

WSR 20-14-088
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed June 30, 2020, 9:01 a.m., effective July 31, 2020]

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

Purpose: The department is amending and adding new sections to chapter 388-112A WAC, Residential long-term care services training. The rules include the following changes:

- WAC 388-112A-0010 contains technical corrections and adds new definition for adult family home training network, renewal period and special needs;
- WAC 388-112A-0050, 388-112A-0060, 388-112A-0070, and 388-112A-0090 contain technical corrections on identifying qualifying credentials for exemption;
- WAC 388-112A-0125 (new section) clarifies employment and training records that caregivers should provide the employer, and what the home must review and verify prior to hire;
- WAC 388-112A-0490 and 388-112A-0495 correct language to be consistent with statutory requirements in RCW 18.20.270 and 70.128.230;
- WAC 388-112A-0590 clarifies when nurse delegation may be applied to the seventy-hour long-term care worker basic training;
- WAC 388-112A-0600 renumbers provisions for clarity;
- WAC 388-112A-0610, 388-112A-0611 (new section), and 388-112A-0612 (new section) clarify continuing education requirements, who needs to complete it each year, how many hours are required, and corresponding deadlines including for caregivers hired to return after a break in service. For the adult family home section, the proposed rule also clarifies continuing education requirements for safe food handling to match the requirement under RCW 70.128.250;
- WAC 388-112A-1020 clarifies curriculum approval and online training standards;
- WAC 388-112A-1240, 388-112A-1270, and 388-112A-1285 contain technical corrections to clarify instructor qualifications; and
- WAC 388-112A-0130 (new section) clarifies when and how a long-term care worker may be eligible to have their date of hire reset.

The department filed a CR-102 Proposed rule making as WSR 18-19-108 on September 19, 2019, a supplemental CR-102 Proposed rule making as WSR 19-11-062 on May 15, 2019, and a second Supplemental CR-102 Proposed rule making as WSR 20-05-079 on February 18, 2020.

Citation of Rules Affected by this Order: New WAC 388-112A-0125, 388-112A-0130, 388-112A-0611 and 388-112A-0612; and amending WAC 388-112A-0010, 388-112A-0050, 388-112A-0060, 388-112A-0070, 388-112A-0090, 388-112A-0490, 388-112A-0495, 388-112A-0590, 388-112A-0600, 388-112A-0610, 388-112A-1020, 388-112A-1240, 388-112A-1270, and 388-112A-1285.

Statutory Authority for Adoption: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.341, 18.20.270, 18.88B.-021, 18.88B.035, 70.128.230, 71A.12.030, 70.97.080.

Adopted under notice filed as WSR 20-05-079 on February 18, 2020.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-112A-0125 (2)(a), added the word "or" after the semicolon in (i), (ii), and (iii), and the word "and" following the semicolon in (v).

WAC 388-112A-0125, (3)(a), (3)(b) subsections deleted.

WAC 388-112A-0130, created this new section with language deleted from WAC 388-112A-0125.

WAC 388-112A-0490, added "demonstrate proof of completing specialty training."

WAC 388-112A-0495, omitted language for assisted living that is contained in language related to adult family homes.

WAC 388-112A-0495(4), added the following: "...the assisted living facility must ensure that a long term care worker employed by the facility demonstrates completion of, or completes and demonstrates..."

WAC 388-112A-0495(6), added using text of WAC 388-112A-0495(3).

WAC 388-112A-0600(1), replaced "caregiver's" with the term "long term care worker's."

WAC 388-112A-0611 (1)(a)(iii), amended the punctuation and numbering sequence as follows:

(iii) A certified nursing assistant;

(iv) A person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(v) An assisted living facility or the administrator designee as provided under WAC 388-112A-0060.

WAC 388-112A-0611(e), added the word "initial" inserted before "certification."

WAC 388-112A-1020, changed the name of upcoming next home care aide manual to "fundamentals of caregiving."

WAC 388-112A-1020(1), added the word "amended."

WAC 388-112A-1020(2), removed the words "curriculum and instruction".

WAC 388-112A-1240 (4)(c)(i), changed "and religious organizations" to "or religious organizations."

A final cost-benefit analysis is available by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5310, phone 360-725-2495, fax 360-725-2646, TTY 1-800-833-6388, email suliva@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 4, Amended 14, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 14, Repealed 0.

Date Adopted: June 29, 2020.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0010 What definitions apply to this chapter? The following definitions apply to this chapter:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Adult family home training network"** means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.026 with the capacity to provide training, workforce development, and other services to adult family homes.

(3) **"Applicant"** means:

(a) An individual who is applying for an adult family home license;

(b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or

(c) An individual who is applying for an enhanced services facility license.

~~((3))~~ (4) **"Capable caregiving training"** ~~((is the name of))~~ means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements ~~((provided in))~~ under RCW 18.20.270 and 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed~~((s))~~ in both topics, may be completed for continuing education credits.

~~((4))~~ (5) **"Care team"** includes the resident and everyone involved in ~~((his or her))~~ their care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.

~~((5))~~ (6) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed.

~~((6))~~ (7) **"Competency"** ~~((defines))~~ means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

~~((7))~~ (8) **"Competency testing"** including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior

with respect to the identified learning objectives of a particular course.

~~((8))~~ (9) **"Core basic training"** is the portion of the seventy-hour long-term care worker basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

~~((9))~~ (10) **"Date of hire"** for determining timeframes related to training and certification, means the day an individual was first hired as a long-term care worker as determined by the department according to WAC 388-112A-0115.

~~((10))~~ (11) **"DDA"** means the developmental disabilities administration.

~~((11))~~ (12) **"Designee"** means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.

~~((12))~~ (13) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).

~~((13))~~ (14) **"Direct supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.

~~((14))~~ (15) **"DSHS"** or **"department"** ~~((refers to))~~ means the department of social and health services.

~~((15))~~ (16) **"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

~~((16))~~ (17) **"Entity representative"** means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

~~((17))~~ (18) **"Guardian"** means an individual as defined in chapter 11.88 RCW.

~~((18))~~ (19) **"Home"** ~~((refers to))~~ means adult family homes, enhanced services facilities, and assisted living facilities.

~~((19))~~ (20) **"Home care aide certified"** or **"home care aide"** means a person who obtained and maintains a home care aide certification through the department of health.

~~((20))~~ (21) **"Indirect supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

~~((21))~~ (22) **"Learning objectives"** ~~((are))~~ means measurable, written statements that clearly describe what a long-

term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.

~~((22))~~ (23) **"Long-term care worker"** ~~((includes))~~ means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

~~((23))~~ (24) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

~~((24))~~ (25) **"Provider"** means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

~~((25))~~ (26) **"Renewal period"** means the certification renewal period as defined in WAC 246.12.010.

(27) **"Resident"** means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

~~((26))~~ (28) **"Resident manager"** means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

~~((27))~~ (29) **"Routine interaction"** means regular contact with residents.

~~((28))~~ (30) **"Seventy-hour long-term care worker basic training"** means the seventy-hours of required training that a new long-term care worker must complete within one hundred and twenty days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

~~((29))~~ (31) **"Special needs"** means a resident has dementia consistent with WAC 388-78A-2510 for assisted living or WAC 388-76-10000 for adult family homes; mental illness consistent with WAC 388-78A-2500 for assisted living or WAC 388-76-10000 for adult family homes; or developmental disabilities consistent with WAC 388-78A-2490 for assisted living or WAC 388-76-10000 for adult family homes.

(32) **"Specialty training"** ~~((refers to))~~ means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

~~((30))~~ (33) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0050 What are the training and certification requirements for volunteers and long-term care workers in adult family homes, adult family home providers, and adult family home applicants? (1) The following chart provides a summary of the training and certification requirements for ~~((volunteers and))~~ a volunteer, a long-term care ~~((workers in adult family homes))~~ worker and an adult family home ~~((provider))~~ provider in an adult family home:

Who	Status	Facility Orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	((Certification as a home care aide (HCA))) <u>Required credential</u>
(a) Adult family home resident manager, or long-term care worker in adult family home.	(i) An ARNP, RN, LPN, NA-C, <u>HCA</u> , NA-C student or other professionals listed in WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC. Required twelve hours per WAC 388-112A-0610 for NA-Cs, <u>HCAs</u> and other professionals listed in WAC 388-112A-0090, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	((<u>Not required</u>)) <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>
	(ii) A long-term care worker employed on January 6, 2012, or was previously employed sometime between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of ((his or her)) hire. WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Required twelve hours per WAC 388-112A-0610.	Not required.
	(iii) Employed in an adult family home and does not meet the criteria in subsection (1)(a) or (b) of this section. Meets definition of long-term care worker in WAC 388-112A-0010.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112-0400.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).
(b) Adult family home provider <u>or entity representative</u> .	A person who has an adult family home license and does not meet the criteria in subsection (1)(a)(i), (ii), or (iii) of this section. This requirement applies to an entity representative of a licensed entity. WAC ((388-76-1000)) 388-76-10000.	Not required.	Completed prior to licensing.	Completed prior to licensing.	Completed prior to licensing.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aide certification</u> completed prior to licensing.

Who	Status	Facility Orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	((Certification as a home care aide (HCA))) Required credential
(c) Volunteer staff in adult family home.	An unpaid person.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Not required.	Not required.	Not required.

(2) The following chart provides a summary of the training and certification requirements for an adult family home ((applicants)) applicant prior to licensure and an adult family home entity representative and resident ((managers)) manager prior to assuming the duties of the position:

Who	Status	Orientation and safety training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	((Certification as a home care aide (HCA))) Required credential
(a) Adult family home applicant.	(i) An RN, LPN, ARNP, NA-C, <u>HCA</u> , NA-C student and other professionals as listed in WAC 388-112A-0090.	Not required.	Not required.	Required per WAC 388-112A-0400.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC. Required twelve hours per WAC 388-112A-0610 for NA-Cs, <u>HCAs</u> and other professionals listed in WAC 388-112A-0090, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. ((The CE is not required during application process:))	((Not required)) <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>
	(ii) A long-term care worker employed on January 6, 2012, or was previously employed sometime between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of ((his or her)) hire, WAC 388-112A-0090.	Not required.	Not required.	Required per WAC 388-112A-0400.	Required twelve hours per WAC 388-112A-0610. ((The CE is not required during application process:))	Not required.
	(iii) Seeking a license to operate an adult family home and is not exempt under subsection (2)(a)(i) or (ii) of this section. WAC 388-112A-0030.	Required. Five hours per WAC 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required twelve hours per WAC 388-112A-0610. ((The CE is not required during application process:))	<u>Home care aide certification</u> required per WAC 388-112A-0105.
(b) Adult family home <u>entity representative and resident manager</u> .	Employed or designated by the provider to manage an adult family home and is not exempt under subsection (2)(a)(i) or (ii) of this section. WAC 388-112A-0030.	Required. Five hours per WAC 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC 388-112A-0610.	<u>Home care aid certification</u> required per WAC 388-112A-0105.

(3) The remainder of this chapter describes the training and certification requirements in more detail.

(4) The following training requirements are not listed in the charts in subsections (1) and (2) of this section but are required under this chapter:

- (a) First aid and CPR under WAC 388-112A-0720;
- (b) Nurse delegation under WAC 388-112A-0500 and 388-112A-0560; and
- (c) Adult family home (AFH) administrator training under WAC 388-112A-0810.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0060 What are the training and certification requirements for volunteers and long-term care workers in assisted living facilities and assisted living facility administrators? (1) The following chart provides a summary of the training and certification requirements for ~~((volunteers))~~ a volunteer, an administrator or designee, and a long-term care ((work-ers)) worker in an assisted living ((facilities and assisted living administrators or administrator designees)) facility:

Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	((Certification as a home care aide (HCA))) Required credential
(a) Long-term care worker in assisted living facility.	(i) An ARNP, RN, LPN, NA-C, HCA, NA-C student or other professionals listed in WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC. Required. Twelve hours per WAC ((388-112A-0610)) 388-112A-0611 for NA-Cs, HCAs, and other professionals listed in WAC 388-112A-0090, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	((Not required)) <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>
	(ii) A long-term care worker employed on January 6, 2012, or was previously employed sometime between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of ((his or her)) hire. WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC ((388-112A-0610)) 388-112A-0611.	Not required.
	(iii) Employed in an assisted living facility and does not meet the criteria in subsection (1)(a) or (b) of this section. Meets the definition of long-term care worker in WAC 388-112A-0010.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC ((388-112A-0610)) 388-112A-0611.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).

Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	((Certification as a home care aide (HCA))) Required credential
(b) Assisted living facility administrator or administrator designee.	A qualified assisted living facility administrator or administrator designee who does not meet the criteria in subsection (1)(a)(i), (ii), or (iii) of this section.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400.	Required. Twelve hours per WAC ((388-112A-0610) <u>388-112A-0611</u>).	<u>Home care aide certification</u> required per WAC 388-112A-0105.
(c) Volunteer staff in assisted living facility.	An unpaid person.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Not required.	Not required.	Not required.

(2) The remainder of this chapter describes the training and certification requirements in more detail.

(3) The following training requirements are not listed in the charts in subsection (1) of this section but are required under this chapter:

- (a) First aid and CPR under WAC 388-112A-0720;
- (b) Nurse delegation under WAC 388-112A-0500 and 388-112A-0560;
- (c) Assisted living facility (ALF) administrator training under WAC 388-78A-2521.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0070 What are the training and certification requirements for applicants, administrators or their designees, volunteers, and long-term care workers in enhanced services facilities? (1) The following chart provides a summary of the training and certification requirements for ((~~applicants~~)) an applicant, ((~~administrators~~)) an administrator or ((~~their designees~~)) designee, ((~~volunteers~~)) a volunteer, and a long-term care ((~~workers~~)) worker in an enhanced services ((~~facilities~~)) facility:

Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Quarterly in-service education	((Certification as a home care aide (HCA))) Required credential
(a) Enhanced services facility (ESF) applicant, administrator or their designee, or long-term care worker in ESF.	(i) An ARNP, RN, LPN, NA-C, <u>HCA</u> , NA-C student or other professionals listed in WAC 388-112A-0090.	Required by WAC 388-112A-0200(1).	Not required.	Not required.	Per WAC 388-107-0650 for applicants required prior to facility licensing and for administrators and long-term care workers prior to providing client services.	Not required of ARNPs, RNs, or LPNs in chapter 388-112A WAC. Required twelve hours per WAC ((388-112A-0610) <u>388-112A-0612</u> for NA-Cs, <u>HCA</u> s, and other professionals listed in WAC 388-112A-0090, such as individuals with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	Required of employees per WAC 388-107-0680.	((Not required)) <u>Must maintain in good standing the certification or credential or other professional role listed in WAC 388-112A-0090.</u>

Who	Status	Facility orientation	Safety/ orientation training	Seventy-hour long-term care worker basic training	Specialty training	Continuing education (CE)	Quarterly in-service education	((Certification as a home care aide (HCA))) <u>Required credential</u>
						Per WAC 388-107-0670, ten hours must be in subject appropriate for residents served in the facility.		
	(ii) Enhanced services facility (ESF) applicant that does not meet the criteria in subsection (1)(a)(i) of this section.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0340.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Per WAC 388-107-0650 for applicants required prior to facility licensing.	Required. Twelve hours per WAC ((388-112A-0610)) 388-112A-0612. Per WAC 388-107-0660 and 388-107-0670, ten hours must be in subjects appropriate for residents served in the facility.	Required of employees per WAC 388-107-0680.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire as provided in WAC 388-107-0630(6)(b).
	(iii) A long-term care worker who was employed on January 6, 2012, or was previously employed sometime between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on (his or her hire) the date of hire. WAC 388-112A-0090.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Required per WAC 388-112A-0400 and prior to providing client services per WAC 388-107-0650.	Required. Twelve hours per WAC ((388-112A-0610)) 388-112A-0612. Per WAC 388-107-0660 and 388-107-0670, ten hours must be in subjects appropriate for residents served in the facility.	Required of employees per WAC 388-107-0680.	Not required.
	(iv) Employed in an enhanced services facility and does not meet the criteria in subsection (1)(a)(i), (ii) or (iii) of this section. Meets definition of long-term care worker in WAC 388-112A-0010.	Not required.	Required. Five hours per WAC 388-112A-0200(2) and 388-112A-0220.	Required. Seventy-hours per WAC 388-112A-0300 and 388-112A-0340.	Required per WAC 388-112A-0400 and prior to providing client services per WAC 388-107-0650.	Required. Twelve hours per WAC ((388-112A-0610)) 388-112A-0612. Per WAC 388-107-0660 and 388-107-0670, ten hours must be in subjects appropriate for residents served in the facility.	Required of employees per WAC 388-107-0680.	<u>Home care aide certification</u> required per WAC 388-112A-0105 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).
(b) Volunteer staff in adult family home or assisted living facility.	An unpaid person.	Required per WAC 388-112A-0200(1).	Not required.	Not required.	Not required.	Not required.	Not required.	Not required.

(2) The remainder of this chapter and chapter 388-107 WAC describes the training and certification requirements in more detail.

(3) The following training requirements are not listed in the chart in subsection (1) of this section but are required under this chapter:

- (a) First aid and CPR under WAC 388-112A-0720; and
- (b) Enhanced services facility (ESF) administrator training under WAC 388-112A-0800.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0090 Which long-term care workers are exempt from the seventy-hour long-term care worker basic training requirement? The following long-term care workers are exempt from the seventy-hour long-term care worker basic training requirement:

(1) An ~~((applicant for an adult family home license on or before January 6, 2012 who met the basic training requirements in effect at the time of application;~~

~~((2) A person))~~ individual employed as a long-term care worker on January 6, 2012, who ~~((completed))~~ complied with the basic training requirements in effect on the date of ~~((his or her))~~ hire;

~~((3) A person employed as a long-term care worker on January 6, 2012 who completed within one hundred twenty days of hire the basic training requirements in effect on the date of his or her hire;~~

~~((4) A person))~~ (2) An individual previously employed as a long-term care worker who ~~((completed))~~ complied with the basic training requirements in effect on the date of ~~((his or her))~~ hire and was employed as a long-term care worker at some ~~((point))~~ time between January 1, 2011 and January 6, 2012;

~~((5) Washington state department of health))~~ (3) A registered ~~((nurses))~~ nurse, licensed practical ~~((nurses))~~ nurse, and advanced registered nurse ~~((practitioners))~~ practitioner licensed under chapter 18.79 RCW;

~~((6) Washington state department of health))~~ (4) A nursing ~~((assistants))~~ assistant certified under chapter 18.88A RCW and ~~((persons))~~ a person in an approved training program for certified nursing assistants under chapter 18.88A RCW provided ~~((that))~~ they complete the training program within one hundred twenty days of the date of hire and the department of health has issued ~~((them their))~~ the nursing assistant certified credential within two hundred days of the date of hire;

~~((7))~~ (5) A home health aide who was employed by a medicare certified home health agency within the year before the ~~((home health aide))~~ individual was hired as a long-term care worker and who has met the requirements of 42 C.F.R. Sec. 484.36; ~~((and))~~

~~((8))~~ (6) An individual with special education training with an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

NEW SECTION

WAC 388-112A-0125 Prior to hiring a long-term care worker, what training and certification requirements must be reviewed? Before hiring a long-term care worker, the home must review and verify the following training and certification information. The home must verify the highest level of training or certification achieved by the individual.

(1) When the individual is a home care aide certified under chapter 18.88B RCW, the home must:

(a) Verify that the individual's home care aide certification is current and in good standing;

(b) Confirm the individual is in compliance with continuing education as required under WAC 388-112A-0610, 388-112A-0611, or 388-112A-0612; and

(c) Confirm that the specialty training is completed as required under WAC 388-112A-0495.

(2) When the individual is exempt from the seventy-hour long-term care worker training and certification requirements under WAC 388-112A-0090, the home must obtain, review, and verify the following:

(a) Documents demonstrating that the individual is exempt from training and certification which may include:

(i) Washington state provider credential number, showing that the individual's license or certification is current and in good standing; or

(ii) A letter from a former or current employer documenting work history during the exemption period described in WAC 388-112A-0090; or

(iii) Employment history records from the Washington state employment security department documenting work history information during the exemption period; or

(iv) Federal tax statements documenting work history information during the exemption period; or

(v) Documents showing completion of the basic training as required under WAC 388-112A-0090; and

(b) Compliance with continuing education requirements as required under WAC 388-112A-0610, 388-112A-0611, or 388-112A-0612; and

(c) Compliance with specialty training if required under WAC 388-112A-0495.

(3) The home must comply with continuing education documentation requirements under WAC 388-112A-0620. When hiring an individual who worked as a long-term care worker during the previous calendar year, an employer must verify documentation of continuing education compliance during the calendar year in which the individual is hired.

NEW SECTION

WAC 388-112A-0130 When and how may a long-term care worker be eligible to have their date of hire reset? An individual who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, may be eligible to have the date of hire reset in accordance with this section and WAC 388-112A-0110.

(1) An individual who is eligible to reset the date of hire under WAC 388-112A-0110 must submit a new application and fee to the department of health in accordance with WAC

388-112A-0110, and adhere to the training or certification requirements under this chapter.

(2) An individual who is not eligible to reset the date of hire as provided in WAC 388-112A-0110 must not be paid to provide personal care assistance until they complete required training and become certified as a long-term care worker.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0490 (~~When must facility~~) What are the specialty training requirements for applicants, resident managers, administrators, and other types of entity representatives (complete specialty training) in adult family homes, assisted living facilities, and enhanced services facilities? Adult family homes.

(1) ~~An adult family home (applicants) applicant, (providers) provider, entity (representatives) representative, and resident (managers) manager must complete specialty training (or developmental disability caregiver training) and demonstrate competency before (the home is licensed or before a new entity representative or resident manager assumes the duties of the position in order to admit) admitting or (serve) serving residents who have special needs related to mental illness, dementia, or a developmental disability.~~

(2) If a resident develops special needs while living in a home without a specialty designation, the provider, entity representative, and resident manager have one hundred twenty days to complete specialty training or developmental disability caregiver training and demonstrate competency, or demonstrate proof of completing specialty training.

Assisted living facilities.

(3) If an assisted living facility serves one or more residents with special needs, the assisted living facility administrator or (~~his or her~~) designee must complete specialty training (~~or developmental disability caregiver training~~) and demonstrate competency within one hundred twenty days of date of hire.

