

WSR 20-18-003
EXPEDITED RULES
DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed August 20, 2020, 9:30 a.m.]

Title of Rule and Other Identifying Information: WAC 246-853-230 (osteopathic physicians) HIV/AIDS education and training, and 246-854-080 Osteopathic physician assistant—Requirements for licensure, the board of osteopathic medicine and surgery (board) is considering repealing WAC 246-853-230 and amending WAC 246-854-080 to repeal subsection (2)(d). ESHB 1551 Modernizing the control of certain communicable diseases (chapter 76, Laws of 2020) repealed statutory authority.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 22, paragraph (11) of ESHB 1551 repeals RCW 70.24.270 Health professionals—Rules for AIDS education and training, to no longer require health professionals to obtain AIDS education and training. As a result of this law being repealed, the board proposes to repeal requirements for AIDS training included in WAC 246-853-230 (osteopathic physicians) and 246-854-080 (osteopathic physician assistants) subsection (2)(d).

The intent of ESHB 1551 is to help reduce stigma towards people living with HIV/AIDS by not singling out AIDS as an exceptional disease that requires specific training and education separate from other health conditions.

Reasons Supporting Proposal: When Washington adopted statutes concerning AIDS, very little was known about the disease compared to today. Now, AIDS is very treatable and preventable. In 2014, Governor Inslee issued a proclamation including efforts to reduce stigma, which included updating state law. ESHB 1551 repeals statutes concerning AIDS education and training for emergency medical personnel, health professionals, and health care facility employees, which helps reduce stigma towards people living with HIV/AIDS by not singling out AIDS as an exceptional disease that requires specific training and education separate from other health conditions.

Statutory Authority for Adoption: RCW 18.57.005.

Statute Being Implemented: ESHB 1551 (chapter 76, Laws of 2020).

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

Name of Proponent: Washington state board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tracie Drake, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4766.

This notice meets the following criteria to use the expedited repeal process for these rules: None.

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: ESHB 1551 (chapter 76, Laws of 2020) repeals RCW 70.240.270, which requires the board of osteopathic medicine and surgery to also repeal rules to implement the bill.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Tracie Drake, Department of Health, P.O. Box 47852, Olympia, WA 98501, phone 360-236-4766, fax 360-236-2901, email <https://fortress.wa.gov/doh/policyreview>, AND RECEIVED BY November 2, 2020.

June 11, 2020
 Roger Ludwig, D.O.
 Board Chair

AMENDATORY SECTION (Amending WSR 15-03-013, filed 1/8/15, effective 2/8/15)

WAC 246-854-080 Osteopathic physician assistant—Requirements for licensure. (1) Individuals applying to the board for licensure as an osteopathic physician assistant must have graduated from an accredited board approved physician assistant program and successfully passed the NCCPA examination.

(2) An applicant for licensure as an osteopathic physician assistant must submit to the board:

(a) A completed application on forms provided by the board;

(b) Proof the applicant has completed an accredited board approved physician assistant program and successfully passed the NCCPA examination;

(c) All applicable fees as specified in WAC 246-853-990; and

(d) ~~((Proof of completion of four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8; and~~

~~(e)))~~ Other information required by the board.

(3) The board will only consider complete applications with all supporting documents for licensure.

(4) An osteopathic physician assistant may not begin practicing without written board approval of the delegation agreement.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-853-230 HIV/AIDS education and training.

WSR 20-18-006
EXPEDITED RULES
DEPARTMENT OF
NATURAL RESOURCES
 [Filed August 20, 2020, 12:41 p.m.]

Title of Rule and Other Identifying Information: Chapter 332-130 WAC, minimum standards for land boundary surveys.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Add a definition for the acceptable form and use of signatures on land boundary survey maps. Update and revise the auditor's checklist to clarify the use and acceptance of digital and electronic signatures.

Reasons Supporting Proposal: The statute for the Survey Recording Act, chapter 58.09 RCW was modified by ESSB 6028 during the 2020 legislative session. The definition for signatures was removed and replaced with new language referencing electronic submittals to be in compliance with rules developed by the Washington state board of registration for professional engineers and land surveyors.

Statutory Authority for Adoption: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

Statute Being Implemented: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

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

Name of Proponent: Department of natural resources, governmental.

Name of Agency Personnel Responsible for Drafting: Patrick J. Beehler, 1111 Washington Street S.E., Olympia, WA 98504-7030, 360-902-1181; Implementation and Enforcement: Bob R. Knuth, 801 88th Avenue S.E., Tumwater, WA 98504-7019, 360-902-1197.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rochelle Goss, Department of Natural Resources, 1111 Washington Street S.E., P.O. Box 47015, Olympia, WA 98504-7015, phone 360-902-

2117, fax 360-902-1789, email Rochelle.goss@dnr.wa.gov, AND RECEIVED BY November 3, 2020.

August 16, 2020
 Angus Brodie
 Deputy Supervisor, State Uplands

AMENDATORY SECTION (Amending WSR 19-01-045, filed 12/13/18, effective 1/13/19)

WAC 332-130-020 Definitions. The following definitions shall apply to this chapter:

(1) **Local geodetic control surveys:** Surveys for the specific purpose of establishing control points for extending the National Geodetic Survey horizontal and vertical control nets, also known as the National Spatial Reference System (NSRS), but not submitted to the National Geodetic Survey for inclusion in the NSRS.

(2) **GLO and BLM:** The General Land Office and its successor, the Bureau of Land Management.

(3) **Land boundary surveys:** All surveys, whether made by individuals, entities or public bodies of whatever nature, for the specific purpose of establishing, reestablishing, laying out, subdividing, defining, locating and/or monumenting the vertical or horizontal boundary of any easement, right of way, lot, tract, or parcel of real property or which reestablishes or restores General Land Office or Bureau of Land Management survey corners.

(4) **Land corner record:** The record of corner information form as prescribed by the department of natural resources in WAC 332-130-025.

(5) **Land description:** A description of real property or of rights associated with real property.

(6) **Land surveyor:** Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

(7) **Redundant measurements:** Independent observations of a quantity that are collected under different conditions. Horizontal angles measured to a point from multiple backsights, observing reciprocal zenith angles and backsight distances, "closing the horizon," and GNSS positions for a point that are computed using different satellite constellations are examples of redundant measurements.

(8) **Parcel:** A part or portion of real property including but not limited to GLO and BLM segregations, easements, rights of way, aliquot parts of sections or tracts.

(9) **Survey Recording Act:** The law as established and designated in chapter 58.09 RCW.

(10) **Washington plane coordinate system:** The system of plane coordinates as established and designated by chapter 58.20 RCW.

(11) **Intelligent interpretation:** A land boundary survey capable of intelligent interpretation will provide, either on the face of the document or by reference to other pertinent surveys of record, information that is sufficient in kind and quality to explain the rationale for the boundary locations shown thereon and to allow for the accurate and unambiguous retracement or re-creation thereof without requiring oral testimony for clarification. Includes, but is not limited to, information required in RCW 58.09.060(1) and WAC 332-130-050.

(12) **Relative accuracy:** The theoretical uncertainty in the horizontal position of any subordinate point or corner with respect to other controlling points or corners, whether set, found, reestablished, or established. Relative accuracy is not related to uncertainties due to differences between measured values and record values or uncertainties in the geodetic position.

(13) **Relative precision:** An expression of linear misclosure, e.g., 1 part in 5000, in a closed traverse. Relative precision is computed after azimuths in a traverse have been adjusted. Relative precision is not a reliable predictor of relative accuracy.

(14) **Controlling point or corner:** Those points, whose horizontal positions are used to compute, establish or reestablish the horizontal positions of other subordinate points or corners. Subordinate points or corners are therefore dependent upon the positions of controlling points or corners.

(15) **GNSS:** Global navigation satellite system.

(16) **Signature:** A handwritten identification, or a scanned image of a handwritten identification, that represents the act of signing the person's name on a document to attest to its validity. This must be made with black ink on the document being certified; applied to the document by the identified person; and under the exclusive control of the person.

AMENDATORY SECTION (Amending WSR 19-01-045, filed 12/13/18, effective 1/13/19)

WAC 332-130-050 Survey map requirements. The following requirements apply to land boundary survey maps and plans, records of surveys, plats, short plats, boundary line adjustments, and binding site plans required by law to be filed or recorded with the county.

