of the Suspicious Orders Task Force. Copies of the publication are available upon request from the board of pharmacy.

(d) Any individual sale or transfer of a regulated product that exceeds ten percent of the nonprescription drugs contained in the order.

(e) Any order which contains regulated products and has no additional nonprescription drugs is considered a suspicious transaction.

(4) The written report of a suspicious transaction shall contain, at a minimum, the following information:

(a) Name, address, and phone number of the manufacturer and/or wholesaler making the report;

(b) Washington state license number of the wholesaler;

(c) Washington state unified business identifier (UBI) number of the recipient of the suspicious transaction;

(d) Trade/brand name of regulated product;

(e) Generic name of regulated product's active ingredients;

(f) Name, address and phone number of the recipient of the suspicious transaction;

(g) Quantity of substance purchased, transferred, or furnished, by number of units and doses per unit;

(h) Date of purchase or transfer;

(i) Method of payment of the substance;

(j) Lot number if available; and

(k) National Drug Code number if available.

NEW SECTION

WAC 246-945-077 Precursor substance requirements for the sale of a restricted product. Unless exempted in RCW 69.43.110, a retailer must:

(1) Verify the purchaser's identity by means of acceptable identification as defined in this chapter;

(2) Ensure that the purchaser is at least eighteen years of age; and

(3) Record all of the information required in WAC 246-945-078 in the record of transaction before completing the sale.

NEW SECTION

WAC 246-945-078 Record of sales—Electronic methamphetamine precursor tracking. (1) Unless granted an exemption under RCW 69.43.110 upon the sale or attempted sale of a restricted product, each retailer shall enter and electronically transmit the following information to the methamphetamine precursor tracking system prior to completion of the transaction:

(a) Sale transaction information including:

(i) Date and time of the intended purchase;

(ii) Product description;

(iii) Quantity of product to be sold including:

(A) Total grams of restricted product per box;

(B) Number of boxes per transaction.

(b) Purchaser's information including:

(i) Full name as it appears on the acceptable identification;

(ii) Date of birth;

(iii) The address as it appears on the photo identification or the current address if the form of photo identification used does not contain the purchaser's address. The address information must include the house number, street, city, state, and zip code;

(iv) Form of photo identification presented by the purchaser, including the issuing agency of the acceptable identification, and the identification number appearing on the identification; and

(v) Purchaser's signature. If the retailer is not able to secure an electronic signature, the retailer shall maintain a hard copy of a signature logbook consisting of each purchaser's signature and the transaction number provided by the methamphetamine precursor tracking system.

(c) The full name or initials of the individual conducting the transaction; and

(d) Other information as required by the methamphetamine precursor tracking system database.

(2) If a transaction occurs during a time when the methamphetamine precursor tracking system is temporarily unavailable due to power outage or other technical difficulties, the retailer shall record the information required in this section in a written logbook for entry into the methamphetamine precursor tracking system within seventy-two hours of the system becoming operational.

NEW SECTION

WAC 246-945-080 Acceptable forms of identification. Acceptable forms of identification are defined as current foreign, federal, state, or tribal government-issued identification which include the person's photograph, name, date of birth, signature, and physical description. Acceptable forms of identification include, but are not limited to:

(1) A valid driver's license or instruction permit issued by any U.S. state or foreign government. If the purchaser's driver's license has expired, he or she must also show a valid temporary driver's license with the expired card.

(2) A United States Armed Forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(3) A merchant marine identification card issued by the United States Coast Guard.

(4) An identification card issued by any foreign, federal, or state government.

(5) An official U.S. passport or an unexpired foreign passport that contains a temporary I-551 stamp.

(6) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington state, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington state drivers' licenses.

NEW SECTION

WAC 246-945-085 Maintenance of and access to retail sales records of restricted products. (1) The retail sales records required under WAC 246-945-078 are confidential and accessible by the commission and law enforcement agencies. Law enforcement may access the retail sales records for criminal investigations when, at a minimum, there is an articulated individualized suspicion of criminal activity.

(2) Each law enforcement agency's administrator, chief, sheriff, or other chief executive officer shall ensure:

(a) Only authorized employees have access to the databases;

(b) Each employee use his or her unique password or access code to access the databases;

(c) Each employee adheres to all state and federal laws regarding confidentiality; and

(d) As employees change, new passwords or access codes are assigned to new employees and passwords of ex-employees or transferred employees are removed.

(3) Retail sales records of restricted products, electronic or written, must be kept for a minimum of two years.

(4) Retail sales records must be destroyed in a manner that leaves the record unidentifiable and nonretrievable.

NEW SECTION

WAC 246-945-087 Exemptions from electronic reporting. (1) Pharmacies are exempt from entering purchase information into the methamphetamine precursor tracking system when the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts or isomers, or salts of isomers is sold pursuant to a prescription written by an authorized practitioner.

(2) A retailer must demonstrate "good cause" to qualify for an exemption from electronic reporting requirements. "Good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the methamphetamine precursor tracking system is unavailable or cost prohibitive to the retailer.

(a) A retailer must submit a written request on a form provided by the board, which shall include the following information:

(i) The reason for the exemption; and

(ii) The anticipated duration needed for the exemption.

(b) An exemption from electronic reporting may not exceed one hundred eighty days.

(c) A retailer may request additional exemptions by submitting a form defined in this subsection at least thirty days before the current exemption expires. The retailer must show that compliance will cause the business significant hardship.

(d) For all sales transactions involving the sale or attempted sale of a restricted product occurring during the period of an exemption, the retailer shall record into a written logbook, at the time of the sale or attempted sale, the information required under WAC 246-945-078(1).

(e) The written logbook of each sale or attempted sale shall be available for inspection by any law enforcement officer or board inspector during normal business hours.

NEW SECTION

WAC 246-945-088 Denial of a sale—Override. (1) The retailer must deny the sale of restricted product to purchasers who are not able to produce acceptable identification or if the sale would violate RCW 69.43.110 or federal law.

(2) In the event that the retailer perceives that refusal of the purchase may place them in imminent physical harm, the retailer may use the database safety override function to proceed with the sale, provided that when the threat is no longer perceived, the retailer must immediately contact local law enforcement to report the incident.

Subpart D - Home Dialysis

NEW SECTION

WAC 246-945-090 Home dialysis program—Legend drugs. Pursuant to RCW 18.64.257 and 69.41.032, a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program may sell, deliver, possess or dispense directly to its home dialysis patients in cases or full shelf package lots, if prescribed by a physician, the following legend drugs:

(1) Sterile heparin, 1000 u/mL, in vials;

(2) Sterile potassium chloride, 2 mEq/mL, for injection;

(3) Commercially available dialysate; and

(4) Sterile sodium chloride, 0.9%, for injection in containers of not less than 150 mL.

NEW SECTION

WAC 246-945-091 Home dialysis program—Pharmacist consultant. Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and 69.41.032, shall have an agreement with a pharmacist which provides for consultation as necessary. This shall include advice on the drug distribution process to home dialysis patients and on the location used for storage and distribution of the authorized drugs, which shall be reasonably separated from other activities and shall be secure.

NEW SECTION

WAC 246-945-092 Home dialysis program—Records. (1) A record of shipment shall be attached to the prescriber's order and shall include:

(a) The name of the patient;

(b) Strengths and quantities of drugs;

(c) The manufacturers' names;

(d) Date of shipment;

(e) Names of persons who selected, assembled and packaged for shipment; and

(f) The name of the pharmacist or designated individual responsible for the distribution.

(2) Prescription and drug distribution records shall be maintained in accordance with WAC 246-945-020.

NEW SECTION

WAC 246-945-093 Home dialysis program—Quality assurance. Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and 69.41.032, shall develop a quality assurance program for drug distribution and shall maintain records of drug distribution errors and other problems, including loss due to damage or theft.

Subpart E - Compounding

NEW SECTION

WAC 246-945-100 Compounding minimum standards. (1) All licensees of the commission must comply, at a minimum, with the following chapters of the United States Pharmacopeia (USP) when engaged in compounding nonsterile and sterile products for patient administration or distribution to a licensed practitioner for patient use or administration:

(a) USP General Chapter <795> Pharmaceutical Compounding - Nonsterile Preparations;

(b) USP General Chapter <797> Pharmaceutical Compounding - Sterile Preparations;

(c) USP General Chapter <800> Hazardous Drugs - Handling in Healthcare Settings; and

(d) USP General Chapter <825> Radiopharmaceuticals - Preparation, Compounding, Dispensing, and Repackaging.

(2) Copies of the USP General Chapters listed in subsection (1) of this section are available for public inspection at the commission's office at Department of Health, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501. Requestors may also contact USP directly to obtain copies.

PART 2 - GENERAL LICENSING

NEW SECTION

WAC 246-945-145 License required. An individual providing pharmacy services to individuals located in Washington is required to be credentialed by the commission, unless the individual is providing pharmacy services within the scope of their employment, or affiliation, with a Washington licensed nonresident pharmacy or the law otherwise permits the practice.

NEW SECTION

WAC 246-945-150 Applicable forms. All applications for initial licensure and renewals must be submitted on forms provided by the commission as well as any other required documentation.

Subpart A - Pharmacy Interns and Pharmacist

NEW SECTION

WAC 246-945-155 Pharmacy interns—Registration requirements. (1) Unless otherwise stated, each individual shall register with the commission, as a pharmacy intern before beginning pharmacy practice experiences in Washington state. The commission shall grant a registration to practice pharmacy as a pharmacy intern to an individual who is:

(a) Currently enrolled in a professional degree program of a commission accredited school or college of pharmacy and making satisfactory progress towards meeting the requirements for licensure as a pharmacist;

(b) A graduate of a commission accredited school or college of pharmacy;

(c) A graduate of a school or college of pharmacy located outside the United States who has established educational equivalency by obtaining certification by FPGEC;

(d) Required by the commission to be an intern because the commission has determined the individual needs to complete additional practical experience before a pharmacist license is issued or reissued; or

(e) An out-of-state pharmacist enrolled in or participating in an established residency program.

(2) A pharmacy intern shall practice under the immediate supervision of a licensed pharmacist except in accordance with RCW 18.64.253.

(3) A pharmacy intern registration can only be renewed twice.

(4) The commission may consider a pharmacy intern registration inoperable or superseded if one of the following occurs:

(a) A pharmacy intern has not graduated from and is no longer enrolled or in good standing with a commission accredited school or college of pharmacy.

(b) A pharmacy intern is issued a license to practice as a pharmacist in Washington state or another U.S. jurisdiction.

NEW SECTION

WAC 246-945-156 Pharmacy intern—Temporary practice permit. (1) An individual that holds a pharmacy intern registration in another U.S jurisdiction, that has registration standards substantially equivalent to Washington, may request a temporary practice permit if:

(a) The applicant is not subject to denial of a credential or issuance of a conditional or restricted credential in any state;

(b) Does not have a criminal record in Washington state;

(c) The applicant's fingerprint-based national background check results are pending; and

(d) The applicant meets WAC 246-945-155 (1)(a) or (b).

(2) To request a temporary practice permit, the pharmacy intern applicant shall submit a written request for a temporary practice permit, and any applicable fees in accordance with WAC 246-945-XXX.

(3) A temporary practice permit expires:

(a) When the pharmacy intern registration is issued;

(b) When a notice of decision on the pharmacy intern registration application is mailed to the applicant; or

(c) Ninety days after the temporary practice permit is issued. The applicant may obtain a one-time extension of up to ninety days with approval of the commission.

NEW SECTION

WAC 246-945-162 Pharmacist license qualifications. (1) In addition to the requirements in RCW 18.64.080, an applicant for a pharmacist license who holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree from a commission accredited school or college of pharmacy shall submit documentation of education and practice experience as follows:

(a) An applicant who graduated before July 1, 2020, whose official transcripts confer or award a baccalaureate of pharmacy or doctorate of pharmacy degree shall provide certification of at least fifteen hundred pharmacy internship hours in accordance with WAC 246-945-163.

(b) An applicant who graduates after July 1, 2020, whose official transcripts confer or award a doctorate of pharmacy is deemed to have satisfied the pharmacy practice experience and education requirements for licensure without documentation of internship hours.

(2) An applicant for a pharmacist license whose academic training in pharmacy is from institutions in foreign countries shall:

(a) Achieve certification by FPGEC including:

(i) Passing FPGEE;

(ii) Passing required TOEFL iBT;

(b) Provide official transcripts or diploma that shows a baccalaureate of pharmacy or doctorate of pharmacy degree is awarded or conferred; and

(c) Certification of a minimum of fifteen hundred pharmacy internship hours in accordance with WAC 246-945-163.

(3) An applicant for a pharmacist license shall take and pass pharmacist licensure examinations as defined in WAC 246-945-165.

(4) An applicant for a pharmacist license shall provide proof of completion of seven hours of AIDS education as required in chapter 246-12 WAC, Part 8. The applicant is exempt from this requirement if they are a graduate of a commission accredited school or college of pharmacy because the curriculum satisfies this requirement.

NEW SECTION

WAC 246-945-163 Certification of internship hours. Hours reported to the commission under WAC 246-945-162, 246-945-173, and 246-945-175, shall occur as follows:

(1) Hours must be completed within eighteen months from the date of graduation;

(2) From a commission accredited school or college of pharmacy, U.S. jurisdiction board or commission or the supervising pharmacist at the internship site;

(3) Hours shall be reported thirty days after the completion of any internship experience;

(4) The documentation must include the supervising pharmacist's evaluation and certification of internship hours, and an intern site evaluation;

(5) If the report of hours submitted to the commission indicates that the intern has not adequately performed the practice of pharmacy, the commission may reject all or part of the hours reported.

NEW SECTION

WAC 246-945-165 Pharmacist licensure and jurisprudence examinations. (1) Upon authorization by the commission or its designee, an individual applying for a pharmacist license shall take and pass a pharmacy licensure examination and jurisprudence examination approved by the commission.

(2) A score of seventy-five or higher is required to pass each of the examinations.

(3) An individual who fails the licensure examination or jurisprudence examination three times shall not be authorized for further examination until they have satisfactorily completed a study or tutorial program approved by the commission.

(4) An applicant for a pharmacist license who has passed an approved licensure examination in another state may transfer their score to Washington to meet the commission's requirement to take and pass a commission approved pharmacy licensure examination if:

(a) The applicant meets the requirements in WAC 246-945-162; and

(b) The applicant completes the application process to receive a pharmacist license before the score transfer expires. The score transfer application will expire one year from the date the department receives the score transfer application.

NEW SECTION

WAC 246-945-170 Pharmacist licensure by license transfer—Temporary practice permits. (1) An individual who holds an active pharmacist license, in good standing, issued by another U.S. jurisdiction may apply for a pharmacist license in Washington by license transfer. In addition to the completion of the commission's application, the applicant must:

(a) File for license transfer using the NABP eLTP process; and

(b) Take and pass the approved jurisprudence examination.

(2) A temporary practice permit to practice pharmacy may be issued to an applicant for a pharmacist license by license transfer if the applicant meets all of the requirements and qualifications in subsection (1) of this section, and the following criteria are met:

(a) The applicant is not subject to denial of a credential or issuance of a conditional or restricted credential in any U.S. jurisdiction;

(b) Does not have a criminal record in Washington state;

(c) The applicant's fingerprint-based national background check results are pending; and

(d) To request a temporary practice permit, the applicant shall submit a written request for a temporary practice permit,

and pay the applicable fees in accordance with WAC 246-945-XXX.

(3) A temporary practice permit expires:

(a) When the pharmacist license is issued;

(b) When a notice of decision on the pharmacist license application is mailed to the applicant; or

(c) One hundred eighty days after the temporary practice permit is issued. The applicant may obtain a one-time extension of one hundred eighty days with approval of the commission.

(4) A temporary practice permit holder cannot qualify as a responsible pharmacy manager.

NEW SECTION

WAC 246-945-173 Expired pharmacist license. To return to active status a pharmacist with an expired license shall pay the applicable fees in accordance with WAC 246-945-XXX and:

(1) If the pharmacist license has been expired for less than three years the pharmacist shall meet the requirements of chapter 246-12 WAC, Part 2 and fifteen CPE hours per year the license has been expired.

(2) If the pharmacist license has been expired for three years or more, and the pharmacist holds an active credential in another U.S. jurisdiction, and is in good standing, the pharmacist shall:

(a) Meet the requirements in chapter 246-12 WAC, Part 2;

(b) Provide certification of an active pharmacist license which includes:

(i) Name and license number;

(ii) Issue and expiration date; and

(iii) Verification that the license has not been the subject of final or pending disciplinary action.

(c) Submit verification of current active pharmacy practice from another U.S. jurisdiction; and

(d) Take and pass the commission approved jurisprudence examination.

(3) If a pharmacist license has been expired for three years or more, and the pharmacist has not been in active practice in another U.S. jurisdiction, the pharmacist shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Serve an internship of three hundred hours in compliance with WAC 246-945-163; and

(c) Take and pass the commission approved jurisprudence and licensure examinations.

NEW SECTION

WAC 246-945-175 Inactive pharmacist license. (1) A pharmacist may obtain an inactive license by meeting the requirements of WAC 246-12-090 and RCW 18.64.140.

(2) An inactive license can be renewed in accordance with WAC 246-945-XXX.

(3) If a license is inactive for three years or less, to return to active status a pharmacist shall meet the requirements of chapter 246-12 WAC, Part 4.

(4) If a license is inactive for more than three years, and the pharmacist has been in active practice in another U.S. jurisdiction, to return to active status the pharmacist must:

(a) Provide certification of an active pharmacist license which includes:

(i) Name and license number;

(ii) Issue and expiration date; and

(iii) Verification that the license has not been the subject of final or pending disciplinary action.

(b) Submit verification of current active pharmacy from another U.S. jurisdiction;

(c) Meet the requirements of chapter 246-12 WAC, Part 4; and

(d) Take and pass the commission approved jurisprudence examination.

(5) If a pharmacist license has been inactive for more than three years, and the pharmacist has not been in active practice in another U.S. jurisdiction, to return to active status, the pharmacist shall comply with the requirements of WAC 246-945-173(3).

NEW SECTION

WAC 246-945-178 Pharmacist continuing education. (1) As part of the process to renew a pharmacist license, a pharmacist shall complete CPE in compliance with this section.

(2) A pharmacist shall complete the equivalent of 3.0 of CPE hours (equal to thirty contact hours) administered by an ACPE accredited provider each license renewal cycle.

(3) A pharmacist shall register with a program designated by the commission for tracking completed CPE hours.

(4) A pharmacist shall complete a one-time training in suicide screening and referral by the end of the first full renewal cycle after initial licensure. The training must meet the following requirements:

(a) Be at least three hours long;

(b) Be from the department of health's model list of approved suicide prevention training programs, and include content related to imminent harm via lethal means; and

(c) The hours spent completing the training in this subsection may count toward meeting CPE requirements.

(5) CPE hours cannot be carried over to the next renewal cycle.