(4) If a resident develops special needs while living in an assisted living facility, the assisted living facility administrator or (~~his or her~~) designee has one hundred twenty days to complete specialty training and demonstrate competency, or demonstrate proof of specialty training.

Enhanced services facilities.

(5) ~~An enhanced services (facilities applicants) facility applicant, (providers) provider, entity (representatives) representative, and resident (managers) manager must complete dementia and mental health specialty training and demonstrate competency before the home is licensed or before a new entity representative or resident manager assumes the duties of the position in order to admit or serve residents who have special needs related to mental illness, dementia, or a developmental disability.~~

(6) If a resident develops special needs while living in (~~a home~~) an enhanced services facility without a specialty designation, the provider, entity representative, and resident manager have one hundred twenty days to complete developmental disability specialty training and demonstrate competency, or demonstrate proof of specialty training.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0495 (~~What are the facility long-term care workers'') What are the specialty training (deadlines and what is the requirement for supervision until the training is completed) and supervision requirements for long-term care workers in adult family homes, assisted living facilities, and enhanced services facilities? Adult family homes.~~

(1) If an adult family home serves one or more residents with special needs, ~~the adult family home must ensure that a long-term care (workers must complete) worker employed by the home completes and (demonstrate) demonstrates~~ competency in specialty training as described in WAC 388-112A-0400 within one hundred twenty days of hire.

(2) (~~During the period to complete the specialty training the~~) Until a long-term care worker completes the requirements of subsection (1) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision (until that long-term care worker demonstrates competency in specialty training), unless indirect supervision is allowed under subsection (3) of this section.

(3) The long-term care worker may (~~have~~) provide personal care with indirect supervision if (the long-term care worker is) one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 RCW; or

(e) The long-term care worker (~~(meets the exemption criteria described in)) is exempt from the seventy-hour basic training under WAC 388-112A-0090.~~

Assisted living facilities.

(4) If an assisted living facility serves one or more residents with special needs, ~~the assisted living facility must ensure that a long-term care (workers must complete) worker employed by the facility demonstrates completion of or completes and (demonstrate) demonstrates~~ competency in specialty training within one hundred twenty days of hire. However, if specialty training is not integrated with basic training, the specialty training must be completed within ninety days of completion of basic training.

(5) (~~During the period to complete the specialty training, the~~) Until a long-term care worker completes the specialty training and demonstrates competency as required under subsection (4) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without (indirect) direct supervision (until that long-term care worker demonstrates competency in specialty training), unless indirect supervision is allowed under subsection (6) of this section.

(6) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 RCW; or

(e) The long-term care worker is exempt from the seventy-hour basic training under WAC 388-112A-0090.

Enhanced services facilities.

~~((6)) (7) All long-term care workers in enhanced services facilities ((are facilities that serves one or more residents with special needs, and long-term care workers))~~ must complete and demonstrate competency in mental health and dementia specialty training prior to providing client services.

~~((7) Long-term care workers are not required to complete specialty training if the adult family home or assisted living facility has no residents with a special need where the specialty training is required.)~~

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0590 May nurse delegation core and specialized diabetes training occur in the same year as the seventy-hour long-term care worker basic training? (1) Nurse delegation core and specialized diabetes training may ~~((oeeur))~~ be required in the same year as basic training if ~~((required to be able to perform))~~ delegated tasks need to be performed. ~~((The training hours))~~ If completed within one hundred twenty days of hire, the nurse delegation core and specialized diabetes training hours may ((apply to)) be counted toward the population specific component of the seventy-hour long-term care worker basic training.

(2) A long-term care ((workers)) worker in an enhanced services ((facilities are)) facility is not permitted to perform nurse delegated tasks.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0600 What is continuing education and what topics may be covered in continuing education?

(1) Continuing education is annual training designed to promote professional development and increase a ~~((caregiver's))~~ long-term care worker's knowledge, expertise, and skills. DSHS must approve continuing education curricula and instructors.

(2) The same continuing education course must not be repeated for credit unless it is a new or more advanced training on the same topic. However, a long-term care ((workers)) worker may repeat up to five credit hours per year on the following topics:

- (a) Bloodborne pathogens and infection control;
- (b) CPR training;
- (c) First-aid training;
- (d) Food handling training;
- (e) Health insurance portability and accountability act (HIPAA);
- (f) Medication assistance;

(g) Disaster preparedness;

(h) Aging sensitivity;

(i) Resident rights as it relates to caregiving issues in chapter 70.129 RCW;

(j) Resident safety;

(k) Abuse and neglect identification and mandatory reporting; and

(l) Topics where the assisted living facility, enhanced services facility, or adult family home can demonstrate a need for retraining.

~~((2)) (3) Continuing education must be on a topic relevant to the care setting, care needs of residents, or long-term care worker career development. In addition to the topics listed in subsection (1) of this section, topics or course may include:~~

(a) Personal care services;

(b) Mental illness;

(c) Dementia;

(d) Developmental disabilities;

(e) Depression;

(f) Communication skills;

(g) Positive resident behavior support;

(h) Developing or improving resident centered activities;

(i) Dealing with wandering or aggressive resident behaviors;

(j) Deescalating challenging behaviors; and

(k) Medical conditions.

~~((3)) (4) Nurse delegation core and nurse delegation specialized diabetes training hours when not applied to basic training hours may count towards continuing education.~~

~~((4)) (5) Specialty training, except if completed through a challenge test, may be used to meet continuing education requirements.~~

~~((5)) (6) When hours from a class approved as specialty training are counted toward basic training requirements, the hours must not be counted toward continuing education.~~

~~((6)) (7) Residential care administrator training under WAC 388-112A-0800 may be used to meet the continuing education requirements described in WAC 388-112A-0610 during the year it was completed.~~

~~((7)) (8) Successful completion of a department of health approved home care aide certified alternative bridge program may be applied up to twelve hours of continuing education in the year it was completed.~~

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0610 Who in an adult family home is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed? (1) ~~((Adult family homes))~~ The continuing education training requirements that apply to certain individuals working in adult family homes are described below.

(a) The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

~~((i) A certified home care ((aides must complete twelve hours of continuing education by their birthday each year~~

after obtaining certification as required by the Washington department of health as described in RCW 74.39A.341.

(b) If exempt from certification as described in)) aide;

(ii) A long-term care worker who is exempt from the seventy-hour long-term care worker basic training under ((RCW 18.88B.041, long-term care workers must complete twelve hours of continuing education by their birthday each year.

(i) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, the continuing education does not apply to registered nurses and licensed practical nurses licensed under chapter 18.79 RCW.

(ii) Continuing education requirements under subsection (1)(b) of this section do not apply to)) WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing ((assistants)) assistant, and ((persons)) a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) An adult family home provider, entity representative, and resident manager as provided under WAC 388-112A-0050.

~~((e) For)) (b) A long-term care ((workers that are)) worker who is a certified ((as a)) home care ((aide or nursing assistant, if the first renewal period is less than a full year from the initial date of certification, no continuing education will be due for the first renewal period)) aide, must comply with continuing education requirements under chapter 246-980 WAC.~~

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete twelve hours of continuing education within forty-five calendar days of being hired by the adult family home or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete twelve hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the forty-five calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the hours of credit earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) Continuing education must include one half hour per year on safe food handling in adult family homes as described in RCW 70.128.250 ((when the)) for a long-term worker who does not maintain a food handler's permit, and completed basic or modified basic caregiver training before June 30, 2005. A long-term care worker who completed basic or mod-

ified basic training after June 30, 2005 is not required to have a food handler's permit.

(2) ~~((Assisted living facilities.~~

(a) ~~Certified home care aides must complete twelve hours of continuing education by their birthday each year after obtaining certification as required by the Washington department of health as described in RCW 74.39A.341.~~

(b) ~~Long-term care workers exempt from certification under RCW 18.88B.041 must complete twelve hours of continuing education by their birthday each year.~~

(e) ~~For long-term care workers that are certified as a home care aide or nursing assistant, if the first renewal period is less than a full year from the initial date of certification, no continuing education will be due for the first renewal period.~~

(i) ~~Unless voluntarily certified as a home care aide under chapter 18.88B RCW, the continuing education does not apply to registered nurses and licensed practical nurses licensed under chapter 18.79 RCW.~~

(ii) ~~Continuing education requirements under subsection (2)(b) of this section apply to certified nursing assistants and persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010.~~

(iii) ~~Assisted living facility administrators or the administrator designees must complete twelve hours of continuing education by their birthday each year.~~

(3) ~~Enhanced services facilities.~~

(a) ~~Certified home care aides must complete twelve hours of continuing education by their birthday each year after obtaining certification as required by the Washington department of health as described in RCW 74.39A.341.~~

(b) ~~Long-term care workers exempt from certification under RCW 18.88B.041 must complete twelve hours of continuing education by their birthday each year for each year they worked.~~

(e) ~~For long-term care workers that are certified as a home care aide or nursing assistant, if the first renewal period is less than a full year from the initial date of certification, no continuing education will be due for the first renewal period.~~

(i) ~~Unless voluntarily certified as a home care aide under chapter 18.88B RCW, the continuing education does not apply to registered nurses and licensed practical nurses licensed under chapter 18.79 RCW.~~

(ii) ~~Continuing education requirements under subsection (3)(b) of this section do apply to certified nursing assistants and persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010.~~

(iii) ~~Enhanced services facility administrators or the administrator designees must complete twelve hours of continuing education by their birthday each year.~~

(d) ~~Enhanced services facility certified home care aide staff and nursing assistant certified staff must have ten of their twelve hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.~~

(e) ~~In addition to the annual continuing education requirements for individual staff, the enhanced services facil-~~

ity must provide three hours of staff education per quarter relevant to the needs of the population served.

~~(4) A long-term care worker who does not complete continuing education as required in subsections (1) through (3) of this section or RCW 74.39A.341 must not be paid to provide care until they complete the required continuing education.~~

~~(5) One hour of completed classroom instruction or other form of training (such as an online course) equals one hour of continuing education. For online courses, the training entity must establish a way for the long-term care worker to ask the instructor questions.)~~ A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

NEW SECTION

WAC 388-112A-0611 Who in an assisted living facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed? (1) The continuing education training requirements that apply to certain individuals working in assisted living facilities are described below.

(a) The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

- (i) A certified home care aide;
- (ii) A long-term care worker who is exempt from the seventy-hour long-term care worker basic training under WAC 388-112A-0090(1) and (2);
- (iii) A certified nursing assistant;
- (iv) A person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and
- (v) An assisted living facility or the administrator designee as provided under WAC 388-112A-0060.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete and provide documentation of twelve hours of continuing education within forty-five calendar days of being hired by the assisted living facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete twelve hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the forty-five calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours

earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of initial certification, no continuing education will be due for the first renewal period.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

NEW SECTION

WAC 388-112A-0612 Who in an enhanced services facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed? (1) The continuing education training requirements that apply to certain individuals working in enhanced services facilities are described below.

(a) The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

- (i) A certified home care aide;
- (ii) A long-term care worker who is exempt from the seventy-hour long-term care worker basic training under WAC 388-112A-0090(1) and (2);
- (iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and
- (iv) An enhanced services facility applicant, facility representative, administrator, or the administrator designee as provided under WAC 388-112A-0070.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under WAC 18.88B.041, a long-term care workers must complete twelve hours of continuing education within forty-five calendar days of being hired by the enhanced services facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete twelve hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the forty-five calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) Enhanced services facility certified home care aide staff and nursing assistant certified staff must have ten of the twelve hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.

(g) In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of staff education per quarter on topics relevant to the needs of the population served.

(2) A long-term care worker who does not complete continuing education as required in this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1020 What must be submitted to DSHS for curriculum approval? (1) If a training entity modifies a department developed curriculum in any manner, the training entity must submit the amended curriculum to the department for approval.

(2) Training must not be offered before receiving department approval.

(3) Online classes when applicable must adhere to the DSHS online class standards in effect at the time of approval. These online standards are posted on the DSHS website.

(4) For orientation and safety training:

(a) Submit an outline of what will be covered in each training offered, ~~((like))~~ including a table of contents or a class syllabus, that shows where the required introductory topics listed in WAC 388-112A-0210 for orientation and WAC 388-112A-0230 for safety training are covered in the training.

(b) Department required orientation and safety training application forms must be submitted to the department at least forty-five days before the training is expected to be offered.

(c) Training cannot be offered before the department approves the curriculum and instructor.

~~((3))~~ **(5) For continuing education:**

(a) Continuing education curriculum delivery models must only include instructor led, online instructor led (such as a webinar), or online interactive self-paced learning with access to an instructor.

(b) ~~((Online classes must adhere to the DSHS online class standards in effect at the time of approval. These online standards are posted on the department's web site.~~

~~((e))~~ For continuing education classes, submit on a department developed form a summary of the class that includes the topic, a brief description of what the training will cover, a course outline, the number of training hours, and a description of how the training is relevant to the care setting, care needs of residents, or long-term care worker career development.

~~((c))~~ (c) For online training courses, submit the information requested in ~~((e))~~ (b) of this subsection and a description of how the instructor or training will assess that the students have integrated the information being taught. The training entity must establish a way for the long-term care worker to ask the instructor questions.

(d) One hour of completed classroom instruction or other form of training (such as online course) equals one hour of continuing education.

~~((e))~~ (e) Department required continuing education training application forms must be submitted at least forty-five days in advance of the training. The department must approve the curriculum and instructor before the training may be offered.

~~((4))~~ **(6) For core basic training:**

(a) If the instructor or training entity uses the DSHS developed ~~((revised))~~ fundamentals of caregiving learner's guide with enhancements, they must submit the DSHS form with all required information.

(b) If the instructor or training entity does not use a DSHS developed ~~((revised))~~ fundamentals of caregiving learner's guide with enhancements to teach the seventy-hour long-term care worker basic training, they must submit to DSHS the following for approval:

(i) A completed DSHS curriculum checklist indicating where all of the competencies and learning objectives described in this chapter are located in the long-term care worker materials from the proposed curriculum for that course;

(ii) Any materials long-term care workers will receive, such as a textbook, long-term care worker manual, learning activities, audio-visual materials, handouts, and books;

(iii) The table of contents or curriculum outline, including the allotted time for each section;

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-112A-0320 (12)(a) and (b) and infection control skills such as hand washing and putting on and taking off gloves; and

(v) The teacher's guide or manual that includes for each section of the curriculum:

(A) The goals and objectives;

(B) Method of teaching, including learning activities that incorporate adult learning principles;

(C) Methods used to determine whether each long-term care worker understands the materials covered and can demonstrate all skills;

(D) A list of the sources or references that were used to develop the curriculum and if the primary source or reference is not a published citation, the instructor must provide detail on how the content is evidence based;

(E) Description of how the curriculum was designed to accommodate long-term care workers with either limited English proficiency, learning disabilities, or both; and

(F) Description and proof of how input was obtained from consumer and long-term care worker representatives in the development of the curriculum.

(c) Curriculum submitted for the core competency section of basic training, called core basic training, as described in WAC 388-112A-0320, must include how much time students will have to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

(d) Entities that submit curriculum for the population specific component of the seventy-hour long-term care worker basic training must submit their own list of competen-

cies and learning objectives used to develop the population specific basic training curriculum.

~~((5))~~ (7) **For specialty training:**

(a) For specialty training that is not ~~((the))~~ DSHS developed curriculum or another department approved specialty training curriculum, submit the required specialty training application form and any additional learning objectives added to the competency and learning objectives checklist, the enhancements that have been added, and additional student materials or handouts.

(b) To be approved, an alternative curriculum must at a minimum include:

(i) All the DSHS published learning outcomes and competencies for the course;

(ii) ~~((Printed))~~ Student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio-visual materials, handouts, and books;

(iii) The recommended sequence and delivery of the material; and

(iv) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:

(A) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;

(B) Practice of skills to increase competency;

(C) Feedback to the student on knowledge and skills;

(D) An emphasis on facilitation by the teacher; and

(E) An integration of knowledge and skills from previous lessons to build skills;

(v) A list of the sources or references, if any, used to develop the curriculum;

(vi) Methods of teaching and student evaluation for students with either limited-English proficiency, learning disabilities, or both; and

(vii) A plan for updating material ~~((and))~~.

~~((6))~~ (8) Substantial changes to a previous approved curriculum must be approved before they are used.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1240 What are the minimum qualifications for an instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and specialized diabetes trainings? An instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and nurse delegation specialized diabetes trainings must meet the following minimum qualifications:

(1) Twenty-one years of age;

(2) Has not had a professional health care, adult family home, assisted living facility, or social services license or certification revoked in Washington state; ~~((and))~~

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting;

(b) Has an associate degree or higher degree in the field of health or human services and six months professional or caregiving experience within the last five years in a community based setting or an adult family home, enhanced services facility, assisted living facility, supported living through the developmental disabilities administration (DDA), or home care setting; or

(c) Has a high school diploma or equivalent and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living, supported living through DDA, or home care setting;

(4) Meets one or more of the following teaching experience requirements:

(a) One hundred hours of experience teaching adults in an appropriate setting on topics directly related to basic training or basic training topics that may be offered as continuing education;

(b) Forty hours of teaching basic training while being mentored by an instructor who is approved to teach basic training; or

(c) Instructors with adult family homes, enhanced services facilities, and assisted living facilities ~~((that))~~ who do not ~~((meet the criteria))~~ have the experience described in (a) or (b) of this subsection, must have and attest to the following experience and plans in their application:

(i) Forty hours of informal teaching experiences unrelated to basic training topics such as guest lecturing, team teaching, and volunteer teaching with parks, local high schools, 4-H groups, English as a second language (ESL) groups, senior organizations, ~~((and))~~ or religious organizations;

(ii) Three adult learning techniques that the instructor will implement in ~~((his or her))~~ the long-term care worker training; and

(iii) Three ways the instructor plans on improving ~~((his or her))~~ instructional ~~((facilitation))~~ skills and the method the instructor will use to measure improvement such as submitting the continuous improvement plan feedback from the DSHS adult education class;

(5) Except for instructors for nurse delegation core and diabetes training, completion of a class on adult education that meets the requirements of WAC 388-112A-1297;

(6) The instructor must be experienced in caregiving practices and ~~((capable of demonstrating))~~ demonstrate competency ~~((with respect to))~~ for teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing;

(8) Community instructors for nurse delegation core and diabetes training must have a current Washington registered nurse (RN) license in good standing without practice restrictions; and

(9) Facility instructors must be approved and contracted by the department as a community instructor in order to be approved to teach the following classes:

(a) Nurse delegation core;

(b) Nurse delegation diabetes training; or

(c) DSHS adult education training curriculum.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1270 What are the minimum qualifications for community instructors for mental health specialty training? (1) The minimum qualifications for community instructors for mental health specialty training, in addition to the general qualifications in WAC 388-112A-1240 (1) and (2), include:

(a) The instructor must be experienced in mental health caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to mental health, including, but not limited to, psychology (one year of education equals twenty-four credits in a semester system, thirty-six credits in a quarter system, or at least eighty hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the mental health specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have a mental illness; and

(d) Teaching experience:

(i) Two hundred hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor;

(e) Instructors who will administer tests must have experience or training in assessment and competency testing; and

(2) Five years of full-time equivalent direct work experience with people who have a mental illness may substitute for either:

(a) The credential described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or eighty hours in seminars, conferences, continuing education described in subsection ~~((1)(b)(ii))~~ (1)(b)(i) of this section.

(3) If your status is an approved instructor for mental health specialty training, you may instruct a new mental health specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-1285 What are the minimum qualifications for community instructors for dementia specialty training? (1) The minimum qualifications for instructors for dementia specialty, in addition to the general qualifications defined in WAC 388-112A-1240 (1) and (2) include:

(a) The instructor must be experienced in dementia caregiving practices and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education or college classes, in dementia or subjects directly related to dementia, such as, but not limited to, psychology (one year of education equals twenty-four credits in a semester system, thirty-six credits in a quarter system, or at least eighty hours of seminars, conferences, or continuing education); and

(ii) Successful completion of the dementia specialty training, prior to beginning to train others;

(c) Work experience: Two years full-time equivalent direct work experience with people who have dementia;

(d) Teaching experience:

(i) Two hundred hours experience teaching long-term care related subjects;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor; and

(e) Instructors who will administer tests must have experience or training in assessment and competency testing.

(2) Five years of full-time equivalent direct work experience with people who have dementia may substitute for either:

(a) The credential (bachelor's degree, registered nurse, or mental health specialist) described in subsection (1)(b)(i) of this section; or

(b) The one year of education in college classes or eighty hours in seminars, conferences, continuing education described in subsection ~~((1)(b)(ii))~~ (1)(b)(i) of this section.

(3) If your status is an approved instructor for dementia specialty training, you may instruct a new dementia specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

WSR 20-15-006

PERMANENT RULES

DEPARTMENT OF

VETERANS AFFAIRS

[Filed July 2, 2020, 9:48 a.m., effective August 2, 2020]

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

Purpose: Updates to public disclosure process in the Washington department of veterans affairs (WDVA). 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.

Citation of Rules Affected by this Order: New WAC 484-50-020 and 484-50-030; and amending WAC 484-50-001, 484-50-005, and 484-50-010.

Statutory Authority for Adoption: RCW 42.56.040, 42.56.070, 42.56.090, 42.56.120.

Adopted under notice filed as WSR 20-11-011 on May 11, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 3, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 2, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 2, 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, pre-

cinct, 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) Identocard 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 20-15-007
PERMANENT RULES
DEPARTMENT OF
VETERANS AFFAIRS

[Filed July 2, 2020, 9:49 a.m., effective August 2, 2020]

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

Purpose: General updates to language for clarity and updates to maximum estate size of beneficiaries.

Citation of Rules Affected by this Order: Amending WAC 484-40-005, 484-40-015, and 484-40-020.

Statutory Authority for Adoption: RCW 43.60A.70 [43.60A.070]. Other references are RCW 43.60A.70 [43.60A.070], 73.04.130.

Adopted under notice filed as WSR 20-11-012 on May 11, 2020.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

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

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

Date Adopted: July 2, 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 20-15-008
PERMANENT RULES
DEPARTMENT OF
VETERANS AFFAIRS

[Filed July 2, 2020, 9:50 a.m., effective August 2, 2020]

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

Purpose: General updates to language from superintendent to administrator and removing provision allowing a superintendent-in-training to be hired.

Citation of Rules Affected by this Order: Amending WAC 484-10-010.

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

Adopted under notice filed as WSR 20-11-010 on May 11, 2020.