(1) All such documents filed or recorded shall conform to the following:

(a) They shall display a county recording official's information block which shall be located along the bottom or right edge of the document unless there is a local requirement specifying this information in a different format. The county recording official's information block shall contain:

(i) The title block, which shall be on all sheets of maps, plats or plans, and shall identify the business name of the firm and/or land surveyor that performed the survey. For documents not requiring a surveyor's certificate and seal, the title block shall show the name and business address of the preparer and the date prepared. Every sheet of multiple sheets shall have a sheet identification number, such as "sheet 1 of 5";

(ii) The auditor's certificate, where applicable, which shall be on the first sheet of multiple sheets; however, the county recording official shall enter the appropriate volume and page and/or the auditor's file number on each sheet of multiple sheets;

(iii) The surveyor's certificate, where applicable, which shall be on the first sheet of multiple sheets and shall show the name, license number, ~~((original signature and))~~ signed seal of the land surveyor who had responsible charge of the survey portrayed, and the date the land surveyor approved the map or plat. Every sheet of multiple sheets shall have the

signed seal ((and signature)) of the land surveyor and the date signed;

(iv) The following indexing information on the first sheet of multiple sheets:

(A) The section-township-range and quarter-quarter(s) of the section in which the surveyed parcel lies, except that if the parcel lies in a portion of the section officially identified by terminology other than aliquot parts, such as government lot, donation land claim, homestead entry survey, townsite, tract, and Indian or military reservation, then also identify that official subdivisional tract and call out the corresponding approximate quarter-quarter(s) based on projections of the aliquot parts. Where the section is incapable of being described by projected aliquot parts, such as the Port Angeles townsite, or elongated sections with excess tiers of government lots, then it is acceptable to provide only the official GLO designation. A graphic representation of the section divided into quarter-quarters ~~((may))~~ must also be used with the quarter-quarter(s) in which the surveyed parcel lies clearly marked;

(B) Additionally, if appropriate, the lot(s) and block(s) and the name and/or number of the filed or recorded subdivisional plat or short plat with the related recording data;

(b) They shall contain:

(i) A north arrow;

(ii) The vertical datum when topography or elevations are shown;

(iii) The basis for bearings, angle relationships or azimuths shown. The description of the directional reference system, along with the method and location of obtaining it, shall be clearly given (such as "North by Polaris observation at the SE corner of section 6"; "Grid north from azimuth mark at station Kellogg"; "North by compass using twenty-one degrees variation"; "None"; or "Assumed bearing based on ..."). If the basis of direction differs from record title, that difference should be noted;

(iv) Bearings, angles, or azimuths in degrees, minutes and seconds;

(v) Distances in feet and decimals of feet;

(vi) Curve data showing the controlling elements.

(c) They shall show the scale for all portions of the map, plat, or plan provided that detail not drawn to scale shall be so identified. A graphic scale for the main body of the drawing, shown in feet, shall be included. The scale of the main body of the drawing and any enlargement detail shall be large enough to clearly portray all of the drafting detail, both on the original and reproductions;

(d) The document filed or recorded and all copies required to be submitted with the filed or recorded document shall, for legibility purposes:

(i) Have a uniform contrast suitable for scanning or microfilming;

(ii) Be without any form of cross-hatching, shading, or any other highlighting technique that to any degree diminishes the legibility of the drafting detail or text;

(iii) Contain dimensioning and lettering no smaller than 0.08 inches, vertically, and line widths not less than 0.008 inches (equivalent to pen tip 000). This provision does not apply to vicinity maps, land surveyors' seals and certificates.

(e) They shall not have any adhesive material affixed to the surface;

(f) For the intelligent interpretation of the various items shown, including the location of points, lines and areas, they shall:

(i) Reference record survey documents that identify different corner positions;

(ii) Show deed calls that are at variance with the measured distances and directions of the surveyed parcel;

(iii) Identify all corners used to control the survey whether they were calculated from a previous survey of record or found, established, or reestablished;

(iv) Give the physical description of any monuments shown, found, established or reestablished, including type, size, and date visited;

(v) Show the record land description of the parcel or boundary surveyed or a reference to an instrument of record;

(vi) Identify any ambiguities, hiatuses, and/or overlapping boundaries;

(vii) Give the location and identification of any visible physical appurtenances such as fences or structures which may indicate encroachment, lines of possession, or conflict of title.

(2) All signatures and writing shall be made with permanent black ink.

(3) The following criteria shall be adhered to when altering, amending, changing, or correcting survey information on previously filed or recorded maps, plats, or plans:

(a) Such maps, plats, or plans filed or recorded shall comply with the applicable local requirements and/or the recording statute under which the original map, plat, or plan was filed or recorded;

(b) Alterations, amendments, changes, or corrections to a previously filed or recorded map, plat, or plan shall only be made by filing or recording a new map, plat, or plan;

(c) All such maps, plats, or plans filed or recorded shall contain the following information:

(i) A title or heading identifying the map, plat, or plan as an alteration, amendment, change, or correction to a previously filed or recorded map, plat, or plan along with, when applicable, a cross-reference to the volume and page and auditor's file number of the altered map, plat, or plan;

(ii) Indexing data as required by subsection (1)(a)(iv) of this section;

(iii) A prominent note itemizing the change(s) to the original map, plat, or plan. Each item shall explicitly state what the change is and where the change is located on the original;

(d) The county recording official shall file, index, and cross-reference all such maps, plats, or plans received in a manner sufficient to provide adequate notice of the existence of the new map, plat, or plan to anyone researching the county records for survey information;

(e) The county recording official shall send to the department of natural resources, as per RCW 58.09.050(3), a legible copy of any map, plat, or plan filed or recorded which alters, amends, changes, or corrects survey information on any map, plat, or plan that has been previously filed or recorded pursuant to the Survey Recording Act.

(4) Survey maps, plats and plans filed with the county shall be an original that is legibly drawn in black ink (~~on mylar~~) and is suitable for producing legible prints through scanning, microfilming or other standard copying procedures. The following are allowable formats for the original that may be used in lieu of the format stipulated above:

(a) ~~(Photo mylar with original signatures;~~

~~(b))~~ Any standard material as long as the format is compatible with the auditor's recording process and records storage system. Provided, that records of survey filed pursuant to chapter 58.09 RCW are subject to the restrictions stipulated in RCW 58.09.110(5);

~~((e))~~ (b) An electronic version of the original if the county has the capability to accept a digital signature issued by a licensed certification authority under chapter 19.34 RCW or a certification authority under the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system. The electronic version shall be a standard raster file format acceptable to the county.

(5) The following checklist is the only checklist that may be used to determine the recordability of records of survey filed pursuant to chapter 58.09 RCW. There are other requirements to meet legal standards. This checklist also applies to maps filed pursuant to the other survey map recording statutes, but for these maps there may be additional sources for determining recordability.

CHECKLIST FOR SURVEY MAPS BEING RECORDED

(Adopted in WAC 332-130)

The following checklist applies to land boundary survey maps and plans, records of surveys, plats, short plats, boundary line adjustments, and binding site plans required by law to be filed or recorded with the county. There are other requirements to meet legal standards. Records of survey filed pursuant to chapter 58.09 RCW, that comply with this checklist, shall be recorded; no other checklist is authorized for determining their recordability.

ACCEPTABLE MEDIA:

~~((a For counties required to permanently store the document filed, the only acceptable media are:~~

Black ink on mylar or photo mylar))

• ~~((For counties exempted from permanently storing the document filed,))~~ Acceptable media are:

Any standard((s)) material compatible with county processes; or, an electronic version of the original.

• All signatures must be ~~((original and, on hardcopy,))~~ made with ~~((permanent))~~ black ink.

• The media submitted for filing must not have any material on it that is affixed by adhesive.

LEGIBILITY:

• The documents submitted, including paper copies, must have a uniform contrast throughout the document.

• The documents submitted must be legible and reproducible by the auditor's recording system regardless of media used for recording.

- No information, on either the original or the copies, should be obscured or illegible due to cross-hatching, shading, or as a result of poor drafting technique such as lines drawn through text or improper pen size selection (letters or number filled in such that 3's, 6's or 8's are indistinguishable).
- Signatures, date, and seals must be legible on the prints or the party placing the seal must be otherwise identified.
- Text must be 0.08 inches or larger; line widths shall not be less than 0.008 inches (vicinity maps, land surveyor's seals and certificates are excluded).

INDEXING:

- The recording officer's information block must be on the bottom or right edge of the map.
 - A title block (shows the name of the preparer and is on each sheet of multiple sheets).
 - An auditor's certificate (on the first sheet of multiple sheets, although Vol./Pg. and/or AF# must be entered by the recording officer on each sheet).
 - A surveyor's certificate (on the first sheet of multiple sheets; seal, date, and signature on multiple sheets).
- The map filed must provide the following indexing data:
 - S-T-R and the quarter-quarter(s) or approximate quarter-quarter(s) of the section in which the surveyed parcel lies, and ~~((Optional))~~ a graphic representation of the section divided into quarter-quarters ~~((may be used with the quarter-quarter(s)))~~ in which the surveyed parcel lies are clearly marked~~((;))~~.

MISCELLANEOUS

- If the function of the document submitted is to change a previously filed record, it must also have:
 - A title identifying it as a correction, amendment, alteration or change to a previously filed record~~((;))~~.
 - A note itemizing the changes.
- For records of survey:
 - The sheet size must be 18" x 24".
 - The margins must be 2" on the left and 1/2" for the others, when viewed in landscape orientation.
 - In addition to the map being filed there must be two prints included in the submittal; except that, in counties using imaging systems fewer prints, as determined by the auditor, may be allowed.