NEW SECTION

WAC 246-945-180 Nuclear pharmacist endorsement. To receive a nuclear pharmacist endorsement, a pharmacist must:

(1) Be licensed to practice in Washington;

(2) Meet minimal standards of training and experience in the handling of radioactive materials in accordance with WAC 246-240-075 and submit to the commission proof of compliance; and

(3) Receive a letter of recognition as a nuclear pharmacist from the commission.

Subpart B - Pharmacy Assistants and Technicians

NEW SECTION

WAC 246-945-200 Pharmacy assistants. (1) To become registered as a pharmacy assistant an applicant shall submit an application to the commission that meets the requirements of chapter 246-12 WAC, Part 2.

(2) An initial applicant shall complete four hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(3) The supervising pharmacist, shall instruct the pharmacy assistant regarding their scope of practice.

(4) To renew a registration a pharmacy assistant shall submit an application to the commission with the applicable fees in accordance with WAC 246-945-XXX.

NEW SECTION

WAC 246-945-203 Pharmacy technician-in-training authority for experiential training. (1) An individual who is enrolled in a commission-approved pharmacy-technician training program shall obtain an endorsement for experiential training in a pharmacy for:

(a) Initial certification; or

(b) As required by the commission to complete additional practice experience before a pharmacy technician certification is issued, renewed, or reactivated.

(2) An individual with a technician in training endorsement may only work in that capacity at those sites identified on the application.

(3) Before beginning the pharmacy-technician training program the individual shall submit an application to the commission to become certified as a pharmacy assistant. The application must include verification of enrollment in a commission-approved pharmacy-technician education and training program.

(4) The commission may consider the pharmacy technician-in-training authority inoperable or superseded if one of the following occurs:

(a) A pharmacy technician certification is issued;

(b) A pharmacy technician-in-training is no longer enrolled or in good standing with a commission-approved training program; or

(c) A pharmacy technician-in-training does not complete a training program within two years of entering a technician-in-training program, unless otherwise authorized by the commission.

NEW SECTION

WAC 246-945-205 Pharmacy technician certification. (1) An applicant for a pharmacy technician certification shall be eighteen years of age and hold a high school diploma or GED.

(2) To be issued a certification as a pharmacy technician an applicant shall meet the qualifications in RCW 18.64A.020, and:

(a) Provide proof of completion of eight hours of guided study of Washington state and federal pharmacy law. The law study shall be done in coordination and oversight of a Washington licensed pharmacist.

(b) Provide proof of four hours of AIDS education as required in chapter 246-12 WAC, Part 8, the applicant is exempt if they have completed a commission-approved training program whose program materials on file with the commission office document four hours of AIDS education.

(c) Provide proof of successful completion of a commission-approved pharmacy-technician training program WAC 246-945-215. Acceptable documentation includes:

(i) On-the-job training program. Successful completion of didactic and practice experience signed by the program director on a form provided by the commission; or

(ii) Formal academic or college programs. Official transcripts of completion of a diploma or certificate program at a pharmacy technician school or a two-year associate degree program, which shall include evidence of practice training hours; or

(iii) Certificate of Release or Discharge from Active Duty, DD214 documenting evidence of pharmacy technician training provided by a branch of the federal armed services.

(d) Pass a national certification examination approved by the commission within one year of completing a commission-approved training program and applying for certification, unless otherwise authorized by the commission.

(3) An applicant who is a graduate of a foreign school, university or college of pharmacy or medicine, whose professional degree program is approved by the commission shall complete the following:

(a) If English is not the primary language, the applicant shall take and pass TOEFL iBT;

(b) Complete five hundred twenty hours of supervised experience under the supervision of a licensed pharmacist with training hours reported using forms provided by the commission; and

(c) Pass a national certification examination approved by the commission.

(4) An out-of-state pharmacy technician applicant must meet the same requirements as a pharmacy technician trained in Washington state.

NEW SECTION

WAC 246-945-210 Pharmacy technician—Temporary practice permit—Military spouse eligibility and issuance. A military spouse or state registered domestic partner of a member of the military may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for a pharmacy technician certification. The commission adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

NEW SECTION

WAC 246-945-215 Pharmacy technician education and training programs. A pharmacy technician-training program must meet the minimum requirements of this section and be approved by the commission.

(1) A pharmacy technician-training program shall be considered approved by the commission if it is accredited, approved, or administered by:

(a) The American Society of Health-System Pharmacists (ASHP);

(b) The Accreditation Council for Pharmacy Education;

(c) Pharmacy Technician Certification Board; or

(d) The United States Armed Forces.

(2) A pharmacy technician education and training program not covered by subsection (1) of this section shall be considered meeting the requirements of RCW 18.64A.020 and approved by the commission if it meets the following minimum requirements:

(a) Prepare students for entry-level practice in a variety of settings including, but not limited to, community, hospital, and long-term care, this shall include:

(i) Orientation to pharmacy practice. Health care delivery systems, broad definitions of pharmacy practice and practice settings, communication techniques, confidentiality of information and safety considerations;

(ii) Basic pharmaceutics. Medical and pharmaceutical terminology and abbreviations, components of a prescription and patient medication record, drug dosage forms, routes of administration and drug product packaging, weighing and measuring, labeling, drug nomenclature, aseptic techniques, drug storage and handling, and drug standard and information sources;

(iii) Federal and state regulations. A minimum of eight hours in principles of applicable state and federal pharmacy laws, rules, regulations, guidelines, and interpretive statements; and

(iv) Pharmaceutical calculations. Basic mathematics including: Fractions, decimals, percentages, proportions, and weights and measures.

(b) Include a multicultural health curriculum as required by RCW 43.70.615.

(c) Have a pharmacist program director that is accountable for the overall quality of the program.

(d) Include minimum hours of education and training that extends over a period of fifteen weeks but under twenty-four months, and includes at a minimum:

(i) For vocational or technical training eight hundred hours which includes one hundred sixty hours supervised practice experience.

(ii) For formal or academic training programs two academic quarters with thirty credit hours each and includes one hundred sixty supervised practice experience.

(iii) On-the-job training of at least five hundred twenty hours with twelve hours of instructive education.

(3) To be approved by the commission a program must provide to the commission:

(a) A complete application;

(b) The name of a designated licensed pharmacist as program director;

(c) A list or copies of training manuals and reference;

(d) Content of instruction;

(e) Methods for evaluating trainees; and

(f) Verification of eight hours of pharmacy law study.

(4) A pharmacy technician training program must renew every five years. Any substantive changes to the program or change in program director must be reported to the commission within thirty calendar days.

NEW SECTION

WAC 246-945-217 Expired pharmacy technician certification. To return to active status a pharmacy technician with an expired certification shall pay the applicable fees in accordance with WAC 246-945-XXX, and:

(1) If a pharmacy technician's certification has expired for five years or less, the pharmacy technician shall meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the pharmacy technician's certification has expired for over five years and they have not been in active practice in another U.S. jurisdiction, the pharmacy technician shall:

(a) Complete the requirements for certification under WAC 246-945-205; and

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

(3) If the pharmacy technician's certification has expired for over five years and they have been in an active practice in another U.S. jurisdiction with duties that are substantially equivalent to a pharmacy technician in Washington state, the pharmacy technician shall:

(a) Submit verification of current active pharmacy practice in another U.S. jurisdiction; and

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

NEW SECTION

WAC 246-945-220 Pharmacy technician—Continuing education. (1) As part of the process to renew a pharmacist license, a pharmacist shall complete continuing pharmacy education (CPE) in compliance with this section.

(2) A pharmacy technician shall complete 2.0 CPE hours (equal to twenty contact hours) administered by an ACPE accredited program each certification renewal period.

(3) A pharmacy technician shall register with a program designated by the commission for tracking completed CPE hours.

(4) CPE hours cannot be carried over to the next renewal cycle.

Subpart C - Pharmaceutical Firm Licensing

NEW SECTION

WAC 246-945-230 General information, change of location, ownership or new construction. (1) The definitions in this subsection apply throughout WAC 246-945-230 through 246-945-247 unless otherwise specified:

(a) "License" includes "licensing," "licensure," "certificate," "certification," and "registration."

(b) "Facility" includes pharmacies, nonresident pharmacies, health care entities, hospital pharmacy associated clinics, wholesalers, and manufacturers.

(2) The commission shall license a facility that:

(a) Submits a completed application for the license applied for on forms provided by the commission;

(b) Pays the applicable fees in accordance with WAC 246-945-XXX. This fee will not be prorated under any circumstances;

(c) Undergoes an inspection by the commission if the facility is located in Washington pursuant to WAC 246-945-005 that results in either no deficiencies or an approved plan of correction; and

(d) Obtains a controlled substances registration from the commission and is registered with the DEA if the facility intends to possess or distribute controlled substances.

(3) Once an initial license is issued, a licensed facility must:

(a) Notify the commission and pay a facility inspection fee in lieu of paying an original license fee for modifications or remodels. A modification or remodel of a pharmacy location includes changes to a previously approved area, room or pharmacy building which result in changes in the pharmacy that affects security, square footage, access to drugs, compounding or necessitates temporary relocation of pharmacy services.

(b) Submit a new application on forms provided by the commission and pay the original license fee as established in WAC 246-945-XXX if the facility changes location to a different address. If located in Washington, a facility may not relocate prior to the inspection of the new premises.

(c) Notify the commission and pay the original license fee in accordance with WAC 246-945-XXX whenever there is a change of ownership. Change in ownership includes changes in business or organizational structure such as a change from sole proprietorship to a corporation, or a change of more than fifty percent ownership in a corporation.

(i) Upon receipt of a change of ownership application and fees, the purchaser may begin operations prior to the issuance of a new pharmacy license only when the purchaser and seller have a written power of attorney agreement. This agreement shall delineate that violations during the pending application process shall be the sole responsibility of the seller.

(ii) This agreement shall be provided to the commission upon request.

(d) Notify the commission within thirty days of any changes to the information provided on their application.

(e) Notify the commission of any changes in their responsible pharmacy manager in accordance with WAC 246-945-480, if a responsible pharmacy manager is required for initial licensure.

(f) Renew their license in accordance with WAC 246-945-XXX.

(4) A license is issued to a location and is not transferable.

NEW SECTION

WAC 246-945-232 Pharmacy licensing. The commission shall issue a pharmacy license to an applicant that:

(1) Is in compliance with WAC 246-945-230;

(2) Has a designated responsible pharmacy manager; and

(3) If a pharmacy is new or remodeled, the applicant has provided the commission evidence of being built or remodeled in accordance with all building, health, and fire codes required for the particular area.

NEW SECTION

WAC 246-945-233 Hospital pharmacy associated clinics. (1) A parent hospital pharmacy may add or delete a hospital pharmacy associated clinic (HPAC) to a hospital pharmacy license at any time in compliance with WAC 246-945-230 (2)(a), (b), and (d).

(2) The HPAC must designate a responsible pharmacy manager and notify the commission of changes.

(3) HPAC locations are identified as follows:

(a) Category 1 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC and does not perform sterile or nonsterile compounding of drugs.

(b) Category 2 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC and performs sterile or nonsterile compounding of drugs.

(4) A HPAC licensed under the parent hospital pharmacy license must obtain a separate DEA registration in order to possess controlled substances.

NEW SECTION

WAC 246-945-235 Nonresident pharmacy license. The commission shall issue a nonresident pharmacy license to an applicant that:

(1) Provides all information required by RCW 18.64.-360;

(2) Is in compliance with WAC 246-945-230;

(3) Has identified a responsible pharmacy manager, whose license is in good standing in the U.S. jurisdiction in which they are located; and

(4) Has provided to the commission proof that its resident license is in good standing.

NEW SECTION

WAC 246-945-245 Health care entity license. (1) The commission shall issue a health care entity license to an applicant that:

(a) Is in compliance with WAC 246-945-230; and

(b) Has designated a responsible pharmacy manager.

(2) An organization (e.g., a clinic) must obtain a separate license for each of its locations. One organization occupying multiple suites in one facility is deemed to be occupying one location requiring one license. Separate organizations occupying the same location must obtain separate licenses.

NEW SECTION

WAC 246-945-246 Wholesaler. (1) Every wholesaler who engages in wholesale distribution into, out of, or within Washington state must be licensed by the commission before engaging in wholesale distribution of drugs. Entities required to be licensed as a wholesaler includes:

(a) In-state and out-of-state pharmaceutical wholesalers;

(b) Out-of-state manufacturer that distribute or sell drugs into Washington;

(c) Virtual wholesalers;

(d) Out-of-state virtual manufacturers that distribute or sell drugs into Washington;

(e) Outsourcing facilities required to be registered with the FDA as an outsourcing facility as defined in 21 U.S.C. Sec. 353b(d)(4)(A) that are located in Washington, or distribute or sell drugs into Washington; and

(f) Reverse distributors.

(2) The commission may issue a wholesaler license to an applicant that is in compliance with the requirements in WAC 246-945-230 and this section.

(3) In addition to the requirements in subsection (2) of this section if the applicant is located outside of Washington, the applicant must provide:

(a) A copy of a site inspection conducted by the regulatory authority in the resident U.S. jurisdiction or third-party inspection program recognized by the commission within the last two years and every two years with the distributor's renewal;

(b) A copy of the resident state license; and

(c) A list of licenses, registrations, permits or certificates held in other U.S. jurisdictions.

(4) In addition to the requirements in subsection (2) of this section if the applicant plans to export noncontrolled drugs to persons in a foreign jurisdiction, the applicant must provide letters from the consulate of the country to which the drugs are exported and should verify consignee receiving such drugs is legally entitled in that country to receive them, if applicable. These letters shall be made available to the commission upon its request. The issuance of an export wholesaler license does not authorize delivery of drugs in the United States.

(5) Minimum qualifications. The commission shall consider, at a minimum, the following factors in reviewing the qualifications of individuals who engage in wholesale distribution of prescription drugs within the state:

(a) Any convictions of the applicant under any federal, state, or local laws relating to drug samples, wholesale, or retail drug distribution, or distribution of controlled substances;

(b) Any felony convictions of the applicant under federal, state, or local laws;

(c) The applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(d) Any false or fraudulent material furnished by the applicant on any application made in connection with drug manufacturing or distribution;

(e) Suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(f) Compliance with licensing requirements under any previously granted licenses;

(g) Compliance with requirements to maintain and make available to the commission, federal, state, or local enforcement officials those records required to be maintained by wholesale drug distributors; and

(h) Any other factors or qualifications the commission considers relevant to and consistent with public health and safety.

(6) When operations are conducted at more than one location by a single wholesale distributor, each location shall be licensed by the commission.

NEW SECTION

WAC 246-945-247 Pharmaceutical manufacturer license. (1) An entity located in Washington state that manufactures drugs must be licensed by the commission in accordance with the laws and regulations of Washington state before engaging in manufacturing.

(2) The commission shall issue a manufacturer license to an applicant that is in compliance with the requirements in WAC 246-945-230.

(3) When operations are conducted at more than one location by a single manufacturer, each location shall be licensed by the commission.

Subpart D - Commission Registrations

NEW SECTION

WAC 246-945-250 Researcher and other controlled substance registration. (1) Applicants for initial registration and renewal for researcher or other controlled substance registrations shall submit to the commission a complete application with fees relevant to the registration type.

(a) Researcher:

(i) Noncontrolled legend drugs; or

(ii) Researchers requiring to purchase, possess, administer or dispense controlled substances shall apply for a controlled substance authority on its license with the commission and register with the DEA.

(b) Other controlled substance registrations:

(i) Opioid treatment programs;

(ii) Analytical laboratories;

(iii) Dog handler; and

(iv) Other agencies who have demonstrated a legitimate need to use precursor chemicals.

(2) The application shall:

(a) List all legend drugs and controlled substances to be used and the purpose for its use;

(b) Name the primary registrant; and

(c) List the names of the individuals authorized to access the controlled substances.

(3) Applicants shall undergo an initial inspection and periodic inspections as deemed appropriate by the commission.

NEW SECTION

WAC 246-945-253 Shopkeeper registration. (1) A shopkeeper registration is issued to a business license authorizing the holder to purchase, possess, and sell over-the-counter medications as defined in RCW 18.64.044 and chapter 69.43 RCW, if applicable.

(2) A business entity with a licensed pharmacy with different operating hours shall hold a shopkeeper registration to acquire, possess, and sell over-the-counter medications when the pharmacy is closed.

NEW SECTION

WAC 246-945-254 Animal control and humane society registration. (1) Humane societies and animal control agencies registered with the commission under RCW 69.50.310 may purchase, possess, and administer sodium pentobarbital and approved legend drugs as provided in RCW 69.41.080.

(2) To apply for registration, a humane society or animal control agency shall submit to the commission a completed application for registration on forms provided by the commission and undergo an initial inspection.

(3) The registered agency shall designate an individual responsible for maintaining all records and submitting all reports required by applicable federal or state law or rule.

(4) The registered agency shall provide to the commission a list of staff trained and authorized to administer approved drugs.

NEW SECTION

WAC 246-945-255 Chemical capture—Department of fish and wildlife. (1) The department of fish and wildlife may apply to the commission for a limited registration under chapters 69.50 and 69.41 RCW to purchase, possess, and administer controlled substances and legend drugs for use in chemical capture programs.

(2) Each department of fish and wildlife field office that stores controlled substances or legend drugs must register with the commission. The department of fish and wildlife must notify the commission of the names of individuals who are authorized to possess and administer controlled substances and legend drugs.

(3) The department of fish and wildlife shall designate one individual at each field office who shall be responsible for the ordering, possession, safe storage, and utilization of controlled substances and legend drugs. The department of fish and wildlife shall notify the commission of the name of the designated individual.

PART 3 - PROFESSIONAL STANDARDS

NEW SECTION

WAC 246-945-305 Pharmacist's professional responsibilities. (1) A pharmacist shall be knowledgeable of, and comply with, all applicable rules and laws.

(2) A pharmacist is responsible for providing patients with safe and appropriate medication therapy.

(3) A pharmacist shall be responsible for any delegated act performed by pharmacy interns, pharmacy technicians, and pharmacy assistants under their supervision.

(4) A pharmacist shall delegate pharmacy functions in accordance with WAC 246-945-315.

NEW SECTION

WAC 246-945-310 Responsible pharmacy manager. The responsible pharmacy manager must be licensed to practice pharmacy in the state of Washington. The responsible pharmacy manager designated by a facility as required under WAC 246-945-410 shall have the authority and responsibility to assure that the area(s) within the facility where drugs are stored, compounded, delivered, or dispensed are operated in compliance with all applicable state and federal statutes and regulations.

NEW SECTION

WAC 246-945-315 Delegation of pharmacy functions to pharmacy ancillary personnel. (1) All delegated pharmacy functions shall be performed under a pharmacist's immediate supervision. A pharmacist, as an adjunct to assist in the immediate supervision of the pharmacy ancillary personnel or intern, may employ technological means to communicate with or observe the pharmacy ancillary personnel or intern. A pharmacist shall make certain all applicable state and federal laws including, but not limited to, confidentiality, are fully observed when employing technological means of communication and observation. If technology is being used to provide immediate supervision of pharmacy ancillary personnel or intern such technology shall be sufficient to provide the personal assistance, direction and approval required to meet the standard of practice for the delegated tasks.