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

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

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

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

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

Date Adopted: July 2, 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 20-15-013

PERMANENT RULES

BENTON CLEAN AIR AGENCY

[Filed July 5, 2020, 2:22 p.m., effective August 5, 2020]

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

Purpose: The changes to Article 8 and Article 10 are administrative in nature, also removing a fee table from the regulation. The changes to Article 3 are [to] clarify the agency's regulatory authority regarding marijuana odor for facilities licensed through the Washington state liquor and cannabis board (LCB).

Citation of Rules Affected by this Order: Amending Benton Clean Air Agency Regulation 1.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.380(2).

Adopted under notice filed as WSR 20-03-04 [20-03-004] on January 3, 2020.

Changes Other than Editing from Proposed to Adopted Version: None other than to include the effective date of August 10, 2020.

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

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

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

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

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

Date Adopted: June 25, 2020.

Robin Priddy
Director

AMENDATORY SECTION

Section 3.04 Standards for Marijuana Production and Marijuana Processing

A. Purpose.

The production and processing of marijuana emits air contaminants. Section 3.04 establishes standards to minimize air contaminants from stationary sources that produce or process marijuana.

B. Authority.

BCAA implements and enforces WAC 173-400-040 (General standards for maximum emissions) in Benton County in addition to Section 3.04. The provisions of RCW 70.94.141 (Air pollution control authority—Powers and duties of activated authority) are herein incorporated by reference.

C. Applicability.

This section applies to all persons or entities having an active Washington State Liquor and Cannabis Board (LCB) license for marijuana production operations and marijuana processing operations in Benton County.

D. Definitions.

Unless a different meaning is clearly required by context, words and phrases used in this section will have the following meaning:

1. "Control of environmental conditions" means modifying surroundings to facilitate plant growth, may include, but is not limited to; lighting, temperature, relative humidity, and carbon dioxide levels. For implementation of Section 3.04, watering plants and short term covering of plants for a por-

tion of each day as needed for frost protection are not considered control of environmental conditions.

2. "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

3. "Indoor marijuana production and indoor marijuana processing" means production or processing occurring in a fully enclosed building that is permanently affixed to the ground, has permanent rigid walls, a roof that is permanent and non-retractable, and doors. The building is equipped to maintain control of environmental conditions. Hoop houses, temporary structures, or other similar structures are not considered indoor.

4. "Marijuana" means all parts of the cannabis plant, as defined in Chapter 69.50 RCW as it now exists or as amended.

5. "Processor (process, processing)" means LCB licensed operations that dry, cure, extract, compound, convert, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products.

6. "Producer (production, producing)" means LCB licensed operations that propagate, grow, harvest, and trim marijuana to be processed.

7. "Public Place" - means that portion of any building used by and open to the public. A public place does not include a private residence. A public place also includes a lot, parcel, or plot of land that includes a building or structure thereon that is used by and open to the public.

8. "Responsible person" means any person who owns or controls property on which Section 3.04 is applicable.

E. Marijuana Odor.

With respect to odor, it shall be unlawful for any production or processing facility of marijuana to cause an odor that can be detected beyond the facilities property line. The agency may take enforcement action pursuant to chapter 70.94 RCW, under this section if the Control Officer or a duly authorized representative has documented the following:

1. The odor or can be readily smelled from a public place or the private property of another housing unit;

2. An affidavit from a person making a complaint that demonstrates that they have experienced the odor of marijuana so as to unreasonably interfere with their life and property. (The affidavit should describe or identify, to the extent possible, the location, duration, and offensiveness of the odor experienced by the complainant);

3. The source of the odor.

F. With respect to odor, the agency will determine whether or not a violation of Section 3.04 ((~~D~~)) E has occurred based on its review of the information obtained during the investigation.

G. When determining whether to take formal enforcement action authorized in Section 3.04 ((~~D~~)) E, the agency may consider written evidence provided by the person causing the odors which demonstrates to the satisfaction of the agency that all controls and operating practices to prevent or minimize odors to the greatest degree practicable are being

employed. If the agency determines that all such efforts are being employed by the person causing the odors and that no additional control measures or alternate operating practices are appropriate, the agency may decline to pursue formal enforcement action.

H. Nothing in this section shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

I. Requirements.

All persons or entities subject to the requirements of Section 3.04 must comply with the following:

1. Production and processing must occur indoors, as defined in 3.04 ((~~C~~)) B, unless the operation is exempt under Section 3.04((~~M~~)) N;

2. Indoor production and processing requirements:

a. Control equipment and facility design:

i. Operations must be equipped with air pollution control equipment that is properly sized for the air flow to be controlled. Air pollution control equipment may include, but is not limited to, carbon adsorption within the facility, carbon filtration on facility exhaust points, vertical exhaust stacks. Air pollution control equipment is not required for windows, doors, or other openings, provided these openings are kept closed except as needed for active ingress or egress; or

ii. Operations must be designed to prevent exhaust from production and processing operations directly to the outside; or

iii. Both.

b. Operations must meet the requirements of Section 3.04 ((~~D~~)) E.

3. Operation and maintenance plan. Air pollution control equipment must be operated and maintained in accordance with the manufacturers recommendations. An operation and maintenance plan for the air pollution control equipment must be available on site. The plan must include written operation instructions and maintenance schedules. Record shall be kept of the dates and description of all maintenance and repair performed on the air pollution control equipment. Record must be kept on site for the previous 24 months and be provided to the agency upon request.

J. Compliance with Other Laws and Regulations. Compliance with Regulation I, Article 3, Section 3.04, does not constitute an exemption from compliance with other Sections of Regulation I, or other laws or regulations.

K. Producers, Processors and Responsible Persons. If there is a violation of Regulation I, Article 3, Section 3.04 ((~~D~~)) E, a Notice of Violation may be issued to all producers and processors on the parcel, and all responsible persons.

L. Compliance Schedule. All persons or entities subject to the requirements of Article 3, Section 3.04 must be in compliance with Section 3.04 requirements as follows:

1. New producers and processors or expansion at existing producers and processors, that begin or expand operations after August 17, 2018, must be in full compliance with Section 3.04 requirements before production and/or processing begins.

M. Any new marijuana production or processing facility must notify the agency by completing the proof of notification form found on www.bentoncleanair.org.

N. Exemptions.

1. Existing marijuana producers and processors, in-operation prior to the Section 3.04 effective date August 17, 2018 are exempt from of Section 3.04 ((H)) I. This exemption does not exclude them from the requirements of Section 3.04 ((D)) E.

2. Any existing marijuana producer or processor, in-operation prior to the section 3.04 effective date August 17, 2018 found to be in violation of Section 3.04E, may be required to comply with Section 3.04 ((H)) I within 180 days of receipt of the penalty from said violation or as defined by a compliance schedule agreed upon with the Benton Clean Air Agency.

Reviser's note: The typographical errors in 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.

AMENDATORY SECTION

Section 8.01 Definitions

A. "AHERA Building Inspector" means a person who has successfully completed the training requirements for a building inspector established by United States Environmental Protection Agency (EPA) Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.

B. "AHERA Project Designer" means a person who has successfully completed the training requirements for an abatement project designer established by EPA Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.

C. "Asbestos" means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

D. "Asbestos-Containing Material" means any material containing more than one percent (1%) asbestos as determined using the method specified in the EPA publication, Method for the Determination of Asbestos in Building Materials, EPA/600/R-93/116, July 1993 or a more effective method as approved by EPA.

E. "Asbestos-Containing Waste Material" means any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos-containing material that has been removed from a structure, disturbed, or deteriorated in a way that it is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or high efficiency particulate air (HEPA) filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

F. "Asbestos Project" means any activity involving the abatement, renovation, demolition, removal, salvage, clean-up or disposal of asbestos-containing material, or any other

action or inaction that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

G. "Asbestos Survey" means a written report resulting from a thorough inspection performed pursuant to Section 8.02 of this Regulation.

H. "Asphalt Shingles" means asphalt roofing in shingle form, composed of glass felt or felts impregnated and coated on both sides with asphalt, and surfaced on the weather side with mineral granules. Some asphalt shingle styles are commonly referred to as three-tab shingles.

I. "Competent Person" means a person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy, has the authority to take prompt corrective measures to eliminate the hazards, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor and Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction).

J. "Component" means any equipment, pipe, structural member, or other item or material.

K. "Contiguous" means touching or adjoining.

L. "Controlled Area" means an area to which only certified asbestos workers, representatives of the Agency, or other persons authorized by the Washington Industrial Safety and Health Act (WISHA), have access.

M. "Demolition" means wrecking, razing, leveling, dismantling, or intentional burning of a structure, making the structure permanently uninhabitable or unusable in part or whole. It includes any related handling operations. It also includes moving a structure (except a mobile home which remains intact) and wrecking or taking out of any load-supporting structural member.

N. "Disposal Container" means a carton, bag, drum, box, or crate designed for the purpose of safely transporting and disposing of asbestos-containing waste material.

O. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

P. "Homogenous Area" means an area of surfacing material, thermal system insulation material, or a miscellaneous material that is uniform in color or texture. Unless approved otherwise by the Agency, rubble piles, debris piles, ash, soil, and similar materials are not homogeneous areas.

Q. "Friable Asbestos-Containing Material" means asbestos-containing material that, when dry, can be crumbled, pul-

verized, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Each of these descriptions is separate and distinct, meaning the term includes asbestos-containing material that, when dry, can be:

1. Crumbled by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal;

2. Pulverized by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal; or

3. Reduced to powder by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal.

4. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

R. "Leak-Tight Container" means a dust-tight and liquid tight disposal container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

S. "Nonfriable Asbestos-Containing Material" means asbestos-containing material that is not friable (e.g., when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal).

T. "Owner-Occupied, Single-Family Residence" means any non-multiple residential unit that is used by one family who owns the property as their domicile (permanent and primary residence) both prior to and after renovation or demolition, and can demonstrate such to the Agency upon request (e.g. utility bills). This term does not include rental properties, multiple unit buildings (e.g. duplexes and condominiums with two or more units) or multiple-family units, nor does this term include any mixed-use building (e.g. a business being operated out of a residence), structure, or installation that contains a residential unit.

U. "Owner's Agent" means any person who leases, operates, controls, or is responsible for an asbestos project, renovation, demolition, or property subject to Article 8 of this Regulation. It also includes the person(s) submitting a notification pursuant to Section 8.03 of this Regulation and/or performing the asbestos survey.

V. "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

W. "Renovation" means altering a structure or component in any way, other than demolition, that disturbs materials totaling greater than or equal to 10 linear feet, or greater than or equal to 48 square feet, that was considered a suspect asbestos containing material prior to performing an asbestos survey.

X. "Residential Unit" means any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile

homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

Y. "Structure" means something built or constructed, in part or in whole. Examples include, but are not limited to, the following in part or in whole: houses, garages, commercial buildings, mobile homes, bridges, "smoke" stacks, pole-buildings, canopies, lean-tos, and foundations. This term does not include normally mobile equipment (e.g., cars, recreational vehicles, boats, etc.).

Z. "Surfacing Material" means material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fire-proofing material on structural members, or other material on surfaces for decorative purposes.

AA. "Suspect Asbestos-Containing Material" means material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material (excluding asphalt shingles), fire barriers, gaskets, flooring material, and cement siding. Suspect asbestos-containing material must be presumed to be asbestos-containing material unless demonstrated otherwise (e.g. as determined using the method specified in the EPA publication, *Method for the Determination of Asbestos in Building Materials*, EPA/600/R-93/116, July 1993).

AB. "Thermal System Insulation" means material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

AC. "Visible Emissions" means any emissions that are visually detectable without the aid of instruments. The term does not include condensed uncombined water vapor.

AD. "Wallboard System" means joint compound and tape specifically applied to cover nail holes, joints and wall corners. It does not mean "add on materials" such as sprayed on materials, paints, textured ceilings or wall coverings. A wallboard system where joint compound and tape have become an integral system (40 CFR Part 61 FRL4821-7) may be analyzed as a composite sample for determining if it is an asbestos-containing material.

AE. "Waste Generator" means any owner or owner's agent that generates, produces, or is in part or whole, responsible for an activity that results in asbestos-containing waste material.

AF. "Workday" means Monday through Friday 8:00 a.m. to 5:00 p.m. excluding legal holidays observed by the Agency.

AMENDATORY SECTION

Section 10-8 Asbestos Fees and Waiting Periods

A. Any fee required (~~under Table 10-1~~) for asbestos projects will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.

C. (~~The waiting period begins at the time of filing.~~) The notification waiting period begins on the workday on which a complete notification is received.

((Table 10-1: Asbestos Fees

Demolition/Asbestos Projects at Residential Units		
Activity	Waiting Period	Fee
Demolition	5-Days	\$50
Owner Occupied Single Family Residence Asbestos Project \geq 10 linear. ft. or \geq 48 sq. ft. of friable ACM performed by owner-occupant	Prior Notice	\$25
Asbestos Project Involving Only Non-Friable ACM That Will Remain Non-Friable	Prior Notice	\$25
All Other Residential Asbestos Projects \geq 10 linear feet or \geq 48 sq. ft	3-Days	\$50
Renovation with No ACM	Prior Notice	\$0
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10-Days	Twice the Regular Fee

Demolition/Asbestos Projects at Facilities		
Activity	Waiting Period	Fee
Demolition	10-Days	\$150
Asbestos Project Involving Only Non-Friable ACM That Will Remain Non-Friable	Prior Notice	\$25
Asbestos Project (amount of friable ACM):		
10 to 259 ln ft and/or 48 to 159 ft ²	10-Days	\$150
260 to 999 ln ft and/or 160 to 4,999 ft ²	10-Days	\$325
1,000 to 9,999 ln ft and/or 5,000 to 49,999 ft ²	10-Days	\$650
Over 10,000 ln ft and/or Over 50,000 ft ²	10-Days	\$1800
Renovation with No ACM	Prior Notice	\$0
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10-Days	Twice the Regular Fee

Asbestos Containing Waste Material Temporary Storage Permit	
ACWM Temporary Storage Permit Application	\$75

))

AMENDATORY SECTION

Section 10.09 Title 5 Air Operating Permit Fees

[Statutory Authority RCW 70.94.161]

All eligible sources under Chapter 173-401 WAC will be subject to the annual fees described in this Section.

A. Permanent annual fee determination and certification.

1. Fee Determination.

a. Fee Determination.

The Agency will develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees will be sufficient to cover all permit administration costs. The Agency will also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule will differentiate as separate line items the Agency and Ecology's fees. Opportunities for public participation will be afforded

throughout the fee determination process, as provided in Section 10.08.A.3.a of this Regulation.

b. Fee Eligible Activities.

The costs of permit administration and development and oversight activities are fee eligible.

i. Permit Administration.

Permit administration costs are those incurred by the Agency in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:

(a) Pre-application assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(b) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(c) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an appli-

cable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(d) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(e) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(f) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(g) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(h) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(i) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(j) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(k) Training for permit administration and enforcement;

(l) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(m) Required fiscal audits, periodic performance audits, and reporting activities;

(n) Tracking of time, revenues and expenditures, and accounting activities;

(o) Administering the permit program including the costs of clerical support, supervision, and management;

(p) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the Federal Clean Air Act; and

(q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.

ii. Ecology Development and Oversight.

Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are in Chapter 252, Laws of 1993 Section 6.2.b of this Regulation.

c. Workload Analysis.

i. The Agency will conduct an annual workload analysis of the previous years' work, to projecting resource requirements for the purpose of preparation for permit administration. The workload analysis will include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08.A.1.b.i of this Regulation.

ii. Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activ-

ities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08.A.1.b.ii of this Regulation.

d. Budget Development.

The Agency will annually prepare an operating permit program budget. The budget will be based on the resource requirements identified in an annual workload analysis and will take into account the projected fund balance at the start of the calendar year. The Agency will publish a draft budget for the following calendar year on or before May 31 and will provide opportunity for public comment in accordance with Chapter 173-401 WAC Operating Permit Regulation. The Agency will publish a final budget for the following calendar year on or before June 30.

e. Allocation Method.

i. Permit Administration Costs.

The Agency will allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for which it acts as permitting authority, according to a three-tiered model based upon:

(a) The number of sources under its jurisdiction;

(b) The complexity of the sources under its jurisdiction, and

(c) The size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source will be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers will be equally weighted.

ii. Ecology Development and Oversight Costs.

Ecology will allocate its development and oversight costs among all permitting authorities, including the Agency based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.

f. Fee Schedule.

The Agency will issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule will be based on the information contained in the final source data statements for each year; the final source data statements will be issued after opportunity for petition and review has been afforded in accordance with Section 10.08.A..4 of this Regulation.

2. Fee Collection - Ecology and Benton Clean Air Agency.

a. Collection from Sources.

The Agency, as a delegated local authority, will collect the fees from the permit program sources under its jurisdiction.

i. Permit Administration Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.

ii. Ecology Development and Oversight Costs. The Agency will collect from permit program sources under its

jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.

b. Dedicated Account.

All receipts from fees collected by the Agency, as a delegated local authority, from permit program sources will be deposited in - dedicated account -. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.162.

3. Accountability.

a. Public Participation during Fee Determination Process.

The Agency will provide for public participation in the fee determination process described under Section 10.09.A of this Regulation which provision will include but not be limited to the following:

i. The Agency will provide opportunity for public review of and comment on:

- (a) Each annual workload analysis;
- (b) Each annual budget; and
- (c) Each annual fee schedule

ii. The Agency will submit to Ecology for publication in the Permit Register notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.

iii. The Agency will make available for public inspection and to those requesting opportunity for review copies of its draft:

- (a) Annual workload analysis on or before May 31;
- (b) Annual budget on or before May 31; and
- (c) Annual fee schedule on or before May 31.

iv. The Agency will provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty-day period for comment will run from the date of publication of notice in the Permit Register as provided in this Section.

b. Tracking of Revenues, Time and Expenditures.

i. Revenues.

The Agency will track revenues on a source-specific basis.

ii. Time and Expenditures.

The Agency will track time and expenditures on the basis of functional categories as follows:

- (a) Application review and permit issuance;
- (b) Permit modification;
- (c) Permit maintenance;
- (d) Compliance and enforcement;
- (e) Business assistance;
- (f) Regulation and guidance development;
- (g) Management and training; and
- (h) Technical support.

iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.

The Agency will use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.09.A.1.d of this Regulation.

iv. The information obtained from tracking revenues, time, and expenditures will not provide a basis for challenge to the amount of an individual source's fee.

c. Periodic Fiscal Audits, Reports and Performance Audits.

A system of regular, periodic fiscal audits, reports and performance audits will be conducted in order to evaluate Ecology's and the Agency's operating permit program administration, as follows:

i. Fiscal Audits.

The Agency will contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.

ii. Annual Routine Performance Audits.

The Agency will be subject to annual routine performance audits, except that the routine audit will be incorporated into the extensive performance audit, conducted pursuant to Section 10.09.A.3.c.v of this Regulation in each year during which an extensive performance is conducted. Ecology will issue guidance regarding the content of the routine performance audits and will conduct the Agency audits.

iii. Annual Random Individual Permit Review.

One permit issued by the Agency will be subject to review in conjunction with the annual routine performance. The permit to be reviewed will be selected at random. Ecology will issue guidance regarding the content of the random individual permit review and will conduct the Agency's review.

iv. Periodic Extensive Performance Audits.

The Agency will be subject to extensive performance audits every five years. In addition, the Agency may be subject to an extensive performance audit more frequently under the conditions of Section 10.09.A.3.c.v of this Regulation. Ecology will issue guidance regarding the content of the extensive performance audits and will conduct the audits of this agency.

v. Finding of Inadequate Administration or Need for Further Evaluation.

If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the Agency is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit will be conducted, as provided in Section 10.09.A.3.c.iv of this Regulation.

vi. Annual Reports.

The Agency will prepare an annual report evaluating its operating permit program administration. Such report will include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The Agency will submit its report to its Board and to Ecology.

4. Administrative Dispute Resolution.

a. Preliminary Statement of Source Data.

The Agency will provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the Agency intends to base its allocation determination under Section 10.09.A.1.e of this Regulation. Such preliminary statement will be provided to the permit program sources on or before September 30 of each year. Such preliminary statement will indicate the name, address and telephone number

of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.08.A.4.b of this Regulation regarding the accuracy of the data contained therein.

b. Petition for Review of Statement.

A permit program source or other individual under the jurisdiction of the Agency as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08.A.4.a of this Regulation. Such petition will be lodged on or before October 31 of each year. Such petition will be in writing, directed to the individual indicated on the statement of source data. Such petition will indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition will, in addition, state the name, address and telephone number of the person or persons to whom the Agency may direct inquiries regarding the request. Upon receipt of such a petition, the Agency, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response will state the conclusions of the review and the reasons therefore, and will contain a new preliminary source data statement, revised to reflect any changes necessitated by the Agency's response.

c. Final Source Data Statement.

The Agency will provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the Agency will base its allocation determination under Section 10.08.A.1 of this Regulation along with an invoice reflecting the fee billed to that source on or before January 20th of each year.

5. Fee Payment and Penalties.

a. Fee Payment.

Each permit program source will pay a fee in the amount reflected in the invoice issued under Section 10.09.A.4.c of this Regulation. Fees will be invoiced by January 20 of each year. Such fee will be due on or before ~~((February 28))~~ April 15th of each year.

b. Late Payment of Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:

i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

c. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.

d. Other Penalties.

The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

e. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

f. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

6. Development and Oversight Remittance by Local Authorities to Ecology.

a. Ecology will provide to the Agency a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.

b. The Agency will remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and will remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

B. Air Operating Permit sources are not subject to fees under the Registration Program.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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.

WSR 20-15-015

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed July 6, 2020, 11:25 a.m., effective August 6, 2020]

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

Purpose: The agency is amending this section to implement requirements in the Bipartisan Budget Act of 2018, which requires state medicaid agencies to use cost-avoidance on labor, delivery, and postpartum care claims. The Bipartisan Budget Act of 2018 also delayed the implementation of a provision in the Bipartisan Budget Act of 2013 that allowed payment up to ninety days for claims associated with medical support enforcement, rather than thirty days under the previous law. The agency is revising this section to implement this provision, now amended to one hundred days, rather than

ninety, by the Medicaid Services Investment and Accountability Act of 2019.

Citation of Rules Affected by this Order: Amending WAC 182-501-0200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 42 U.S.C. Sec. 1902 (a)(25)(E) of the Social Security Act and section 53102 (a)(1) of the Bipartisan Budget Act of 2018; 42 U.S.C. Sec. 1305 (7)(a).