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 20-18-008
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed August 20, 2020, 3:00 p.m.]

Title of Rule and Other Identifying Information: WAC 458-20-195 Taxes, deductibility, 458-20-22801 Tax reporting frequency, 458-20-254 Recordkeeping, 458-20-261 Commute trip reduction incentives, and 458-20-272 Tire fee—Studded tire fee—Core deposits or credits.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to incorporate 2020 legislation, SHB 2246. The purpose of this legislation was to reorganize laws related to environmental health without making any substantive policy changes, specifically, adding a new title to be codified as Title 70A RCW. The amendments proposed for these rules also include those to remove outdated language and for general readability purposes.

Reasons Supporting Proposal: Updating these rules to provide the correct statutory citations and removing outdated language will provide accurate information to readers.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060.

Statute Being Implemented: RCW 70A.149.080; chapters 70A.93, 70A.94, 70A.95 RCW; RCW 82.08.0287, 82.08.036, 82.12.0282, 82.12.038.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate for these rule updates because the department is incorporating changes resulting from 2020 legislation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT

LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, AND RECEIVED BY November 2, 2020.

August 20, 2020
Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-16-015, filed 7/21/00, effective 8/21/00)

WAC 458-20-195 Taxes, deductibility. (1) Introduction. This rule explains the circumstances under which taxes may be deducted from the gross amount reported as the measure of tax under the business and occupation tax, retail sales tax, and public utility tax. It also lists deductible and nondeductible taxes.

(2) Deductibility of taxes. In computing tax liability, the amount of certain taxes may be excluded or deducted from the gross amount reported as the measure of tax under the business and occupation (B&O) tax, the retail sales tax, and the public utility tax. These taxes may be deducted provided they have been included in the gross amount reported under the classification with respect to which the deduction is sought, and have not been otherwise deducted through inclusion in the amount of another allowable deduction, such as credit losses.

The amount of taxes which are not allowable as deductions or exclusions must in every case be included in the gross amount reported. License and regulatory fees are not deductible. Questions regarding the deductibility or exclusion of a tax that is not specifically identified in this rule should be submitted to the department of revenue for determination.

(3) Motor vehicle fuel taxes. RCW 82.04.4285 provides a B&O tax deduction for certain state and federal motor vehicle fuel taxes when the taxes are included in the sales price. These taxes include:

- ((State motor vehicle fuel tax - chapter 82.36 RCW; State special)) Fuel tax chapter 82.38 RCW;
Federal tax on diesel and special motor fuels (including leaking underground storage tank taxes), except train and aviation fuels 26 U.S.C.A. Sec. 4041;
Federal tax on inland waterway commercial fuel 26 U.S.C.A. Sec. 4042;
Federal tax on gasoline and diesel fuel for use in highway vehicles and motorboats 26 U.S.C.A. Sec. 4081.

(4) Taxes collected as an agent of municipalities, the state, or the federal government. The amount of taxes col-

lected by a taxpayer, as agent for municipalities, the state of Washington or its political subdivisions, or the federal government, may be deducted from the gross amount reported. These taxes are deductible under each tax classification of the Revenue Act under which the gross amount from such sales or services must be reported.

This deduction applies only where the amount of such taxes is received by the taxpayer as collecting agent and is paid by the agent directly to a municipality, the state, its political subdivisions, or to the federal government. When the taxpayer is the person upon whom a tax is primarily imposed, no deduction or exclusion is allowed, since in such case the tax is a part of the cost of doing business. The mere fact that the amount of tax is added by the taxpayer as a separate item to the price of goods sold, or to the charge for services rendered, does not in itself, make such taxpayer a collecting agent for the purpose of this deduction. Examples of deductible taxes include:

- FEDERAL—
Tax on communications services (telephone and teletypewriter exchange services) 26 U.S.C.A. Sec. 4251;
Tax on transportation of persons 26 U.S.C.A. Sec. 4261;
Tax on transportation of property 26 U.S.C.A. Sec. 4271;
STATE—
Aviation fuel tax collected from buyers by a distributor as defined by RCW 82.42.010 chapter 82.42 RCW;
Leasehold excise tax collected from lessees chapter 82.29A RCW;
Oil spill response tax collected from taxpayers by marine terminal operators chapter 82.23B RCW;
Retail sales tax collected from buyers chapter 82.08 RCW;
Solid waste collection tax collected from buyers chapter 82.18 RCW;
State enhanced 911 tax collected from subscribers chapter 82.14B RCW;
Use tax collected from buyers chapter 82.12 RCW;
MUNICIPAL—
City admission tax RCW 35.21.280;
County admissions and recreations tax chapter 36.38 RCW;
County enhanced 911 tax collected from subscribers chapter 82.14B RCW;

Local retail sales and use taxes collected from buyers chapter 82.14 RCW.

(5) **Specific taxes which are not deductible.** Examples of specific taxes which may be neither deducted nor excluded from the measure of the tax include the following:

FEDERAL—

Agricultural Adjustment Act (A.A.A.) compensating tax 7 U.S.C.A. Sec. 615(e);
 A.A.A. processing tax 7 U.S.C.A. Sec. 609;
 Aviation fuel 26 U.S.C.A. Sec. 4091;
 Distilled spirits, wine and beer taxes 26 U.S.C.A. chapter 51;
 Diesel and special motor fuel tax for fuel used for purposes other than motor vehicles and motor-boats 26 U.S.C.A. Sec. 4041;
 Employment taxes 26 U.S.C.A. chapters 21-25;
 Estate taxes 26 U.S.C.A. chapter 11;
 Firearms, shells and cartridges 26 U.S.C.A. Sec. 4181;
 Gift taxes 26 U.S.C.A. chapter 12;
 Importers, manufacturers and dealers in firearms 26 U.S.C.A. Sec. 5801;
 Income taxes 26 U.S.C.A. Subtitle A;
 Insurance policies issued by foreign insurers 26 U.S.C.A. Sec. 4371;
 Sale and transfer of firearms tax 26 U.S.C.A. Sec. 5811;
 Sporting goods 26 U.S.C.A. Sec. 4161;
 Superfund tax 26 U.S.C.A. Sec. 4611;
 Tires 26 U.S.C.A. Sec. 4071;
 Tobacco excise taxes 26 U.S.C.A. chapter 52;
 Wagering taxes 26 U.S.C.A. chapter 35;

STATE —

Ad valorem property taxes Title 84 RCW;
 Alcoholic beverages licenses and stamp taxes (Breweries, distillers, distributors and wineries) chapter 66.24 RCW;

Aviation fuel tax when not collected as agent for the state chapter 82.42 RCW;
 Boxing, sparring and wrestling tax chapter 67.08 RCW;
 Business and occupation tax chapter 82.04 RCW;
 Cigarette tax chapter 82.24 RCW;
~~((Gift and inheritance taxes))~~ Estate tax Title 83 RCW;
 Insurance premiums tax chapter 48.14 RCW;
 Hazardous substance tax chapter 82.21 RCW;
 Litter tax chapter 82.19 RCW;
 Pollution liability insurance fee RCW ~~((70.149.080))~~ 70A.149.080;
 Parimutuel tax RCW 67.16.100;
 Petroleum products - underground storage tank tax chapter 82.23A RCW;
 Public utility tax chapter 82.16 RCW;
 Real estate excise tax chapter 82.45 RCW;
 Tobacco products tax chapter 82.26 RCW;
 Use tax when not collected as agent for state chapter 82.12 RCW;
 MUNICIPAL—
 Local use tax when not collected as agent for cities or counties chapter 82.14 RCW;
 Municipal utility taxes chapter 54.28 RCW;
 Municipal and county real estate excise taxes chapter 82.46 RCW.

AMENDATORY SECTION (Amending WSR 13-22-048, filed 11/1/13, effective 12/2/13)

WAC 458-20-22801 Tax reporting frequency. (1) Introduction.

(a) Every person liable for an excise tax imposed by the laws of the state of Washington for which the department of revenue has primary or secondary administrative responsibility, i.e., Title 82 RCW and chapters 67.28 (Hotel/motel tax), ~~((70.93))~~ 70A.93 (Litter tax), ~~((70.95))~~ 70A.95 (Tax on tires), and 84.33 RCW (Forest excise tax), must file an electronic tax return with the department of revenue accompanied by an electronic payment of the tax due; however, the taxes under

chapter 82.24 RCW (Tax on cigarettes) must be collected through sales of revenue stamps.

(b) Other rules to reference. The department has adopted other rules that readers may want to refer to:

(i) WAC 458-20-228 Returns, payments, penalties, extensions, interest, stays of collection.

(ii) WAC 458-20-22802 Electronic filing and payment.

~~(2) ((Reporting frequency.))~~ **Reporting frequency.** Taxpayers are required to electronically file and pay their excise taxes on a monthly basis. However, the department may relieve any taxpayer or class of taxpayers from this monthly obligation and may require the return to cover other longer reporting periods, but not in excess of one year. ~~((See:))~~ RCW 82.32.045.