(2) When delegating a pharmacy function to a pharmacy technician:

(a) A pharmacist shall consider the pharmacy technician's scope of practice, education, skill, and experience and take them into account; and

(b) A pharmacist will not delegate a pharmacy function that is listed in WAC 246-945-320.

(3) A pharmacist may delegate to a pharmacy assistant those functions defined in RCW 18.64A.030 and the following:

(a) Prepackage and label drugs for subsequent use in prescription dispensing operations; and

(b) Count, pour, and label for individual prescriptions.

NEW SECTION

WAC 246-945-317 Tech check tech. (1) "Verification" as used in this section means the pharmacist has reviewed a patient prescription initiated by an authorized prescriber, has examined the patient's drug profile, and has approved the prescription after taking into account pertinent drug and disease information to ensure the correctness of the prescription for a specific patient. The verification process must generate an audit trail that identifies the pharmacist. The pharmacist who performs the verification of a prescription is responsible for all reports generated by the approval of that prescription. The unit-dose medication fill and check reports are an example.

(2) A pharmacist may allow for unit-dose medication checking. Following verification of a prescription by the pharmacist, a technician may check unit-dose medication cassettes filled by another pharmacy technician or pharmacy intern in pharmacies serving facilities licensed under chapter 70.41, 71.12, 71A.20, or 74.42 RCW. No more than a forty-eight hour supply of drugs may be included in the patient medication cassettes and a licensed health professional must check the drug before administering it to the patient.

NEW SECTION

WAC 246-945-320 Nondelegable tasks. (1) A pharmacist shall not delegate the following to ancillary personnel:

(a) Receipt or transfer of a verbal prescription other than refill authorization from a prescriber.

(b) Consultation with the patient regarding the prescription, both prior to and after the prescription filling regarding any information contained in a patient medication record system; however, this shall not prohibit pharmacy ancillary personnel from providing to or receiving from the patient or the patient's agent certain information where no professional judgment is required.

(c) Consultation with the prescriber regarding the patient and the patient's prescription.

(d) Interpretation of data in a patient medication record system.

(e) Ultimate responsibility for all aspects of the completed prescription and assumption of the responsibility for the filled prescription, such as: Accuracy of drug, strength, labeling, proper container and other requirements.

(f) Patient counseling in accordance with WAC 246-945-325.

(g) Substitution of a biological or drug product in accordance with WAC 246-945-340.

(h) Decision to not dispense lawfully prescribed drugs or devices or to not distribute drugs and devices approved by the FDA for restricted distribution by pharmacies.

(i) Prescription adaptation in accordance with WAC 246-945-335.

(2) A pharmacy intern can perform any pharmacy function based on their education, skill and experience, except supervising other pharmacy personnel.

NEW SECTION

WAC 246-945-325 Patient counseling. (1) The pharmacist shall offer to counsel:

(a) Upon the initial fill of a prescription for a new or change of therapy.

(b) When the pharmacist using their professional judgment determines counseling is necessary to promote safe and effective use and to facilitate an appropriate therapeutic outcome for that patient.

(2) This does not apply to medications that are administered by a licensed health professional acting within their scope of practice.

NEW SECTION

WAC 246-945-330 Refilling prescriptions. (1) A prescription may be refilled when permitted by state and federal law and only as authorized by the prescriber.

(2) Except as provided in subsection (1) of this section, a pharmacist may renew a prescription for a noncontrolled legend drug one time in a six-month period when an effort has been made to contact the prescriber and they are not available for authorization under the following conditions:

(a) The amount dispensed is the quantity on the most recent fill or a thirty-day supply, whichever is less;

(b) The refill is requested by the patient or the patients agent;

(c) The patient has a chronic medical condition;

(d) No changes have been made to the prescription; and

(e) The pharmacist communicates the renewal to the prescriber within one business day.

NEW SECTION

WAC 246-945-332 Continuity of care. When the governor issues an emergency proclamation for an event which prevents continuity of health care for persons and animals because their prescribed medications are no longer available to them due to the emergency event, pharmacists and pharmacies may provide emergency prescription supplies for medications during the period of the proclaimed emergency as provided below:

(1) An initial supply of up to thirty days of current prescriptions for legend drug (noncontrolled) medications or seven-day supply of current prescriptions for controlled substance medications in Schedules III, IV, and V may be provided to patients under the following conditions:

(a) Presentation of a valid prescription container complete with legible label indicating there are remaining refills, or confirmation of the prescribed medication and available refills by review of the patient's current medical records or pharmacy records or in the professional judgment of the pharmacist; or

(b) If the prescription is expired or has no refills and the pharmacist is unable to readily obtain refill authorization from the prescriber, the pharmacist may dispense a one-time emergency refill of the last dispensed quantity or up to a thirty-day supply of a maintenance medication.

(c) If the patient is unable to provide either a valid prescription or prescription container the pharmacist may use their professional judgment when accepting a provider reconciled medication list.

(2) For each medication dispensed under this section, a pharmacist shall:

(a) Document the dispensing as a prescription, noting where the information from subsection (1)(a) of this section was obtained;

(b) Inform the patient's provider and the pharmacy at which the patient obtains his or her medications of the dispensing as soon as possible following the emergency dispensing;

(c) Mark the face of the prescription as an "emergency" prescription.

(3) Nothing in this rule modifies insurers' requirements for coverage and payment for prescribed medications.

NEW SECTION

WAC 246-945-335 Prescription adaptation. Upon patient consent, a pharmacist may adapt drugs as specified in this rule, provided that the prescriber has not indicated that adaptation is not permitted.

(1) Change quantity. A pharmacist may change the quantity of medication prescribed if:

(a) The prescribed quantity or package size is not commercially available;

(b) The change in quantity is related to a change in dosage form;

(c) The change is intended to dispense up to the total amount authorized by the prescriber including refills in accordance with RCW 18.64.520; or

(d) The change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program in accordance with RCW 48.43.096.

(2) Change dosage form. A pharmacist may change the dosage form of the prescription if it is in the best interest of patient care, so long as the prescriber's directions are also modified to equate to an equivalent amount of drug dispensed as prescribed.

(3) Complete missing information. A pharmacist may complete missing information on a prescription if there is evidence to support the change.

(4) Documentation. A pharmacist who adapts a prescription in accordance with these rules must document the adaptation in the patient's record.

NEW SECTION

WAC 246-945-340 Prescriptions—Drug product substitutions. (1) A pharmacist may substitute a drug or biologic product dispensed pursuant to a prescription if in compliance with applicable laws and rules.

(2) A pharmacist may substitute a drug product or a biologic product when any of the following applies:

(a) The substitution is permitted by RCW 69.41.120;

(b) The substitution is permitted by a formulary developed by an interdisciplinary team of an institutional facility; or

(c) The substitution is otherwise permitted by law.

(3) In addition to any other applicable requirements, a pharmacist shall only substitute a drug or a biologic product pursuant to subsection (2)(b) of this section if:

(a) An employee or contractor of the institutional facility prescribed the drug or biologic product to be substituted;

(b) The interdisciplinary team was composed of a nonpharmacist prescriber listed in RCW 69.41.030 and a pharmacist; and

(c) The formulary is readily retrievable by the pharmacist.

NEW SECTION

WAC 246-945-345 Prescription transfers. (1) Subsections (2) through (5) of this section apply to the transfer of prescription information for noncontrolled drugs. The transfer of controlled substance prescription information must conform to the requirements of 21 C.F.R. Sec. 1306.25.

(2) Upon patient request, a prescription may be transferred within the limits of state and federal law.

(3) Sufficient information needs to be exchanged in the transfer of a prescription to maintain an auditable trail, and all elements of a valid prescription.

(4) Pharmacies sharing a secure real-time database are not required to transfer prescription information for dispensing.

(5) Prescriptions must be transferred by electronic means or facsimile, except in emergent situations.

NEW SECTION

WAC 246-945-350 Collaborative drug therapy agreements. (1) A pharmacist exercising prescriptive authority in their practice must have a valid CDTA on file with the commission and their practice location.

(2) A CDTA must include:

(a) A statement identifying the practitioner authorized to prescribe and the name of each pharmacist who is party to the agreement;

(i) The practitioner authorized to prescribe must be in active practice; and

(ii) The authority granted must be within the scope of the practitioners' current practice.

(b) A statement of the type of prescriptive authority decisions which the pharmacist is authorized to make, which includes:

(i) A statement of the types of diseases, drugs, or drug categories involved, and the type of prescriptive authority activity (e.g., modification or initiation of drug therapy) authorized in each case.

(ii) A general statement of the training required, procedures, decision criteria, or plan the pharmacist is to follow when making therapeutic decisions, particularly when modification or initiation of drug therapy is involved.

(c) A statement of the activities the pharmacist is to follow in the course of exercising prescriptive authority, including:

(i) Documentation of decisions made; and

(ii) A plan for communication or feedback to the authorizing practitioner concerning specific decisions made.

(3) A CDTA is only valid for two years from the date of signing.

(4) Any modification of the written guideline or protocol shall be treated as a new CDTA.

NEW SECTION

WAC 246-945-355 Monitoring of drug therapy by pharmacist. In the absence of a CDTA, the term "monitoring drug therapy" used in RCW 18.64.011 shall mean a review of the drug therapy regimen of patients by a pharmacist for the purpose of evaluating or rendering advice to the prescribing practitioner or patient regarding the patients drug therapy. Monitoring of drug therapy includes, but not be limited to, the evaluation of the patient through history taking, physical examination, ordering, administering or reviewing laboratory tests, imaging, and social evaluation related to an existing diagnosis and drug therapies for optimization of drug therapy.

NEW SECTION

WAC 246-945-360 Patient rights. Any person authorized to practice or assist in the practice of pharmacy shall not engage in any of the following:

(1) Destroy unfilled lawful prescription;

(2) Refuse to return unfilled lawful prescriptions;

(3) Violate a patient's privacy;

(4) Discriminate against patients or their agent in a manner prohibited by state or federal laws; or

(5) Intimidate or harass a patient.

NEW SECTION

WAC 246-945-365 Approval of impaired practitioner substance abuse monitoring program. (1) The commission will approve recovery, assistance and monitoring programs under RCW 18.130.175 for its credential holders.

(2) For the purposes of RCW 18.130.175(1), the commission will consider a licensee to have not successfully completed the program if they are discharged from the program for failure to comply with the program's terms and conditions.

(3) A licensee referred or required to participate in a program will be subject to disciplinary action under chapter 18.130 RCW if they fail to sign or otherwise revoke a waiver allowing the program to release information to the commission.

(4) An approved program shall report a licensee who fails to comply with the program's terms and conditions within seven calendar days.

(5) A licensee shall report themselves to the commission if they fail to comply with RCW 18.130.175, the program's terms and conditions, or any part of this section within seven calendar days. The fact an approved program has reported under subsection (4) of this section does not absolve the licensee of a responsibility to report.

NEW SECTION

WAC 246-945-370 Sexual misconduct. (1) A pharmacy health care practitioner must not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action.

(2) Practitioner under this section shall be defined as any person credentialed under RCW 18.64.080 or chapter 18.64A RCW.

(3) Sexual misconduct includes, but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice within the health care practitioner's scope of practice;

(c) Rubbing against a patient, client, or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(g) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(h) Dressing or undressing in the presence of the patient, client, or key party;

(i) Removing patient's or client's clothing or gown or draping without consent, except emergent medical necessity or being in a custodial setting;

(j) Encouraging masturbation or other sex act in the presence of the health care provider;

(k) Masturbation or other sex act by the health care provider in the presence of the patient, client, or key party;

(l) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(n) Soliciting a date with a patient, client, or key party;

(o) Discussing the sexual history, preferences or fantasies of the health care provider;

(p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(q) Making statements regarding the patient, client, or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client, or key party;

(s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(t) Showing a patient, client, or key party sexually explicit materials, other than for legitimate health care purposes.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(5) A health care practitioner must not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client, or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care practitioner's sexual needs.

(6) A health care practitioner must not engage, or attempt to engage, in the activities listed in subsection (4) of this section with a former patient, client, or key party if:

(a) There is a significant likelihood that the patient, client, or key party will seek or require additional services from the health care practitioner; or

(b) There is an imbalance of power, influence, opportunity, or special knowledge of the professional relationship.

(7) When evaluating whether a health care provider engaged, or attempted to engage, in sexual misconduct, the commission will consider factors including, but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the practitioner-patient relationship;

(b) Transfer of care to another health care practitioner;

(c) Duration of the practitioner-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care practitioner and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care practitioner;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(8) Patient, client, or key party initiation or consent does not excuse or negate the health care practitioner's responsibility.

(9) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

PART 4 - OPERATIONAL STANDARDS

Subpart A - Pharmacies, HCEs and HPACs

NEW SECTION

WAC 246-945-405 Applicability. (1) The rules in this chapter apply to pharmacies, health care entities (HCE), and hospital pharmacy associated clinics (HPAC).

(2) Unless specified, the term "facility" as used in this part includes pharmacies, HCEs, and HPACs.

NEW SECTION

WAC 246-945-410 Facility standards. A facility must meet the following minimum requirements:

(1) The facility shall be constructed and equipped with adequate security to protect equipment, records, and supply of drugs, devices, and other restricted sale items from unauthorized access, acquisition, or use.

(2) The facility shall be properly equipped to ensure the safe, clean, and sanitary condition necessary for the proper operation, the safe preparation of prescriptions, and to safeguard product integrity.

(3) The facility shall be staffed sufficiently to allow appropriate supervision, operate safely and, if applicable, remain open during posted hours of operation.

(4) The facility shall be adequately stocked to maintain at all times a representative assortment of drugs in order to meet the pharmaceutical needs of its patients in compliance with WAC 246-945-415.

(5) The facility shall designate a responsible pharmacy manager:

(a) By the date of opening; and

(b) Within thirty calendar days of a vacancy.

(6) The facility shall create and implement policies and procedures related to:

(a) Purchasing, ordering, storing, compounding, delivering, dispensing, and administering legend drugs, including controlled substances.

(b) Accuracy of inventory records, patient medical records as related to the administration of controlled substances and legend drugs, and any other records required to be kept by state and federal laws.

(c) Adequate security of legend drugs, including controlled substances.

(d) Controlling access to legend drugs, including controlled substances.

(7) Prescription drugs must only be dispensed pursuant to a valid prescription as required by WAC 246-945-011.

(8) A drug utilization review of each prescription before dispensing and delivery shall occur except in emergent medical situations, or if:

(a) The drug is a subsequent dose from a previously reviewed prescription;

(b) The prescriber is in the immediate vicinity and controls the drug dispensing process;

(c) The system is being used to provide access to medications on override and only a quantity sufficient to meet the immediate need of the patient is removed; or

(d) Twenty-four hour pharmacy services are not available, and a pharmacist will review all prescriptions added to a patient's profile within six hours of the facility opening.

(9) Each drug dispensed and delivered to a patient must bear a complete and accurate label as required by WAC 246-945-015 through 246-945-018. The information contained on the label shall be supplemented by oral or written information as required by WAC 246-945-325.

(10) Access to the drug storage area located within the facility should be limited to pharmacists unless one of the following applies:

(a) A pharmacy intern, or pharmacy ancillary personnel enter under the immediate supervision of a pharmacist; or

(b) A pharmacist authorizes temporary access to an individual performing a legitimate nonpharmacy function under the immediate supervision of the pharmacist; or

(c) The facility has a policy and procedure restricting access to a health care professional licensed under the chapters specified in RCW 18.130.040, and the actions of the health care professional are within their scope of practice.

(11) In accordance with RCW 18.64A.060 prior to utilizing pharmacy ancillary personnel a facility shall submit to the commission a utilization plan for pharmacy technicians and pharmacy assistants:

(a) Utilization plan for pharmacy technicians. The application for approval must describe the manner in which the pharmacy technicians will be utilized and supervised, including job descriptions, task analysis or similar type documents that define the duties performed and the conditions under which they are performed, number of positions in each category, as well as other information as may be required by the

commission. The commission will be notified of all changes to the utilization plan. A copy of the utilization plan must be maintained in the pharmacy. The utilization plan must comply with WAC 246-945-315 and 246-945-320.

(b) Utilization plan for pharmacy assistants. The application for approval shall list the job title or function of the pharmacy assistant and comply with WAC 246-945-315(3).

(12) A facility's paper prescriptions must be maintained in accordance with WAC 246-945-020 and as follows:

(a) Paper prescriptions for Schedule II drugs must be maintained as a separate file from other prescriptions.

(b) Paper prescriptions for Schedule III, IV, and V drugs must be maintained as a separate file, or maintained in a separate file with prescriptions for noncontrolled legend drugs as allowed under federal law.

NEW SECTION

WAC 246-945-415 Dispensing and delivery of prescription drugs. (1) A pharmacy may deliver filled prescriptions as long as appropriate measures are taken to ensure product integrity and receipt by the patient or patient's agent.

(2) Pharmacies have a duty to deliver lawfully prescribed drugs or devices to patients and to distribute drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies, or provide a therapeutically equivalent drug or device in a timely manner consistent with reasonable expectations for filling the prescription, except for the following or substantially similar circumstances:

(a) Prescriptions containing an obvious or known error, inadequacies in the instructions, known contraindications, or incompatible prescriptions, or prescriptions requiring action in accordance with WAC 246-945-410(8) or 246-945-335;

(b) National or state emergencies or guidelines affecting availability, usage, or supplies of drugs or devices;

(c) Lack of specialized equipment or expertise needed to safely produce, store, or dispense drugs or devices, such as certain drug compounding or storage for nuclear medicine;

(d) Potentially fraudulent prescriptions; or

(e) Unavailability of drug or device despite good faith compliance with WAC 246-945-410(4).

(3) Nothing in this section requires pharmacies to deliver a drug or device without payment of their usual and customary or contracted charge.

(4) If despite good faith compliance with WAC 246-945-410(4), the lawfully prescribed drug or device is not in stock, or the prescription cannot be filled pursuant to subsection (1)(a) of this section, the pharmacy shall provide the patient or agent a timely alternative for appropriate therapy which, consistent with customary pharmacy practice, may include obtaining the drug or device. These alternatives include, but are not limited to:

(a) Contact the prescriber to address concerns such as those identified in subsection (1)(a) of this section or to obtain authorization to provide a therapeutically equivalent product;

(b) If requested by the patient or their agent, return unfilled lawful prescriptions to the patient or agent; or

(c) If requested by the patient or their agent, communicate or transmit, as permitted by law, the original prescription information to a pharmacy of the patient's choice that will fill the prescription in a timely manner.

(5) Engaging in or permitting any of the following shall constitute grounds for discipline or other enforcement actions:

(a) Destroy unfilled lawful prescriptions;

(b) Refuse to return unfilled lawful prescriptions;

(c) Violate a patient's privacy;

(d) Discriminate against patients or their agent in a manner prohibited by state or federal laws; and

(e) Intimidate or harass a patient.