Adopted under notice filed as WSR 20-10-105 on May 6, 2020.

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

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

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

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

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

Date Adopted: July 6, 2020.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-23-008, filed 11/6/19, effective 12/7/19)

WAC 182-501-0200 Third-party resources. (1) The medicaid agency requires a provider to seek timely reimbursement from a third party when a client has available third-party resources, except as described under subsections (2) and (3) of this section.

(2) The agency pays for medical services and seeks reimbursement from a liable third party when the claim is for ~~((any of the following:~~

~~(a) Labor, delivery, and postpartum care (except inpatient hospital costs) for a pregnant woman; or~~

~~(b)) preventive pediatric services as covered under the early and periodic screening, diagnosis and treatment (EPSDT) program.~~

(3) The agency pays for medical services and seeks reimbursement from any liable third party when both of the following apply:

(a) The provider submits to the agency documentation of billing the third party and the provider has not received payment after ~~((thirty))~~ one hundred days from the date of services; and

(b) The claim is for a covered service provided to a client on whose behalf the office of support enforcement is enforcing a noncustodial parent to pay support. For the purpose of this section, "is enforcing" means the noncustodial parent either:

(i) Is not complying with an existing court order; or

(ii) Received payment directly from the third party and did not pay for the medical services.

(4) The provider may not bill the agency or the client for a covered service when a third party pays a provider the same amount as or more than the agency rate.

(5) When the provider receives payment from a third party after receiving reimbursement from the agency, the provider must refund to the agency the amount of the:

(a) Third-party payment when the payment is less than the agency's maximum allowable rate; or

(b) Agency payment when the third-party payment is equal to or more than the agency's maximum allowable rate.

(6) The agency does not pay for medical services if third-party benefits are available to pay for the client's medical services when the provider bills the agency, except under subsections (2) and (3) of this section.

(7) The client is liable for charges for covered medical services that would be paid by the third-party payment when the client either:

(a) Receives direct third-party reimbursement for the services; or

(b) Fails to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered. See WAC 182-503-0540 for assignment of rights.

(8) The agency considers an adoptive family to be a third-party resource for the medical expenses of the birth mother and child only when there is a written contract between the adopting family and either the birth mother, the attorney, the provider, or the adoption service. The contract must specify that the adopting family will pay for the medical care associated with the pregnancy.

(9) A provider cannot refuse to furnish covered services to a client because of a third-party's potential liability for the services.

(10) For third-party liability on personal injury litigation claims, the agency or managed care organization (MCO) is responsible for providing medical services under WAC 182-501-0100.

WSR 20-15-021

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 7, 2020, 11:34 a.m., effective August 7, 2020]

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

Purpose: 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.

Citation of Rules Affected by this Order: Amending WAC 308-101-030.

Statutory Authority for Adoption: RCW 46.01.110 and 46.20.308.

Adopted under notice filed as WSR 20-11-060 on May 19, 2020.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: July 7, 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 20-15-024
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Dockets UE-170002 and UG-170003, General Order R-599—Filed July 1, 2020, 1:12 p.m., effective August 1, 2020]

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 20-16 issue of the Register.

WSR 20-15-026
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed July 7, 2020, 1:45 p.m., effective August 7, 2020]

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

Purpose: This rule making is required to comply with, and provide ongoing guidance related to, the requirements that ensure the quality of the wraparound with intensive services (WISe) delivery model.

Citation of Rules Affected by this Order: New WAC 182-501-0215.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 20-10-107 on May 6, 2020.

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

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

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

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

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

Date Adopted: July 7, 2020.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-501-0215 Wraparound with intensive services (WISe). (1) Wraparound with intensive services (WISe) is a service delivery model that provides comprehensive behavioral health covered services and support to:

(a) Medicaid-eligible clients age twenty or younger with complex behavioral health needs; and

(b) Their families.

(2) The authority, the managed care organizations, and the WISe provider agencies must use, continue to use, and substantially comply with the WISe quality plan (WISe QP) for the delivery of WISe. The purpose of the WISe QP is to:

(a) Provide a framework for quality management goals, objectives, processes, tools, and resources to measure the implementation and success of the WISe service delivery model; and

(b) Guide production, dissemination, and use of measures used to inform and improve WISe service delivery.

(3) The WISe QP, as may be amended from time to time, is incorporated by reference and is available online at <https://www.hca.wa.gov/billers-providers-partners/behavioral-health-recovery/wraparound-intensive-services-wise>.

WSR 20-15-031
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed July 7, 2020, 3:43 p.m., effective August 7, 2020]

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

Purpose: WAC 246-916-065 Athletic trainer suicide prevention education, the adopted rule implements ESSB 5688. This bill amended RCW 43.70.442 adding athletic trainers to the list of healthcare professionals required to complete a one-time continuing education course in suicide prevention. The adopted creates a new section of rule that requires athletic trainers to take a one-time training in suicide assessment that includes screening, referral, and imminent harm via lethal means. RCW 43.70.442 instructs the department of health (department) to determine whether a three hour or a six hour education course should be required. The department determined that six hours was necessary in order to include content specific to the assessment of issues related to imminent harm via lethal means.

Citation of Rules Affected by this Order: New WAC 246-916-065.

Statutory Authority for Adoption: ESSB 5688 (chapter 358, Laws of 2019).

Adopted under notice filed as WSR 20-09-110 on April 16, 2020.

A final cost-benefit analysis is available by contacting Bruce Bronoske, Jr., Washington State Department of Health, P.O. Box 47852, Olympia, WA 98504, phone 360-236-4843, fax 360-236-4901, TTY 711, email brunoske@doh.wa.gov.

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

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

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

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

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

Date Adopted: July 7, 2020.

Jessica Todorovich
 Chief of Staff
 for John Wiesman, DrPH, MPH
 Secretary

NEW SECTION

WAC 246-916-065 Athletic trainer suicide prevention education. Effective August 1, 2020, a licensed athletic trainer must complete a secretary-approved one-time training that is at least six hours in length for suicide assessment that

includes screening, referral, and imminent harm via lethal means elements.

(1) This training must be completed by the end of the first full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later.

(2) Training accepted by the secretary must be on the department's model list as authorized in chapter 246-12 WAC, Part 14.

(3) Training completed between July 23, 2019, and August 1, 2020, that meets the requirements of subsection (2) or (3) of this section, is accepted as meeting the one-time training requirement of this section.

(4) The hours spent completing the training in suicide assessment under this section count toward meeting applicable continuing education requirements for athletic training license renewal.

WSR 20-15-032
PERMANENT RULES
STATE BOARD OF HEALTH

[Filed July 7, 2020, 3:57 p.m., effective August 7, 2020]

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

Purpose: WAC 246-650-010 and 246-650-020 were amended to add spinal muscular atrophy (SMA) to the panel of disorders that every newborn must be tested for, unless so objected by the newborn's parents or guardians due to religious tenets. SMA is a severe condition that results in the breakdown of the skeletal muscles and cardiac and respiratory deficiencies. Performing population based screening is the most effective method of early identification of SMA to diagnosis [diagnose] and begin treatment earlier. Delaying diagnosis and treatment can lead to debilitating outcomes and possible early death.

Citation of Rules Affected by this Order: Amending WAC 246-650-010 and 246-650-020.

Statutory Authority for Adoption: RCW 70.83.030, 70.83.050.

Other Authority: RCW 70.83.020.

Adopted under notice filed as WSR 20-10-096 on May 6, 2020.

Changes Other than Editing from Proposed to Adopted Version: No changes other than editing.

A final cost-benefit analysis is available by contacting Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-789-2358, TTY 711, email samantha.pskowski@sboh.wa.gov, website <https://sboh.wa.gov/Rule-making/CurrentRulesandActivity/NewbornScreeningSpinalMuscularAtrophy>.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 2, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 10, 2020.

Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 19-20-025, filed 9/23/19, effective 10/24/19)

WAC 246-650-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Amino acid disorders" means argininosuccinic acidemia (ASA), citrullinemia type I (CIT), homocystinuria (HCY), maple syrup urine disease (MSUD), phenylketonuria (PKU), and tyrosinemia type I (TYR I), which may cause severe complications including intellectual disability, coma, seizures, and possibly death.

(2) "Board" means the Washington state board of health.

(3) "Biotinidase deficiency" means a deficiency of an enzyme (biotinidase) that facilitates the body's recycling of biotin. The result is biotin deficiency, which if undetected and untreated, may result in severe neurological damage or death.

(4) "Congenital adrenal hyperplasia" means a severe disorder of adrenal steroid metabolism which may result in death of an infant during the neonatal period if undetected and untreated.

(5) "Congenital hypothyroidism" means a disorder of thyroid function during the neonatal period causing impaired mental functioning if undetected and untreated.

(6) "Critical congenital heart disease" means an abnormality in the structure or function of the heart that exists at birth, causes severe, life-threatening symptoms, and requires medical intervention within the first year of life.

(7) "Cystic fibrosis" means a life-shortening disorder caused by mutations in the gene encoding the cystic fibrosis transmembrane conductance regulator (CFTR), a transmembrane protein involved in ion transport. Affected individuals suffer from chronic, progressive pulmonary disease and nutritional deficits. Early detection and enrollment in a comprehensive care system provides improved outcomes and avoids the significant nutritional and growth deficits that are evident when diagnosed later.

(8) "Department" means the Washington state department of health.

(9) "Fatty acid oxidation disorders" means carnitine uptake defect (CUD), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCHADD), medium-chain acyl-CoA dehydrogenase deficiency (MCADD), trifunctional protein deficiency (TFP), and very long-chain acyl-CoA dehydrogenase deficiency (VLCADD). These disorders can lead to hypoglycemia and metabolic crises resulting in serious damage affecting the brain, liver, heart, eyes, muscle, and possibly death.

(10) "Galactosemia" means a deficiency of enzymes that help the body convert the simple sugar galactose into glucose resulting in a buildup of galactose and galactose-1-PO₄ in the blood. If undetected and untreated, accumulated galactose-1-PO₄ may cause significant tissue and organ damage often leading to sepsis and death.

(11) "Hemoglobinopathies" means a group of hereditary blood disorders caused by genetic alteration of hemoglobin which results in characteristic clinical and laboratory abnormalities and which leads to developmental impairment or physical disabilities.

(12) "Newborn" means an infant born in any setting in the state of Washington.

(13) "Newborn screening specimen/information form" means a form provided by the department for collecting a newborn's dried blood spots and information used to screen for congenital disorders under this chapter. This includes the filter paper portion and associated dried blood spots.

(14) "Mucopolysaccharidosis I (MPS-I)" means a multi-system disorder caused by mutations in the alpha-L-iduronidase gene in which a lysosomal enzyme is deficient, leading to accumulation of mucopolysaccharides (a type of carbohydrate) and other metabolites. This includes Hurler, Hurler-Scheie, and Scheie syndromes.

(15) "Organic acid disorders" means 3-OH 3-CH₃ glutaric aciduria (HMG), beta-ketothiolase deficiency (BKT), glutaric acidemia type I (GA 1), isovaleric acidemia (IVA), methylmalonic acidemia (CblA,B), methylmalonic acidemia (mutase deficiency) (MUT), multiple carboxylase deficiency (MCD), and propionic acidemia (PROP). These disorders can lead to metabolic crises resulting in severe nerve damage, physical damage, and possibly death.

(16) "Pompe disease" means a neuromuscular disorder caused by mutations in the acid glucosidase gene which result in reduced or absent activity of the acid alpha glucosidase enzyme.

(17) "Significant screening test result" means a laboratory test result indicating a suspicion of abnormality and requiring diagnostic evaluation of the involved infant for a specific congenital disorder.

(18) "Severe combined immunodeficiency (SCID)" means a group of congenital disorders characterized by profound deficiencies in T- and B- lymphocyte function. This results in very low or absent production of the body's primary infection fighting processes that, if left untreated, results in severe recurrent, and often life-threatening infections within the first year of life.

(19) "Spinal muscular atrophy (SMA)" means a genetic disorder caused by mutations in the survival motor neuron 1 (SMN1) gene, which impairs the function of the survival motor neuron (SMN) protein. This results in the loss of motor neurons and causes progressive atrophy of skeletal muscles.

(20) "X-linked adrenoleukodystrophy (X-ALD)" means a peroxisomal disorder caused by mutations in the ABCD1 gene located on the X chromosome. If untreated this can lead to adrenocortical deficiency, damage to the nerve cells of the brain, paralysis of the lower limbs, mental decline, disability, or death.

AMENDATORY SECTION (Amending WSR 19-20-025, filed 9/23/19, effective 10/24/19)

WAC 246-650-020 Performance of screening tests.

(1) Hospitals and other providers of birth and delivery services or neonatal care to infants shall:

(a) Inform parents or guardians, by providing a departmental information pamphlet or by other means, of:

(i) The purpose of screening newborns for congenital disorders;

(ii) Disorders of concern as listed in WAC 246-650-020(2);

(iii) The requirement for newborn screening;

(iv) The legal right of parents or guardians to refuse testing because of religious tenets or practices as specified in RCW 70.83.020; and

(v) The specimen storage, retention and access requirements specified in WAC 246-650-050.

(b) Obtain a blood specimen for laboratory testing as specified by the department from each newborn no later than forty-eight hours following birth.

(c) Use department-approved newborn screening specimen/information forms and directions for obtaining specimens.

(d) Enter all identifying and related information required on the newborn screening specimen/information form following directions of the department.

(e) In the event a parent or guardian refuses to allow newborn screening, obtain signatures from parents or guardians on the newborn screening specimen/information form.

(f) Forward the newborn screening specimen/information form with dried blood spots or signed refusal to the Washington state public health laboratory so that it will be received no later than seventy-two hours following collection of the specimen, excluding any day that the state laboratory is closed.

(2) Upon receipt of specimens, the department shall:

(a) Record the time and date of receipt;

(b) Perform appropriate screening tests for:

(i) Amino acid disorders;

(ii) Biotinidase deficiency;

(iii) Congenital hypothyroidism;

(iv) Congenital adrenal hyperplasia;

(v) Cystic fibrosis;

(vi) Fatty acid oxidation disorders;

(vii) Galactosemia;

(viii) Hemoglobinopathies;

(ix) Mucopolysaccharidosis type I (MPS-I);

(x) Organic acid disorders;

(xi) Pompe disease;

(xii) Severe combined immunodeficiency (SCID);

(xiii) Spinal muscular atrophy (SMA);

(xiv) X-linked adrenoleukodystrophy (X-ALD).

(c) Report significant screening test results to the infant's attending health care provider or parent or guardian if an attending health care provider cannot be identified; and

(d) Offer diagnostic and treatment resources to health care providers attending infants with significant screening test results within limits determined by the department.

(3) Once the department notifies the attending health care provider of significant screening test results, the attend-

ing health care provider shall notify the department of the date upon which the results were disclosed to the parent or guardian of the infant. This requirement expires January 1, 2020.

WSR 20-15-033

PERMANENT RULES

DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed July 7, 2020, 4:02 p.m., effective August 7, 2020]

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

Purpose: 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) has adopted amendments to the requirements for checking the prescription monitoring program when prescribing opioids; the adopted rule changes the requirement from the second refill or renewal to the first refill or renewal. This more closely aligns their PMP query requirement with other health profession boards and commissions. The adopted rule also corrects typographical errors.

Citation of Rules Affected by this Order: Amending WAC 246-922-700, 246-922-780, and 246-922-790.

Statutory Authority for Adoption: RCW 18.22.015 and 18.22.800.

Adopted under notice filed as WSR 20-07-121 on March 18, 2020.

A final cost-benefit analysis is available by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, fax 360-236-2901, TTY 711, email podiatric@doh.wa.gov, website www.doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: April 30, 2020.

Randy Anderson, DPM
Chair

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 treat-

ment. (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 20-15-042
PERMANENT RULES
CASCADIA COLLEGE

[Filed July 8, 2020, 2:53 p.m., effective August 8, 2020]

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

Purpose: Adoption of general code of conduct for Cascadia College applicable to students, faculty/staff, visitors, and the general public regarding alcohol, drug and tobacco use on campus, offenses against persons or property, disruptive conduct, animals on campus, and weapons, including enforcement procedures, trespass notices, and appeals. Overlapping existing rules are repealed.

Citation of Rules Affected by this Order: New WAC 132Z-110-010, 132Z-110-020, 132Z-110-030, 132Z-110-040 and 132Z-110-050; repealing WAC 132Z-140-060, 132Z-140-070, and 132Z-140-080.

Statutory Authority for Adoption: RCW 28B.50.140; and Administrative Procedure Act, chapter 34.05 RCW.

Adopted under notice filed as WSR 20-09-106 on June 17, 2020 [April 16, 2020].

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 132Z-110-090 [132Z-110-030] Animals on campus, was edited in response to public comments to clarify that animals are prohibited only in college buildings, not on college grounds, and to clarify the exception for service animals.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 5, Amended 0, Repealed 3.

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

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

Date Adopted: June 17, 2020.

M. Lily Allen
Rules Coordinator
Executive Assistant to President

Chapter 132Z-110 WAC

CASCADIA COLLEGE GENERAL CONDUCT CODE

NEW SECTION

WAC 132Z-110-010 Scope and application—Definitions. (1) **Scope and application.** This chapter constitutes the general conduct code of Cascadia College applicable to college students, faculty, staff, and visitors. Except as otherwise indicated, the conduct set forth in this chapter is prohibited anywhere on campus grounds or in college facilities.

(2) **Definitions.** Unless otherwise indicated, the terms "campus," "college," and "college facilities" for purposes of this chapter shall have the same meanings as those terms defined in WAC 132Z-140-010. The term "college grounds" for purposes of this chapter shall mean any parts of the campus subject to college control.

NEW SECTION

WAC 132Z-110-020 Prohibited conduct. Prohibited conduct includes engaging in, attempting to engage in, or encouraging or assisting another person to engage in, any of the conduct set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means. The term "includes" or "including" as used in this section means "without limitation."

(1) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** An "alcohol violation" includes using, possessing, delivering, selling, or being under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** A "marijuana violation" includes using, possessing, delivering, selling, or being under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits the possession or use of marijuana on college premises or in connection with college activities.

(c) **Drug.** A "drug violation" includes using, possessing, delivering, selling, or being under the influence of any legend drug or other controlled substance under chapter 69.50 RCW, except as prescribed by a licensed practitioner. The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Tobacco.** A "tobacco violation" means smoking or using tobacco products, electronic smoking devices (including e-cigarettes or vape pens), or other smoking devices in any area of college premises where smoking or tobacco use is prohibited by law or college policy.

(2) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights.

(3) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(4) **Disruptive or obstructive conduct.** The term "disruptive or obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, research, administrative, or other functions, procedures, services, programs, or activities of the college. The term includes disorderly conduct, breach of the peace, violation of local or college noise policies, lewd or obscene conduct, and obstruction of pedestrian or vehicular traffic.

(5) **Failure to comply.** The term "failure to comply" means refusing to obey the lawful directive of authorized college officials, including a failure to identify oneself upon request, refusing to comply with a disciplinary sanction, or violating any no-contact or other protective order issued by or on behalf of the college.

(6) **Other unlawful activity.** Persons subject to this chapter must also comply with any other applicable college policies and with any applicable federal, state, or local laws, regulations, or ordinances.

NEW SECTION

WAC 132Z-110-030 Animals on campus. Animals are not permitted in college facilities, except for service animals assisting individuals with disabilities and animals used for authorized college purposes. Animals are permitted on college grounds if licensed, leashed, and under the owner's direct control. Animal owners or handlers must clean up after their animals, must ensure their animals are not disruptive, and must comply with any applicable posted regulations.

NEW SECTION

WAC 132Z-110-040 Weapons. Cascadia College prohibits the possession, display, or use of any firearm, explosive, dangerous chemical, or other weapon anywhere on college grounds or in college facilities, except for authorized college purposes, unless prior written approval has been obtained from the college president or president's designee in consultation with the director of campus safety. This prohibition does not apply to authorized law enforcement officers or to the lawful possession of any personal protection spray device authorized under RCW 9.91.160.

NEW SECTION

WAC 132Z-110-050 Violations—Trespass—Appeals. (1) **Violations by students or employees.** College students or employees violating these rules, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation and, if the violation persists, may be asked to leave the campus, or designated areas of the campus, and may be reported to the appropriate college

authorities for potential corrective or disciplinary action in accordance with applicable college policies.

(2) **Violations by noncollege persons.** Persons other than college students or employees violating these rules, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation and, if the violation persists, may be directed by campus security to leave the campus or designated areas of the campus. Such direction will be in the form of a written notice of trespass withdrawing the license or privilege of such persons to enter onto or remain on college property and subjecting such persons to arrest for criminal trespass under chapter 9A.52 RCW or applicable municipal ordinance.

(3) **Appeal of trespass notice.** When the college under subsection (2) of this section revokes the license or privilege of any person to be on college property, whether temporarily or for a stated period of time, such person may request review of the decision by the college president or designee. The request must be made in writing within ten calendar days of receiving the trespass notice and must explain why the person disagrees with the trespass decision. The trespass notice will remain in effect pending administrative review. The administrative decision should be issued within five business days and will constitute the final decision of the college.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Z-140-060 Trespass.

WAC 132Z-140-070 Prohibited conduct.

WAC 132Z-140-080 Pets.

WSR 20-15-049 PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 20-128—Filed July 9, 2020, 6:29 a.m., effective August 9, 2020]

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

Purpose: This rule change incorporates revisions to RCW 77.50.500 resulting from the passage of HB 2250 by the Washington state legislature in 2020 into WAC 220-340-490.

This rule change would allow the recovery of derelict crab gear as early as May 1, prior to the close of the commercial Dungeness crab season. Gear recovery would be allowed after May 1 when a reduced pot limit is in effect and summer buoy tags are required. This measure would allow crab fishers to recover gear that is not properly marked with a summer buoy tag. Removal of this gear would avoid this gear becoming lost or abandoned and potentially increasing the likelihood of entangling a whale or other marine life.

Citation of Rules Affected by this Order: Amending WAC 220-340-490.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 20-10-038 on April 28, 2020.

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

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

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

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

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

Date Adopted: July 7, 2020.