(a) General rule. Unless otherwise provided by the department, a taxpayer must report and pay taxes due according to the following schedule:

IF ANNUAL ESTIMATED TAX LIABILITY IS:	REPORTING FREQUENCY
Over \$4800.00 per year	Monthly returns:
Between \$1050.00 & \$4800.00 per year	Quarterly returns:
Less than \$1050.00 per year	Annual returns:

~~((b))~~ When requested by a taxpayer or group of taxpayers, the department may approve more frequent or less frequent reporting if, in the opinion of the department, the change assists the department in the efficient and effective administration of the tax laws of this state.

~~((c) For the same reasons, the department may require a taxpayer or group of taxpayers to report more frequently or less frequently.))~~ (b) Changes in reporting frequency. Changes in reporting frequency are effective only after the department has consented to or required the change, and notice of the change has been given by the department to the taxpayer or group of taxpayers.

~~((d))~~ Situations when changes in reporting frequency may be approved or required include, but are not limited to, the following:

(i) An increase or decrease in the estimated annual tax liability of a taxpayer results in a different threshold as provided in ~~((section (2)(a) above))~~ (a) of this subsection;

(ii) A taxpayer or group of taxpayers has substantial periods of no taxable business activity during the calendar year, i.e., temporary businesses;

(iii) The department finds a taxpayer or a group of taxpayers has repeatedly failed to comply with tax reporting and/or payment obligations; or

(iv) The type of tax reported is required to be filed on a specific reporting frequency.

~~((e))~~ (c) Notice of change in reporting frequency. No change in reporting frequency will be effective except ~~((upon))~~ with at least thirty days advance written or electronic notice from the department to the taxpayer at the taxpayer's last provided email address or reported business address.

~~((f))~~ (d) Filing returns. Returns must be submitted electronically. Taxpayers approved by the department may continue to submit paper returns that are either provided by the department, or approved and accepted by the department.

Paper forms (including multipurpose returns for past and present reporting periods) are available for download from the department's website at dor.wa.gov.

~~((g))~~ Taxes not reported ~~((upon))~~ on the combined excise tax return, i.e. forest excise tax, etc. must be reported at such times and upon such forms as are otherwise provided by the department.

~~((3) See WAC 458-20-228 for information on returns, remittances, penalties, extensions, stay of collection.~~

~~(4) See WAC 458-20-22802 for information on available electronic methods for filing and paying taxes.))~~

AMENDATORY SECTION (Amending WSR 16-06-040, filed 2/24/16, effective 3/26/16)

WAC 458-20-254 Recordkeeping. (1) Introduction.

This rule defines the requirements for the maintenance and retention of books, records, and other sources of information. It also addresses these requirements where all or a part of the taxpayer's books and records are received, created, maintained, or generated through various computer, electronic, and/or imaging processes and systems.

The general requirements imposed on taxpayers under RCW 82.32.070 are to retain and make available those records necessary to verify that the correct tax liability has been reported and paid by the taxpayer with respect to the taxes administered by the department of revenue ~~((the))~~ department~~((s))~~. The records provided to the department are confidential and privileged~~((-Such records))~~ and may not be disclosed by the department, except as provided by RCW 82.32.330.

(2) **Definitions.** For purposes of this rule, the following definitions ~~((will))~~ apply:

(a) **"Database management system"** means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

(b) **"Electronic data interchange" or "EDI technology"** means the computer-to-computer exchange of business transactions in a standardized structured electronic format.

(c) **"Hard copy"** means any documents, records, reports or other data printed on paper.

(d) **"Machine-sensible record"** means a collection of related information in any electronic format (e.g., database management systems, EDI technology, automated data process systems, etc.). Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems.

(e) **"Records"** means all books, data, documents, reports, or other information, including those received, created, maintained, or generated through various computer, electronic, and/or imaging processes and systems.

(f) **"Storage-only imaging system"** means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image.

(3) Recordkeeping requirements—General.

(a) **Duty of taxpayer to keep records.** Every taxpayer liable for a tax or fee imposed by the laws of the state of Washington for which the department ~~((of revenue))~~ has primary or secondary administrative responsibility, e.g., Title 82 RCW, chapter 67.28 RCW (hotel/motel tax), chapter ~~((70.95))~~ 70A.95 RCW (fee on tires), and chapter 84.33 RCW (forest excise tax), must keep complete and adequate records from which the department ~~((may))~~ can determine ~~((any))~~ the tax liability ~~((for such))~~ of the taxpayer.

~~((b))~~ It is the duty of each taxpayer to prepare and preserve all records in a systematic manner conforming to accepted accounting methods and procedures. ~~((Such))~~ Records are to be kept and preserved ~~((All of the taxpayer's records))~~ and must be presented upon request by the department or its authorized representatives ~~((that will)).~~ The records should demonstrate:

(i) The amounts of gross receipts and sales from all sources, however derived, including barter or exchange transactions, whether or not such receipts or sales are taxable. These amounts must be supported by original source documents or records including but not limited to all purchase invoices, sales invoices, contracts, and such other records as may be necessary to substantiate gross receipts and sales.

(ii) The amounts of all deductions, exemptions, or credits claimed through supporting records or documentation required by statute or administrative rule, or other supporting records or documentation necessary to substantiate the deduction, exemption, or credit.

(iii) The payment of retail sales tax or use tax on capital assets, supplies, articles manufactured for your own use, and other items used by the taxpayer as a consumer.

(iv) The amounts of any refunds claimed. These amounts must be supported by records as may be necessary to substantiate the refunds claimed. Refer to WAC 458-20-229 Refunds, for information on the refund process.

~~((c))~~ (b) **Types of records.** The records kept, preserved, and presented must include the normal records maintained by an ordinary prudent business person. ~~((Such))~~ These records may include general ledgers, sales journals, cash receipts journals, bank statements, check registers, and purchase journals, together with all bills, invoices, cash register tapes, and other records or documents of original entry supporting the books of account entries. The records must include all federal and state tax returns and reports and all schedules, work papers, instructions, and other data used in the preparation of the tax reports or returns.

~~((d))~~ (c) **Format of records.** If a taxpayer retains records in both machine-sensible and hard-copy formats, ~~((the taxpayer))~~ they must make the records available to the department in machine-sensible format upon request of the department. However, the taxpayer is not prohibited from demonstrating tax compliance with traditional hard-copy documents or reproductions ~~((thereof))~~, although this does not eliminate the requirement that they provide access to machine-sensible records, if requested.

~~((e))~~ Machine-sensible records used to establish tax compliance must contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the department upon request.

~~((f))~~ At the time of an examination, the retained records must be capable of being retrieved and converted to a readable record format, as required in subsection (6) of this rule.

~~((g))~~ Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

(4) **Record retention period.** All records must be open for inspection and examination at any time by the department, upon reasonable notice, and must be kept and preserved for a period of five years. RCW 82.32.070.

(5) **Failure to maintain or disclose records.** Any taxpayer who fails to comply with the requirements of RCW 82.32.070 or this rule is forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department based upon any period for which such books, records, and invoices have not been so kept, preserved, or disclosed. RCW 82.32.070.

(6) **Electronic records.**

(a) **Electronic data interchange requirements.**

(i) Where a taxpayer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the department to interpret the coded information.

(ii) The taxpayer may capture the information at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer must also retain other records, such as its vendor master file and product code description lists and make them available to the department. In this example, the taxpayer need not retain its EDI transaction for tax purposes if the vendor master file contains the required information.

(b) **Electronic data processing systems requirements.** The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this rule.

(c) **Internal controls.**

(i) Upon the request of the department, the taxpayer must provide a description of the business process that created the

retained records. Such description must include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(ii) The taxpayer must be capable of demonstrating:

(A) The functions being performed as they relate to the flow of data through the system;

(B) The internal controls used to ensure accurate and reliable processing; and

(C) The internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

(iii) The following specific documentation is required for machine-sensible records retained pursuant to this rule:

(A) Record formats or layouts;

(B) Field definitions (including the meaning of all codes used to represent information);

(C) File descriptions (e.g., data set name); and

(D) Detailed charts of accounts and account descriptions.

(7) **Access to machine-sensible records.**

(a) The manner in which the department is provided access to machine-sensible records may be satisfied through a variety of means that ~~((shall))~~ take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(b) ~~((Such))~~ Access will be provided in one or more of the following manners:

(i) The taxpayer may arrange to provide the department with the hardware, software and personnel resources to access the machine-sensible records.

(ii) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records.

(iii) The taxpayer may convert the machine-sensible records to a standard record format specified by the department, including copies of files, on a magnetic medium that is agreed to by the department.

(iv) The taxpayer and the department may agree on other means of providing access to the machine-sensible records.

(8) **Storage-only imaging systems.**

(a) **Converting documents.** For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this rule to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this rule are met. Documents which may be stored on these media include ~~((, but are not limited to,))~~ general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, ~~((and))~~ credit memoranda, etc.