(6) Filled prescriptions may be picked up or returned for delivery by authorized personnel when the pharmacy is closed for business if the prescriptions are placed in a secured delivery area outside of the drug storage area. The secured delivery area must be a part of a licensed pharmacy, and equipped with adequate security, including an alarm or comparable monitoring system, to prevent unauthorized entry, theft, or diversion. Access to the secured delivery area must be addressed by the policies and procedures developed by the responsible pharmacy manager.

(7) HCEs shall dispense in accordance with RCW 18.64.450.

(8) A licensed hospital pharmacy dispensing appropriately labeled, patient specific drugs to a HPAC licensed under the parent hospital pharmacy may do so only pursuant to a valid prescription and prescription information is authenticated in the medical record of the patient to whom the legend drug or controlled substance will be provided according to the policy and procedures of the parent hospital pharmacy.

NEW SECTION

WAC 246-945-417 Electronic systems for patient medication records, prescriptions, chart orders, and controlled substance records. (1) A pharmacy shall use an electronic recordkeeping system to establish and store patient medication records, including patient allergies, idiosyncrasies or chronic conditions, and prescription, refill, transfer information, and other information necessary to provide safe and appropriate patient care.

(a) Systems must prevent auto-population of user identification information.

(b) Pharmacies that provide off-site pharmacy services without a pharmacist for product fulfillment or prescription processing must track the identity of each individual involved in each step of the off-site pharmacy services.

(2) The electronic recordkeeping system must be capable of real-time retrieval of information pertaining to the ordering, verification, and processing of the prescription where possible.

(3) The electronic recordkeeping system must include security features to protect the confidentiality and integrity of patient records including:

(a) Safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information and patient medication records; and

(b) Functionality that documents any alteration of prescription information after a prescription is dispensed, including the identification of the individual responsible for the alteration.

(4) The pharmacy shall have policies and procedures in place for system downtime.

(a) The procedure shall provide for the maintenance of all patient recordkeeping information as required by this chapter.

(b) Upon restoration of operation of the electronic recordkeeping system the information placed in the auxiliary recordkeeping procedure shall be entered in each patient's records within two working days, after which the auxiliary records may be destroyed.

(c) This section does not require that a permanent dual recordkeeping system be maintained.

(5) The pharmacy shall maintain records in accordance with WAC 246-945-020.

(6) Electronic prescriptions for prescription drugs must be maintained by the pharmacy in a system that meets the requirements of 21 C.F.R. Sec. 1311.

(7) HCEs or HPACs that maintain an electronic record system must be done in accordance with subsections (2) through (7) of this section.

NEW SECTION

WAC 246-945-418 Paper recordkeeping procedure. If an HPAC or HCE does not maintain an electronic recordkeeping system their manual records must contain all information required in WAC 246-945-417. The record system consists of the hard copy of the original prescription and a card or filing procedure that contains all data on new and refill prescriptions for a patient. This data must be organized in such a fashion that information relating to all prescription drugs used by a patient will be reviewed each time a prescription is filled.

NEW SECTION

WAC 246-945-420 Facility inventory requirements. (1) A facility shall conduct its own separate inventory of prescription drugs when it closes in accordance WAC 246-945-480.

(2) A facility shall conduct an inventory of controlled substances every two years.

(3) A facility shall conduct its own separate inventory of controlled substances in the following situations:

(a) Within thirty days of designating a responsible pharmacy manager. The incoming responsible pharmacy manager, or designee, shall conduct a complete controlled substance inventory.

(b) On the effective date of an addition of a substance to a schedule of controlled substances. Each facility that possesses the substance shall take an inventory of the substance on hand, and thereafter, include the substance in each inventory.

(4) A pharmacy that exclusively stores, dispenses or delivers legend drugs, including controlled substances, without a pharmacist on-site shall maintain a perpetual inventory.

(5) A pharmacy that exclusively stores, dispenses or delivers prescription drugs without pharmacy ancillary personnel physically on-site shall maintain a perpetual inventory.

NEW SECTION

WAC 246-945-425 Shared pharmacy services. Pharmacy services may be provided off-site at one or more locations. When the services being performed are related to prescription fulfillment or processing, the pharmacy or pharmacist must comply with the following:

(1) Long term care shared pharmacy services in accordance with RCW 18.64.570.

(2) Central fill shared pharmacy services in accordance with the following conditions:

(a) The originating pharmacy shall have written policies and procedures outlining the off-site pharmacy services to be provided by the central fill pharmacy, or the off-site pharmacist or pharmacy technician, and the responsibilities of each party;

(b) The parties shall share a secure real-time database or utilize other secure technology, including a private, encrypted connection that allows access by the central pharmacy or off-site pharmacist or pharmacy technician to the information necessary to perform off-site pharmacy services; and

(c) A single prescription may be shared by an originating pharmacy and a central fill pharmacy or off-site pharmacist or pharmacy technician. The fulfillment, processing and delivery of a prescription by one pharmacy for another pursuant to this section will not be construed as the fulfillment of a transferred prescription or as a wholesale distribution.

NEW SECTION

WAC 246-945-430 Pharmacies storing, dispensing and delivering drugs to patients without a pharmacist on-site. (1) The following requirements apply to pharmacies storing, dispensing and delivering drugs to patients without a pharmacist on-site and are in addition to applicable state and federal laws applying to pharmacies.

(2) The pharmacy is required to have adequate visual surveillance of the full pharmacy and retain a high quality recording for a minimum of thirty calendar days.

(3) Access to a pharmacy by individuals must be limited, authorized, and regularly monitored.

(4) A visual and audio communication system used to counsel and interact with each patient or patient's caregiver, must be clear, secure, and HIPAA compliant.

(5) The responsible pharmacy manager, or designee, shall complete and retain, in accordance with WAC 246-945-005 a monthly in-person inspection of the pharmacy.

(6) A pharmacist must be capable of being on-site at the pharmacy within three hours if an emergency arises.

(7) The pharmacy must be closed to the public if any component of the surveillance or visual and audio communication system is malfunctioning, and remain closed until system corrections or repairs are completed or a pharmacist is on-site to oversee pharmacy operations.

NEW SECTION

WAC 246-945-435 Provision of emergency department discharge medication when pharmacy services are unavailable. (1) The responsible pharmacy manager of a hospital or free standing emergency department may, in collaboration with the appropriate medical staff committee of the hospital, develop policies and procedures to provide discharge medications to patients released from hospital emergency departments during hours when community or outpatient hospital pharmacy services are not available.

(2) The policies and procedures in subsection (1) of this section shall:

(a) Comply with all requirements of RCW 70.41.480;

(b) Ensure all prepackaged medications are affixed with a label that complies with WAC 246-945-018;

(c) Require oral or electronically transmitted chart orders be verified by the practitioner in writing within seventy-two hours;

(d) The medications distributed as discharge medications are stored in compliance with the laws concerning security and access; and

(e) Ensure discharge medications are labeled appropriately.

(3) The delivery of a single dose for immediate administration to the patient is not subject to this regulation.

NEW SECTION

WAC 246-945-440 Administration of patient owned medications. Facilities shall develop written policies and procedures for the administration of patient owned medications.

NEW SECTION

WAC 246-945-445 Investigational drugs. (1) The responsible pharmacy manager or their designee is responsible for the storage, distribution, and control of approved investigational drugs used in an institutional facility. The pharmacy shall be responsible for maintaining and providing information on approved investigational drugs.

(2) Under the explicit direction of the authorized principal investigator, coinvestigator(s), or per study protocol requirements, investigational drugs must be properly labeled and stored for use. An appropriate medical staff committee, institution review board, or equivalent committee, shall approve the use of such drugs.

NEW SECTION

WAC 246-945-450 Accessing technology used to dispense—Nursing students. (1) Nursing students may be given access privileges to technology used to dispense medications for patient administration as provided for in this section.

(2) Nursing students must be enrolled in a nursing program approved by the Washington state nursing care quality assurance commission in accordance with WAC 246-840-510.

(3) A facility that provides a clinical opportunity to nursing students must meet the following to grant access to technology used to dispense medications for patient administration:

(a) The facility, in collaboration with the nursing program, shall provide nursing students with orientation and practice experiences that include the demonstration of competency of skills prior to using the dispensing technology;

(b) Nursing programs and participating facilities shall provide adequate training for students accessing dispensing technology;

(c) The nursing programs and participating facilities shall have policies and procedures for nursing students to provide safe administration of medications; and

(d) The nursing program and participating facilities shall develop and have a way of reporting and resolving any nursing student medication errors, adverse events, and alleged diversion.

NEW SECTION

WAC 246-945-455 Drugs stored outside of the pharmacy. (1) In order for drugs to be stored in a designated area outside the pharmacy including, but not limited to, floor stock, in an emergency cabinet, in an emergency kit, or as emergency outpatient drug delivery from an emergency department at a registered institutional facility, the following conditions must be met:

(a) Drugs stored in such a manner shall remain under the control of, and be routinely monitored by, the supplying pharmacy;

(b) The supplying pharmacy shall develop and implement policies and procedures to prevent and detect unauthorized access, document drugs used, returned and wasted, and regular inventory procedures;

(c) Access must be limited to health care professionals licensed under the chapters specified in RCW 18.130.040 acting within their scope, and nursing students as provided in WAC 246-945-450;

(d) The area is appropriately equipped to ensure security and protection from diversion or tampering; and

(e) The facility is able to possess and store drugs.

(2) For nursing homes and hospice programs an emergency kit or supplemental dose kit must comply with RCW 18.64.560.

NEW SECTION

WAC 246-945-460 Staffing and supervision of pharmacy staff. (1) The ratio of pharmacy technicians to pharmacist(s) on duty is to be determined by the responsible pharmacy manager.

(2) The responsible pharmacy manager will ensure that the number of pharmacy technicians on duty can be satisfactorily supervised by the pharmacist(s) on duty.

NEW SECTION

WAC 246-945-480 Facility reporting requirements. (1) The outgoing and incoming responsible pharmacy manager must report in writing to the commission a change in a

responsible manager designation within ten business days of the change.

(2) Unless otherwise specified, when permanently closing a facility, the facility must:

(a) Report to the commission in writing, no later than thirty calendar days prior to closing:

(i) The date the facility will close;

(ii) The names and addresses of the persons who shall have custody of the prescription files, bulk compounding records, repackaging records, invoices and controlled substances inventory records of the pharmacy to be closed; and

(iii) The names and addresses of any person(s) who will acquire any legend drugs from the facility to be closed, if known at the time the notification is filed.

(b) Provide notification to customers noting the last day the pharmacy will be open, name and address of the pharmacy to which prescription records will be transferred and instructions on how patients can arrange for transfer of their prescription records to a pharmacy of their choice and the last day a transfer may be initiated. Notification should include:

(i) Distribution by direct mail; or

(ii) Public notice in a newspaper of general circulation in the area served by the pharmacy; and

(iii) Posting a closing notice sign in a conspicuous place in the public area of the pharmacy.

(c) No later than fifteen days after closing:

(i) Return the facility license;

(ii) Confirm that all legend drugs were transferred or destroyed. If the legend drugs were transferred, provide the names and addresses of the person(s) to whom they were transferred;

(iii) Confirm if controlled substances were transferred, including the date of transfer, names, addresses, and a detailed inventory of the drugs transferred;

(iv) Confirm return of DEA registration and all unused DEA 222 forms to the DEA;

(v) Confirm all pharmacy labels and blank prescriptions were destroyed; and

(vi) Confirm all signs and symbols indicating the presence of the pharmacy have been removed.

(3) The commission may conduct an inspection to verify all requirements in subsection (2) of this section have been completed.

(4) The facility shall immediately report to the commission any disasters, accidents and emergencies which may affect the strength, purity, or labeling of drugs, medications, devices or other materials used in the diagnosis or the treatment of injury, illness, and disease.

(5) Any facility credentialed by the commission must report to the commission any disciplinary action, including denial, revocation, suspension, or restriction to practice by another state, federal, or foreign authority.

NEW SECTION

WAC 246-945-485 Destruction or return of drugs or devices—Restrictions. (1) A dispensed drug or prescription device must only be accepted for return and reuse as follows:

(a) Noncontrolled legend drugs that have been maintained in the custody and control of the institutional facility, dispensing pharmacy, or their related facilities under common control may be returned and reused if product integrity can be assured.

(b) Those that qualify for return under the provisions of chapter 69.70 RCW.

(2) A dispensed drug or prescription device may be accepted for return and destruction if:

(a) The dispensed drug or prescription device was dispensed in a manner inconsistent with the prescriber's instructions;

(b) The return is in compliance with the Washington state safe medication return program laws and rules, chapters 69.48 RCW and 246-480 WAC; or

(c) The return and destruction is in compliance with the facility's policies and procedures.

NEW SECTION

WAC 246-945-490 Nuclear pharmacies. (1) The commission shall issue a permit to operate a nuclear pharmacy providing radiopharmaceutical services to a qualified nuclear pharmacist. The qualified nuclear pharmacist shall:

(a) Supervise all personnel performing tasks in the preparation and distribution of radiopharmaceuticals.

(b) Be responsible for all operations of the licensed area.

(c) Designate one or more qualified health care professionals licensed under the chapters specified in RCW 18.130.040, to have access to the licensed area in emergency situations and in the nuclear pharmacist's absence. These individuals may obtain radiopharmaceuticals for the immediate emergency and must document such withdrawals in the control system.

(2) A nuclear pharmacy shall have adequate space that is appropriate with the scope of services provided, including meeting the following requirements:

(a) The nuclear pharmacy area shall be separate from the pharmacy areas for nonradiopharmaceuticals and shall be secured from access by unauthorized personnel;

(b) A nuclear pharmacy handling radiopharmaceuticals exclusively may be exempted from the general space requirements for pharmacies by obtaining a waiver from the commission; and

(c) Detailed floor plans shall be submitted to the commission and the state radiation control agency before approval of the pharmacy license.

(3) A nuclear pharmacy shall prepare, compound, and dispense radiopharmaceuticals in accordance with USP <800> and <825>.

(4) The preparation of nuclear pharmaceuticals requires the compounding skills of the nuclear pharmacist and shall be done to assure that the final drug product meets USP <800> and <825>.

(5) A nuclear pharmacy shall maintain records of acquisition and disposition of all radiopharmaceuticals in accordance with applicable regulations of the commission, the state radiation control agency and other state and federal agencies.

(6) For a nuclear pharmacy handling radiopharmaceuticals exclusively, the commission may waive regulations pertaining to the pharmacy permits for nonradiopharmaceuticals

for requirements that do not pertain to the practice of nuclear pharmacy.

(7) Radiopharmaceuticals are to be dispensed only upon a prescription from a practitioner authorized to possess, use and administer radiopharmaceuticals. A nuclear pharmacy may also furnish radiopharmaceuticals for office use to these practitioners. In absence of a prescription for an individual identified patient, the statement "Office Use Only" should be applied.

(8) A nuclear pharmacist may transfer to authorized persons radioactive materials not intended for drug use, in accordance with regulations of the state radiation control agency.

(9) In addition to labeling requirements of WAC 246-945-015 through 246-945-017 for nonradiopharmaceuticals, the immediate outer container of the radiopharmaceutical to be dispensed shall also be labeled with:

(a) Standard radiation symbol;

(b) The words "caution-radioactive material";

(c) Radionuclide and chemical form (generic name);

(d) Activity dispensed with units (millicuries or microcuries) at calibration date and time;

(e) If a liquid, the volume in milliliters;

(f) Calibration date and time for the dose;

(g) BUD and special storage and handling instructions for nonimmediate use;

(h) Specific concentration of radioactivity; and

(i) The patient name/identifier, and number of dosage units dispensed, for all therapeutic and blood-products.

(10) The immediate container of the radiopharmaceutical to be dispensed shall be labeled with:

(a) The standard radiation symbol;

(b) The words "caution-radioactive material";

(c) The name of the nuclear pharmacy;

(d) The prescription number;

(e) Radionuclide and chemical form (generic name)";

(f) The date;

(g) Activity dispensed with units (millicuries or microcuries) at calibration date and time; and

(h) The patient name/identifier for all therapeutic and blood-products.

(11) The amount of radioactivity shall be determined by radiometric methods for each individual preparation immediately prior to dispensing.

(12) A nuclear pharmacy may redistribute NDA approved radiopharmaceuticals if the pharmacy does not process the radiopharmaceuticals in any manner or violate the product packaging.

(13) The nuclear pharmacy shall have readily available the current applicable state laws and regulations of the commission and state radiation control agency.

(14) The nuclear pharmacy shall maintain, and submit to the commission and state radiation control agency, a library commensurate with the level of radiopharmaceutical service to be provided before approval of the license.

NEW SECTION

WAC 246-945-492 Nuclear pharmacies—Equipment requirements. (1) A nuclear pharmacy shall have adequate equipment appropriate with the scope of radiopharmaceutical services to be provided. The nuclear pharmacy shall submit to the commission and the radiation control agency a detailed list of equipment and description of use before approval of the license.

(2) The commission may, for good cause shown, waive regulations pertaining to the equipment and supplies required for a nuclear pharmacy handling radiopharmaceuticals exclusively.

Subpart B - Registrations

NEW SECTION

WAC 246-945-500 Humane societies, animal control agencies, and department of fish and wildlife chemical capture programs—Designated person. (1) Each registered humane society, animal control agency, and department of fish and wildlife chemical capture program location shall have a designated person.

(2) The designated person is responsible for:

(a) Ordering, possession, safe storage and use of all approved drugs;

(b) Maintaining all records required by WAC 246-945-510; and

(c) Ensuring all records required by WAC 246-945-510 are available for inspection by the commission or its designee.

(3) A registered humane society, animal control agency, or department of fish and wildlife chemical capture program shall notify the commission within ten calendar days of a change in the designated person.

NEW SECTION

WAC 246-945-503 Humane societies, animal control agencies, and department of fish and wildlife chemical capture programs—Authorized personnel. (1) Each registered humane society, animal control agency, and department of fish and wildlife chemical capture program location shall ensure only authorized personnel possess or administer approved legend drugs and approved controlled substances at the registered location.

(2) For registered humane societies and animal control agencies, authorized personnel are those individuals who have:

(a) Completed a commission-approved training program or training that is substantially equivalent; and

(b) Been approved by the designated person.

(3) For registered department of fish and wildlife chemical capture programs, authorized personnel are those individuals who have:

(a) Completed a commission-approved training program or training that is substantially equivalent;

(b) Been approved by the department of fish and wildlife; and

(c) Are a department of fish and wildlife officer, biologist, or veterinarian.

(4) A commission-approved training program shall include didactic and practical training under the direction of a licensed veterinarian. The commission-approved training program should ensure that authorized personnel shall be

able to demonstrate adequate knowledge of the potential hazards and proper techniques used in administering approved legend and controlled substances.