Kelly Susewind
Director

AMENDATORY SECTION (Amending WSR 20-04-066, filed 1/31/20, effective 3/2/20)

WAC 220-340-490 Commercial crab fishery—Coastal gear recovery permits. (1) **Emergency coastal crab gear recovery permit.** Emergency permits are granted on a case-by-case basis to allow crab fishers to recover shellfish pots that were irretrievable at the end of the lawful season opening due to extreme weather conditions. The director or director's designee may grant an emergency coastal crab gear permit once a commercial crab season is closed. Crab fishers must notify and apply to the department's enforcement program for such emergency permits within 24 hours prior to the close of the commercial crab season.

(2) **Coastal crab gear recovery permit.** 15 days after the close of the primary coastal commercial crab season and from May 1 through September 15, the director or director's designee may grant a coastal crab gear recovery permit for licensed coastal Dungeness crab fishers to recover crab pots that remain in the ocean and belong to state licensed fishers.

(3) It is unlawful to fail to follow the provisions of a coastal crab gear recovery permit. Violation of this section is a misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

WSR 20-15-050

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed July 9, 2020, 6:36 a.m., effective August 9, 2020]

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

Purpose: The department is repealing chapter 16-730 WAC, Asparagus equipment lease program, which provided the procedural rules for the department to expend a one-time appropriation under section 308, chapter 276, Laws of 2004. The department is also repealing chapter 16-731 WAC,

Asparagus grower equipment lease program, which provided the procedural rules for the department to expend another one-time appropriation under section 3217, chapter 520, Laws of 2007. The funds were expended and the programs no longer exist.

Citation of Rules Affected by this Order: Repealing WAC 16-730-005, 16-730-007, 16-730-010, 16-730-015, 16-730-020, 16-730-025, 16-730-030, 16-730-035, 16-730-040, 16-730-045, 16-730-050, 16-730-055, 16-730-060, 16-730-062, 16-730-065, 16-730-070, 16-730-075, 16-731-010, 16-731-020, 16-731-030, 16-731-040, 16-731-050, 16-731-060, 16-731-070, 16-731-080, 16-731-090, 16-731-100, 16-731-110, 16-731-120, 16-731-130, 16-731-140, 16-731-150, 16-731-160, and 16-731-170.

Statutory Authority for Adoption: RCW 43.17.060.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 20-10-018 on April 27, 2020.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 34.

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

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

Date Adopted: July 8, 2020.

Derek I. Sandison
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-730-005 What is the purpose of the asparagus equipment lease program?
- WAC 16-730-007 How does the department ensure that program participants comply with the program's purpose?
- WAC 16-730-010 What definitions are important to this chapter?
- WAC 16-730-015 How will the asparagus equipment leasing program be administered?
- WAC 16-730-020 Who is eligible to participate in the asparagus equipment leasing program?
- WAC 16-730-025 How does an eligible asparagus handler/packer apply to the equipment leasing program?

- WAC 16-730-030 When will an applicant know if they have been approved to participate in the equipment leasing program?
- WAC 16-730-035 If an application is denied, can the applicant request a review of the director's decision?
- WAC 16-730-040 If an applicant's initial application is disapproved, can the applicant reapply to the equipment leasing program?
- WAC 16-730-045 What is the process the program will follow to distribute equipment leasing money to approved applicants?
- WAC 16-730-050 How will the program's equipment leasing money be allocated in 2004?
- WAC 16-730-055 For the initial leasing program, what are the base distribution amounts for each category of handler/packers?
- WAC 16-730-060 What requirements apply to equipment leasing program lease agreements?
- WAC 16-730-062 What happens if an approved handler/packer defaults on a lease?
- WAC 16-730-065 How long will the initial asparagus equipment leasing program be in operation?
- WAC 16-730-070 Who develops the depreciation schedules for the program's leased equipment?
- WAC 16-730-075 Will the equipment used in the asparagus equipment leasing program be offered for sale to the handler/packer who leased it?
- WAC 16-731-070 How will applicants be selected to participate in the equipment leasing program?
- WAC 16-731-080 If an application is not selected, can the applicant request a review of the director's decision?
- WAC 16-731-090 If an applicant's initial application is not selected, can the applicant reapply to the equipment leasing program?
- WAC 16-731-100 How will the program distribute equipment leasing funds?
- WAC 16-731-110 How will the program's equipment leasing funds be allocated?
- WAC 16-731-120 For the leasing program, what are the maximum distribution amounts for each successful grower applicant?
- WAC 16-731-130 What requirements apply to equipment leasing program lease agreements?
- WAC 16-731-140 What happens if a selected asparagus grower defaults on a lease?
- WAC 16-731-150 How long will the asparagus grower equipment leasing program be in operation?
- WAC 16-731-160 Who develops the depreciation schedules for the program's leased equipment?
- WAC 16-731-170 Will the equipment used in the asparagus grower equipment leasing program be offered for sale to the grower who leased it?

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-731-010 What is the purpose of the asparagus grower equipment lease program?
- WAC 16-731-020 How does the department ensure that program participants comply with the program's purpose?
- WAC 16-731-030 What definitions are important to this chapter?
- WAC 16-731-040 How will the asparagus grower equipment leasing program be administered?
- WAC 16-731-050 Who is eligible to participate in the asparagus grower equipment leasing program?
- WAC 16-731-060 How does an eligible asparagus grower apply to the equipment leasing program?

WSR 20-15-062**PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed July 10, 2020, 4:52 p.m., effective August 10, 2020]

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

Purpose: This rule amends WAC 392-121-182 to remove nonfiscal alternative learning experience (ALE) provisions. It recodifies those provisions in a new standalone WAC chapter governing ALE (chapter 392-550 WAC), defines truancy expectations in ALE settings, and removes the current requirement to obtain a parent signature documenting the parent's understanding of the difference between home-based instruction and ALE.

Citation of Rules Affected by this Order: New chapter 392-550 WAC; and amending WAC 392-121-182.

Statutory Authority for Adoption: Chapter 28A.232 RCW; RCW 28A.232.030.

Adopted under notice filed as WSR 20-11-081 on May 20, 2020.

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

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

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

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

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

Date Adopted: July 9, 2020.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-19-040, filed 9/13/18, effective 10/14/18)

WAC 392-121-182 Alternative learning experience requirements. ~~((1) Purposes:~~ The purposes of this section are the following:

~~(a) To ensure that students enrolled in an alternative learning experience offered by a school district or public charter school have available to them educational opportunities designed to meet their individual needs;~~

~~(b) To provide general program requirements for alternative learning experiences offered by or through school districts and charter schools;~~

~~(c) To provide a method for determining full-time equivalent enrollment and a process school districts and charter schools must use when claiming state funding for alternative learning experiences.~~

~~(2) **General requirements:** A school district or charter school must meet the requirements of this section to count an alternative learning experience as a course of study pursuant to WAC 392-121-107. This section applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience. It is not intended to apply to alternative learning experiences funded exclusively with federal or local resources. This section does not apply to alternative learning experiences offered by charter schools pursuant to charter contract terms governing the operation of alternative learning experience in the school.~~

~~(3) **Definitions:** For the purposes of this section the following definitions apply:~~

~~(a)(i) "Alternative learning experience" means a course, or for grades kindergarten through eight, grade level course work, that is a delivery method for the program of basic education and is:~~

~~(A) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;~~

~~(B) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or charter school, or under contract as permitted by applicable rules; and~~

~~(C) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's or charter school's policy and this chapter.~~

~~(ii) The categories of alternative learning experience courses are:~~

~~(A) "Online course" means an alternative learning experience course that has the same meaning as provided in RCW 28A.250.010.~~

~~(B) "Remote course" means an alternative learning experience course or course work that is not an online course where the written student learning plan for the course does not include a requirement for in-person instructional contact time.~~

~~(C) "Site-based course" means an alternative learning experience course or course work that is not an online course where the written student learning plan for the course includes a requirement for in-person instructional contact time.~~

~~(b) "Alternative learning experience program" is a school or a program within a school that offers alternative learning experience courses or course work;~~

~~(c) "Certificated teacher" means an employee of a school district or charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is assigned and endorsed according to the provisions of chapter 181-82 WAC;~~

~~(d) "Direct personal contact" means a one-to-one meeting between a certificated teacher and the student, or, where appropriate, between the certificated teacher, the student, and the student's parent. Direct personal contact can be accomplished in person or through the use of telephone, email, instant messaging, interactive video communication, or other means of digital communication. Direct personal contact:~~

~~(i) Must be for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan;~~

~~(ii) Must be related to an alternative learning experience course or course work identified in the written student learning plan; and~~

~~(iii) Must at minimum include a two-way exchange of information between a certificated teacher and the student. All required direct personal contact must be documented.~~

~~(e) "Full-day kindergarten" means a program that is eligible for state-funded full-day kindergarten, as provided for in RCW 28A.150.315 in which any student's alternative learning experience enrollment is claimed as greater than 0.50 full-time equivalent.~~

~~(f) "In-person instructional contact" means face-to-face contact between a certificated teacher and the student in a classroom environment. In-person instructional contact may be accomplished in a group setting between the teacher and multiple students. The in-person instructional contact must be:~~

~~(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other~~

learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course identified in the written student learning plan.

(g) "Intervention plan" means a plan designed to improve the progress of students determined to be not making satisfactory progress. An intervention plan must be developed, documented, and implemented by a certificated teacher in conjunction with the student and, for students in grades K-8, the student's parent(s). For students whose written student learning plan includes only online courses, the intervention plan may be developed by the school-based support staff in conjunction with the student and certificated teacher and must be approved by the student's online certificated teacher. At minimum, the intervention plan must include at least one of the following interventions:

(i) Increasing the frequency or duration of contact with a certificated teacher for the purposes of enhancing the ability of the certificated teacher to improve student learning;

(ii) Modifying the manner in which contact with a certificated teacher is accomplished;

(iii) Modifying the student's learning goals or performance objectives;

(iv) Modifying the number of or scope of courses or the content included in the learning plan.

(h) "Parent" has the same definition as "parent" in WAC 392-172A-01125;

(i) "Satisfactory progress" means a determination made in accordance with subsection (4)(c) that a student's progress toward achieving the specific learning goals and performance objectives specified in the written student learning plan is satisfactory;

(j) "School week" means any seven-day calendar period starting with Sunday and continuing through Saturday that includes at least three days when a district's schools are in session or when a charter school is in session;

(k) "School-based support staff" means an employee of a school district or a charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is supporting a student in an online course. The school-based support staff may or may not hold a teaching certificate;

(l) "Substantially similar experiences and services" means that for each purchased or contracted instructional or cocurricular course, lesson, trip, or other experience, service, or activity identified on an alternative learning experience written student learning plan, there is an identical or similar experience, service, or activity made available to students enrolled in the district's regular instructional program:

(i) At a similar grade level;

(ii) At a similar level of frequency, intensity, and duration including, but not limited to, consideration of individual versus group instruction;

(iii) At a similar level of cost to the student with regard to any related club, group, or association memberships; admission, enrollment, registration, rental or other participation fees; or any other expense associated with the experience or service;

(iv) In accordance with district adopted or charter school adopted content standards or state defined grade level standards; and

(v) That is supervised, monitored, assessed, evaluated, and documented by a certificated teacher.

(m) "Synchronous digital instructional contact" means real-time communication between a certificated teacher and the student using interactive online, voice, or video communication technology. Synchronous digital instructional contact may be accomplished in a group setting between the teacher and multiple students. The synchronous digital contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course or course work identified in the written student learning plan.

(n) "Total weekly time" means the estimated average hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan;

(o) "WaKIDS" means the Washington kindergarten inventory of developing skills assessment provided under RCW 28A.655.080.

(p) "Written student learning plan" means a written plan for learning that includes at least the following elements:

(i) A beginning and ending date for the student's alternative learning experience courses;

(ii) An estimate by a certificated teacher of the average number of hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan. This estimate must consider only the time the student will engage in learning activities necessary to accomplish the learning goals and performance objectives specified in the written student learning plan;

(iii) For online courses and remote courses, a description of how weekly contact requirements will be fulfilled;

(iv) A description of each alternative learning experience course or course work included as part of the learning plan, including specific learning goals, performance objectives, and learning activities for each course, written in a manner that facilitates monthly evaluation of student progress. This requirement may be met through the use of individual course syllabi or other similarly detailed descriptions of learning requirements. The description must clearly identify the requirements a student must meet to successfully complete the course or course work. Courses or course work must be identified using course names, codes, and designators specified in the most recent *Comprehensive Education Data and Research System* data manual published by the office of superintendent of public instruction;

(v) Identification of the certificated teacher responsible for each course or course work included as part of the plan;

(vi) Identification of all instructional materials that will be used to complete the learning plan; and

(vii) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan;

(viii) Identification of whether each alternative learning experience course or course work meets one or more of the state essential academic learning requirements or grade-level expectations and any other academic goals, objectives, and learning requirements defined by the school district or charter school; and

(ix) For students enrolled in full-day kindergarten:

(A) A description of curriculum activities that assist students in:

(I) Developing initial skills in the academic areas of reading, mathematics, and writing;

(II) Developing a variety of communication skills;

(III) Providing experiences in science, social studies, arts, health, physical education, and a world language other than English;

(IV) Acquiring large and small motor skills;

(V) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(VI) Learning through hands-on experiences.

(B) A description of learning environments that are developmentally appropriate and promote creativity.

(4) Alternative learning experience program requirements:

(a) Each student participating in an alternative learning experience must have a written student learning plan developed and approved by a certificated teacher that is designed to meet the student's individual educational needs. A certificated teacher must have responsibility and accountability for each course specified in the plan, including supervision and monitoring, and evaluation and documentation of the student's progress. The written student learning plan may be developed with assistance from the student, the student's parents, or other interested parties. For students whose written student learning plan includes only online courses, the written student learning plan may be developed and approved by a certificated teacher or a school-based support staff.

(b) Each student enrolled in an alternative learning experience must have one of the following methods of contact with a certificated teacher at least once a school week until the student completes all course objectives or otherwise meets the requirements of the learning plan:

(i) Direct personal contact; or

(ii) In-person instructional contact; or

(iii) Synchronous digital instructional contact.

(c) The educational progress of each student enrolled in an alternative learning experience must be evaluated at least once each calendar month of enrollment by a certificated teacher or, for students whose written student learning plans include only online classes, school-based support staff in accordance with this section. The results of each evaluation must be communicated to the student or, if the student is in grades K-8, both the student and the student's parent. For students whose written student learning plan includes only online courses, a school-based support staff may communicate the progress evaluation to the student. Educational progress must be evaluated according to the following requirements:

(i) Each student's educational progress evaluation must be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The evaluation of satisfactory progress must be conducted in a manner consistent with school district or charter school student evaluation or grading procedures, and be based on the professional judgment of a certificated teacher.

(iii) In the event that the monthly evaluation is not completed within the calendar month being evaluated, the evaluation must be completed within five school days of the end of the month. Districts and charter schools must not claim funding for the subsequent month for a student who was not evaluated within that time frame.

(iv) The progress evaluation conducted by a certificated teacher must include direct personal contact with the student with the following exceptions:

(A) After an initial month of satisfactory progress, in subsequent months where progress continues to be satisfactory the evaluation may be communicated to the student without direct personal contact.

(B) Direct personal contact is not required as a part of the evaluation conducted in the final month of the school year if the evaluation takes the form of the delivery of final grades to the student.

(v) Based on the progress evaluation, a certificated teacher must determine and document whether the student is making satisfactory progress reaching the learning goals and performance objectives defined in the written student learning plan.

(vi) For students whose written student learning plan includes only online courses, school-based support staff, according to school policy and procedures, may use the student's progress grades in the online course or courses to determine whether a student's progress is satisfactory. School-based support staff, following school policy and procedures, may take into account nonacademic factors or local school expectations to finalize the determination of satisfactory progress. The progress grades posted in the learning management system may serve as the documentation of determining satisfactory progress.

(vii) If it is determined that the student failed to make satisfactory progress or that the student failed to follow the written student learning plan, an intervention plan must be developed for the student. An intervention plan is not required if the evaluation is delivered within the last five school days of the school year.

(viii) If after no more than three consecutive calendar months in which it is determined the student is not making satisfactory progress despite documented intervention efforts, a course of study designed to more appropriately meet the student's educational needs must be developed and implemented by a certificated teacher in conjunction with the student and where possible, the student's parent. This may include removal of the student from the alternative learning experience and enrollment of the student in another educational program offered by the school district or charter school.

(d) Alternative learning experience programs providing full-day kindergarten must have:

(i) Multiple weekly, in-person, and on-site observations of students by certificated teachers each week during the eight-week WaKIDS assessment window.

(ii) At least a one thousand annual hour instructional program.

(5) Required school district or charter school board policies for alternative learning experiences: The board of directors of a school district or charter school board claiming state funding for alternative learning experiences must adopt and annually review written policies authorizing such alternative learning experiences, including each alternative learning experience program and program provider. The policy must designate, by title, one or more school district official(s) or charter school official(s) responsible for overseeing the district's or charter school's alternative learning experience courses or programs, including monitoring compliance with this section, and reporting at least annually to the school district board of directors or charter school board on the program. This annual report shall include at least the following:

(a) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(b) Identification of the overall ratio of certificated instructional staff to full-time equivalent students enrolled in each alternative learning experience program;

(c) A description of how the program supports the district's or charter school's overall goals and objectives for student academic achievement; and

(d) Results of any self-evaluations conducted pursuant to subsection (10) of this section.

(6) Alternative learning experience implementation requirements:

(a) School districts or charter schools that offer alternative learning experience courses or course work must ensure that they are accessible to all students, including students with disabilities. Alternative learning experience courses or course work for special education students must be provided in accordance with chapter 392-172A WAC.

(b) Contracting for alternative learning experience courses or course work is subject to the provisions of WAC 392-121-188.

(c) It is the responsibility of the school district or school district contractor, or charter school or charter school contractor, to ensure that students have all curricula, course content, instructional materials and learning activities that are identified in the alternative learning experience written student learning plan.

(d) School districts and charter schools must ensure that no student or parent is provided any compensation, reimbursement, gift, reward, or gratuity related to the student's enrollment or participation in, or related to another student's recruitment or enrollment in, an alternative learning experience course or course work unless otherwise required by law. This prohibition includes, but is not limited to, funds provided to parents or students for the purchase of educational materials, supplies, experiences, services, or technological equipment.

(e) School district employees are prohibited from receiving any compensation or payment as an incentive to increase

student enrollment of out-of-district students in an alternative learning experience course or course work.

(f) Curricula, course content, instructional materials, learning activities, and other learning resources for alternative learning experience courses or course work must be consistent in quality with those available to the district's or charter school's overall student population.

(g) Instructional materials used in alternative learning experience courses or course work must be approved pursuant to school board policies adopted in accordance with RCW 28A.320.230.

(h) A district or charter school may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience courses or course work if the purchase is consistent with the district's or charter school's approved instructional materials or curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's or charter school's regular instructional program. Items so purchased remain the property of the school district or charter school upon program completion.

(i) School districts and charter schools are prohibited from purchasing or contracting for instructional or cocurricular experiences and services that are included in an alternative learning experience written student learning plan including, but not limited to, lessons, trips, and other activities, unless substantially similar experiences or services are also made available to students enrolled in the district's or charter school's regular instructional program. This prohibition extends to a district's or charter school's contracted providers of alternative learning experience programs, and each district and charter school shall be responsible for monitoring the compliance of its contracted providers. Nothing herein shall:

(i) Prohibit school districts or charter schools from contracting with school district or charter school employees to provide services or experiences to students; or

(ii) Prohibit school districts or charter schools from contracting with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW; or

(iii) Require school districts or charter schools that contract with school district or charter school employees to provide services or experiences to students, or with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW, to provide substantially similar experiences and services under this subsection.

(j)(i) A school district or charter school that provides alternative learning experience courses or course work to a student must provide the parent(s) of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent must sign documentation attesting to his or her understanding of the difference. Such documentation must be retained by the district or charter school and made available for audit.

(ii) In the event a school district or charter school cannot locate a student's parent within three days of a student's request for enrollment in an alternative learning experience,

the school district or charter school may enroll the student for a conditional period of no longer than thirty calendar days. The student must be disenrolled from the alternative learning experience if the school district or charter school does not obtain the documentation required under this subsection before the end of the thirty day conditional enrollment period.

(k) The school district or school district contractor, or charter school or charter school contractor, is prohibited from advertising, marketing, and otherwise providing unsolicited information about learning programs offered by the school district or charter school including, but not limited to, digital learning programs, part-time enrollment opportunities, and other alternative learning programs, to students and their parents who have filed a declaration of intent to cause a child to receive home-based instruction under RCW 28A.200.010. School districts and charter schools may respond to requests for information that are initiated by a parent. This prohibition does not apply to general mailings, newsletters, or other general communication distributed by the school district, school district contractor, charter school, or charter school contractor to all households in the district.

(l) Work-based learning as a component of an alternative learning experience course of study is subject to the provisions of WAC 392-410-315 and 392-121-124.

(m) The school district or charter school must institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district or charter school.

(n) School districts may accept nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC for enrollment in alternative learning experiences.

(o) School districts enrolling a nonresident student must inform the resident school district if the student drops out of the alternative learning experience program or is otherwise no longer enrolled.

(p) The alternative learning experience must satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies as provided in chapter 392-410 WAC.

(q) High school alternative learning experience courses must be offered for high school credit. Courses offering credit or alternative learning experience programs issuing a high school diploma must satisfy the state board of education's high school credit and graduation requirements as provided in chapter 180-51 WAC.

(r) Beginning in the 2013-14 school year and continuing through the 2016-17 school year, school districts and charter schools offering or contracting to offer alternative learning experience courses must pay costs associated with a biennial measure of student outcomes and financial audit of the district's or charter school's alternative learning experience courses by the office of the state auditor.

(7) Enrollment reporting procedures: Effective the 2011-12 school year, the full-time equivalency of students enrolled in an alternative learning experience must be determined as follows:

(a) The school district or charter school must use the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, subject to documented evidence of student participation as required by WAC 392-121-106(4), the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the student's written student learning plan.

(ii) On any subsequent monthly count date, the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the written student learning plan if:

(A) The student's progress evaluation conducted in the prior calendar month pursuant to subsection (4)(c) of this section indicates satisfactory progress; or

(B) The student's progress evaluation conducted in the prior calendar month pursuant to subsection (4)(c) of this section indicates a lack of satisfactory progress, and an intervention plan designed to improve student progress has been developed, documented, and implemented within five school days of the date of the prior month's progress evaluation.