(b) **System requirements.** Microfilm, microfiche and other storage-only imaging systems must meet the following requirements:

(i) Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche or other storage-only imaging system must be maintained and made available upon request. Such documentation must, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system

as well as internal procedures established for inspection and quality assurance.

(ii) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for a period of five years.

(iii) Upon request by the department, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging system.

(iv) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(v) All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.

(vi) There must be no substantial evidence that the microfilm, microfiche, or other storage-only imaging system lacks authenticity or integrity.

(9) ~~((Effect on))~~ **Hard-copy ~~((recordkeeping requirements))~~ records.**

(a) **Recordkeeping requirements.** The provisions of this rule do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and regulations, except as otherwise provided in this rule. Hard-copy records may be retained on a recordkeeping medium as provided in subsection (8) of this rule. The department may request hard-copy printouts in lieu of retained machine-sensible records at the time of examination.

~~((b)-(f))~~ **Hard-copy records ~~((are))~~ not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), ~~((such hard-copy records))~~ do not need ~~((not))~~ to be created. Computer printouts that are created for validation, control, or other temporary purposes do not need to be retained.**

~~((e))~~ **(b) Debit and credit card transactions.** Hard-copy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this rule.

~~((d))~~ **Computer printouts that are created for validation, control, or other temporary purposes need not be retained.**

~~((e))~~ **Nothing in this rule prevents the department from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination.**

(10) **Out-of-state businesses.** An out-of-state business which does not keep ~~((the))~~ its necessary records within this state may either produce ~~((within this state such))~~ these records within this state as ~~((are))~~ required for examination by the department or permit the examination of all of ~~((the taxpayer's))~~ its records by the department or its authorized

representatives at the place where the records are kept. RCW 82.32.070.

AMENDATORY SECTION (Amending WSR 16-04-035, filed 1/26/16, effective 2/26/16)

WAC 458-20-261 Commute trip reduction incentives. (1) **Introduction.** This rule explains the various commute trip reduction incentives that are available. RCW 82.04.355 and 82.16.047 provide exemptions from business and occupation (B&O) tax and public utility tax (PUT) on amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs. RCW 82.08.0287 and 82.12.0282 provide sales and use tax exemptions for sales or use of passenger motor vehicles as ride-sharing vehicles. Finally, chapter 82.70 RCW provides commute trip reduction incentives in the form of B&O tax or PUT credit in connection with ride sharing, public transportation, car sharing, and nonmotorized commuting.

(2) **B&O tax and PUT exemptions for providing commuter ride sharing or ride sharing for persons with special transportation needs.** RCW 82.04.355 and 82.16.047 provide B&O tax and PUT exemptions for amounts received in the course of commuter ride sharing or ride sharing for persons with special transportation needs.

(a) **What is "commuter ride sharing"?** "Commuter ride sharing" means a carpool or vanpool arrangement, whereby one or more fixed groups:

(i) Not exceeding fifteen persons each, including the drivers; and

(ii) Either:

(A) Not fewer than five persons, including the drivers; or

(B) Not fewer than four persons, including the drivers, where at least two of those persons are confined to wheelchairs when riding; are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. Each group must be in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institutions. RCW 46.74.010.

(b) **What is "ride sharing for persons with special transportation needs"?** "Ride sharing for persons with special transportation needs" means an arrangement, whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs. RCW 46.74.010.

(i) **What is a "private, nonprofit transportation provider"?** A "private, nonprofit transportation provider" is any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs. RCW 81.66.010.

(ii) **Who are "persons with special transportation needs"?** "Persons with special transportation needs" are

those persons, including their personal attendants, who because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase appropriate transportation. RCW 81.66.010.

(3) **Retail sales tax and use tax exemptions on sales or use of passenger motor vehicles as ride-sharing vehicles.** RCW 82.08.0287 and 82.12.0282 provide retail sales tax and use tax exemptions for sales and use of passenger motor vehicles as ride-sharing vehicles.

(a) **What are the requirements?** To qualify for these exemptions, the passenger motor vehicles must be used:

(i) Primarily for commuter ride sharing or ride sharing for persons with special transportation needs; and

(ii) As ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase (retail sales tax exemption) and the date of first use (use tax exemption). If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must pay the retail sales tax or use tax.

(b) **Additional requirements in certain cases.** Vehicles used primarily for commuter ride sharing must be operated within a county, or a city or town within that county, which has a commute trip reduction plan under chapter ((70-94)) 70A.94 RCW in order to be exempt from retail sales tax or use tax. In addition, for the exemptions to apply, at least one of the following conditions must apply:

(i) The vehicle is operated by a public transportation agency for the general public;

(ii) The vehicle is used by a major employer, as defined in RCW ((70-94.524)) 70A.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle is owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

Individual-employee owned and operated motor vehicles require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commute ride-sharing arrangement conforms to a carpool or vanpool element contained within their commute trip reduction program.

(4) **B&O tax or PUT credit for ride sharing, public transportation, car sharing, or nonmotorized commuting.** RCW 82.70.020 provides a credit against B&O tax or PUT liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting. The credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. No refunds will be granted for unused credits.

(a) **Who is eligible for this credit?**

(i) Employers in Washington are eligible for this credit, for amounts paid to or on behalf of their own or other employees, as financial incentives to such employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(ii) Property managers who manage worksites in Washington are eligible for this credit, for amounts paid to or on behalf of persons employed at those worksites, as financial incentives to such persons for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(b) **What is "ride sharing"?** "Ride sharing" means a carpool or vanpool arrangement, whereby a group of at least two but not exceeding fifteen persons, including the driver, is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. The driver must also be on the way to or from his or her place of employment or educational or other institution. "Ride sharing" includes ride sharing on Washington state ferries. RCW 82.70.010.

(c) **What is "public transportation"?** "Public transportation" means the transportation of packages, passengers, and their incidental baggage, by means other than by charter bus or sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. "Public transportation" includes passenger services of the Washington state ferries. RCW 82.70.010.

(d) **What is "car sharing"?** "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis. RCW 82.70.010.

(e) **What is "nonmotorized commuting"?** "Nonmotorized commuting" means commuting to and from the workplace by an employee, by walking or running or by riding a bicycle or other device not powered by a motor. "Nonmotorized commuting" does not include teleworking, which is a program where work functions normally performed at a traditional workplace are instead performed by an employee at his or her home, at least one day a week for the purpose of reducing the number of trips to the employee's workplace. RCW 82.70.010.

(f) **What is the credit amount?** The amount of the credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. RCW 82.70.020.

(g) **What is a "fiscal year"?** A "fiscal year" begins at July 1st of one year and ends on June 30th of the following year.

(h) **When will the credit expire?** The credit program ~~((was)) is~~ scheduled to expire ~~((June 30, 2015, but has been extended to June 30, 2024, by legislation passed in 2015 (2ESSB 5987, chapter 44, Laws of 2015). For credits approved by the department through June 30, 2015, the approved credit may be carried forward and used for tax reporting periods through December 31, 2016. Credits approved after June 30, 2015, must be used for tax reporting periods within the calendar year for which they are approved by the department and may not be carried forward to subsequent tax reporting periods))~~ July 1, 2024. No credit may be claimed after June 30, 2024.

(i) What are the limitations of the credit?

(i) The credit may not exceed the amount of B&O tax or PUT that would otherwise be due for the same fiscal year.

(ii) A person may not receive credit for amounts paid to or on behalf of the same employee under both B&O tax and PUT.

(iii) A person may not take a credit for amounts claimed for credit by other persons.

(iv) The total credit granted to a person under both B&O tax and PUT may not exceed ~~((two hundred thousand dollars for a fiscal year. Effective in 2016, the maximum credit that may be granted is))~~ one hundred thousand dollars for a fiscal year.

(v) The total credit granted to all persons under both B&O tax and PUT may not exceed two million seven hundred fifty thousand dollars in any fiscal year ~~((with the exception of one million five hundred thousand dollars per fiscal year for the period July 1, 2013, through June 30, 2015))~~.

(vi) No credit or portion of a credit denied, because of exceeding the limitations in (i)(iv) or (v) of this subsection, may be used against tax liability for other fiscal years.

(vii) No person is eligible for tax credits under RCW 82.70.020 if the additional revenues for the multimodal transportation account (RCW 47.66.070) created by chapter 361, Laws of 2003 are terminated.

(j) What are the credit procedures?

(i) Persons applying for the credit must complete the commute trip reduction credit annual application. The application must be electronically filed and received by the department between January 1st and January 31st, following the calendar year in which the applicant made incentive payments. The commute trip reduction credit annual application is available through the business's "My ~~((Account))~~ DOR account on the department's website at dor.wa.gov.