NEW SECTION

WAC 246-945-505 Humane societies and animal control agencies—Approved legend drugs and approved controlled substances. (1) The following legend drugs are designated as "approved legend drugs" for use by registered humane societies and animal control agencies for pre-euthanasia sedation:

(a) Acetylpromazine;

(b) Dexmedetomidine;

(c) Medetomidine; and

(d) Xylazine.

(2) Registered humane societies and animal control agencies may only use sodium pentobarbital to euthanize injured, sick, homeless or unwanted domestic pets, and domestic or wild animals.

(3) Any approved drug used by the registered humane society and animal control agency shall be marked "for veterinary use only."

(4) Staff of registered humane societies and animal control agencies may administer legend drugs and controlled substances which have been prescribed by a licensed veterinarian for a specific animal, which have been dispensed by a pharmacy or a veterinarian and are properly labeled in accordance with either RCW 18.64.246 or 69.41.050 and WAC 246-945-015 through 246-945-017.

NEW SECTION

WAC 246-945-507 Department of fish and wildlife chemical capture programs—Approved legend drugs and approved controlled substances. (1) The following legend drugs are designated as "approved legend drugs" for use by registered department of fish and wildlife chemical capture programs:

(a) Acetylpromazine;

(b) Atipamezole;

(c) Azaperone;

(d) Detomidine;

(e) Dexmedetomidine;

(f) Isoflurane;

(g) Medetomidine;

(h) Naltrexone;

(i) Tolazoline;

(j) Xylazine; and

(k) Yohimbine.

(2) The following controlled substances are controlled substances approved for use by registered department of fish and wildlife chemical capture programs:

(a) Butorphanol;

(b) Diazepam;

(c) Diprenorphine;

(d) Carfentanil;

(e) Fentanyl;

(f) Ketamine;

(g) Midazolam;

(h) Tiletamine; and

(i) Zolazepam.

(3) Staff of registered department of fish and wildlife chemical capture programs may administer legend drugs and controlled substances which have been prescribed by a licensed veterinarian for a specific animal or management group of animals, which have been dispensed by a pharmacy or a veterinarian and are properly labeled in accordance with either RCW 18.64.246 or 69.41.050 and WAC 246-945-015 through 246-945-017 or 246-933-340 (5)(a) and (b).

NEW SECTION

WAC 246-945-510 Humane societies, animal control agencies, and department of fish and wildlife chemical capture programs—Recordkeeping and reports. (1) Each registered humane society, animal control agency, and department of fish and wildlife chemical capture program location shall record the receipt, use, and disposition of approved drugs in a logbook or electronic record. An electronic record can meet the requirements of this section if the electronic record is legible and in a readily retrievable format, provided federal law does not require them to be kept in a hard copy format.

(2) The logbook or electronic record must have sufficient detail to allow an audit of the drug usage to be performed and must include:

(a) Date and time of administration;

(b) Route of administration;

(c) Identification number or other identifier assigned to the animal;

(d) Estimated weight of the animal;

(e) Estimated age and breed or species of the animal;

(f) Name of drug used;

(g) Dose of drug administered;

(h) Amount of drug wasted; and

(i) Initials of the primary person administering the drug.

(3) The logbook or electronic record may omit subsection (2)(b), (d), and (e) of this section if the information is recorded in other records cross-referenced by the animal identification number or other assigned identifier.

(4) Authorized personnel of the registered entity shall document any errors or discrepancies in the drug inventory in the logbook or electronic record and report to the registered entity for investigation.

(5) The registered entity shall report any unresolved discrepancies in writing to the commission within seven calendar days and to the DEA if the loss includes a controlled substance.

(6) The designated person shall perform a physical inventory or count of approved drugs every twelve months. The physical inventory must be reconciled with the logbook or electronic record.

(7) The designated person or designee shall destroy or waste noncontrolled legend drugs that are unfit for administration. A second member of the staff shall witness the destruction or waste of drugs. The destruction or waste of noncontrolled legend drugs will be documented in the logbook or electronic record with the date of the event and signatures of the individuals involved.

(8) A registered entity shall return all unwanted or unused approved controlled substances to the manufacturer or destroy them in accordance with the rules and requirements of the commission, the DEA, and the department of ecology. The return or destruction of controlled substances will be documented in the logbook or electronic record with the date of the event and signatures of the individuals involved.

(9) A registered entity must maintain a readily retrievable list of all authorized personnel who have demonstrated the qualifications to possess and administer approved drugs.

(10) All records of the registered entity must be available for inspection by the commission or its designee.

(11) The registered entity must maintain the logbook and other related records in accordance with WAC 246-945-020.

NEW SECTION

WAC 246-945-515 Human societies, animal control agencies, and department of fish and wildlife chemical capture programs—Drug storage and field use. (1) Each registered humane society, animal control agency, and department of fish and wildlife chemical capture program location must store all approved legend drugs, and approved controlled substances in a substantially constructed securely locked cabinet or drawer.

(2) Only authorized personnel as defined in WAC 246-945-503 (2) and (3) shall have access to the drug storage cabinet or drawer at the registered location.

(3) A registered humane society and animal control agency may allow the possession of approved drugs for field use under the following conditions:

(a) The individual meets the requirements of an authorized person in WAC 246-945-503(2);

(b) The individual is either:

(i) A humane officer;

(ii) An animal control enforcement officer;

(iii) An animal control authority; or

(iv) A peace officer authorized by the chief of police, sheriff, or county commissioner.

(c) The approved drugs are stored in a locked metal box securely attached to a vehicle;

(d) A drug inventory is completed at the beginning and end of each shift, and recorded in a logbook or electronic record that meets the requirements of WAC 246-945-510; and

(e) All receipts and use of approved drugs are recorded in a logbook or electronic record that meets the requirements of WAC 246-945-510.

(4) A registered department of fish and wildlife chemical capture program may allow the possession of approved drugs for field use under the following conditions:

(a) The individual meets the requirements of an authorized person in WAC 246-945-503(3);

(b) The approved drugs are stored in a locked metal box securely attached to a vehicle;

(c) A drug inventory is completed on a monthly basis and recorded in a logbook or electronic record that meets the requirements of WAC 246-945-510; and

(d) All receipts and use of approved drugs are recorded in a logbook or electronic record that meets the requirements of WAC 246-945-510.

Subpart C - Drug Distributors

NEW SECTION

WAC 246-945-550 Manufacturers—Minimum standards. (1) Manufacturers shall comply with the applicable requirements in 21 C.F.R., Part 210, "Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs"; and 21 C.F.R., Part 211, "Current Good Manufacturing Practice for Finished Pharmaceuticals; General."

(2) Manufacturers required to register with the FDA as an outsourcing facility as defined in 21 U.S.C. Sec. 353b(d)(4)(A), shall also comply with FDA guidance document.

(3) Virtual manufacturers shall ensure its own drugs are manufactured in compliance with this section.

NEW SECTION

WAC 246-945-553 Teat dip containers. The reuse of teat dip containers and closures shall be allowed under the following circumstances:

(1) Teat dip containers for reuse must have attached a labeling panel bearing product name, brand name and distributor address if marketed by other than the manufacturer, manufacturer name and address, product strength, quantity, expiration date, directions for use, and appropriate cautionary statements for the product contained within.

(2) All reusable teat dip containers will be hot stamped for permanent identification as teat dip containers. The hot stamp shall imprint on the plastic container, in an immutable manner, the words "teat dip only" and the manufacturer's name. Teat dip manufacturers may only refill containers bearing their company name.

(3) With cooperation from dairy producers, dairy sanitarians will take random samples of teat dip in reusable containers while on regular farm inspections. The samples, along with appropriate label information, will be forwarded to the board of pharmacy for analysis to ensure that the product meets label specifications and is free of contamination.

(4) Reusable teat dip containers shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quantity, or purity of the product.

(5) Upon return to the manufacturer, reusable teat dip containers shall be cleaned and sanitized. To ensure adequate cleaning occurs, the board of pharmacy may require a manufacturer to submit and have approved a cleaning procedure. Containers showing structural damage, or any signs of being used for substances or materials other than teat dip shall not be reused as teat dip containers.

NEW SECTION

WAC 246-945-555 Wholesaler—Minimum standards—Scope. (1) WAC 246-945-560 through 246-945-600 establish the minimum standards for facilities licensed as

wholesalers, their officers, designated representatives, agents, and employees.

(2) Virtual wholesalers shall ensure drugs they purchase or sell are stored and distributed in compliance with WAC 246-945-560 through 246-945-600.

NEW SECTION

WAC 246-945-560 Wholesaler—Facility standards. (1) Facilities used for wholesale drug distribution must:

(a) Be of suitable size, construction, and location to accommodate cleaning, maintenance, and proper operations;

(b) Have storage areas that provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security;

(c) Have a quarantine area for storage of drugs that are outdated, damaged, deteriorated, misbranded, adulterated, counterfeit, or suspected of being counterfeit, otherwise unfit for distribution, or that are in immediate or sealed secondary containers that have been opened;

(d) Be maintained in a clean and orderly condition;

(e) Be free from infestation of any kind;

(f) Be a commercial location and not a personal dwelling or residence;

(g) Provide for the secure and confidential storage of information with restricted access and policies and procedures to protect the integrity and confidentiality of information; and

(h) Provide and maintain appropriate inventory controls in order to detect and document any theft, counterfeiting, or diversion of drugs.

(2) Facilities used for wholesale drug distribution must be secure from unauthorized entry, as follows:

(a) Access from outside the premises must be kept to a minimum and well controlled;

(b) The outside perimeter of the premises must be well lit;

(c) Entry into areas where drugs are held must be limited to authorized personnel;

(d) Facilities must be equipped with an alarm system to detect entry after hours; and

(e) Facilities must be equipped with security systems sufficient to protect against theft, diversion, or record tampering.

NEW SECTION

WAC 246-945-565 Wholesaler—Drug storage. (1) Drugs must be stored at temperatures and under conditions required by the labeling of the drugs, if any, or by the requirements of the 43rd edition of USP and 38th edition of the National Formulary (USP/NF), to preserve product identity, strength, quality, and purity. The USP/NF is available for public inspection at the commission's office at Department of Health, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501. Requestors may also contact USP directly to obtain copies.

(2) If no storage requirements are established for a drug, the drug may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(3) Temperature and humidity recording equipment, devices, and/or logs shall be used to document proper storage of drugs.

(4) Controlled substance drugs should be isolated from noncontrolled substance drugs and stored in a secured area.

(5) Drugs that are outdated, damaged, deteriorated, misbranded, or adulterated must be physically separated from other drugs in a designated quarantine area until destroyed or returned to the original manufacturer or third party returns processor.

(6) Used drugs and those whose immediate or sealed outer or sealed secondary containers have been opened are adulterated and must be quarantined.

(7) Drugs must be quarantined under any condition that causes doubt as to a drug's safety, identity, strength, quality, or purity unless under examination, testing, or other investigation the drug is proven to meet required standards.

NEW SECTION

WAC 246-945-570 Wholesaler—Drug shipment inspection. (1) Each outside shipping container must be visually examined on receipt for identity and to avoid acceptance of drugs that are contaminated or otherwise unfit for distribution.

(2) Outgoing shipments must be inspected to verify the accuracy and product integrity of the shipment contents.

NEW SECTION

WAC 246-945-575 Wholesaler—Recordkeeping. (1) Wholesalers and other entities engaged in wholesale drug distribution must establish and maintain inventories and records of transactions pertaining to the receipt and distribution or other disposition of drugs. The records must include at least:

(a) The source of the drugs, including the name and principal address of the seller or transferor;

(b) The identity and quantity of the drugs received and distributed or disposed of; and

(c) The dates of receipt and distribution or other disposition of the drugs.

(2) Records must be retained in a readily retrievable manner in accordance with WAC 246-945-020.

NEW SECTION

WAC 246-945-580 Wholesaler—Personnel. (1) A wholesaler must establish and maintain a list of officers, directors, managers, a designated representative, and other persons responsible for wholesale drug distribution, storage, and handling and must include a description of each individual's duties and a summary of their qualifications.

(2) A wholesaler must employ personnel in sufficient numbers and with adequate education, training, and experience to safely and lawfully engage in wholesale drug distribution activities.

NEW SECTION

WAC 246-945-585 Wholesaler—Suspicious orders and due diligence. (1) Wholesalers shall design and operate a system to identify and report suspicious orders of controlled substances and drugs of concern to the commission.

(a) Suspicious orders shall be submitted electronically through a commission approved system or to the commission or within five business days of the order being identified as suspicious by the wholesaler, and must include, but not necessarily limited to:

(i) Customer name;

(ii) Customer address;

(iii) Customer DEA registration number;

(iv) State license number(s);

(v) Transaction date;

(vi) Drug name;

(vii) NDC number;

(viii) Quantity ordered; and

(ix) Indication of whether the drug was shipped, and if not, the factual basis for the refusal to supply.

(b) Zero reports shall be submitted if no suspicious orders have been identified in a calendar month, and such reports shall be submitted within fifteen business days of the end of the calendar month.

(c) Wholesalers may apply to the commission for an exemption from the reporting requirements if they do not distribute controlled substances or drugs of concern.

(2) Except as provided in subsection (3) of this section, a wholesaler shall exercise due diligence to identify customers ordering or seeking to order controlled substances or drugs of concern, and establish the normal and expected transactions conducted by those customers, as well as to identify and prevent the sale of controlled substances or drugs of concern that are likely to be diverted from legitimate channels. Such due diligence measures shall include, but are not limited to, the following, which shall be conducted prior to an initial sale and on a regular basis, as necessary:

(a) Questionnaires and affirmative steps by the wholesaler to confirm the accuracy and validity of the information provided, it shall be considered illegal for a customer to provide false or misleading information;

(b) For a customer who is a prescriber, confirmation of prescriber type, specialty practice area, and if the prescriber personally furnishes controlled substances or drugs of concern, the quantity furnished;

(c) Review of drug utilization reports; and

(d) Obtaining and conducting a review of the following:

(i) Methods of payment accepted and in what ratios;

(ii) The ratio of controlled versus noncontrolled prescriptions and overall sales;

(iii) Orders for controlled substances or drugs of concern from other wholesalers U.S. DEA's Automation of Reports and Consolidated Orders System (ARCOS); and

(iv) The ratio of out-of-state patients served compared to in-state patients.

(3) A wholesaler receiving a request for an initial sale of a controlled substance or drugs of concern may conduct the sale before complying with subsection (2) of this section if all of the following apply:

(a) The sale is to a new customer;

(b) The wholesaler documents that the order is to meet an emergent need;

(c) The wholesaler completes the requirements of subsection (2) of this section no later than sixty business days from the date of sale.

(4) A wholesaler receiving a request from an existing customer to purchase a controlled substance or drug of concern, the size/quantity of which exceeds the established algorithm limitations or quota restrictions for such customer, may sell the drug of concern or controlled substance provided the customer submit documentation explaining the request.

(5) Any customer that is believed to be engaged in potential diversion activity, including those to whom a wholesaler refuses to sell, shall be electronically reported to the commission. Such reports shall include:

(a) Customer name;

(b) Customer address;

(c) DEA number;

(d) State license number(s);

(e) A detailed explanation of why the wholesaler identified the customer as a possible diversion risk; and

(f) Such reports shall be submitted within thirty days of refusal, cessation, or identification by wholesaler.

(6) All licensed wholesalers shall submit all reports to the commission in a DEA ARCOS format where applicable.

NEW SECTION

WAC 246-945-590 Wholesaler—Policies and procedures. Wholesalers shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, transport, and shipping and wholesale distribution of drugs, including policies and procedures for identifying, recording, and reporting losses or thefts and for correcting all errors and inaccuracies in inventories. Wholesalers shall include the following in their written policies and procedures:

(1) A procedure to be followed for handling recalls and withdrawals of drugs. Such procedure shall be adequate to deal with recalls and withdrawals due to:

(a) Any action initiated at the request of FDA or any other federal, state, or local law enforcement or other government agency, including the commission; or

(b) Any volunteer action by the manufacturer to remove defective or potentially defective drugs from the market.

(2) A procedure to ensure that wholesalers prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of a strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency.

(3) A procedure to ensure that any outdated drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed in accordance with federal and state laws, including all necessary documentation and the appropriate witnessing. This procedure shall provide for written documentation of the disposition of outdated drugs.

(4) A procedure for the destruction of outdated drugs in accordance with federal and state laws.

(5) A procedure for the disposing and destruction of containers, labels, and packaging to ensure that the containers,

labels, and packaging cannot be used in counterfeiting activities, including all necessary documentation, and the appropriate witnessing of the destruction of any labels, packaging, immediate containers, or containers in accordance with all applicable federal and state requirements.

(6) A procedure for identifying, investigating, and reporting significant drug inventory discrepancies involving counterfeit, suspect of being counterfeit, contraband, or suspect of being contraband, in the inventory and reporting of such discrepancies as required to the FDA, commission and/or appropriate federal or state agency upon discovery of such discrepancies.

(7) A procedure for reporting criminal or suspected criminal activities involving the inventory of drug(s) as required to the commission, FDA, and if applicable, DEA.

(8) Procedures addressing:

(a) The design and operation of the suspicious order monitoring and reporting system;

(b) Mandatory annual training for staff responsible for identifying and reporting suspicious orders and potential diversion activities. Such training must include the following:

(i) The wholesaler's suspicious order monitoring system;

(ii) The process to collect all relevant information on customers in accordance with WAC 246-960-330; and

(iii) The requirement and process for submission of suspicious order and information on customers who engage in potential diversion activities.

(9) A procedure for timely responding to customers who submit purchase orders for patients with emergent needs.

NEW SECTION

WAC 246-945-595 Wholesaler and manufacturer—Prohibited acts. It is unlawful for a wholesaler or manufacturer to perform, cause the performance of, or aid and abet any of the following acts in Washington state:

(1) The manufacture, repackaging, sale, delivery, or holding or offering for sale any drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or has otherwise been rendered unfit for distribution or wholesale distribution;

(2) The adulteration, misbranding, or counterfeiting of any drug;

(3) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the product labeling of a drug or the commission of any other act with respect to a drug that results in the drug being misbranded;

(4) The forging, counterfeiting, simulating, or falsely representing of any drug without the authority of the manufacturer, or using any mark, stamp, tag, label, or other identification device without the authorization of the manufacturer;

(5) The purchase or receipt of a drug from a person that is not authorized to distribute drugs to that purchaser or recipient;

(6) The sale or transfer of a drug to a person who is not legally authorized to receive a drug;

(7) The sale or transfer of a drug from pharmacies to distributors for resale;

(8) The failure to maintain or provide records as required by laws and rules;

(9) Providing the commission or any of its representatives or any state or federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the provisions of these laws and rules;

(10) The obtaining of or attempting to obtain a drug by fraud, deceit, misrepresentation or engaging in misrepresentation or fraud in the distribution or wholesale distribution of a drug;

(11) The distribution of a drug to the patient without a prescription from a practitioner licensed by law to use or prescribe the drug; and

(12) The distribution or wholesale distribution of a drug that was previously dispensed by a pharmacy or distributed by a practitioner.