(iii) On any subsequent monthly count date if an intervention plan has not been developed, documented, and implemented within five days of the prior month's progress evaluation, the student's full-time equivalent must not be included by the school district or charter school in the subsequent month's enrollment count.

(iv) Enrollment of part-time students is subject to the provisions of RCW 28A.150.350, and generates a pro rata share of full-time funding.

(b) The enrollment count must exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had contact with a certificated teacher for twenty consecutive school days. Any such student must not be counted as an enrolled student until the student has met with a certificated teacher and resumed participation in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107;

(c) The enrollment count must exclude students who are not residents of Washington state as defined by WAC 392-137-115;

(d) The enrollment count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date;

(e) For alternative learning experience programs that end prior to June 1st, the June enrollment count date may be the last school day in May and include students whose written student learning plan includes an ending date that is the last school day in May.

(f) Graduating alternative learning experience students whose last school day is in May may be included in the June enrollment count if the following conditions are met:

(i) The alternative learning experience program calendar identifies that the last day of school for the graduating students is in May.

(ii) The students' written student learning plan includes an end date that is the last day of school for graduating students in May.

(g) School districts claiming alternative learning experiences students for funding for nonresident students must document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate including, but not limited to:

(i) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts shall execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(ii) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC the district may not claim funding for the student until after the release date documented by the resident district.

(8) Assessment requirements:

(a) All students enrolled in alternative learning experience courses or course work must be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district or charter school. Part-time students must also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(b) Any student whose alternative learning experience enrollment is claimed as greater than 0.8 full-time equivalent in any one month through the January count date must be included by the school district or charter school in any required state or federal accountability reporting for that school year, subject to existing state and federal accountability rules and procedures.

(c) Students enrolled in nonresident district alternative learning experience courses or course work who are unable to participate in required annual state assessments at the nonresident district must have the opportunity to participate in such required annual state assessments at the district of physical residence, subject to that district's planned testing schedule. It is the responsibility of the nonresident enrolling district to establish a written agreement with the district of physical residence that facilitates all necessary coordination between the districts and with the student and, where appropriate, the student's parent(s) to fulfill this requirement. Such coordination may include arranging for appropriate assessment materials, notifying the student of assessment administration schedules, arranging for the forwarding of completed assessment mate-

rials to the enrolling district for submission for scoring and reporting, arranging for any allowable testing accommodations, and other steps as may be necessary. The agreement may include rates and terms for payment of reasonable fees by the enrolling district to the district of physical residence to cover costs associated with planning for and administering the assessments to students not enrolled in the district of physical residence. Assessment results for students assessed according to these provisions must be included in the enrolling district's accountability measurements, and not in the district of physical residence's accountability measurements.

(d) School districts and charter schools offering alternative learning experience courses or course work to students enrolled in full-day kindergarten under RCW 28A.150.315 must administer WaKIDS to identify the skills, knowledge, and characteristics of kindergarten students at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction.

To maintain fidelity to the state WaKIDS assessment protocol, the WaKIDS assessment requires multiple weekly, in-person, and on-site observations of students by certificated teachers each week during the eight-week assessment window.

(9) Reporting requirements:

(a) Each school district or charter school offering alternative learning experience courses or course work must report monthly to the superintendent of public instruction accurate monthly headcount and full-time equivalent enrollment for students enrolled in alternative learning experiences. Each school district offering alternative learning experience courses or course work must further report monthly to the superintendent information about the resident and serving districts of such students.

(b) Each school district or charter school offering alternative learning experience courses or course work must submit an annual report to the superintendent of public instruction detailing the costs and purposes of any expenditure made pursuant to subsection (6)(i) of this section, along with the substantially similar experiences or services made available to students enrolled in the district's or charter school's regular instructional program.

(c) Each school district or charter school offering alternative learning experience courses or course work must annually report the following to the superintendent of public instruction:

(i) The number of certificated instructional staff full-time equivalent assigned to each alternative learning experience program; and

(ii) Separately identify alternative learning experience enrollment of students where instruction is provided entirely under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(iii) The number of students enrolled in full-day kindergarten at any time during the school year.

(iv) The number of students enrolled in full-day kindergarten who participated in the WaKIDS assessment prior to the assessment deadline.

(d) Each school district or charter school offering alternative learning experience courses must report all required information to the office of superintendent of public instruction's *Comprehensive Education Data and Research System* under RCW 28A.300.500. School districts and charter schools must designate alternative learning experience courses as such when reporting course information to the *Comprehensive Education Data and Research System*.

~~(10) **Documentation and record retention requirements:** School districts and charter schools claiming state funding for alternative learning experiences must retain all documentation required in this section in accordance with established records retention schedules and must make such documentation available upon request for purposes of state monitoring and audit. School districts and charter schools must maintain the following written documentation:~~

~~(a) School board policy for alternative learning experiences pursuant to this section;~~

~~(b) Annual reports to the school district board of directors or charter school board as required by subsection (5) of this section;~~

~~(c) Monthly and annual reports to the superintendent of public instruction as required by subsection (9) of this section;~~

~~(d) The written student learning plans required by subsection (4) of this section;~~

~~(e) Evidence of weekly contact required by subsection (4) of this section.~~

~~(i) For students participating in regularly scheduled classes, including in-person instructional contact and synchronous digital instructional contact, evidence may include classroom attendance records.~~

~~(ii) For students who are not participating in regularly scheduled classes, evidence of contact must include the date of the contact, the method of communication by which the contact was accomplished, and documentation to support the subject of the communication.~~

~~(f) Student progress evaluations and intervention plans required by subsection (4) of this section;~~

~~(g) The results of any assessments required by subsection (9) of this section;~~

~~(h) Student enrollment detail substantiating full time equivalent enrollment reported to the state; and~~

~~(i) Signed parent enrollment disclosure documents required by subsection (6)(j) of this section.)~~ **(1) Scope.** This section applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience.

(2) Requirements. A school district or charter school must meet the requirements of this section and chapter 392-550 WAC to count an alternative learning experience as a course of study pursuant to WAC 392-121-107.

(3) Student eligibility. A student enrolled in an alternative learning experience course must meet the following conditions:

(a) The student must meet the definition of an enrolled student under WAC 392-121-106;

(b) The student must not meet any of the enrollment exclusions in WAC 392-121-108;

(c) The student's residence must be in Washington state as provided in WAC 392-137-115; and

(d) For students whose residence is not located in the school district providing an alternative learning experience course (nonresident student), the district must:

(i) Document the school district in which the nonresident student's residence is located;

(ii) Establish procedures that address, at a minimum, the coordination of student counting for state funding so that no enrolled student is counted for more than one full-time equivalent in the aggregate. The procedure must include, but not be limited to, the following:

(A) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts must execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(B) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC, the district may not claim funding for the student until after a release transfer is completed by the resident district and the nonresident serving district.

(4) Enrollment count dates.

(a) Alternative learning experience enrollment is claimed based on the monthly count dates as defined in WAC 392-121-119.

(b) For alternative learning experience programs that end prior to June 1st, the June enrollment count date may be the last school day in May and include students whose written student learning plan pursuant to WAC 392-550-025(1) has an ending date that is the last school day in May.

(c) Graduating alternative learning experience students whose last school day is in May may be included in the June enrollment count if the following conditions are met:

(i) The alternative learning experience program calendar identifies that the last day of school for the graduating students is in May; and

(ii) The student's written student learning plan pursuant to WAC 392-550-025(1) includes an end date that is the last day of school for graduating students in May.

(5) Reporting of student enrollment.

(a) For the first time a student's alternative learning experience enrollment is claimed for state funding, the following requirements must be met:

(i) A completed written student learning plan pursuant to WAC 392-550-025(1) is in place with a start date that is before the monthly count day; and

(ii) There is documented evidence of student participation as required by WAC 392-121-106(4).

(b) On subsequent monthly count dates, a student's alternative learning experience course(s) can be claimed for state funding if the following requirements are met:

(i) A completed written student learning plan pursuant to WAC 392-550-025(1) is in place on the monthly count date;

(ii) The contact requirement pursuant to WAC 392-550-025(2) was met in the prior month;

(iii) The monthly progress evaluation requirement pursuant to WAC 392-550-025(3) was met in the prior month; and

(iv) If the monthly progress evaluation showed unsatisfactory progress, the intervention plan requirement pursuant to WAC 392-550-025(4) is met.

(c) Students must be excluded from the monthly count including students who have not had contact with a certificated teacher for twenty consecutive school days. Any such student must be excluded from the monthly count until the student has met with a certificated teacher and resumed participation in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107.

(d) The student count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date.

(6) Student full-time equivalency.

(a) The full-time equivalency of students enrolled in alternative learning experiences is based on the estimated average weekly hours of learning activity described in the written student learning plan.

(b) Pursuant to WAC 392-121-122, twenty-seven hours and forty-five minutes each week (one thousand six hundred sixty-five weekly minutes) equal one full-time equivalent.

(c) Enrollment of part-time alternative learning experience students is subject to the provisions of chapter 392-134 WAC and generates a pro rata share of full-time funding based on the estimated average weekly minutes of learning activity described in the written student learning plan divided by one thousand six hundred sixty-five weekly minutes.

(d) Kindergarten students claimed for more than a 0.50 full-time equivalent must meet the state-funded full-day kindergarten requirements, as provided for in RCW 28A.150.315.

(e) The full-time equivalent limitations outlined in WAC 392-121-136 and the nonstandard school year limitations outlined in WAC 392-121-123 apply to alternative learning enrollment.

Chapter 392-550 WAC

ALTERNATIVE LEARNING EXPERIENCE REQUIREMENTS

NEW SECTION

WAC 392-550-005 Purpose. (1) The purposes of this chapter are the following:

(a) To ensure that students enrolled in an alternative learning experience offered by a school district or public charter school have available to them educational opportunities designed to meet their individual needs; and

(b) To provide general program requirements for alternative learning experiences offered by or through school districts and charter schools.

(2) This chapter applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience. It is not intended to apply to alternative learning experiences funded exclusively with federal or local resources. This chapter does not apply to alternative learning experiences offered by charter schools pursuant to charter contract terms governing the operation of alternative learning experience in the school.

NEW SECTION

WAC 392-550-010 Authority. The authority for this chapter is RCW 28A.232.010, 28A.150.315, 28A.150.290, and 28A.710.220.

NEW SECTION

WAC 392-550-020 Definitions. For the purposes of this chapter the following definitions apply:

(1)(a) "Alternative learning experience" means a course, or for grades kindergarten through eight, grade-level course work, that is a delivery method for the program of basic education and is:

(i) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(ii) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or charter school, or under contract as permitted by applicable rules; and

(iii) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's or charter school's policy and this chapter.

(b) The categories of alternative learning experience courses are:

(i) "Online course" means an alternative learning experience course that has the same meaning as provided in RCW 28A.250.010.

(ii) "Remote course" means an alternative learning experience course or course work that is not an online course where the written student learning plan for the course does not include a requirement for in-person instructional contact time.

(iii) "Site-based course" means an alternative learning experience course or course work that is not an online course where the written student learning plan for the course includes a requirement for in-person instructional contact time.

(2) "Alternative learning experience program" is a school or a program within a school that offers alternative learning experience courses or course work.

(3) "Certificated teacher" means an employee of a school district or charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is assigned and endorsed according to the provisions of chapter 181-82 WAC.

(4) "Direct personal contact" means a one-to-one meeting between a certificated teacher and the student, or, where appropriate, between the certificated teacher, the student, and the student's parent. Direct personal contact can be accomplished in person or through the use of telephone, email,

instant messaging, interactive video communication, or other means of digital communication.

(5) "Full-day kindergarten" means a program that is eligible for state-funded full-day kindergarten, as provided for in RCW 28A.150.315 in which any student's alternative learning experience enrollment is claimed as greater than 0.50 full-time equivalent.

(6) "In-person instructional contact" means face-to-face contact between a certificated teacher and the student in a classroom environment. In-person instructional contact may be accomplished in a group setting between the teacher and multiple students.

(7) "Intervention plan" means a plan designed to improve the progress of students determined to be not making satisfactory progress.

(8) "Parent" has the same definition as "parent" in WAC 392-172A-01125.

(9) "Satisfactory progress" means a determination made in accordance with WAC 392-550-025 that a student's progress toward achieving the specific learning goals and performance objectives specified in the written student learning plan is satisfactory.

(10) "School week" means any seven-day calendar period starting with Sunday and continuing through Saturday that includes at least three days when a district's schools are in session or when a charter school is in session.

(11) "School-based support staff" means an employee of a school district or a charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is supporting a student in an online course. The school-based support staff may or may not hold a teaching certificate.

(12) "Substantially similar experiences and services" means that for each purchased or contracted instructional or cocurricular course, lesson, trip, or other experience, service, or activity identified on an alternative learning experience written student learning plan, there is an identical or similar experience, service, or activity made available to students enrolled in the district's regular instructional program:

(a) At a similar grade level;

(b) At a similar level of frequency, intensity, and duration including, but not limited to, consideration of individual versus group instruction;

(c) At a similar level of cost to the student with regard to any related club, group, or association memberships; admission, enrollment, registration, rental or other participation fees; or any other expense associated with the experience or service;

(d) In accordance with district adopted or charter school adopted content standards or state defined grade level standards; and

(e) That is supervised, monitored, assessed, evaluated, and documented by a certificated teacher.

(13) "Synchronous digital instructional contact" means real-time communication between a certificated teacher and the student using interactive online, voice, or video communication technology.

(14) "Total weekly time" means the estimated average hours per school week the student will engage in learning

activities to meet the requirements of the written student learning plan.

(15) "Valid justification" means any reason as determined by the school district or charter school board policy for which a student may miss the contact requirements of WAC 392-550-025 for the purpose of truancy pursuant to WAC 392-550-040.

(16) "WaKIDS" means the Washington kindergarten inventory of developing skills assessment provided under RCW 28A.655.080.

(17) "Written student learning plan" means a written plan for learning that includes the elements outlined in WAC 392-550-025.

NEW SECTION

WAC 392-550-025 Alternative learning experience requirements. (1) Written student learning plan.

(a) Each student participating in an alternative learning experience must have a written student learning plan developed and approved by a certificated teacher that is designed to meet the student's individual educational needs.

(b) A certificated teacher must have responsibility and accountability for each course specified in the plan, including supervision and monitoring, and evaluation and documentation of the student's progress.

(c) The written student learning plan may be developed with assistance from the student, the student's parents, or other interested parties. For students whose written student learning plan includes only online courses, the written student learning plan may be developed and approved by a certificated teacher or a school-based support staff.

(d) The written student learning plan must include the following elements:

(i) A beginning and ending date for the student's alternative learning experience courses;

(ii) An estimate by a certificated teacher of the average number of hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan. This estimate must consider only the time the student will engage in learning activities necessary to accomplish the learning goals and performance objectives specified in the written student learning plan;

(iii) For online courses and remote courses, a description of how weekly contact requirements will be fulfilled;

(iv)(A) A description of each alternative learning experience course or course work included as part of the learning plan, including specific learning goals, performance objectives, and learning activities for each course, written in a manner that facilitates monthly evaluation of student progress. The description must clearly identify the requirements a student must meet to successfully complete the course or course work. Courses or course work must be identified using course names, codes, and designators specified in the most recent *Comprehensive Education Data and Research System* data manual published by the office of superintendent of public instruction;

(B) This requirement may be met through the use of individual course syllabi or other similarly detailed descriptions of learning requirements;

(v) Identification of the certificated teacher responsible for each course or course work included as part of the plan;

(vi) Identification of all instructional materials that will be used to complete the learning plan;

(vii) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan; and

(viii) Identification of whether each alternative learning experience course or course work meets one or more of the state essential academic learning requirements or grade-level expectations and any other academic goals, objectives, and learning requirements defined by the school district or charter school.

(2) **Contact.** Each student enrolled in an alternative learning experience must have one of the following methods of contact with a certificated teacher at least once a school week until the student completes all course objectives or otherwise meets the requirements of the learning plan:

(a) Direct personal contact must:

(i) Be for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan;

(ii) Be related to an alternative learning experience course or course work identified in the written student learning plan; and

(iii) At minimum include a two-way exchange of information between a certificated teacher and the student. All required direct personal contact must be documented.

(b) In-person instructional contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course identified in the written student learning plan.

(c) Synchronous digital instructional contact may be accomplished in a group setting between the teacher and multiple students. The synchronous digital contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course or course work identified in the written student learning plan.

(3) **Monthly progress evaluation.**

(a) The educational progress of each student enrolled in an alternative learning experience must be evaluated at least once each calendar month of enrollment by a certificated teacher or, for students whose written student learning plans include only online classes, school-based support staff in accordance with this section.

(b) The results of each evaluation must be communicated to the student or, if the student is in grades K-8, both the student and the student's parent. For students whose written student learning plan includes only online courses, a school-based support staff may communicate the progress evaluation to the student.

(c) Educational progress must be evaluated according to the following requirements:

(i) Each student's educational progress evaluation must be based on the learning goals and performance objectives defined in the written student learning plan;

(ii) The evaluation of satisfactory progress must be conducted in a manner consistent with school district or charter school student evaluation or grading procedures, and be based on the professional judgment of a certificated teacher;

(iii) In the event that the monthly evaluation is not completed within the calendar month being evaluated, the evaluation must be completed within five school days of the end of the month. Districts and charter schools must not claim funding for the subsequent month for a student who was not evaluated within that time frame;

(iv) The progress evaluation conducted by a certificated teacher must include direct personal contact with the student with the following exceptions:

(A) After an initial month of satisfactory progress, in subsequent months where progress continues to be satisfactory the evaluation may be communicated to the student without direct personal contact.

(B) Direct personal contact is not required as a part of the evaluation conducted in the final month of the school year if the evaluation takes the form of the delivery of final grades to the student.

(v) Based on the progress evaluation, a certificated teacher must determine and document whether the student is making satisfactory progress reaching the learning goals and performance objectives defined in the written student learning plan;

(vi)(A) For students whose written student learning plan includes only online courses, school-based support staff, according to school policy and procedures, may use the student's progress grades in the online course or courses to determine whether a student's progress is satisfactory.

(B) School-based support staff, following school policy and procedures, may take into account nonacademic factors or local school expectations to finalize the determination of satisfactory progress.

(C) The progress grades posted in the learning management system may serve as the documentation of determining satisfactory progress.

(4) **Intervention plan.**

(a) If it is determined that the student failed to make satisfactory progress or that the student failed to follow the written student learning plan, an intervention plan must be developed for the student.

(b) An intervention plan must be developed, documented, and implemented by a certificated teacher in conjunction with the student and, for students in grades K-8, the student's parent(s). For students whose written student learning plan includes only online courses, the intervention plan may be developed by the school-based support staff in conjunction with the student and certificated teacher and must be approved by the student's online certificated teacher.

(c) At minimum, the intervention plan must include at least one of the following interventions:

(i) Increasing the frequency or duration of contact with a certificated teacher for the purposes of enhancing the ability of the certificated teacher to improve student learning;

(ii) Modifying the manner in which contact with a certificated teacher is accomplished;

(iii) Modifying the student's learning goals or performance objectives;

(iv) Modifying the number of or scope of courses or the content included in the learning plan.

(d) An intervention plan is not required if the evaluation is delivered within the last five school days of the year.

(5) **Continued enrollment.** If after no more than three consecutive calendar months in which it is determined the student is not making satisfactory progress despite documented intervention efforts, a course of study designed to more appropriately meet the student's educational needs must be developed and implemented by a certificated teacher in conjunction with the student and where possible, the student's parent. This may include removal of the student from the alternative learning experience and enrollment of the student in another educational program offered by the school district or charter school.

NEW SECTION

WAC 392-550-030 Program requirements. (1) School districts or charter schools that offer alternative learning experience courses or course work must ensure that they are accessible to all students, including students with disabilities. Alternative learning experience courses or course work for special education students must be provided in accordance with chapter 392-172A WAC.

(2) Contracting for alternative learning experience courses or course work is subject to the provisions of WAC 392-121-188.

(3) It is the responsibility of the school district or school district contractor, or charter school or charter school contractor, to ensure that students have all curricula, course content, instructional materials and learning activities that are identified in the alternative learning experience written student learning plan.

(4) School districts and charter schools must ensure that no student or parent is provided any compensation, reimbursement, gift, reward, or gratuity related to the student's enrollment or participation in, or related to another student's recruitment or enrollment in, an alternative learning experience course or course work unless otherwise required by law. This prohibition includes, but is not limited to, funds provided to parents or students for the purchase of educational materials, supplies, experiences, services, or technological equipment.

(5) School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in an alternative learning experience course or course work.

(6) Curricula, course content, instructional materials, learning activities, and other learning resources for alternative learning experience courses or course work must be consistent in quality with those available to the district's or charter school's overall student population.

(7) Instructional materials used in alternative learning experience courses or course work must be approved pursu-

ant to school board policies adopted in accordance with RCW 28A.320.230.

(8) A district or charter school may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience courses or course work if the purchase is consistent with the district's or charter school's approved instructional materials or curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's or charter school's regular instructional program. Items so purchased remain the property of the school district or charter school upon program completion.

(9)(a) School districts and charter schools are prohibited from purchasing or contracting for instructional or cocurricular experiences and services that are included in an alternative learning experience written student learning plan including, but not limited to, lessons, trips, and other activities, unless substantially similar experiences or services are also made available to students enrolled in the district's or charter school's regular instructional program.

(b) This prohibition extends to a district's or charter school's contracted providers of alternative learning experience programs, and each district and charter school shall be responsible for monitoring the compliance of its contracted providers.

(c) Nothing in this subsection shall:

(i) Prohibit school districts or charter schools from contracting with school district or charter school employees to provide services or experiences to students; or

(ii) Prohibit school districts or charter schools from contracting with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW; or

(iii) Require school districts or charter schools that contract with school district or charter school employees to provide services or experiences to students, or with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW, to provide substantially similar experiences and services under this chapter.

(10)(a) A school district or charter school that provides alternative learning experience courses or course work to a student must include a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the alternative learning experience course(s).

(b) This information must be provided directly to the parent prior to the student's enrollment and in the school or program informational materials such as the student and parent handbook and website. Reasonable efforts must be made to enable parents to request and receive the information in a language in which they are fluent.

(11)(a) The school district or school district contractor, or charter school or charter school contractor, is prohibited from advertising, marketing, and otherwise providing unsolicited information about learning programs offered by the school district or charter school including, but not limited to, digital learning programs, part-time enrollment opportunities, and other alternative learning programs, to students and their parents who have filed a declaration of intent to cause a child to receive home-based instruction under RCW

28A.200.010. School districts and charter schools may respond to requests for information that are initiated by a parent.