(ii) The department must make a determination on an application within sixty days of the January 31st deadline. ~~((Except as explained immediately below,))~~ The department must disapprove an application not received by the January 31st deadline ~~((Legislation (2ESSB 5987, chapter 44, Laws of 2015) passed in 2015 allows))~~, except that the department ~~((to))~~ may accept applications received up to fifteen calendar days after the deadline if the application was not received ~~((by the deadline))~~ because of circumstances beyond the control of the taxpayer. For what is considered circumstances beyond the control of a taxpayer, see WAC 458-20-228 Returns, payments, penalties, extensions, interest, stays of collection. Once the application is approved and the tax credit is granted, the department is not allowed to increase the credit.

(iii) If the total amount of credit applied for by all applicants in a fiscal year exceeds the limitation as provided in (i)(v) of this subsection, the amount of credit allowed for all applicants must be proportionally reduced so as not to exceed the limit. The amount reduced may not be carried forward and claimed in subsequent fiscal years.

(iv) To claim a commute trip reduction tax credit, a person must file all returns, forms, and other information the department requires in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format is not filed

until received by the department in an electronic format. For the purpose of this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(k) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(i) **Example 1.** An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. These are the total expenditures during a fiscal year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, using car sharing, and using nonmotorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(ii) **Example 2.** An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(iii) **Example 3.** As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit but is subject to the maximum credit limit of sixty dollars per employee.

(iv) **Example 4.** An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.

AMENDATORY SECTION (Amending WSR 16-07-047, filed 3/14/16, effective 4/14/16)

WAC 458-20-272 Tire fee—Studded tire fee—Core deposits or credits. (1) **Introduction.** This rule describes the tire fee imposed under RCW ((~~70.95.510~~)) 70A.95.510 and the studded tire fee imposed under RCW 46.37.427 ((~~for collection beginning July 1, 2016. See chapter 44, Laws of 2015 (2ESSB 5987)~~)). This rule also describes how business and occupation (B&O), sales, and use taxes apply to tire fees, battery core charges and core deposits or credits, including the exemptions described in RCW 82.08.036 and 82.12.038.

(a) **Other rules that may be relevant.** Readers may want to refer to other rules for additional information, including those in the following list:

(i) WAC 458-20-228 Returns, payments, penalties, extensions, interest, stays of collection.

(ii) WAC 458-20-278 Returned goods, defective goods—Motor vehicle lemon law.

(b) **Examples.** This rule contains examples that identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(2) **Tire fee.**

(a) **What is the tire fee?** The tire fee as described in RCW 70A.95.510 is a one-dollar fee collected by the seller from the buyer on every retail sale of each new replacement vehicle tire. If new tires are leased, the fee must be collected once at the beginning of the lease.

(b) **How do I report the tire fee?** A seller must report on the excise tax return the number of new replacement vehicle tires sold. Tire sellers may retain ten percent of the fee and must remit the remainder to the department of revenue (department). As a result, the amount that must be reported and paid to the department is the number of new replacement vehicle tires sold during the tax reporting period multiplied by ninety cents.

(c) **What if the seller fails to collect the fee or does not pay the fee on time?** The seller is personally liable for payment of the fee, whether or not the fee is collected from the buyer. Any seller who appropriates or converts the fee collected to ((~~his or her~~)) their own use or to any use other than the payment of the fee by the due date, minus the ten percent retained, is guilty of a gross misdemeanor. Interest and penalties apply to late payments.

(d) **What happens if a buyer fails to pay the fee?** The tire fee, until paid by the buyer to the seller or the department, is considered a debt from the buyer to the seller. Any buyer who refuses to pay the fee is guilty of a misdemeanor.

(e) **Is sales tax imposed on the tire fee?** No. The measure of the sales tax does not include the tire fee. See RCW 82.08.036.

(f) **Is the ten percent amount retained by the seller subject to B&O tax?** Yes. The seller must report the retained amount as gross income under the service and other activities tax classification on the excise tax return.

(g) **What tires are subject to the tire fee?** All new replacement vehicle tires are subject to the tire fee. Refer to RCW ((~~70.95.030~~)) 70A.95.030 for the definition of "vehicle."

(i) Examples of vehicles for which new replacement tires are subject to the fee include:

- (A) Automobiles;
- (B) Trucks;
- (C) Recreational vehicles;
- (D) Trailers;
- (E) All-terrain vehicles (ATVs);
- (F) Agricultural vehicles, such as tractors or combines;
- (G) Industrial vehicles, such as forklifts;
- (H) Construction vehicles, such as loaders or graders;

and

(I) Golf carts.

(ii) Bicycles, wheelbarrows, and hand trucks are examples of devices to which the new replacement tire fee does not apply.

(iii) The tire fee does not apply to the sale of retreaded vehicle tires. Nor does it apply to tires provided free of charge under the terms of a recall or warranty.

(h) **May I refund the fee if a tire is returned?** If a customer returns the purchased new tire and the entire selling price is refunded to the customer, the one-dollar tire fee is likewise refundable. The refunded amount may be claimed on the excise tax return in the same manner as refunded sales tax. If the seller does not refund the full sales price to the customer, the one-dollar fee is not refundable.

(i) **Does the tire fee apply on sales to the federal government or Indians and Indian tribes?** The tire fee is not imposed on sales to the federal government and need not be collected by the seller. The tire fee does not apply to sales of tires delivered to enrolled members or tribes in "Indian country." For information on sales to the federal government, see WAC 458-20-190 Sales to and by the United States and certain entities created by the United States—Doing business on federal reservations—Sales to foreign governments, and for sales to Indians and Indian tribes, see WAC 458-20-192 Indians—Indian country.

(j) **If the sale is exempt from sales tax, is the tire fee due?** Statutory exemptions from sales tax do not apply to the tire fee. The tire fee is due on every retail sale of a new replacement tire whether or not sales tax is due.

(3) Studded tire fee.

(a) **What is the studded tire fee?** The studded tire fee as described in RCW 46.37.427 is a five dollar fee imposed on the retail sale of each new tire sold (~~(, on or after July 1, 2016,)~~) that contains studs. The seller will collect the fee from the buyer. For the purpose of this subsection, "new tire sold that contains studs" means a tire that is manufactured for vehicle purposes and contains metal studs, and does not include bicycle tires or retreaded vehicle tires.

(b) **Who remits the studded tire fee to the department?** The seller collects the five dollar fee from the buyer and holds it in trust until paid to the department; however, the seller may retain ten percent of the fee collected.

(c) **What if the seller fails to collect the fee or does not pay the fee on time?** Interest and penalties, as described in subsection (2)(c) of this rule also apply to the studded tire fee.

(d) **What happens if a buyer fails to pay the fee?** As with the tire fee, a buyer who refuses to pay the fee is guilty of a misdemeanor. See subsection (2)(d) of this rule.

(e) **Is sales tax imposed on the tire fee?** No. The seller is collecting the fee as an agent for the state and thus the measure of sales tax does not include the studded tire fee. For additional information on taxpayers acting as collecting agents, see WAC 458-20-195 Taxes, deductibility.

(f) **Is the ten percent amount retained by the seller subject to B&O tax?** Yes. As with the tire fee, the seller must report the retained amount as gross income under the service and other activities tax classification on the excise tax return.

(g) **Is the studded tire fee refundable if the tire is returned?** If a new studded tire is returned, the studded tire

fee is handled the same as the tire fee as described in subsection (2)(h) of this rule.

(h) **Does the studded tire fee apply to tires sold to the federal government or Indians and Indian tribes?** With respect to these sales, the studded tire fee is handled the same as the tire fee described in subsection (2)(i) of this rule.

(i) **If the sale is exempt from sales tax, is the studded tire fee due?** As with the tire fee described in subsection (2)(j) of this rule, statutory exemptions from sales tax do not apply to the studded tire fee.

(4) Core deposits or credits - Battery core charges.

(a) **Definitions.** For purposes of this rule, the following definitions apply:

(i) **Core deposits or credits.** "Core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for purposes of recycling or remanufacturing.

(ii) **Battery core charge.** "Battery core charge" refers to a core deposit, not less than five dollars, that a seller by law must retain when a retail purchaser has no used battery to exchange or trade in. A buyer may return within thirty days of the purchase with a used battery of equivalent size and claim the core charge amount. See RCW (~~(70.95.630 and 70.95.640)~~) 70A.95.630 and 70A.95.640.

(b) **How is tax calculated when the buyer receives a core deposit or credit?** Retail sales and use taxes do not apply to consideration received in the form of core deposits or credits when a purchaser exchanges or trades in a core for recycling or remanufacturing. Therefore, the measure of the sales or use tax may be reduced by the amount of the core deposit or credit. See RCW 82.08.036 and 82.12.038. The core deposit and credit exemptions apply only to the retail sales and use taxes. There is no equivalent exemption or deduction for B&O tax purposes. Therefore, the amount reported under the appropriate B&O tax classification must include the value of core deposits or credits.

(c) Examples.