NEW SECTION

WAC 246-945-600 Salvaging and reprocessing. Wholesalers shall be subject to the provisions of any applicable federal, state, or local laws or rules that relate to prescription drug salvaging or reprocessing, including Chapter 21, Parts 207, 210, and 211k of the Code of Federal Regulations.

WSR 20-07-128
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed March 18, 2020, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-20-055 and 19-18-016.

Title of Rule and Other Identifying Information: Chapters 246-809, 246-810, and 246-811 WAC; WAC 246-924-990; new chapter 246-804 WAC. The department of health (department) is proposing amendments and the addition of new sections to existing behavioral health professions' rule chapters to implement the licensure requirements addressed in ESHB 1768, 2SHB 1907, and SB 5054 as passed by the 2019 Washington state legislature. The department is proposing amendments to create probationary licenses and fees for behavioral health professionals as part of the new statutorily created licensure reciprocity program. The department is also proposing a new chapter of rules to establish licensure requirements and fees for a cooccurring disorder specialist enhancement to certain behavioral health professions as required by statute. The following professions would be affected: certain agency affiliated counselors, substance use disorder professionals; mental health counselors, advanced social workers, independent clinical social workers, marriage and family therapists. The proposal further creates fees for probationary licensure for psychologists.

Hearing Location(s): On April 21, 2020, at 1:30 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held

instead. To access the meeting online and register: https://attendee.gotowebinar.com/register/6316801359827539469.

After registering, you will receive a confirmation email containing information about joining the webinar.

You may also dial-in using your phone: Call in: United States +1 (213) 929-4212, Access Code: 728-095-994.

Date of Intended Adoption: April 28, 2020.

Submit Written Comments to: Pam Ranes, P.O. Box 47850, Olympia, WA 98504-7850, email https://fortress.wa.gov/doh/policyreview, by April 21, 2020.

Assistance for Persons with Disabilities: Contact Nancy Delgado, phone 360-236-4951, TTY 711, email nancy.delgado@doh.wa.gov, by April 14, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule is to implement the statutory changes. The proposal spans four WAC chapters and creates a new chapter to address the following policy areas of behavioral health licensure: Adjustment of supervised experience requirements, development of a reciprocity program to include a probationary licensure process and fees for qualifying out-of-state applicants, establishment of application procedures and fees for qualifying behavioral health licensees to obtain a co-occurring disorder specialist enhancement, providing proof of supervised experience requirements for certain applicants who have practiced in another state or territory for the past five years, and setting the time limit for agency affiliated counselors applicants to complete licensure requirements while beginning employment at a state agency. The proposal also updates professional titles, definitions, and corrects references and citations as needed.

Reasons Supporting Proposal: The intent of the underlying statute and the proposed rules to implement them is the reduction of barriers to behavioral health licensure in Washington state. The proposed rule provides needed clarification of administrative procedures and provides enforceable standards for newly created license types (probationary licenses) to facilitate our newly created licensure reciprocity program, and license enhancement (cooccurring disorder specialists enhancement). Further barrier reductions include reduction in supervised experience requirements for certain behavioral health licensure applicants who meet certain requirements.

Statutory Authority for Adoption: ESHB 1768 (chapter 444, Laws of 2019), 2SHB 1907 (chapter 446, Laws of 2019), SB 5054 (chapter 351, Laws of 2019); RCW 18.19.050, 18.205.060, 18.225.040, 43.70.110 and 43.70.250.

Statute Being Implemented: ESHB 1768 (chapter 444, Laws of 2019), 2SHB 1907 (chapter 446, Laws of 2019), SB 5054 (chapter 351, Laws of 2019).

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Wise, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4987; Implementation and Enforcement: James Chaney, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2831.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jeff Wise, P.O. Box 47850, Olympia, WA 98504-7850, phone 360-236-4987, TTY 711, email jeff.wise@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule proposal does not impact small businesses; these rules pertain only to providers.

March 13, 2020
Jessica Todorovich
Chief of Staff
for John Wiesman, DrPH, MPH
Secretary

Chapter 246-804 WAC

BEHAVIORAL HEALTH CO-OCCURRING DISORDER SPECIALIST ENHANCEMENT

NEW SECTION

WAC 246-804-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly states otherwise:

(1) "ASAM criteria" means admission, continued service, and discharge criteria for the treatment of substance use disorders as published by the American Society of Addiction Medicine (ASAM).

(2) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department under chapter 18.205 RCW and this chapter that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

NEW SECTION

WAC 246-804-030 Application process. To receive a co-occurring disorder specialist enhancement, the applicant must submit to the department:

(1) A completed application;

(2) Verification of meeting the underlying licensure requirements in RCW 18.205.105(1);

(3) Verification of completing the training, exam, and experience requirements in RCW 18.205.105(5); and

(4) The fee according to WAC 246-804-990.

NEW SECTION

WAC 246-804-040 ASAM continuum of care. (1) Licensees treating patients under a co-occurring disorder specialist enhancement must follow ASAM criteria according to RCW 18.205.105 and this section.

(2) Clients must be assessed using ASAM criteria dimensions.

(3) If a client is assessed at a 2.1 or higher level of care according to ASAM criteria, the enhancement holder must make a reasonable effort to refer the client to the appropriate care setting as indicated by the enhancement holder's ASAM level of care decision.

(4) If an enhancement holder is unable to refer a client to the appropriate level of care based on ASAM criteria, then enhancement holder must substantiate the level of care or type of service chosen in the clinical record.

NEW SECTION

WAC 246-804-990 Co-occurring disorder specialist—Fees and renewal cycle. A co-occurring disorder specialist enhancement, once obtained, does not require renewal. The following nonrefundable fees for a co-occurring enhancement will be charged:

Title of Fee	Fee
Original application	
Application	$100.00
Duplicate license	10.00
Verification of license	25.00

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Associate" means a prelicensure candidate who is working towards full licensure in their profession, has a graduate degree in a mental health field under RCW 18.225.090 and is gaining the supervision and supervised experience necessary to become a licensed independent clinical social worker, a licensed advanced social worker, a licensed mental health counselor, or a licensed marriage and family therapist. Associates may not independently provide social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(2) "Independent social work, mental health counseling, or marriage and family therapy" means the practice of these disciplines without being under the supervision of an approved supervisor.

(3) "Department" means the department of health.

(4) "Licensed counselor" means a licensed marriage and family therapist, licensed mental health counselor, licensed advanced social worker, or licensed independent clinical social worker regulated under chapter 18.225 RCW. Licensed counselor does not mean an associate-level credential.

(5) "Out-of-state" means any state or territory of the United States.

(6) "Probationary license" means a temporary license issued to out-of-state applicants qualifying for licensure reciprocity in Washington state under the restrictions and conditions of RCW 18.225.140 and this chapter.

(7) "Reciprocity" means licensure of out-of-state licensed counselors based on substantial equivalence between Washington state scope of practice and the scope of practice of the other state or territory, subject to a probationary licensure period to complete outstanding Washington state licensure requirements as determined necessary by the secretary to gain full licensure.

(8) "Secretary" means the secretary of the department of health.

NEW SECTION

WAC 246-809-090 Co-occurring disorder enhancement specialist eligibility. Licensed counselors licensed under chapter 18.225 RCW and this chapter are eligible to apply for a co-occurring disorder specialist enhancement to their existing license according to the conditions of RCW 18.205.105 and chapter 246-804 WAC.

NEW SECTION

WAC 246-809-095 Probationary license. (1) The department shall issue a probationary license to out-of-state applicants seeking licensure in Washington state for an advanced social worker, independent clinical social worker, mental health counselor, or marriage and family therapist according to the conditions and restrictions of the reciprocity program established in RCW 18.225.140 and this chapter.

(2) The out-of-state license must be from a state or territory identified on a list published by the department as eligible for reciprocity for the purposes of a probationary license for the particular behavioral health profession.

(3) An initial probationary license is valid for one year. To receive an initial probationary license, the applicant must submit to the department a completed application to include:

(a) Verification of their out-of-state license; and

(b) The fee according to WAC 246-809-990.

(4) A probationary license may be renewed a single time and is valid for one year after the date of renewal. To renew the probationary license, an applicant must submit to the department a completed application to include:

(a) Completion of suicide assessment, treatment, and management according to WAC 246-809-615(1);

(b) AIDS education according to WAC 246-809-080; and

(c) The fee according to WAC 246-809-990.

(5) Continuing education. With the exception of the requirements of subsection (4) this section, continuing education requirements will apply once a probationary licensee transitions to a full license.

(6) Approved supervision. If the department determines a probationary licensee must complete supervised hours of experience as a condition for full licensure, the licensee must complete the stated hours under an approved supervisor according to the conditions of this chapter.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-110 Definitions. The following terms apply to the licensure of marriage and family therapists and marriage and family therapist associates.

(1) "Approved educational program" means:

(a) Any college or university accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or its successor; or

(b) A program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE), at the time the applicant completed the required education.

(2) "Approved supervisor" means a licensed marriage and family therapist, or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner, who has completed:

(a) Three hundred clock hours in graduate or postgraduate marriage and family education, or continuing education in marriage and family therapy or supervision by an approved marriage and family therapist supervisor in marriage and family therapy or any combination of these; and

(b) Five years of clinical practice that includes the equivalent of one year of clinical practice working with couples and families.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual ((~~that~~)) who is accruing supervised clinical experience required for licensure.

(6) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Peer" means a ((~~co-worker~~)) coworker who is not the licensure candidate's employer or supervisor.

(8) "Supervised experience requirement" means experience that is obtained under an approved supervisor who meets the requirements described in WAC 246-809-134.

(9) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a license holder to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-134.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-130 Supervised postgraduate experience. (1) The experience requirements for the marriage and family therapist applicant's practice area include successful completion of a supervised experience requirement. Applicants who have held an active marriage and family therapy license for the past five consecutive years or more in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in subsection (3) of this section.

(2) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within ten years from the date their application for a marriage and family therapist license is submitted to the department, the department shall reduce the total required supervised hours from three thousand hours to two thousand seven hundred hours. The requirements in subsection (3)(a) through (e) of this section shall apply regardless of the reduction of total required hours.

(3) The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Total experience requirements include a minimum of three thousand hours to include the following:

((~~(1) A minimum of three thousand hours of experience that includes~~)) (a) One thousand hours of direct client contact with at least five hundred hours gained in diagnosing and treating couples and families;

((~~(2)~~)) (b) At least two hundred hours of qualified supervision with an approved supervisor.

((~~(a)~~)) (i) Of the two hundred hours, one hundred hours must be with a licensed marriage and family therapist with at least five years of clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner;

((~~(b)~~)) (ii) At least one hundred of the two hundred hours must be one-on-one supervision; and

((~~(c)~~)) (iii) The remaining hours may be in one-on-one or group supervision.

((~~(3)~~)) (c) Applicants who have completed a master's program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy boards will be credited with five hundred hours of direct client contact and one hundred hours of qualified supervision with an approved supervisor;

((~~(4)~~)) (d) Licensed marriage and family therapist associate applicants are not required to have supervised postgraduate experience prior to becoming an associate; and

((~~(5)~~)) (e) Licensed marriage and family therapist associate applicants must declare they are working towards full licensure.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-230 Supervised postgraduate experience. (1) The experience requirements for the mental health counselor applicant's practice area include successful completion of a supervised experience requirement. Applicants who have held an active mental health counselor license for the past five consecutive years or more in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in subsection (3) of this section.

(2) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within ten years from the date their application for mental health counselor license is submitted to the department, the department shall reduce the minimum total required supervised hours from three thousand hours to two thousand seven hundred hours. The requirements in subsection

(3)(b)(i) and (ii) of this section shall apply regardless of the reduction of total required hours.

(3)(a) The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner in an approved setting.

(b) Of the three thousand hours:

(((~~(a)~~))) (i) One hundred hours spent in immediate supervision with the qualified licensed mental health counselor or equally qualified licensed mental health practitioner; and

(((~~(b)~~))) (ii) At least one thousand two hundred hours must be direct counseling with individuals, couples, families, or groups.

(((~~(2)~~))) (4) Applicants who have completed a master's or doctoral program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) will be credited with fifty hours of postgraduate supervision and five hundred hours of postgraduate experience.

(((~~(3)~~))) (5) Applicants for licensed mental health counselor associate are not required to have supervised postgraduate experience prior to becoming an associate.

(((~~(4)~~))) (6) Licensed mental health counselor associate applicants must declare they are working toward full licensure.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-330 Supervised postgraduate experience requirements. (1) Licensed advanced social worker.

(a) Applicants who have held an active advanced social worker license for the past five consecutive years or more in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in subsection (1)(c) of this section.

(b) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within ten years from the date their application for an advanced social worker license is submitted to the department, the department shall reduce the total required supervised hours from three thousand two hundred hours to two thousand eight hundred eighty hours. The requirements in subsection (3)(c)(i) through (iii) of this section shall apply regardless of the reduction of total required hours.

(c) The supervised experience requirement consists of a minimum of three thousand two hundred hours with ninety hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours:

(((~~(a)~~))) (i) Eight hundred hours must be in direct client contact;

(((~~(b)~~))) (ii) Ninety hours must be in direct supervision as follows:

(((~~(i)~~))) (A) Fifty hours must include direct supervision by a licensed advanced social worker or licensed independent clinical social worker; these hours may be in one-to-one supervision or group supervision; and

(((~~(ii)~~))) (B) Forty hours may be with an equally qualified licensed mental health practitioner as defined in WAC 246-809-310(3). These hours must be in one-to-one supervision((~~.~~

~~(c)~~)); and

(iii) Distance supervision is limited to forty supervision hours.

(2) Licensed independent clinical social worker((~~:~~)).

(a) Applicants who have held an active independent clinical social worker license for the past five consecutive years or more in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements for Washington state licensure in (c) of this subsection.

(b) In accordance with RCW 18.225.090 and 18.225.095, for applicants who can demonstrate they have practiced as a substance use disorder professional for at least three years within ten years from the date their application for an independent clinical social worker license is submitted to the department, the department shall reduce the total required supervised hours from four thousand hours to three thousand six hundred hours. The requirements in subsection (2)(c)(i) and (ii) of this section shall apply regardless of the reduction of total required hours.

(c) The experience requirement consists of a minimum of four thousand hours of experience, over a period of not less than three years. Of those four thousand hours:

(i) One thousand hours must be direct client contact supervised by a licensed independent clinical social worker;

(((~~(b)~~))) (ii) One hundred thirty hours of direct supervision as follows:

(((~~(i)~~))) (A) Seventy hours must be with an independent clinical social worker;

(((~~(ii)~~))) (B) Sixty hours may be with an equally qualified licensed mental health practitioner as defined in WAC 246-809-310(3);

(((~~(iii)~~))) (C) Sixty hours of the one hundred thirty hours of direct supervision must be in one-to-one supervision. The remaining seventy hours may be in one-to-one supervision or group supervision; and

(((~~(iv)~~))) (D) Distance supervision is limited to sixty supervision hours.

(3) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants are not required to have supervised postgraduate experience prior to becoming an associate.

(4) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants must declare they are working toward full licensure.

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-615 Training standards for suicide assessment, treatment, and management. (1) A licensed counselor must complete training in suicide assessment, treatment, and management. The training must be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions.

(a) Until July 1, 2017, the training must be approved by an industry-recognized local, state, national, international organizations or institutions of higher learning listed in WAC 246-809-620 or an equivalent organization, educational institution or association which approves training based on observation and experience or best available practices;

(b) Beginning July 1, 2017, the training must be on the department's model list of training programs in suicide assessment, treatment and management. The model list is 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; and

(c) An associate applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in (a) or (b) of this subsection no more than six years prior to the application for initial licensure.

(2) A licensed marriage and family therapist, licensed mental health counselor, licensed social worker, or licensed social worker associate who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(3) A licensed marriage and family therapist, licensed mental health counselor, licensed social worker, or licensed social worker associate who is an employee of a ((~~community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A~~)) licensed or certified behavioral health agency licensed under chapter 71.05 or 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

AMENDATORY SECTION (Amending WSR 18-01-098, filed 12/18/17, effective 4/1/18)

WAC 246-809-990 Licensed counselor, and associate—Fees and renewal cycle. (1) Except for a probationary license as described in WAC 246-809-095, a license((~~s~~)) must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Associate licenses are valid for one year and must be renewed every year on the date of issuance. The associate license may be renewed no more than six times.

(3) The following nonrefundable fees will be charged:

Title	Fee
Licensed marriage and family therapist	
Original application	
Application and initial license	$290.00
UW online access fee (HEAL-WA)	16.00
Active license renewal	
Renewal	180.00
Late renewal penalty	90.00
Expired license reissuance	85.00
UW online access fee (HEAL-WA)	16.00
Retired active license renewal	
Renewal	70.00
Late renewal penalty	35.00
UW online access fee (HEAL-WA)	16.00
Duplicate license	10.00
Verification of license	25.00
Licensed marriage and family therapy associate	
Original application	
Application	65.00
UW online access fee (HEAL-WA)	16.00
Renewal	
Renewal	50.00
UW online access fee (HEAL-WA)	16.00
Late renewal penalty	50.00
Expired license reissuance	40.00
Duplicate license	10.00
Verification of license	25.00
Licensed mental health counselor	
Original application	
Application	95.00
Initial license	80.00
UW online access fee (HEAL-WA)	16.00
Active license renewal	
Renewal	90.00
Late renewal penalty	50.00
Expired license reissuance	65.00
UW online access fee (HEAL-WA)	16.00
Retired active license renewal	
Renewal retired active	70.00
Late renewal penalty	35.00
UW online access fee (HEAL-WA)	16.00
Duplicate license	10.00
Verification of license	25.00
Licensed mental health counselor associate	
Original application	
Application	35.00

Title	Fee
Renewal	
Renewal	25.00
Late renewal penalty	25.00
Expired license reissuance	40.00
Duplicate license	10.00
Verification of license	25.00
Licensed advanced social worker and licensed independent clinical social worker	
Original application	
Application	100.00
Initial license	100.00
UW online access fee (HEAL-WA)	16.00
Active license renewal	
Renewal	100.00
Late renewal penalty	50.00
Expired license reissuance	72.50
UW online access fee (HEAL-WA)	16.00
Retired active license renewal	
Renewal retired active	65.00
Late renewal penalty	30.00
UW online access fee (HEAL-WA)	16.00
Duplicate license	10.00
Verification of license	25.00
Licensed advanced social worker associate and licensed independent clinical social worker associate	
Original application	
Application	35.00
UW online access fee (HEAL-WA)*	16.00
Renewal	
Renewal	25.00
Late renewal penalty	25.00
UW online access fee (HEAL-WA)*	16.00
Expired license reissuance	40.00
Duplicate license	10.00
Verification of license	25.00

* Surcharge applies to independent clinical social worker associate only.