(b) This prohibition does not apply to general mailings, newsletters, or other general communication distributed by the school district, school district contractor, charter school, or charter school contractor to all households in the district.

(12) Work-based learning as a component of an alternative learning experience course of study is subject to the provisions of WAC 392-410-315 and 392-121-124.

(13) The school district or charter school must institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. For the purpose of this section, "proctored" means directly monitored by an adult authorized by the school district or charter school.

(14) School districts may accept nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC for enrollment in alternative learning experiences.

(15) School districts enrolling a nonresident student must inform the resident school district if the student drops out of the alternative learning experience program or is otherwise no longer enrolled.

(16) The alternative learning experience must satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies as provided in chapter 392-410 WAC.

(17) High school alternative learning experience courses must be offered for high school credit. Courses offering credit or alternative learning experience programs issuing a high school diploma must satisfy the state board of education's high school credit and graduation requirements as provided in chapter 180-51 WAC.

NEW SECTION

WAC 392-550-035 Full-day kindergarten requirements. Alternative learning experience programs providing full-day kindergarten must:

(1) Have multiple weekly, in-person, and on-site observations of students by certificated teachers each week during the eight-week WaKIDS assessment window.

(2) Have at least a one thousand annual hour instructional program.

(3) Have written student learning plans that include at least the following elements:

(a) A description of curriculum activities that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health, physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences.

(b) A description of learning environments that are developmentally appropriate and promote creativity.

(4) Implement WaKIDS in accordance with WAC 392-550-050.

NEW SECTION

WAC 392-550-040 Truancy. (1) This section provides the process for determining truancy, required interventions, and a threshold for filing a truancy petition for students enrolled in alternative learning experience courses. Beginning January 1, 2021, this process should be used in place of the thresholds provided in RCW 28A.225.030. All other requirements of compulsory attendance outlined in chapter 28A.225 RCW apply.

(2) If a child required to attend school under RCW 28A.225.010 fails to meet the contact requirements of an alternative learning experience under this chapter without valid justification, the school district or charter school in which the child is enrolled must perform the following procedures:

(a)(i) The school district or charter school must inform the child's parent by a notice through direct personal contact whenever the child has failed to make weekly contact without valid justification.

(ii) The notice must inform the parent of the potential consequences of additional missed weekly contacts.

(iii) The school district or charter school must ensure that this notification is in a language the parents understand, which may require language assistance for parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(b)(i) After the second consecutive week of missed contact without valid justification or third cumulative week of missed contact without valid justification, the school district or charter school must schedule a conference with the parent and child to discuss the missed contact, administer a screener, and develop a data-based intervention plan to reduce the child's missed contacts.

(ii) The purpose of the conference is to understand the underlying reasons for the missed contact and to develop an intervention plan to address them.

(iii) In middle school and high school, the conference must include the application of the Washington assessment of the risks and needs of students (WARNS), or other screener that identifies barriers to attendance, by a school district's designee under RCW 28A.225.026.

(iv) The conference may take place in-person, by phone, or through interactive video communication.

(v) The conference must take place within one calendar week.

(vi) If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. The parent must be notified of the steps to be taken to eliminate the child's missed weekly contacts.

(3)(a)(i) If the actions performed under subsection (2) of this section are not successful in substantially reducing an enrolled student's missed weekly contacts without valid justifi-

fication, the school district or charter school must file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010 by the parent, the child, or the parent and the child.

(ii) The petition must be filed no later than the fifth consecutive or sixth cumulative missed weekly contact without valid justification. The petition may be filed earlier and it may include the student's previous history of unexcused absences.

(b) A petition filed under this section must include the supporting documentation as provided in RCW 28A.225.030(1).

(c) For nonresident students, the petition must be filed in the county juvenile court that is most accessible for the student and parent. When determining the appropriate county court in which to file a truancy petition for nonresident students, the following must be considered:

(i) Proximity to the student or parents' primary place of residence;

(ii) The guidance from the juvenile court closest to the student or parents' primary place of residence; and

(iii) Preference stated by the student or parent, if communication with the parent(s) has been established.

(4) The petition must follow the requirements of RCW 28A.225.035.

(5)(a) Pursuant to RCW 28A.225.035, the petition must be stayed and the child and the child's parents must be referred to a community truancy board or other coordinated means of intervention.

(b) The school district or charter school offering alternative learning experience course(s), or program designee, is responsible for coordinating with the juvenile court to determine whether a community truancy board is the best intervention for the child or if another coordinated means of intervention will be more likely to support the student to return to school.

NEW SECTION

WAC 392-550-045 Required school district or charter school board policies for alternative learning experiences. (1) The board of directors of a school district or charter school board claiming state funding for alternative learning experiences must adopt and annually review written policies authorizing such alternative learning experiences.

(2) The policy must include at least the following:

(a) Each alternative learning experience program and program provider;

(b) A list of valid justifications why a student may miss the weekly contact requirement pursuant to WAC 392-550-025 for the purpose of truancy pursuant to WAC 392-550-040;

(c) A designation, by title, of one or more school district official(s) or charter school official(s) responsible for overseeing the district's or charter school's alternative learning experience courses or programs who will:

(i) Monitor compliance with this chapter; and

(ii) Report at least annually to the school district board of directors or charter school board on the program pursuant to WAC 392-550-060.

NEW SECTION

WAC 392-550-050 Assessment requirements. (1)(a) All students enrolled in alternative learning experience courses or course work must be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district or charter school.

(b)(i) Part-time students must be assessed at least annually.

(ii) Part-time students who are receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(2) Any student whose alternative learning experience enrollment is claimed as greater than 0.8 full-time equivalent in any one month through the January count date must be included by the school district or charter school in any required state or federal accountability reporting for that school year, subject to existing state and federal accountability rules and procedures.

(3)(a) Students enrolled in nonresident district alternative learning experience courses or course work who are unable to participate in required annual state assessments at the nonresident district must have the opportunity to participate in such required annual state assessments at the district of physical residence, subject to that district's planned testing schedule.

(b)(i) It is the responsibility of the nonresident enrolling district to establish a written agreement with the district of physical residence that facilitates all necessary coordination between the districts and with the student and, where appropriate, the student's parent(s) to fulfill this requirement. Such coordination may include arranging for appropriate assessment materials, notifying the student of assessment administration schedules, arranging for the forwarding of completed assessment materials to the enrolling district for submission for scoring and reporting, arranging for any allowable testing accommodations, and other steps as may be necessary.

(ii) The written agreement may include rates and terms for payment of reasonable fees by the enrolling district to the district of physical residence to cover costs associated with planning for and administering the assessments to students not enrolled in the district of physical residence.

(iii) Assessment results for students assessed according to these provisions must be included in the enrolling district's accountability measurements, and not in the district of physical residence's accountability measurements.

(4)(a) School districts and charter schools offering alternative learning experience courses or course work to students enrolled in full-day kindergarten under RCW 28A.150.315 must administer WaKIDS to identify the skills, knowledge, and characteristics of kindergarten students at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction.

(b) To maintain fidelity to the state WaKIDS assessment protocol, the WaKIDS assessment requires multiple weekly, in-person, and on-site observations of students by certificated

teachers each week during the eight-week assessment window.

NEW SECTION

WAC 392-550-055 Enrollment reporting procedures. The school district or charter school claiming apportionment for alternative learning experience courses is subject to the enrollment reporting procedures in WAC 392-121-182.

NEW SECTION

WAC 392-550-060 Reporting requirements. (1) Each school district or charter school offering alternative learning experience courses or course work must report monthly to the superintendent of public instruction accurate monthly headcount and full-time equivalent enrollment for students enrolled in alternative learning experiences. Each school district offering alternative learning experience courses or course work must further report monthly to the superintendent information about the resident and serving districts of such students.

(2) Each school district or charter school offering alternative learning experience courses or course work must submit an annual report to the superintendent of public instruction detailing the costs and purposes of any expenditure made pursuant to WAC 392-550-030(9), along with the substantially similar experiences or services made available to students enrolled in the district's or charter school's regular instructional program.

(3) Each school district or charter school offering alternative learning experience courses or course work must annually report the following to the superintendent of public instruction:

(a) The number of certificated instructional staff full-time equivalent assigned to each alternative learning experience program;

(b) Separately identify alternative learning experience enrollment of students where instruction is provided entirely under contract pursuant to RCW 28A.150.305 and WAC 392-121-188;

(c) The number of students enrolled in full-day kindergarten at any time during the school year; and

(d) The number of students enrolled in full-day kindergarten who participated in the WaKIDS assessment prior to the assessment deadline.

(4) Each school district or charter school offering alternative learning experience courses must report all required information to the office of superintendent of public instruction's *Comprehensive Education Data and Research System* under RCW 28A.300.500. School districts and charter schools must designate alternative learning experience courses as such when reporting course information to the *Comprehensive Education Data and Research System*.

(5) Each school district or charter school offering alternative learning experience courses or course work must report annually to the school district board of directors or charter school board. This annual report shall include at least the following:

(a) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(b) Identification of the overall ratio of certificated instructional staff to full-time equivalent students enrolled in each alternative learning experience program; and

(c) A description of how the program supports the district's or charter school's overall goals and objectives for student academic achievement.

NEW SECTION

WAC 392-550-065 Documentation and record retention requirements. School districts and charter schools claiming state funding for alternative learning experiences must:

(1) Retain all documentation required in this chapter in accordance with established records retention schedules;

(2) Make such documentation available upon request for purposes of state monitoring and audit;

(3) Maintain the following written documentation:

(a) School board policy for alternative learning experiences pursuant to this chapter;

(b) Annual reports to the school district board of directors or charter school board as required by WAC 392-550-045;

(c) Monthly and annual reports to the superintendent of public instruction as required by WAC 392-550-050;

(d) The written student learning plans required by WAC 392-550-025; and

(e) Evidence of weekly contact required by WAC 392-550-025.

(i) For students participating in regularly scheduled classes, including in-person instructional contact and synchronous digital instructional contact, evidence may include classroom attendance records.

(ii) For students who are not participating in regularly scheduled classes, evidence of contact must include the date of the contact, the method of communication by which the contact was accomplished, and documentation to support the subject of the communication.

(f) Student progress evaluations and intervention plans required by WAC 392-550-025;

(g) The results of any assessments required by WAC 392-550-050; and

(h) Student enrollment detail substantiating full-time equivalent enrollment reported to the state.

WSR 20-15-066

PERMANENT RULES DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed July 13, 2020, 10:21 a.m., effective August 13, 2020]

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

Purpose: Repeal chapter 170-03 WAC and WAC 110-15-2401 through 110-15-2645.

Citation of Rules Affected by this Order: Amending WAC 110-09-0010, 110-09-0020, 110-09-0030, 110-09-

0040, 110-90-0100, 110-90-0120, 110-90-0150, 110-90-0160, 110-90-0170, 110-90-0190, and 110-90-0200.

Statutory Authority for Adoption: Chapter 6, Laws of 2017.

Adopted under notice filed as WSR 20-05-064 on February 14, 2020

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

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

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

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

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

Date Adopted: July 13, 2020.

Brenda Villarreal
Rules Coordinator

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

WAC 110-09-0010 What definitions apply to the department's child welfare services complaint resolution process? (~~"Children's administration" (CA) means the cluster of programs within the department of social and health services responsible for the provision of child welfare, child protective, child care licensing, and other services to children and their families.~~)

"Complaints office" or "constituent relations" means the office within the (~~children's administration~~) department responsible for handling complaints regarding child welfare services.

(~~"Division of children and family services" (DCFS) means the division within the children's administration responsible for administering child welfare services programs.~~)

~~"Division of licensed resources" (DLR))~~ **"Department"** means the department of children, youth, and families.

"LD" means the licensing division (~~within the children's administration~~), a division of DCYF responsible for licensing or certifying child care homes and facilities under the authority of chapter 74.15 RCW.

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

WAC 110-09-0020 How does the (~~children's administration~~) department resolve complaints? The constituent relations staff assists clients, foster parents, and other affected individuals in resolving complaints and grievances regarding (~~children's administration (CA))~~ department poli-

cies and procedures, or the application of a policy or procedure related to (~~CA~~) the department's programs. Under RCW 74.13.045, the constituent relations staff may inquire into, determine fact, and facilitate the resolution of disputes and complaints.

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

WAC 110-09-0030 What is the process for resolving complaints? (1) After making a reasonable effort to resolve a complaint with a (~~social worker~~) caseworker or licensor, a client, foster parent, or community member may contact the (~~CA~~) constituent relations office to request assistance.

(2) The constituent relations staff will assist the complainant in reviewing the complaint with the assigned (~~social worker~~) caseworker or licensor to arrive at a resolution.

(3) If the complaint cannot be resolved with the (~~social worker~~) caseworker or licensor, the constituent relations staff will assist the complainant in reviewing it with the supervisor of the (~~social worker~~) caseworker or licensor for resolution.

(4) If the complaint cannot be resolved with the supervisor, the constituent relations staff will assist the complainant in reviewing the complaint with the supervisor's area (~~manager or regional manager~~) administrator for resolution.

(5) If the complaint cannot be resolved with the area (~~manager or regional manager~~) administrator, the constituent relations staff will assist the complainant in reviewing it with the (~~area manager's regional~~) appropriate LD senior administrator (~~or the regional manager's office chief~~).

(6) If (~~CA~~) the constituent relations staff determines at any time during the complaint resolution process that the (~~administration's~~) department's actions were consistent with agency policy and procedures based on complete and correct information regarding the complainant's situation, the constituent relations staff will terminate the resolution process and (~~will~~) close the complaint.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 110-09-0040 What happens if the complaint is not resolved at the regional level?

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

WAC 110-90-0100 How does a youth demonstrate (~~he or she is unable~~) the inability to participate in extended foster care (EFC) activities due to a documented medical condition? (1) To demonstrate (~~he or she is unable~~) the inability to participate in (~~extended foster care~~) EFC activities due to a documented medical condition defined in WAC (~~388-25-0517~~) 110-90-0090, a youth must notify the (~~social~~) caseworker of the medical condition and provide (~~CA~~) to the department of children, youth, and families written documentation or consent (~~to CA~~) to obtain documentation from a licensed health care provider. The doc-

umentation of the medical condition must describe how the medical condition prevents the youth, either temporarily or permanently, from:

(a) Completing a high school diploma or high school equivalency certificate;

(b) Completing a post-secondary academic or vocational program;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment; or

(d) Being employed for eighty hours or more per month.

(2) If ~~((the youth's))~~ a medical condition prevents ~~((him or her))~~ a youth from notifying the ~~((social))~~ caseworker or obtaining or providing documentation of the medical condition, the youth must notify the ~~((social))~~ caseworker as soon as ~~((he or she is))~~ they are reasonably able.

(3) If the youth's medical condition temporarily prevents ~~((him or her))~~ them from engaging in ~~((extended foster care))~~ EFC activities, the youth will provide the ~~((social))~~ caseworker with updated documentation from the licensed health care provider regarding the youth's ability to engage in ~~((extended foster care))~~ EFC activities during the monthly health and safety visit.

(4) The youth may give ~~((CA))~~ the department of children, youth, and families consent to contact the licensed health care provider directly to determine the impact of the youth's documented medical condition or ~~((his or her))~~ their ability to engage in ~~((extended foster care))~~ EFC activities.

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

WAC 110-90-0120 Where do youth obtain information about how to participate in the EFC program? (1) The department of children, youth, and families must provide dependent youth between the age of seventeen and seventeen and a half:

(a) Written documentation explaining the availability of ~~((extended foster care))~~ EFC services.

(b) Detailed instructions on how to access such services after ~~((he or she))~~ they have reached age eighteen.

(2) Youth can contact:

(a) Youth's attorney/CASA/GAL.

(b) Youth's caseworker.

(c) Local ~~((children's administration))~~ DCYF office.

(d) www.independence.wa.gov.

(e) 1-866-END-HARM.

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

WAC 110-90-0150 What are ~~((CA's))~~ DCYF's responsibilities to a youth who is participating in ~~((extended foster care))~~ EFC? ~~((Children's administration (CA)))~~ DCYF is required to have placement and care authority over the youth and ~~((to))~~ provide foster care services, including transition planning and independent living services, medical assistance through medicaid, and case management. Case management includes findings or approving a foster care placement for the youth, convening family meetings, developing, revising, and monitoring implementation of any case plan or ~~((individual service and safety plan))~~ court

report, coordinating and monitoring services needed by the youth, caseworker visits, and court-related duties, including preparing court reports, attending judicial ~~((hearings))~~ and permanency hearings, and ensuring that the youth is progressing toward independence within state and federal mandates. ~~((CA))~~ DCYF has responsibility to inform the court of the status of the child (including health, safety, welfare, education status, and continuing eligibility for extended foster care program). ~~((The department's))~~ DCYF's placement and care authority over a youth receiving ~~((extended foster care))~~ EFC services is solely for the purpose of providing services and does not create a legal responsibility for the actions of the youth receiving ~~((extended foster care))~~ EFC services.

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

WAC 110-90-0160 How does ~~((CA))~~ DCYF determine a youth's continuing eligibility for the ~~((extended foster care))~~ EFC program? To determine a youth's continuing eligibility for the ~~((extended foster care))~~ EFC program, prior to every court review hearing ~~((CA))~~ DCYF will determine if the youth continues to:

(1) Agree to participate in the ~~((extended foster care))~~ EFC program;

(2) Meet the eligibility criteria in WAC ~~((388-25-0506))~~ 110-90-0040 (1)(a) through (f);

(3) Reside in an approved placement; and

(4) Comply with the youth's responsibilities in WAC ~~((388-25-0546))~~ 110-90-0190.

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

WAC 110-90-0170 What are the legal rights of a dependent youth in ~~((extended foster care))~~ EFC to travel out-of-state, buy a car, or engage in other activities as an adult? The youth is a "child" for the purposes of the dependency and must comply with responsibilities in WAC ~~((388-25-0546))~~ 110-90-0190, otherwise the youth has the legal status and legal rights of an adult. The youth is responsible for their actions, including responsibility for purchases, driving, traveling, or financial obligations related to the activities they participate in.

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

WAC 110-90-0190 What must the youth do to remain in the ~~((extended foster care))~~ EFC program? To remain in the ~~((extended foster care))~~ EFC program, unless otherwise authorized by court order, the youth must:

(1) Agree to participate in the program as expressed in the written ~~((extended foster care))~~ EFC agreement;

(2) Maintain the standard of eligibility as set by the youth's academic program, employment related program, employment status, or documented medical condition;

(3) Participate in the case plan, including monthly health and safety visits;

(4) Acknowledge that ~~((CA))~~ DCYF has responsibility for the youth's care and placement by authorizing ~~((CA))~~

DCYF to have access to records related to court-ordered medical, mental health, drug/alcohol treatment services, additional necessary services, educational records needed to determine continuing eligibility for the program, medical records related to a documented medical condition for purposes of qualifying for ~~((extended foster care))~~ EFC under WAC ~~((388-25-0506))~~ 110-90-0040 (1)(f); and

(5) Remain in the approved foster care placement and follow placement rules as follows:

(a) Stay in the placement identified by ~~((CA))~~ DCYF or approved by the court;

(b) Obtain approval from ~~((his or her social))~~ their case-worker and notify ~~((his or her))~~ their caregiver for extended absences from the placement of more than three days; and

(c) Comply with court orders and any specific rules developed in collaboration by the youth, caregiver and ~~((social))~~ caseworker.

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

WAC 110-90-0200 When is a youth no longer eligible for the ~~((extended foster care))~~ EFC program? A youth is no longer eligible for the ~~((extended foster care))~~ EFC program and ~~((the department))~~ DCYF will ask the court to dismiss the nonminor dependency, when the youth:

(1) Graduates from high school or equivalency program and has not demonstrated intent to timely enroll in a post-secondary academic or vocational program;

(2) Graduates from a post-secondary education or vocational program;

(3) Reaches ~~((his or her))~~ their twenty-first birthday;

(4) Is no longer participating or engaging in any of the eligibility criteria under WAC ~~((388-25-0506))~~ 110-90-0040 (1)(a) through (f);

(5) No longer agrees to participate in ~~((extended foster care))~~ EFC services; or

(6) Fails or refuses to comply with youth responsibilities outlined in WAC ~~((388-25-0546; or~~

~~((7) Is incarcerated in an adult detention facility on a criminal conviction))~~ 110-90-0190.

WSR 20-15-072

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed July 14, 2020, 8:15 a.m., effective August 14, 2020]

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

Purpose: The agency is repealing this section. The agency will evaluate requests for standing frames using the process found in WAC 182-501-0165, which allows for an individualized medical necessity review. Prior authorization is required to complete this process.

Citation of Rules Affected by this Order: Amending WAC 182-543-3200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 20-12-068 on June 1, 2020.

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

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

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

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

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

Date Adopted: July 14, 2020.

Wendy Barcus
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-543-3200 Covered—Positioning devices.

WSR 20-15-109

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 16, 2020, 11:46 a.m., effective August 16, 2020]

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

Purpose: The department of licensing no longer produces commercial/noncommercial abstracts for records for insurance companies. We are eliminating this rule and provide what is now called the insurance version for insurance companies that includes both commercial/noncommercial violations into one driving record.

Citation of Rules Affected by this Order: Repealing WAC 308-104-145.

Statutory Authority for Adoption: RCW 46.01.110 and 46.25.140.

Adopted under notice filed as WSR 20-11-061 on May 19, 2020.

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

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

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

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

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

Date Adopted: July 16, 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 20-15-161

PERMANENT RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed July 22, 2020, 10:33 a.m., effective August 22, 2020]

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

Purpose: For the working connections and seasonal child care (WCCC) programs, increase rates paid to licensed and certified child care centers and family home child cares and extend to twelve months the grace period for meeting program requirements granted to families experiencing homelessness as verified by the department.

Citation of Rules Affected by this Order: Amending WAC 110-15-0023, 110-15-0200, and 110-15-0205.

Statutory Authority for Adoption: RCW 43.216.055 and 43.216.065.

Adopted under notice filed as WSR 20-13-078 on June 16, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

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

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

Date Adopted: July 22, 2020.