(i) **Example 1.** A customer purchases at retail a new replacement battery and reconditioned starter, providing the seller with a battery core and a starter core in exchange. The selling price of the new battery, including the battery core charge, is \$60.00. The customer is allowed a \$5.00 credit because a battery core is exchanged, meaning the cost of the battery to the customer, excluding sales tax, is \$55.00. The selling price of the starter is \$50.00. The seller allows a \$3.00 credit for the starter core, meaning the cost to the customer, excluding sales tax, is \$47.00. Retailing B&O tax is due upon the total value of cash plus core value, in this case \$110.00, or \$60.00 plus \$50.00. However, the \$8.00 of core deposits or credits may be deducted from the measure of the retail sales tax under RCW 82.08.036. Thus, retail sales tax is due on \$102.00, or \$55.00 plus \$47.00.

(ii) **Example 2.** The seller in Example 1 delivers the starter and battery cores accepted in the exchange to wholesalers. A starter wholesaler issues a refund and a battery wholesaler issues a credit memorandum to be applied against future wholesale battery purchases. The return of the used products by the auto parts store for recycling or remanufacturing and subsequent receipt of a refund or credit for the core

deposit or credit is not considered taxable consideration for purposes of the B&O tax.

WSR 20-18-019
EXPEDITED RULES
WASHINGTON STATE PATROL

[Filed August 25, 2020, 8:17 a.m.]

Title of Rule and Other Identifying Information: WAC 446-75-060 Collection of biological sample for the DNA identification system—Procedures—Time frame.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To provide another method of requesting copies of current procedures for collection of biological samples.

Reasons Supporting Proposal: The proposed rule changes will allow for social distancing, require no travel time and would reduce printing cost.

Statutory Authority for Adoption: RCW 43.43.759.

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

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, 106 11th Avenue S.W., Olympia, WA 98504, 360-596-4017; and Implementation: Jennifer Burk-doll, 2203 Airport Way South, Seattle, WA 98134, 206-262-6002.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kimberly Mathis, Washington State Patrol, 106 11th Avenue S.W., Olympia, WA 98504, phone 360-596-4017, email wsprules@wsp.wa.gov, AND RECEIVED BY November 2, 2020.

August 19, 2020
John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 14-17-108, filed 8/19/14, effective 9/19/14)

WAC 446-75-060 Collection of biological sample for the DNA identification system—Procedures—Time frame. (1) The collection, preservation, and shipment of biological samples obtained from convicted offenders pursuant to RCW 43.43.754 for the patrol's DNA identification system

must be in conformance with protocols established by the patrol. Copies of the current protocol may be obtained from the Washington State Patrol (~~Crime Laboratory Division~~) CODIS Laboratory by emailing the request to confel@wsp.wa.gov or at 2203 Airport Way S., Suite 250, Seattle, WA 98134.

(2) The DNA profile resulting from the convicted offender's biological sample will be entered into the patrol's DNA identification system. The patrol will retain the convicted offender's DNA record in its DNA identification system until expungement pursuant to WAC 446-75-070 or the patrol determines that the DNA record no longer qualifies to be retained in the DNA identification system.

WSR 20-18-045
EXPEDITED RULES
DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed August 28, 2020, 11:26 a.m.]

Title of Rule and Other Identifying Information: WAC 246-840-025, 246-840-030, 246-840-045, 246-840-090, 246-840-539, 246-840-541, 246-840-860, 246-840-905, 246-841-490, 246-841-578, 246-841-585 and 246-841-610, AIDS education and training requirements. The nursing care quality assurance commission (commission) is proposing amending or repealing rules as a result of ESHB 1551 Modernizing the control of certain communicable diseases (chapter 76, Laws of 2020).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 22(11) of ESHB 1551 repeals RCW 70.24.270 Health professionals—Rules for AIDS education and training. This repeal no longer requires health professionals to obtain AIDS education and training as a condition of licensure. As a result, the commission proposes to repeal the requirement for AIDS training in WAC 246-840-025, 246-840-030, 246-840-045, 246-840-090, 246-840-539, 246-840-541, 246-840-860, 246-840-905, 246-841-490, 246-841-578, 246-841-585, and 246-841-610.

The anticipated effect of ESHB 1551 and the amendment of the impacted rules is to help reduce stigma toward people living with HIV/AIDS by not singling out AIDS as an exceptional disease requiring special training and education separate from other communicable health conditions.

Reasons Supporting Proposal: When Washington adopted statutes concerning AIDS, very little was known about the disease compared to today. Now, AIDS is very treatable and preventable. In 2014, Governor Inslee issued a proclamation, which included efforts to reduce stigma, which included updating state law. ESHB 1551 repeals statutes concerning AIDS education and training for emergency medical personnel, health professionals, and health care facility employees, which helps reduce stigma towards people living with HIV/AIDS by not singling out AIDS as an exceptional disease that requires specific training and education separate from other communicable health conditions.

Statutory Authority for Adoption: RCW 18.79.110 and 18.88A.060.

Statute Being Implemented: ESHB 1551 (chapter 76, Laws of 2020).

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

Name of Proponent: Nursing care quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Chris Archuleta, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-2748; and Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

This notice meets the following criteria to use the expedited repeal process for these rules:

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: ESHB 1551, chapter 76, Laws of 2020, repeals RCW 70.240.270, as a result the commission is proposing to repeal rules to implement the bill.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Chris Archuleta, Nursing Care Quality Assurance Commission, P.O. Box 47864, Olympia, WA 98504, phone 360-236-2748, fax 360-236-4738, email <https://fortress.wa.gov/doh/policyreview>, AND RECEIVED BY November 2, 2020.

June 25, 2020

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

AMENDATORY SECTION (Amending WSR 08-11-019, filed 5/12/08, effective 6/12/08)

WAC 246-840-025 Initial licensure for registered nurses and practical nurses—Commission approved Washington state nursing education program. Registered nursing and practical nursing applicants' educated in a commission approved Washington state nursing education program and applying for initial licensure must:

(1) Successfully complete a commission approved nursing education program. For applicants from a commission approved registered nurse program who are applying for a practical nurse license:

(a) Complete all course work required of commission approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.

(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the candidate's program.

(2) ~~((Complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(3)))~~ Successfully pass the commission approved licensure examination as provided in WAC 246-840-050. Testing may be allowed upon receipt of a certificate of completion from the administrator of the nursing education program.

~~((4)))~~ (3) Submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the commission. The transcript must include course names and credits accepted from other programs. Transcripts must be received within ninety days of the applicant's first taking of the examination. The transcript must show:

(i) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or

(ii) That the applicant has completed all course work required in a commission approved practical nurse program as listed in WAC 246-840-575(2).

(c) Applicants from a commission approved registered nurse program who are applying for a practical nurse license must also submit an attestation sent from the nurse administrator of the candidate's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.

AMENDATORY SECTION (Amending WSR 08-11-019, filed 5/12/08, effective 6/12/08)

WAC 246-840-030 Initial licensure for registered nurses and practical nurses—Out-of-state traditional nursing education program approved by another United States nursing board. Registered nursing and practical nursing applicants educated in a traditional nursing education program approved by another United States nursing board and applying for initial licensure must:

(1) Successfully complete a board approved nursing education program. Applicants from a board approved registered nurse program who are applying for a practical nurse license:

(a) Complete all course work required of board approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.

(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.

(2) ~~((Complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(3)))~~ Successfully pass the commission approved licensure examination as provided in WAC 246-840-050.

~~((4)))~~ (3) Submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the commission. The transcript must include course names and credits accepted from other programs. The transcript must show:

(i) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or

(ii) That the applicant has completed all course work required in a commission approved practical nurse program as listed in WAC 246-840-575(2).

(c) Applicants from a board approved registered nurse program who are applying for a practical nurse license must also submit an attestation sent from the nurse administrator of the applicant's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.

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

WAC 246-840-045 Initial licensure for registered nurses and practical nurses who graduate from an international school of nursing. (1) Registered nurse and practical nurse applicants educated in a jurisdiction which is not a member of the National Council of State Boards of Nursing and applying for initial licensure must:

(a) Successfully complete a basic nursing education program approved in that country.

(i) The nursing education program must be equivalent to the minimum standards prevailing for nursing education programs approved by the commission.

(ii) Any deficiencies in the nursing program (theory and clinical practice in medical, psychiatric, obstetric, surgical and pediatric nursing) may be satisfactorily completed in a commission approved nursing program or program created for internationally educated nurses identified in WAC 246-840-549, 246-840-551 or 246-840-552.

(b) Obtain an evaluation or certificate from a commission approved credential evaluation service verifying that the educational program completed by the applicant is equivalent to nursing education in the state of Washington.

(c) Demonstrate English language proficiency by passing a commission approved English proficiency examination at a commission designated standard, or provide evidence directly from the school of earning a high school diploma or college degree from a United States institution prior to commission approval to take the national licensing examination.

Individuals from Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Island, and U.S. Virgin Islands will have this requirement waived.

(d) ~~(Complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(e))~~ Successfully pass the commission approved licensure examination as provided in WAC 246-840-050.