(4) For a probationary license as described under WAC 246-809-095, the following nonrefundable fees will be charged:

Title	Fee
Licensed marriage and family therapist	
Original application	
Application and initial license	$290.00
Active license renewal	
Renewal	180.00
Late renewal penalty	90.00
Expired license reissuance	85.00
Duplicate license	10.00
Verification of license	25.00
Licensed mental health counselor	
Original application	
Application and initial license	175.00
Active license renewal	
Renewal	90.00
Late renewal penalty	50.00
Expired license reissuance	65.00
Duplicate license	10.00
Verification of license	25.00
Licensed advanced social worker and licensed independent clinical social worker	
Original application	
Application and initial license	200.00
Active license renewal	
Renewal	100.00
Late renewal penalty	50.00
Expired license reissuance	72.50
Duplicate license	10.00
Verification of license	25.00

AMENDATORY SECTION (Amending WSR 09-15-041, filed 7/8/09, effective 7/8/09)

WAC 246-810-015 Agency affiliated counselor: Scope of practice and credentialing requirements. (1) An agency affiliated counselor may only provide counseling services as part of his or her employment as an agency affiliated counselor for a recognized agency.

(2) An applicant for an agency affiliated counselor must be employed by, or have an offer of employment from, an agency or facility identified in WAC 246-810-016.

(3)(a) Applicants must submit an application to the department within the first thirty days of employment at an agency in order to continue working while the application is processed.

(b) Applicants must complete any outstanding deficiencies within ninety days of the date the department issues a deficiency letter. If the applicant does not satisfy the outstanding licensure requirements within ninety days, the applicant must stop working.

NEW SECTION

WAC 246-810-019 Co-occurring disorder enhancement specialist eligibility. Agency affiliated counselors licensed under chapter 18.19 RCW and this chapter who meet the conditions of RCW 18.205.105 (1)(e) are eligible to apply for a co-occurring disorder specialist enhancement to their existing credential according to the conditions of RCW 18.205.160 and chapter 246-804 WAC.

AMENDATORY SECTION (Amending WSR 09-15-041, filed 7/8/09, effective 7/8/09)

WAC 246-810-026 Qualifications to be a certified counselor supervisor, certified adviser supervisor, or a certified counselor consultant. The following qualifications are required to be a certified counselor supervisor, certified adviser supervisor, or a certified counselor consultant.

(1) The supervisor or consultant must have held a Washington state credential in counseling-related fields for a minimum of five years. All credentials held by the supervisor or consultant must be in good standing. At least one credential must be active.

(2) For purposes of this section, counseling-related fields means a credential issued under chapter 18.130 RCW for:

(a) Certified counselor;

(b) Hypnotherapist;

(c) Mental health counselor;

(d) Marriage and family therapist;

(e) Independent clinical social work;

(f) Advanced social work;

(g) Psychologist;

(h) ((~~Chemical dependency~~)) Substance use disorder professional;

(i) Sex offender treatment provider;

(j) Sex offender treatment provider affiliate;

(k) Medical physician;

(l) Osteopathic physician;

(m) Advanced registered nurse practitioner;

(n) Naturopathic physician; and

(o) Until July 1, 2010, registered counselor.

Additional credentials may be accepted by the secretary as counseling-related.

(3) The supervisor or consultant may not be a blood or legal relative or cohabitant of the credential holder, or someone who has acted as the credential holder's counselor within the past two years. A supervisor or consultant may not have a reciprocal supervisory or consultant arrangement with another credential holder.

(4) Prior to the commencement of any supervision or consultation, the supervisor or consultant must provide the certified counselor or certified adviser with a declaration on a form provided by the department.

(5) The supervisor must have completed education and training in:

(a) Supervision or management of individuals who provide counseling or mental health services;

(b) Risk assessment;

(c) Screening using the global assessment of functioning scale;

(d) Professional ethics; and

(e) Washington state law.

(6) The consultant must have completed education and training in:

(a) Risk assessment;

(b) Screening using the global assessment of functioning scale;

(c) Professional ethics; and

(d) Washington state law.

AMENDATORY SECTION (Amending WSR 17-07-025, filed 3/7/17, effective 4/7/17)

WAC 246-810-0298 Suicide assessment training standards. (1) Approved qualifying training in suicide assessment, including screening and referral must:

(a) Until July 1, 2017, be approved by the American Foundation for Suicide Prevention, the Suicide Prevention Resource Center, entities listed in WAC 246-810-0293, or an equivalent organization, educational institution or association which approves training based on observation and experiment or best available practices. The training must be empirically supported training and meet other requirements in RCW 43.70.442;

(b) Beginning July 1, 2017, must be on the department's model list developed in accordance with RCW 43.70.442. Nothing in this section invalidates trainings completed according to this chapter before July 1, 2017; and

(c) Be provided by a single provider and be at least three hours in length, which may be provided in one or more sessions.

(2) A certified counselor or certified adviser who is an employee of a state or local government employer is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

(3) A certified counselor or certified adviser who is an employee of a ((~~community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A~~)) licensed or certified behavioral health agency under chapter 71.05 or 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

(4) A certified counselor or certified adviser that obtained training under the exemptions listed in subsections (2) and (3) of this section may obtain CE credit subject to documentation as defined in WAC 246-810-0297.

AMENDATORY SECTION (Amending WSR 97-17-113, filed 8/20/97, effective 9/20/97)

WAC 246-810-061 Health care institutions. The chief administrator or executive officer or their designee of any hospital, nursing home, ((~~chemical dependency treatment~~

~~programs as defined in chapter 70.96A RCW, drug treatment agency as defined in chapter 69.54 RCW, and public and private mental health treatment agencies as defined in RCW 71.05.020 (6) and (7), and 71.24.025(3)~~)) licensed or certified behavioral health agency as defined in RCW 71.24.025, and residential treatment facility licensed under chapter 71.12 RCW, shall report to the department when any counselor's services are terminated or are restricted based upon a determination that the counselor has committed an act which may constitute unprofessional conduct or that the counselor may be unable to practice with reasonable skill or safety to clients by reason of a mental or physical condition. Reports are to be made in accordance with WAC 246-810-060.

Chapter 246-811 WAC

((~~CHEMICAL DEPENDENCY~~)) SUBSTANCE USE DISORDER PROFESSIONALS AND ((~~CHEMICAL DEPENDENCY~~)) SUBSTANCE USE DISORDER PROFESSIONALS TRAINEES

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly states otherwise.

(1) "Agency" means a community behavioral health agency or facility operated, licensed, or certified by the state of Washington, a federally recognized Indian tribe located with the state, a county, a federally qualified health center, or a hospital.

(2) "Approved school" means any college or university accredited by a national or regional accrediting body, at the time the applicant completed the required education or other educational programs approved by the secretary.

(((~~(2) **Certified chemical dependency professional (CDP)** means an individual certified in chemical dependency counseling under chapter 18.205 RCW.~~

~~(3) **Certified chemical dependency professional trainee (CDPT)** means an individual working toward the education and experience requirements for certification as a chemical dependency professional, and who has been credentialed as a CDPT under chapter 18.205 RCW.~~

~~(4) **Chemical dependency counseling** means employing the core competencies of chemical dependency counseling to assist or attempt to assist an alcohol or drug addicted person to develop and maintain abstinence from alcohol and other mood-altering drugs.~~

~~(5)~~)) (3) "Counseling" means employing any therapeutic techniques including, but not limited to, social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee, that offer, assist, or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential.

(4) "Core competencies of ((~~chemical dependency~~)) substance use disorder counseling" means competencies oriented to assist ((~~alcohol and drug addicted patients to achieve and maintain abstinence from mood-altering substances and develop independent support systems~~)) individuals with substance use disorder in their recovery. Core competencies include the following nationally recognized areas:

(a) Knowledge;

(b) Skills;

(c) Attitudes of professional practice, including assessment and diagnosis of ((~~chemical dependency~~)) substance use disorder;

(d) ((~~Chemical dependency~~)) Substance use disorder treatment planning and referral;

(e) Patient and family education in ((~~the disease of chemical dependency~~)) substance use disorder;

(f) Individual and group counseling ((~~with alcoholic and drug addicted individuals; and~~));

(g) Relapse prevention counseling((~~,~~)); and

(h) Case management.

(((~~(6)~~))) (5) "Direct supervision" means the supervisor is on the premises and available for immediate consultation.

(((~~(7)~~))) (6) "Enrolled" means participating in an approved school and progressing toward the completion of the course work, or completion of the course work to be certified as a ((~~chemical dependency~~)) substance use disorder professional as described in WAC 246-811-030 (2)(a) through (w).

(((~~(8)~~))) (7) "Individual formal meetings" means a meeting with an approved supervisor, involving one approved supervisor and no more than four supervisees.

(((~~(9)~~))) (8) "Official transcript" means the transcript from an approved college or school, in an envelope readily identified as having been sealed by the school.

(((~~(10)~~))) (9) "Out-of-state" means any state or territory of the United States.

(10) "Probationary license" means a temporary license issued to out-of-state applicants qualifying for licensure reciprocity in Washington state under the restrictions and conditions of RCW 18.205.140 and this chapter.

(11) "Reciprocity" means licensure of out-of-state licensed counselors based on substantial equivalence between Washington state scope of practice and the scope of practice of the other state or territory, subject to a probationary licensure period to complete outstanding Washington state licensure requirements as determined necessary by the secretary to gain full licensure.

(12) "Recovery" means a process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential. Recovery often involves achieving remission from active substance use disorder.

(13) "Related field" means health education, behavioral science, sociology, psychology, marriage and family therapy, mental health counseling, social work, psychiatry, nursing, divinity, criminal justice, and counseling education.

(14) "Substance use disorder counseling" means employing the core competencies of substance use disorder counseling to assist or attempt to assist individuals with substance use disorder in their recovery.

(15) "Substance use disorder professional" or "SUDP" means an individual certified in substance use disorder counseling under chapter 18.205 RCW and this chapter.

(16) "Substance use disorder professional trainee" or "SUDPT" means an individual holding a credential as an SUDPT and working toward the education and experience requirements for certification as a substance use disorder professional under chapter 18.205 RCW and this chapter.

AMENDATORY SECTION (Amending WSR 17-24-084, filed 12/5/17, effective 1/5/18)

WAC 246-811-020 Sexual misconduct. (1) The definitions and prohibitions on sexual misconduct described in chapter 246-16 WAC apply to ((~~chemical dependency professionals and a chemical dependency~~)) substance use disorder professionals and a substance use disorder professional trainee except WAC 246-16-100 (4) and (5).

(2) A ((~~chemical dependency~~)) substance use disorder professional or a ((~~chemical dependency~~)) substance use disorder professional trainee shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100 (1) and (2) with a former patient, former client or former key party.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-030 Educational requirements. (1) Except as provided for in WAC 246-811-077 and 246-811-078, the minimum education requirements for a ((~~chemical dependency~~)) substance use disorder professional credential are:

(a) An associate's degree in human services or related field from an approved school; or

(b) Successful completion of ninety quarter or sixty semester college credits in courses from an approved school.

(2) At least forty-five quarter or thirty semester credits must be in courses relating to the ((~~chemical dependency~~)) substance use disorder profession and shall include the following topics specific to ((~~alcohol and drug addicted~~)) individuals with substance use disorder in their recovery:

(a) Understanding addiction;

(b) Pharmacological actions of alcohol and other drugs;

(c) Substance abuse and addiction treatment methods;

(d) Understanding addiction placement, continuing care, and discharge criteria, including American Society of Addiction Medicine (ASAM) criteria;

(e) Cultural diversity including people with disabilities and its implication for treatment;

(f) ((~~Chemical dependency~~)) Substance use disorder clinical evaluation (screening and referral to include comorbidity);

(g) HIV/AIDS brief risk intervention for the chemically dependent;

(h) ((~~Chemical dependency~~)) Substance use disorder treatment planning;

(i) Referral and use of community resources;

(j) Service coordination (implementing the treatment plan, consulting, continuing assessment and treatment planning);

(k) Individual counseling;

(l) Group counseling;

(m) ((~~Chemical dependency~~)) Substance use disorder counseling for families, couples and significant others;

(n) Client, family and community education;

(o) Developmental psychology;

(p) Psychopathology/abnormal psychology;

(q) Documentation, to include, screening, intake, assessment, treatment plan, clinical reports, clinical progress notes, discharge summaries, and other client related data;

(r) ((~~Chemical dependency~~)) Substance use disorder confidentiality;

(s) Professional and ethical responsibilities;

(t) Relapse prevention;

(u) Adolescent ((~~chemical dependency~~)) substance use disorder assessment and treatment;

(v) ((~~Chemical dependency~~)) Substance use disorder case management; and

(w) ((~~Chemical dependency~~)) Substance use disorder rules and regulations.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-035 Certification of a ((~~chemical dependency~~)) substance use disorder professional trainee (((~~CDPT~~))). (1) The department of health will issue a ((~~CDPT~~)) substance use disorder professional trainee certificate to an individual who:

(a) Submits an application on forms the department provides;

(b) Includes written documentation to meet the eligibility criteria;

(c) Declares that he or she is enrolled in an approved school and gaining the experience required to receive a ((~~CDP~~)) substance use disorder professional credential;

(d) Submit evidence of completion of four clock hours of AIDS education. The requirement of WAC 246-811-030 (2)(g) will satisfy this requirement.

(2) A ((~~CDPT~~)) substance use disorder professional trainee must submit a signed declaration with their annual renewal that states they are enrolled in an approved education program, or have completed the educational requirements, and are obtaining the experience requirements for a ((~~CDP~~)) substance use disorder professional credential.

(3) A ((~~CDPT~~)) substance use disorder professional trainee certificate can only be renewed four times.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-045 Accumulation of experience. (1) The department will consider experience in the field of ((~~chemical dependency~~)) substance use disorder counseling up to seven years prior to the date of application.

(2) Accumulation of the experience hours is not required to be consecutive.

(3) Experience that will count toward certification must meet the requirements outlined in WAC 246-811-046 through 246-811-049.

(4) Supervised experience is the practice as referred to in RCW 18.205.090 (1)(c) and is the experience received under an approved supervisor.

(5) A practicum or internship taken while acquiring the degree or semester/quarter hours is applicable.

(6) Applicants who have held an active substance use disorder credential for the past five consecutive years or more in another state or territory, without a disciplinary record or disqualifying criminal history, are deemed to have met the supervised experience requirements of this chapter for Washington state licensure.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-046 Number of experience hours required for certification as a ((~~chemical dependency~~)) substance use disorder professional. Except as provided in WAC 246-811-070(1), an applicant must complete the following requirements based on their level of formal education.

(1) Two thousand five hundred hours of ((~~chemical dependency~~)) substance use disorder counseling, for individuals who have an associate degree; or

(2) Two thousand hours of ((~~chemical dependency~~)) substance use disorder counseling for individuals who have a baccalaureate degree in human services or a related field from an approved school; or

(3) One thousand five hundred hours of ((~~chemical dependency~~)) substance use disorder counseling for individuals who possess a master or doctoral degree in human services or a related field from an approved school; or

(4) One thousand hours of ((~~chemical dependency~~)) substance use disorder counseling for individuals who are credentialed according to WAC 246-811-076. The experience must be supervised by an approved supervisor meeting the requirements under WAC 246-811-049(8).

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-047 Competency—Experience requirements. (1) It is the intent that an individual applying for a ((~~chemical dependency~~)) substance use disorder professional certificate has become competent in the core competencies of chemical counseling through the experience requirements in this section.

(2) Individuals must have the following experiences to gain the core competencies of ((~~chemical dependency~~)) substance use disorder counseling:

(a) Two hundred hours of clinical evaluation, of which one hundred hours must be face-to-face patient contact hours;

(b) Six hundred hours of face-to-face counseling to include:

(i) Individual counseling;

(ii) Group counseling; and

(iii) Family, couples, and significant others;

(c) Fifty hours of discussion of professional and ethical responsibilities;

(d) Transdisciplinary foundations:

(i) Understanding addiction;

(ii) Treatment knowledge;

(iii) Application to practice; and

(iv) Professional readiness;

(e) Treatment planning;

(f) Referral;

(g) Service coordination;

(h) Client, family, and community education; and

(i) Documentation, to include, screening, intake, assessment, treatment plan, clinical reports, clinical progress notes, discharge summaries, and other client related data.

(3) Of the total experience hours required under WAC 246-811-046, eight hundred fifty hours of experience must be divided among subsection (2)(a) through (c) of this section. The remaining experience hours must be divided among subsection (2)(d) through (i) of this section as determined by the supervisor.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-048 Supervision requirements. (1) All of the experience required for ((~~CDP~~)) substance use disorder professional certification must be under an approved supervisor as defined in WAC 246-811-049.

(2) ((~~ACDPT~~)) A substance use disorder professional or an individual credentialed according to WAC 246-811-076 may provide ((~~chemical dependency~~)) substance use disorder assessment, counseling, and case management to patients consistent with his or her education, training, and experience as documented by the approved supervisor.

(a) The first fifty hours of any face-to-face patient contact must be under direct supervision and within sight and hearing of an approved supervisor or a ((~~chemical dependency~~)) substance use disorder professional designated by the approved supervisor.

(b) An approved supervisor or the approved supervisor's designated certified ((~~chemical dependency~~)) substance use disorder professional must provide direct supervision when a supervisee is providing clinical services to patients until the approved supervisor documents in the employee file that the supervisee has obtained the necessary education, training, and experience.

(3) Approved supervisors must attest to the department that the supervisee has demonstrated competency in the areas listed in WAC 246-811-047(2) on forms provided by the department.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-049 Approved supervisors. (1) ((~~Except as provided in subsection (8) of this section,~~)) An approved supervisor is a certified ((~~CDP~~)) substance use disorder professional or a person who meets or exceeds the requirements of a certified ((~~CDP~~)) substance use disorder professional in the state of Washington, and who would be eligible to take the examination required for certification.

(2) ((~~Except as provided in subsection (9) of this section,~~)) An approved supervisor must have at least ((~~four~~)) three thousand hours of experience in a state approved ((~~chemical dependency~~)) substance use disorder treatment agency in addition to the supervised experience hours required to become a ((~~CDP~~)) substance use disorder professional.

(3) ((~~Except as provided in subsection (9) of this section,~~)) An approved supervisor may substitute twenty-eight

clock hours of recognized supervisory training for one thousand hours of experience.

(4) An approved supervisor may substitute five hundred hours of experience with thirty-six hours of education specific to:

(a) Counselor development;

(b) Professional and ethical standards;

(c) Program development and quality assurance;

(d) Performance evaluation;

(e) Administration;

(f) Treatment knowledge; and

(g) Washington state law regarding substance use disorder treatment.

(5) An approved supervisor is not a blood or legal relative, significant other, cohabitant of the supervisee, or someone who has acted as the supervisee's primary counselor.

(((~~(5) A chemical dependency~~)) (6) A substance use disorder professional trainee (((~~CDPT~~))) (SUDPT) must receive documentation of his or her approved supervisor's qualifications before training begins.

(((~~(6)~~))) (7) An approved supervisor or other certified ((~~CDP~~)) substance use disorder professional must review and sign all ((~~CDPT~~)) substance use disorder professional trainee clinical documentation.