Brenda Villarreal
Rules Coordinator

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

WAC 110-15-0023 Homeless grace period (HGP). (1) ~~((Families experiencing homelessness will be eligible for HGP and will have a certification period of twelve months:~~

~~(a) When homelessness is verified within thirty days of the date of application or reapplication;~~

~~(b) When the family has not received HGP in the twelve calendar months prior to the month of application or reapplication; and~~

~~(c) When the family meets all eligibility requirements under WAC 170-290-0005 and 170-290-0030, except)) A homeless grace period (HGP) is established as described in this section.~~

(2) DCYF may grant a consumer experiencing homelessness a twelve-month grace period to submit the documentation described in this subsection. The children of the consumer experiencing homelessness may receive WCCC services during the HGP. Within twelve months of the child being authorized in the WCCC program, the consumer must submit to DCYF:

(i) Documentation verifying participation ((or participating)) in an approved ((activities in WAC 170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055; or

(ii) Providing required third-party verification of employment within thirty days of receipt of an application or reapplication; or

(iii) Having an outstanding copayment or not having a payment plan for the outstanding copayment.

(2) Families eligible for HGP will have a period of four months to provide:

(a) Verification of participation in approved activities in WAC 170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055;

(b) Required third-party verification of employment; and

(c) Verification of payment or payment plan arrangements for an outstanding copayment.

(3) Families must report changes as required in WAC 170-290-0031 and will remain eligible for HGP through the end of the fourth month, if their homeless status changes.

(4) If received in months one through four, the verification required in subsection (3) of this section will not need reverification for care to continue during months five through twelve.

(5) The four-month period begins on the first date of eligibility, which is the date of application or reapplication and the first month may be a partial month. The four-month period ends on the last day of the fourth month.

(6) Termination of HGP will occur on the last day of the fourth month if the family does not:

(a) Verify they have entered an approved activity;

(b) Provide the required third-party verification of employment;

(c) Pay or make payment arrangements of an outstanding copayment.

(7) DSHS will approve HGP for families using WCCC for the fourteen-day wait period (WAC 170-290-0055). If the family has verified their homeless status but not entered the approved activity by the fourteenth day:

(a) HGP is approved the first day following the end of the fourteen-day wait period instead of terminating WCCC;

(b) The copayment is waived effective the first day of the month following the last day of the fourteen-day wait period; and

(c) The copayment is waived for the remainder of the four-month period, even if it is less than four months.

(d) When homelessness is verified and HGP approved, an overpayment will not be established for the fourteen-day wait period.

(8) DSHS will approve HGP for families using WCCC for the sixty days of self-attestation of new employment (WAC 170-290-0012). If the family has verified their homeless status but not provided the required employment verification by the sixtieth day:

(a) HGP is approved the first day following the end of the sixty days of self-attestation period instead of terminating WCCC;

(b) The copayment is waived effective the first day of the month following the last day of the sixty days of self-attestation period; and

(c) The copayment is waived for the remainder of the HGP, even if it is less than four months.

(d) An overpayment is not established for the sixty days of self-attestations if homelessness is verified and HGP is approved.

(9)(a) HGP copayments will be determined at initial eligibility determination and be waived for the first four months. A copayment is required for months five through month twelve.

(b) If the copayment exceeds fifteen dollars, the family will not be eligible for the fifteen dollars copayment during the first two months of paying a required copayment.

(10) Families will be approved for full-time care during the four months of HGP and the remainder of the eligibility period. Full-time care means:

(a) Twenty-three full day units when the child needs five or more hours of care per day;

(b) Thirty half day units when the child needs less than five hours of care per day;

(c) Thirty half day units during the months of September through June when the child is school-aged; or

(d) Forty-six half day units during the months of July and August when the child is school-aged.

(11)(a) Only licensed, certified or DEL-contracted providers shall be authorized to provide child care during the four months of HGP. Payment to the provider will be either the provider rate or state rate, whichever is less.

(b) In-home/relative providers shall not be authorized to provide child care for families during the HGP, regardless of changes reported.

(c) Families may choose in-home/relative providers to provide care during months five through twelve, under WAC 170-290-0125, 170-290-0130 and 170-290-0190.

(d) The four months of HGP are nontransferable; families may not change the four months of HGP, even when care was not provided.) activity as described in WAC 110-15-0040, 110-15-0045, or 110-15-0050;

(ii) Third-party verification of employment; and

(iii) Verification that any outstanding copayment owed by the consumer has been paid or written verification of a payment plan agreed to by the child care provider who is owed the outstanding copayment.

(3) A consumer is eligible for HGP if the consumer:

(a) Is experiencing, and DCYF verifies, homelessness at the time of the consumer's application for benefits;

(b) Has not been approved for HGP within the previous twelve months; and

(c) Except for the requirements described in subsection (1) of this section, meets all eligibility requirements described in this chapter.

(4) Consumers approved by DCYF for HGP are eligible to receive:

(a) A twelve-month certification period;

(b) A copayment waiver; and

(c) An authorization for full-time care as described in WAC 110-15-0190.

(5) Authorizations for HGP eligible consumers may only be authorized for licensed care, certified care, or DCYF contracted provider care.

(6) Consumers authorized care under HGP must provide required verification when reapplying at the end of their certification as described in WAC 110-15-0109.

(7) Consumers approved under HGP are not subject to overpayment unless the consumer obtained benefits by failing to report accurate information that resulted in an error in determining the consumer's eligibility for HGP.

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0200 Daily child care rates—Licensed or certified child care centers and DCYF contracted seasonal day camps. (1) **Base rate.** DCYF pays the lesser of the following to a licensed or certified child care center or DCYF contracted seasonal day camp:

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy daily rate for that child as listed in the following table, effective July 1, 2020:

		Preschool (30 mos. - 6 yrs not attending kindergarten or school)		School-age (5 - 12 yrs attending kindergarten or school)	
		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)		
Region 1	Full-Day	\$(35.29) 36.27	\$(32.44) 34.32	\$(30.53) 31.64	\$(29.41) 30.00
	Half-Day	\$(17.65) 18.14	\$(16.22) 17.16	\$(15.27) 15.82	\$(14.71) 15.00

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kin- dergarten or school)
Spokane County	Full-Day	\$(45.45) <u>49.45</u>	\$(38.77) <u>42.32</u>	\$(35.69) <u>38.32</u>	\$(27.90) <u>27.91</u>
	Half-Day	\$(22.73) <u>24.73</u>	\$(19.39) <u>21.16</u>	\$(17.85) <u>19.16</u>	\$13.95
Region 2	Full-Day	\$(39.44) <u>44.14</u>	\$(31.67) <u>34.32</u>	\$(30.56) <u>32.82</u>	\$(23.84) <u>23.86</u>
	Half-Day	\$(19.72) <u>22.07</u>	\$(15.84) <u>17.16</u>	\$(15.28) <u>16.41</u>	\$(11.92) <u>11.93</u>
Region 3	Full-Day	\$(58.64) <u>66.86</u>	\$(49.47) <u>55.41</u>	\$(42.59) <u>48.59</u>	\$(31.82) <u>34.77</u>
	Half-Day	\$(29.32) <u>33.43</u>	\$(24.74) <u>27.70</u>	\$(21.30) <u>24.30</u>	\$(15.91) <u>17.39</u>
Region 4	Full-Day	\$(71.76) <u>84.32</u>	\$(60.14) <u>69.09</u>	\$(55.57) <u>63.73</u>	\$(33.41) <u>39.23</u>
	Half-Day	\$(35.88) <u>42.16</u>	\$(30.07) <u>34.55</u>	\$(27.79) <u>31.86</u>	\$(16.71) <u>19.61</u>
Region 5	Full-Day	\$(48.86) <u>56.55</u>	\$(42.51) <u>46.77</u>	\$(37.88) <u>41.91</u>	\$(26.12) <u>28.18</u>
	Half-Day	\$(24.43) <u>28.27</u>	\$(21.26) <u>23.39</u>	\$(18.94) <u>20.95</u>	\$(13.06) <u>14.09</u>
Region 6	Full-Day	\$(46.39) <u>50.36</u>	\$(40.82) <u>44.59</u>	\$(35.56) <u>40.18</u>	\$(28.01) <u>29.41</u>
	Half-Day	\$(23.20) <u>25.18</u>	\$(20.41) <u>22.30</u>	\$(17.78) <u>20.09</u>	\$(14.01) <u>14.70</u>

(i) Centers in Clark County are paid Region 3 rates.

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

(2) ~~((The child care center WAC 110-300A-0010 and 110-300A-0050))~~ WAC 110-300-0005 and 110-300-0356 allow ~~((s))~~ providers to care for children from ~~((one month))~~ birth up to and including the end of their eligibility period after their thirteenth birthday.

(3) The provider must obtain a child-specific and time-limited exception from ~~((their child care licensor))~~ DCYF to provide care for a child outside the age listed on the center's license.

(4) If ~~((the))~~ a provider ~~((has))~~ is granted an exception to care for a child who ~~((has exceeded the child's thirteenth birthday;))~~ is thirteen years old or older at application or reapplication:

(a) The payment rate is the same as subsection (1) of this section, and the five through twelve year age range column is used for comparison~~((WAC 110-300A-0010 and 110-300A-0050 are superseded by WAC 110-300-0005 and 110-300-0356, respectively, effective August 1, 2019.~~

~~((3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited exception.))~~; and

~~((b) The child must meet the special needs requirement ((according to)) as described in WAC 110-15-0220 ((when thirteen or older at application or reapplication)).~~

AMENDATORY SECTION (Amending WSR 20-08-077, filed 3/26/20, effective 4/26/20)

WAC 110-15-0205 Daily child care rates—Licensed or certified family home child care providers. (1) **Base rate.** DCYF pays the lesser of the following to a licensed or certified family home child care provider:

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy daily rate for that child as listed in the following table effective July 1, ~~((2019))~~ 2020:

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$(31.25) <u>34.32</u>	\$(31.25) <u>34.32</u>	\$(26.79) <u>29.41</u>	\$(25.89) <u>29.41</u>	\$(22.32) <u>27.45</u>
	Half-Day	\$(15.63) <u>17.16</u>	\$(15.63) <u>17.16</u>	\$(13.39) <u>14.70</u>	\$(12.95) <u>14.70</u>	\$(11.16) <u>13.73</u>
Spokane County	Full-Day	\$(32.59) <u>39.23</u>	\$(32.59) <u>39.23</u>	\$(27.68) <u>32.36</u>	\$(26.79) <u>31.18</u>	\$(26.79) <u>29.41</u>
	Half-Day	\$(16.29) <u>19.61</u>	\$(16.29) <u>19.61</u>	\$(13.84) <u>16.18</u>	\$(13.39) <u>15.59</u>	\$(13.39) <u>14.70</u>
Region 2	Full-Day	\$(32.14) <u>38.23</u>	\$(32.14) <u>38.23</u>	\$(29.46) <u>34.32</u>	\$(26.79) <u>30.86</u>	\$(25.00) <u>29.41</u>
	Half-Day	\$(16.07) <u>19.11</u>	\$(16.07) <u>19.11</u>	\$(14.73) <u>17.16</u>	\$(13.39) <u>15.43</u>	\$(12.50) <u>14.70</u>
Region 3	Full-Day	\$(42.86) <u>49.00</u>	\$(42.86) <u>49.00</u>	\$(37.50) <u>44.14</u>	\$(36.25) <u>39.27</u>	\$(29.38) <u>34.32</u>
	Half-Day	\$(21.43) <u>24.50</u>	\$(21.43) <u>24.50</u>	\$(18.75) <u>22.07</u>	\$(18.13) <u>19.64</u>	\$(14.69) <u>17.16</u>
Region 4	Full-Day	\$(54.37) <u>58.82</u>	\$(54.37) <u>58.82</u>	\$(48.70) <u>55.68</u>	\$(41.07) <u>49.00</u>	\$(32.31) <u>34.32</u>
	Half-Day	\$(27.19) <u>29.41</u>	\$(27.19) <u>29.41</u>	\$(24.35) <u>27.84</u>	\$(20.54) <u>24.50</u>	\$(16.16) <u>17.16</u>

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 5	Full-Day	\$((37.07)) <u>44.14</u>	\$((37.07)) <u>44.14</u>	\$((34.90)) <u>39.23</u>	\$((31.25)) <u>34.32</u>	\$((26.79)) <u>31.36</u>
	Half-Day	\$((18.54)) <u>22.07</u>	\$((18.54)) <u>22.07</u>	\$((17.45)) <u>19.61</u>	\$((15.63)) <u>17.16</u>	\$((13.39)) <u>15.68</u>
Region 6	Full-Day	\$((33.93)) <u>37.86</u>	\$((33.93)) <u>37.86</u>	\$((31.25)) <u>34.32</u>	\$((28.41)) <u>31.36</u>	\$((25.89)) <u>28.95</u>
	Half-Day	\$((16.96)) <u>18.93</u>	\$((16.96)) <u>18.93</u>	\$((15.63)) <u>17.16</u>	\$((14.20)) <u>15.68</u>	\$((12.95)) <u>14.48</u>

((e) The maximum child care subsidy daily rate for that child as listed in the following table beginning July 1, 2020:

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$33.13	\$33.13	\$28.39	\$27.45	\$23.66
	Half-Day	\$16.56	\$16.56	\$14.20	\$13.72	\$11.83
Spokane County	Full-Day	\$34.54	\$34.54	\$29.34	\$28.39	\$28.39
	Half-Day	\$17.27	\$17.27	\$14.67	\$14.20	\$14.20
Region 2	Full-Day	\$34.07	\$34.07	\$31.23	\$28.39	\$26.50
	Half-Day	\$17.04	\$17.04	\$15.62	\$14.20	\$13.25
Region 3	Full-Day	\$45.43	\$45.43	\$39.75	\$38.43	\$31.14
	Half-Day	\$22.71	\$22.71	\$19.88	\$19.21	\$15.57
Region 4	Full-Day	\$57.63	\$57.63	\$51.62	\$43.54	\$34.25
	Half-Day	\$28.82	\$28.82	\$25.81	\$21.77	\$17.13
Region 5	Full-Day	\$39.29	\$39.29	\$37.00	\$33.13	\$28.39
	Half-Day	\$19.65	\$19.65	\$18.50	\$16.56	\$14.20
Region 6	Full-Day	\$35.96	\$35.96	\$33.13	\$30.11	\$27.45
	Half-Day	\$17.98	\$17.98	\$16.56	\$15.06	\$13.72))

(2) Effective July 1, 2019, family home providers in all regions and for all ages will receive a partial-day rate that is seventy-five percent of the full-day rate when:

(a) The family home provider provides child care services for the child during a morning session and an afternoon session. A morning session begins at any time after 12:00 a.m. and ends before 12:00 p.m. An afternoon session begins at any time after 12:00 p.m. and ends before 12:00 a.m.;

(b) The child is absent from care in order to attend school or preschool; and

(c) The family home provider is not entitled to payment at the full-day rate.

(d) ((In no event will)) A child care provider ((be)) is not entitled to two partial-day rates totaling one hundred fifty percent of the daily rate.

(3) A single partial-day monthly unit will be authorized for a school-age child who attends a licensed family home child care and is:

(a) Eligible for a full-time authorization((, but is)) and in care for less than five hours on a typical school day;

(b) Authorized for care with only one provider; and

(c) Expected to need care before and after school.

Partial-Day Monthly Rates				
	((July 1, 2019-June 30,)) July-August 2020		((July 1, 2020-June 30,)) September 2020 - June 2021	
	((September-June monthly rate	July-August monthly rate	September-June monthly rate	July-August monthly rate))
Region 1	\$((396.18)) <u>603.90</u>	((491.04))	\$((420.05)) <u>487.24</u>	((520.52))
Spokane	\$((475.48)) <u>647.02</u>	((589.38))	\$((503.88)) <u>522.03</u>	((624.58))
Region 2	\$((443.75)) <u>647.02</u>	((550.00))	\$((470.46)) <u>522.03</u>	((583.00))
Region 3	\$((521.58)) <u>755.04</u>	((646.36))	\$((552.82)) <u>609.18</u>	((685.08))

Partial-Day Monthly Rates					
	((July 1, 2019-June 30,)) July-August 2020			((July 1, 2020-June 30,)) September 2020 - June 2021	
	((September-June monthly rate	July-August monthly rate		September-June monthly rate	July-August monthly rate))
Region 4	\$((573.63)) <u>755.04</u>	((\$710.82))		\$((607.98)) <u>609.18</u>	((\$753.50))
Region 5	\$((475.48)) <u>689.92</u>	((\$589.38))		\$((503.88)) <u>556.64</u>	((\$624.58))
Region 6	\$((459.59)) <u>636.90</u>	((\$569.58))		\$((487.11)) <u>513.86</u>	((\$603.90))

(4) The monthly unit will be prorated for partial months of authorization.

(5) WAC 110-300-0005 and 110-300-0355 allow((s)) providers to care for children from birth up to and including the end of their eligibility period after their thirteenth birthday.

(6) The provider must obtain a child-specific and time-limited exception from DCYF to provide care for a child outside the age listed on the family home child care license.

~~(7) If ((the family home)) a provider ((eares)) is granted an exception to care for a child who is thirteen years of age or older((, the provider must follow WAC 110-300-0300 and 110-300-0355. A child who is thirteen years of age or older at application must meet the special needs requirement according to WAC 110-15-0220. If the provider has an exception to care for a child who has reached the child's thirteenth birthday,)) at application or reapplication:~~

~~(a) The payment rate is the same as subsection (1) of this section and the five through twelve year age range column is used for comparison; and~~

~~(b) The child must meet the special needs requirement as described in WAC 110-15-0220.~~

~~((7)) (8) DCYF pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection ((8)) (9) of this section).~~

~~((8)) (9) DCYF cannot pay family home child care providers to provide care for children in their care if the provider is:~~

- ~~(a) The child's biological, adoptive or step-parent;~~
- ~~(b) The child's legal guardian or the guardian's spouse or live-in partner; or~~
- ~~(c) Another adult acting in loco parentis or that adult's spouse or live-in partner.~~

adopted rule is intended to ensure care promotes the health and safety of animal patients based on client decisions.

Citation of Rules Affected by this Order: New WAC 246-933-345; and amending WAC 246-933-310.

Statutory Authority for Adoption: RCW 18.92.030.

Other Authority: Chapter 18.92 RCW.

Adopted under notice filed as WSR 20-03-172 on January 22, 2020.

A final cost-benefit analysis is available by contacting Lorelei Walker, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4947, fax 360-236-2901, TTY 711, email lorelei.walker@doh.wa.gov, website www.doh.wa.gov, 360-833-6388 or 711.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 1, Amended 1, Repealed 0.

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

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

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

Date Adopted: March 2, 2020.

Kirk Breuninger, VMD DACVPM, MPH, Chair
Veterinary Board of Governors

AMENDATORY SECTION (Amending WSR 91-24-098, filed 12/4/91, effective 1/4/92)

WAC 246-933-310 Definitions. The definitions in this section apply in WAC 246-933-310 through 246-933-350 unless the context clearly requires otherwise.

~~(1) ((**Veterinary medical facility:** Any premise, unit, structure or vehicle where any animal is received and/or confined to be examined, diagnosed or treated medically, surgically or prophylactically, as defined in RCW 18.92.010.~~

~~(2) **Mobile clinic:** A vehicle, including a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.~~

~~(3) **Aseptic surgery:** Aseptic surgical technique exists when everything that comes in contact with the wound is ster-~~

WSR 20-15-164

PERMANENT RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed July 22, 2020, 11:18 a.m., effective August 22, 2020]

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

Purpose: WAC 246-933-310 and 246-933-345, the veterinary board of governors (board) has adopted rules to amend definitions and create a new rule section to establish minimum requirements regarding information provided to clients when animal patients are evaluated and treated. The

~~ile and precautions are taken to ensure such sterility during the procedure. These precautions include, but are not limited to, such things as the surgery room itself, sterilization procedures, scrubbing hands and arms, sterile gloves, caps and masks, sterile long-sleeved gowns, and sterile draping and operative techniques.~~

~~(4)) "Antiseptic surgery(~~(= Antiseptic surgical))" means the technique (~~(exists)) used when care is taken to avoid bacterial contamination but the precautions are not as thorough and extensive as in aseptic surgery. Surgeons and surgical assistants (~~(shall)) wear clean attire and sterile gloves, and the patient (~~(shall be)) is appropriately draped. A separate sterile surgical pack shall be used for each animal.~~~~~~~~~~

(2) "Aseptic surgery" means the technique used when everything that comes in contact with the wound is sterile and precautions are taken to ensure such sterility during the procedure. These precautions include, but are not limited to, such things as the surgery room itself, sterilization procedures, scrubbing hands and arms, sterile gloves, caps and masks, sterile long-sleeved gowns, and sterile draping and operative techniques.

(3) "Client" means the patient's owner, owner's agent, or other person presenting the patient for care.

(4) "Mobile clinic" means a vehicle, including a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(5) "Treatment" means any action or procedure taken to impact an animal's physical, mental, or behavioral health in the pursuit of preventing or resolving disease, maintaining or improving quality of life, or providing end of life care. This includes, but is not limited to, the prescription, recommendation, issuance, or administration of any drug, veterinary feed directive, vitamins, minerals, or supplements.

(6) "Veterinary medical facility" means any premise, unit, structure or vehicle where any animal is either received or confined, or both, to be examined, diagnosed or treated medically, surgically or prophylactically, as defined in RCW 18.92.010.

NEW SECTION

WAC 246-933-345 Client communication regarding evaluation and treatment. (1) The veterinarian must communicate when appropriate to the client the following:

- (a) Proposed diagnostic tests;
- (b) Differential diagnoses;
- (c) Definitive diagnoses;
- (d) Proposed treatments;
- (e) Common side effects or adverse outcomes from proposed diagnostic testing or treatment;
- (f) Most likely side effects or adverse outcomes from proposed diagnostic testing or treatment based on patient signalment and disease status. Patient signalment may include, but is not limited to, species, breed, age, and sex;
- (g) Estimated cost;
- (h) Prognosis; and
- (i) Alternate diagnostic and treatment options for the patient.

(2) Such communications must be timely and sufficient to enable the client to understand clearly the problem and the choices that must be made, and provide written or verbal consent for a proposed diagnostic and treatment plan. If other staff is involved in the communication process, it is the responsibility of the veterinarian to ensure that such communications are appropriate. All communications must be made prior to rendering treatment, except in cases of emergencies as described in WAC 246-933-050 or when a client cannot be reached for consultation within a reasonable time frame as dictated by the patient's condition.

(3) Client communication required in subsection (1) of this section must be documented in the patient medical record.