(((~~(7)~~))) (8) An approved supervisor is responsible for all patients assigned to the ((~~CDPT~~)) substance use disorder professional trainee they supervise.

~~(((8) An approved supervisor may only provide supervision to an applicant completing the alternative training under WAC 246-811-077 if the approved supervisor holds a current Washington state credential as a CDP and meets all other requirements under this section.~~

~~(9) A CDP credentialed according to WAC 246-811-077 may meet the requirements to be an approved supervisor under subsections (2) and (3) of this section by:~~

~~(a) Completing fifteen hundred hours of experience in a state-approved chemical dependency treatment agency. These hours are in addition to the supervised experience hours required to become a CDP;~~

~~(b) Completing twenty-eight clock hours of supervisory training provided by an industry-recognized local, state, national, or international organization or institution of higher learning as defined in WAC 246-811-200(5); and~~

~~(c) Completing thirty-six hours of education specific to:~~

~~(i) Counselor development;~~

~~(ii) Professional and ethical standards;~~

~~(iii) Program development and quality assurance;~~

~~(iv) Performance evaluation;~~

~~(v) Administration;~~

~~(vi) Treatment knowledge; and~~

~~(vii) Washington state law regarding substance use disorder treatment.~~))

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-060 Examination requirements for a ((~~chemical dependency certification~~)) substance use disorder professional certification. (1) An applicant must take and pass the National Association of Alcoholism and Drug Abuse Counselor (NAADAC) National Certification Examination for Addiction Counselors or International Certification and Reciprocity Consortium (ICRC) Certified Addiction Counselor Level II or higher examination.

(2) The department will accept the passing score set by the testing company.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-075 AIDS prevention and information education requirements. ((~~Chemical dependency~~)) Substance use disorder professional applicants and ((~~chemical dependency~~)) substance use disorder professional trainee applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-076 Eligibility for certification through alternative training. A practitioner listed in subsections (1) through (7) of this section who holds an active license in good standing may apply for certification as a ((~~chemical dependency~~)) substance use disorder professional using alternative training under WAC 246-811-077 or 246-811-078:

(1) Advanced registered nurse practitioner under chapter 18.79 RCW;

(2) Marriage and family therapists, mental health counselor, advanced social worker, or independent clinical social worker under chapter 18.225 RCW;

(3) Psychologist under chapter 18.83 RCW;

(4) Osteopathic physician under chapter 18.57 RCW;

(5) Osteopathic physician assistant under chapter 18.57A RCW;

(6) Physician under chapter 18.71 RCW; or

(7) Physician assistant under chapter 18.71A RCW.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-077 Educational requirements to apply for ((~~chemical dependency~~)) substance use disorder professional certification with alternative training. An applicant credentialed according to WAC 246-811-076 may meet the educational requirements for ((~~chemical dependency~~)) substance use disorder professional certification by demonstrating successful completion of fifteen quarter or ten semester college credits in courses from an approved school.

(1) Course work on each of the following topics specific to ((~~alcohol and drug addicted~~)) individuals with substance use disorder is required:

(a) Survey of addiction;

(b) Treatment of addiction;

(c) Pharmacology;

(d) Physiology of addiction;

(e) American Society of Addiction Management (ASAM) criteria;

(f) Individual group, including family addiction counseling; and

(g) Substance use disorder law and ethics.

(2) Course work must be completed for credit.

(3) An applicant shall verify course completion by submitting official transcripts to the department. If the course title does not clearly identify the content area, the applicant shall provide the course syllabi.

(4) An applicant who meets the educational requirements of this section is considered to meet the educational requirements of WAC 246-811-030.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-078 National certification acceptable for alternative training. (1) An applicant credentialed according to WAC 246-811-076 may submit a national certification listed in subsection (2) of this section in place of the following requirements for ((~~CDP~~)) substance use disorder professional certification:

(a) The educational requirements in WAC 246-811-077 and 246-811-030; and

(b) The supervised experience requirements in WAC 246-811-046.

(2) The department accepts the following national certifications from an applicant credentialed according to WAC 246-811-076:

(a) American Society of Addiction Medicine (ASAM) or the American Board of Addiction Medicine (ABAM);

(b) Addiction psychiatry from the American Board of Psychiatry and Neurology;

(c) Master addiction counselor (MAC) from the National Association of Alcoholism and Drug Abuse Counselors;

(d) Master addiction counselor (MAC) from the National Board of Certified Counselors;

(e) Certified addictions registered nurse or a certified addictions registered nurse - Advanced practice from the International Nurses Society on Addictions;

(f) Certified addiction specialist (CAS) from the American Academy of Health Care Providers in the Addictive Disorders;

(g) Certificate of Proficiency in the Treatment of Psychoactive Substance Abuse Disorders from the American Psychological Association;

(h) Advanced alcohol and drug counselor (AADC) from the International Certification and Reciprocity Consortium;

(i) American Osteopathic Board of Anesthesiology Certificate of Added Qualification in Addiction Medicine;

(j) American Osteopathic Board of Family Medicine Certificate of Added Qualification in Addiction Medicine;

(k) American Osteopathic Board of Internal Medicine Certificate of Added Qualification in Addiction Medicine; and

(l) American Osteopathic Board of Neurology and Psychiatry Certificate of Added Qualification in Addiction Medicine.

(3) The certifying body of a national certification submitted according to this section must send verification of the certification directly to the department.

(4) A national certification submitted according to this section must be active and in good standing.

(5) Nothing in this section exempts any applicant from the examination requirements of WAC 246-811-060.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-080 What happens if my certification expires? (1) If the ((~~chemical dependency professional (CDP) or chemical dependency certification trainee (CDPT)~~)) substance use disorder professional or substance use disorder professional trainee certification has expired for five years or less, the individual must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If a ((~~CDP~~)) substance use disorder professional certification has lapsed for more than five years, the applicant must demonstrate continued competency and must pass an examination, if an examination was not successfully passed for the initial certification. In addition, the requirements of chapter 246-12 WAC, Part 2, must be met.

(3) If a ((~~CDPT~~)) substance use disorder professional trainee certification has lapsed for more than five years, the applicant must meet the requirements of chapter 246-12 WAC, Part 2.

((~~CHEMICAL DEPENDENCY~~)) SUBSTANCE USE DISORDER PROFESSIONAL RETIRED ACTIVE CREDENTIAL

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-081 Retired active ((~~chemical dependency~~)) substance use disorder professional ((~~(CDP)~~)) (SUDP) credential. A certified ((~~CDP~~)) substance use disorder professional may obtain a retired active credential. Refer to the requirements of chapter 246-12 WAC, Part 5.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-090 A ((~~chemical dependency~~)) substance use disorder professional and a ((~~chemical dependency~~)) substance use disorder professional trainee must provide client disclosure information. A ((~~chemical dependency~~)) substance use disorder professional and a ((~~chemical dependency~~)) substance use disorder professional trainee must provide disclosure information to each client prior to the delivery of certified services (((~~(WAC 388-805-325)~~))). Disclosure information may be printed in a format of the ((~~chemical dependency~~)) substance use disorder professional's choosing or in a general format used by a state approved treatment facility.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-100 Disclosure statement requirements. (1) The following information must be printed on all disclosure statements provided to counseling clients in language that can be easily understood by the client:

(a) Name of firm, agency, business, or ((~~chemical dependency~~)) substance use disorder professional's practice.

(b) Employment address and telephone number.

(c) Name, credential, and credential number.

(d) Billing information, including:

(i) Client's cost per each counseling session;

(ii) Billing practices, including any advance payments and refunds.

(e) A list of the acts of unprofessional conduct in RCW 18.130.180 including the name, address, and contact telephone number within the department of health.

(2) The ((~~CDP or CDPT~~)) substance use disorder professional or substance use disorder professional trainee and the client must sign and date a statement indicating that the client has been given a copy of the required disclosure information, and the client has read and understands the information provided.

CONTINUING COMPETENCY REQUIREMENTS FOR ((~~CHEMICAL DEPENDENCY~~)) SUBSTANCE USE DISORDER PROFESSIONALS

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

WAC 246-811-200 Continuing competency definitions. (1) "Agency sponsored training" is training provided by an agency that is not limited to people working within that agency and is a professional development activity as defined in subsection (7) of this section.

(2) "Continuing competency enhancement plan" is a plan showing the goals an individual will develop to continue proficiency as a certified ((~~chemical dependency~~)) substance use disorder professional. This plan will be based on core competencies of ((~~chemical dependency~~)) substance use disorder counseling listed in WAC 246-811-047 (2)(a) through (i) and on forms provided by the department.

(3) "Continuing education" means a program or course (including distance learning), seminar workshop, or professional conference approved by an industry-recognized organization or institution of higher learning listed in subsection (5) of this section.

(4) "Distance learning" is industry-recognized education obtained to enhance proficiency in one or more of the professional development activities as defined in subsection (7) of this section, through sources such as internet course work, satellite downlink resources, telecourses, or correspondence courses.

(5) "Industry-recognized" is any local, state, national, or international organization or institution of higher learning including, but not limited to, the following:

(a) National Association of Alcoholism and Drug Abuse Counselors (NAADAC);

(b) National Association of Addiction Treatment Providers (NAATP);

(c) International Certification and Reciprocity Consortium (ICRC);

(d) Northwest Indian alcohol/drug specialist certification board;

(e) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; and

(f) Division of behavioral health and recovery (DBHR), ((~~department of social and health services~~)) health care authority.

(6) "In-service training" is training provided by an agency that is limited to people working within that agency and is a professional development activity as defined in subsection (7) of this section.

(7) "Professional development activities" means addiction competencies as outlined in WAC 246-811-047, including: Clinical evaluation, individual counseling, group counseling, counseling family, couples, and significant others, professional and ethical responsibilities, understanding addiction, treatment knowledge, application to practice, professional readiness, treatment planning, referral, service coordination, client, family, and community education, screening, intake, assessment, clinical reports, clinical progress notes, discharge summaries, and other client related data.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-210 Purpose of a continuing competency program. To enhance the professional competency of the ((~~chemical dependency~~)) substance use disorder professional. A successful continuing competency program focuses on all aspects of professional practice to ensure that the practitioner is competent to provide safe and quality care to patients. The purpose of the professional development activities is to broaden the experience that a ((~~CDP~~)) substance use disorder professional may undertake to maintain competency.

AMENDATORY SECTION (Amending WSR 16-14-052, filed 6/29/16, effective 7/30/16)

WAC 246-811-220 Continuing competency program requirements. A ((~~chemical dependency~~)) substance use disorder professional, regardless of method of certification, must complete:

(1) An enhancement plan as described in WAC 246-811-200(7);

(2) Twenty-eight hours of continuing education as described in WAC 246-811-240; and

(3) Twelve hours of other professional development activities as described in WAC 246-811-047 and 246-811-200(2).

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-230 Continuing competency reporting period. A ((~~chemical dependency~~)) substance use disorder professional must complete the continuing competency program requirements every two years. A ((~~CDP~~)) substance use disorder professional must develop and implement the plan upon initial certification, and every two years thereafter.

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

WAC 246-811-240 Number of continuing education hours required. (1) A certified ((~~chemical dependency~~)) substance use disorder professional must complete twenty-eight hours of continuing education (CE) every two years.

(a) At least fourteen hours must be completed in one or more of the topic areas as described in WAC 246-811-030 (2)(a) through (w).

(b) At least four hours must be in professional ethics and law.

(c) The additional ten hours shall be in areas relating to the various phases of their professional career.

(d) The training in suicide assessment listed in subsection (2) of this section shall count towards meeting the CE requirements.

(2) Beginning January 1, 2014, at least once every six years a certified ((~~chemical dependency~~)) substance use disorder professional must complete at least three hours of training in suicide assessment, including screening and referral, as specified in WAC 246-811-280.

(a) Except as provided in (b) of this subsection, the first training must be completed during the first full CE reporting period after January 1, 2014, or the first full CE period after initial certification, whichever occurs later.

(b) An individual applying for initial certification as a ((~~chemical dependency~~)) substance use disorder professional on or after January 1, 2014, may delay completion of the first required training for six years after initial certification if he or she can demonstrate completion of a three-hour training in suicide assessment, including screening and referral that:

(i) Was completed no more than six years prior to the application for initial certification; and

(ii) Meets the qualifications listed in WAC 246-811-280(1).

(3) Nothing in this section is intended to expand or limit the existing scope of practice of a certified ((~~chemical dependency~~)) substance use disorder professional or certified ((~~chemical dependency~~)) substance use disorder professional trainee credentialed under chapter 18.205 RCW.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-260 Completion of the twelve hours of other professional development activities. (1) A ((~~chemical dependency~~)) substance use disorder professional ((~~(CDP)~~)) (SUDP) may obtain hours through the following:

(a) Practicum;

(b) Peer-review including serving on a formal peer review panel or committee, or individual review of a sole provider, where the purpose of the review is to determine whether appropriate treatment was rendered;

(c) Public presentation including preparing and presenting lectures or education that contribute to the professional competence of a ((~~CDP. The CDP~~)) substance use disorder professional. The substance use disorder professional may accumulate the same number of hours obtained for continuing education purposes by attendees as required in WAC 246-12-220. The hours for presenting a specific topic lecture or education may only be used for continuing education credit once during each reporting period;

(d) Publication of writings;

(e) Other activities as determined by the ((~~CDP's~~)) substance use disorder professional's supervisor;

(f) Continuing education; these continuing education hours are in addition to the twenty-eight hours of continuing education as listed in WAC 246-811-240.

(2) All documentation must include the dates the continuing competency activity that took place, and if appropriate, the title of the course, the location of the course, and the name of the instructor.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-270 Acceptable audit documentation for continuing education, professional development activities, and the enhancement plan. (1) Acceptable documentation must be specific to the program completed and include:

(a) Transcripts, letters from course instructors, or certificate of completion;

(b) Written report by the ((~~CDP~~)) substance use disorder professional explaining how they achieved the competencies in WAC 246-811-047; or

(c) Signed agreement between parties involved.

(2) A ((~~chemical dependency~~)) substance use disorder professional must comply with the requirements of chapter 246-12 WAC, Part 7.

AMENDATORY SECTION (Amending WSR 17-13-083, filed 6/16/17, effective 7/17/17)

WAC 246-811-280 Suicide assessment training standards. (1) A ((~~CDP~~)) substance use disorder professional must complete a training in suicide assessment, including screening and referral. The training must be provided by a single provider and must be at least three hours in length, which may be provided in one or more sessions.

(a) Until July 1, 2017, the training must be approved by the American Foundation for Suicide Prevention; the Suicide Prevention Resource Center; an industry-recognized organization or an institution of higher learning listed in WAC 246-811-200; or an association which approves training programs based on observation and experiment or best available practices.

(b) Beginning July 1, 2017, the training must be on the department's model list for training programs in suicide assessment, treatment and management. The model list is 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.

(2) A certified ((~~chemical dependency~~)) substance use disorder professional who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or

may be spread among shorter training sessions at the employer's discretion.

(3) A certified ((~~chemical dependency~~)) substance use disorder professional who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a ((~~chemical dependency~~)) substance use disorder program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

NEW SECTION

WAC 246-811-300 Probationary license. (1) The department shall issue a probationary license to out-of-state applicants seeking licensure in Washington state for substance use disorder professional according to the conditions and restrictions of the reciprocity program established RCW 18.205.140 and this chapter.

(2) The out-of-state license must be from a state or territory identified on a list published by the department as eligible for reciprocity for the purposes of a probationary license for the particular behavioral health profession.

(3) An initial probationary license is valid for one year. To receive an initial probationary license, the applicant must submit to the department a completed application to include:

(a) Verification of their out-of-state license; and

(b) The fee according to WAC 246-811-990.

(4) A probationary license may be renewed a single time and is valid for one year after the date of renewal. To renew a probationary license, the applicant must submit to the department a completed application to include:

(a) Completion of suicide assessment, treatment, and management according to WAC 246-811-280(1);

(b) AIDS education according to WAC 246-811-075; and

(c) The fee according to WAC 246-811-990.

(5) Continuing education. With the exception of the requirements in subsection (4) of this section, continuing education requirements will apply once a probationary licensee transitions to a full license.

(6) Approved supervision. If the department determines a probationary licensee must complete supervised hours of experience as a condition for full licensure, the licensee must complete the stated hours under an approved supervisor according to the conditions of this chapter.

AMENDATORY SECTION (Amending WSR 18-09-077, filed 4/17/18, effective 8/1/18)

WAC 246-811-990 ((~~Chemical dependency professional and chemical dependency~~)) Substance use disorder professional and substance use disorder professional trainee—Fees and renewal cycle. (1) A ((~~chemical dependency~~)) substance use disorder professional (((~~CDP~~))) (SUDP) certificate must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) A ((~~chemical dependency~~)) substance use disorder professional trainee (((~~CDPT~~))) certificate must be renewed every year to correspond with issuance date.

(3) The following nonrefundable fees will be charged for a certified ((~~chemical dependency~~)) substance use disorder professional:

Title of Fee	Fee
Application	$260.00
Initial certification	295.00
Active renewal	300.00
Active late renewal penalty	150.00
Retired active renewal	115.00
Retired active late renewal penalty	60.00
Expired certification reissuance	115.00
Duplicate certification	10.00
Verification of certificate	25.00

(4) The following nonrefundable fees will be charged for a certified ((~~chemical dependency~~)) substance use disorder professional trainee:

Title of Fee	Fee
Application and initial certification	$110.00
Renewal	90.00
Late renewal penalty	50.00
Expired certification reissuance	50.00
Duplicate certification	10.00
Verification of certificate	25.00

(5) Probationary licensure. To receive an initial or renewal of a probationary license as described in WAC 246-811-300 (3) and (4), the following nonrefundable fees will be charged:

Title of Fee	Fee
Application and initial certification	$555.00
Active renewal	300.00
Active late renewal penalty	150.00
Expired certification reissuance	115.00
Duplicate certification	10.00
Verification of certificate	25.00

AMENDATORY SECTION (Amending WSR 15-19-149, filed 9/22/15, effective 1/1/16)

WAC 246-924-990 Psychology fees and renewal cycle. (1) Except for a probationary license as described in WAC 246-924-493, licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application	
Application	$190.00
UW online access fee (HEAL-WA)	16.00
Active license renewal	
Renewal	210.00
UW online access fee (HEAL-WA)	16.00
Late renewal penalty	105.00
Expired license reissuance	155.00
Retired active license renewal	
Renewal	105.00
Late renewal penalty	55.00
UW online access fee (HEAL-WA)	16.00
Duplicate license	((~~30.00~~)) 10.00
Verification of license	((~~30.00~~)) 25.00
Amendment of certificate of qualification	35.00

(3) For a probationary license as described under WAC 246-924-493, the following nonrefundable fees will be charged:

Title of Fee	Fee
Original application	
Application	$190.00
Active license renewal	
Renewal	210.00
Late renewal penalty	105.00
Expired license reissuance	155.00
Duplicate license	10.00
Verification of license	25.00