(2) Registered nurse and practical nurse applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) Official transcript directly from the nursing education program or licensure agency in the country where the applicant was educated and previously licensed.

(i) Transcript must be in English or accompanied by an official English translation. If the applicant's original documents (education and licensing) are on file in another state or with an approved credential evaluation agency, the applicant may request that the state board or approved credential evaluating agency send copies directly to the commission in lieu of the originals.

(ii) The transcript must:

(A) Include the applicant's date of enrollment, date of graduation and credential conferred.

(B) Describe the course names and credit hours completed.

(C) Document equivalency to the minimum standards in Washington state. Course descriptions or syllabi may be requested to determine equivalency to Washington state standards.

(c) Documentation from a commission approved nursing program showing that any deficiency has been satisfactorily completed.

(d) Documents must show the applicant has passed a commission approved English proficiency examination or the requirement is waived as identified in subsection (1) of this section.

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

WAC 246-840-090 Licensure for nurses by interstate endorsement. Registered nurse and practical nurse applicants for interstate endorsement may be issued a license without examination provided the applicant meets the following requirements:

(1) The applicant graduated and holds a degree from:

(a) A commission or state board approved program preparing candidates for licensure as a nurse; or

(b) A nursing program that is equivalent to commission approved nursing education in Washington state at the time of graduation as determined by the commission.

(2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory and successfully completes a commission-approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the commission to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

(3) The applicant was originally licensed to practice as a nurse in another state or territory after passing the National Council Licensure Examination (NCLEX).

(4) Applicants graduating from nursing programs outside the U.S. must demonstrate English proficiency by passing a commission approved English proficiency test if the nursing education is not in one of the following countries: Canada (except for Quebec), United Kingdom, Ireland, Aus-

tralia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands, or complete one thousand hours of employment as a licensed nurse in another state, or provide evidence directly from the school of earning a high school diploma or college degree from a United States institution.

The one thousand hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.

(5) For RNs: If the applicant is a graduate of a nontraditional nursing education program and:

(a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit evidence of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit evidence of at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(6) ~~((Complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(7))~~ Applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the commission if the education cannot be verified from the original board of nursing, or commission-approved evaluation agency.

(i) The transcript must contain adequate documentation demonstrating that the applicant graduated from an approved nursing program or successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.

(ii) The transcripts shall include course names and credits accepted from other programs.

(c) Verification of an original registered or practical nurse license from the state or territory of original licensure. The verification must identify that issuance of the original licensure included passing the NCLEX.

(d) For applicants educated outside the United States and in territories or countries not listed in subsection (4) of this section, successful results of a commission approved English proficiency exam, or, evidence of one thousand hours worked as a nurse.

(e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:

(i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit documentation of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035 or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit

documentation of at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

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

WAC 246-840-539 Curriculum for practical nurse nursing education programs. The practical nurse nursing education program of study must include both didactic and clinical learning experiences and must be:

(1) Effective September 1, 2017, designed to include prerequisite classes in the physical, biological, social and behavior sciences that are transferable to colleges and universities in the state of Washington;

(2) Planned, implemented, and evaluated by the faculty;

(3) Based on the philosophy, mission, objectives, and outcomes of the program and consistent with chapters 18.79 RCW and this chapter;

(4) Organized by subject and content to meet program outcomes;

(5) Designed to teach students to use a systematic approach to clinical decision making and safe patient care;

(6) Designed to teach students:

(a) Professional relationships and communication;

(b) Nursing ethics;

(c) Nursing history and trends;

(d) Commission approved scope of practice decision tree;

(e) Standards of practice;

(f) Licensure and legal aspects of nursing including the disciplinary process, substance abuse and professional values;

(g) Concepts and clinical practice experiences in geriatric nursing, and medical, surgical, and mental health nursing for clients throughout the life span;

(h) Concepts of antepartum, intrapartum, postpartum and newborn nursing with only an assisting role in the care of clients during labor and delivery and those with complications; and

(i) Concepts and practice in the prevention of illness and the promotion, restoration, and maintenance of health in patients across the life span and from diverse cultural, ethnic, social, and economic backgrounds(~~(= and~~

~~(j) AIDS education as required in chapter 246-12 WAC, Part 8)).~~

(7) Designed to prepare graduates for licensure and to practice practical nursing as identified in WAC 246-840-700 and 246-840-705; and

(8) Designed to prepare graduates to practice according to competencies recognized by professional nursing organizations.

(a) Practical nursing courses shall include:

(i) Components of: Client needs; safe, effective care environment; health promotion and maintenance; interdisciplinary communication and collaboration; discharge planning; basics of multicultural health; psychosocial integrity; and physiological integrity.

(ii) Skills laboratory and clinical practice in the functions of the practical nurse including, but not limited to, adminis-

tration of medications, implementing and monitoring client care, and promoting psychosocial and physiological health.

(iii) Concepts of coordinated care, delegation and supervision.

(b) Practical nurse programs teaching intravenous infusion therapy shall prepare graduates for national certification by a nursing professional practical nurse certifying body.

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

WAC 246-840-541 Curriculum for prelicensure registered nursing education programs. (1) The program of study for a registered nursing education program must include both didactic and clinical learning experiences and must be:

(a) Effective September 1, 2017, designed so that all prerequisite nonnursing course credits and nursing credits are transferable to the bachelor's in nursing programs as identified in the statewide associate in nursing direct transfer agreement between community colleges, colleges, and universities, or the statewide associate of applied science transfer degree;

(b) Designed to include instruction in the physical, biological, social and behavioral sciences. Content is required from the areas of anatomy and physiology (equivalent to two quarter credit terms with laboratory), chemistry, microbiology, pharmacology, nutrition, communication, and computations;

(c) Designed to include theory and clinical experiences in the areas of medical surgical nursing and mental health nursing across the life span, teaching students to use a systematic approach to clinical decision making and preparing students to safely practice professional nursing through the promotion, prevention, rehabilitation, maintenance, restoration of health, and palliative and end of life care for individuals of all ages across the life span;

(d) Designed to include nursing history, health care trends, legal and ethical issues such as professional values, substance abuse and the disciplinary process, scope of practice and commission approved scope of practice decision tree, and licensure and professional responsibility pertaining to the registered nurse role. Content may be integrated, combined, or presented as separate courses;

(e) Designed to include opportunities for the student to learn assessment and analysis of client and family needs, planning, implementation, evaluation, and delegation of nursing care for diverse individuals and groups;

(f) Planned, implemented, and evaluated by faculty;

(g) Based on the philosophy, mission, objectives and outcomes of the program;

(h) Organized logically with scope and sequence of courses demonstrating student learning progression;

(i) Based on sound educational principles and standards of educational practice;

(j) Designed so articulation or dual enrollment agreements between associate and bachelor's degree nursing programs or associate and master's degree nursing programs exists to facilitate higher levels of nursing education in a timely manner;

(k) Designed to prepare graduates for licensure and to practice as registered nurses as identified in WAC 246-840-700 and 246-840-705; and

(l) Designed to prepare graduates to practice as associate degree or bachelor degree nurses as identified by professional nursing organizations(~~(-and~~

~~(m) Designed to include AIDS education as required in chapter 246-12 WAC, Part 8)).~~

(2) Baccalaureate and entry-level master's degree programs shall also include:

(a) Theory and clinical experiences in community and public health nursing;

(b) The study of research principles and application of statistics to health care practice and intervention; and

(c) The study and practice of leadership, interdisciplinary team coordination, quality assurance and improvement, care coordination and case management.

(3) Registered nursing curricula shall include:

(a) Comprehensive content on: Client needs; safe practice; effective care environment; discharge planning; health promotion, prevention and maintenance; psychosocial integrity and physiological integrity.

(b) Clinical experiences in the care of persons at each stage of the human life cycle, with opportunities for the student to learn and have direct involvement in and responsibility and accountability for the provision of basic nursing care and comfort for clients with acute and chronic illnesses, pharmacological and parenteral therapies, and pain management.

(c) Opportunities for management of care, delegation, supervision, working within a health care team, and interdisciplinary care coordination.

AMENDATORY SECTION (Amending WSR 04-13-053, filed 6/11/04, effective 6/11/04)

WAC 246-840-860 Nursing technician criteria. To be eligible for employment as a nursing technician a student must meet the following criteria:

(1) Satisfactory completion of at least one academic term (quarter or semester) of a nursing program approved by the commission. The term must have included a clinical component.

(2) Currently enrolled in a nursing commission approved program will be considered to include:

(a) All periods of regularly planned educational programs and all school scheduled vacations and holidays;

(b) Thirty days after graduation from an approved program; or

(c) Sixty days after graduation if the student has received a determination from the secretary that there is good cause to continue the registration period.

(d) Current enrollment does not include:

(i) Leaves of absence or withdrawal, temporary or permanent, from the nursing educational program.

(ii) Students who are awaiting the opportunity to reenroll in nursing courses.

~~((3) Applicants must complete seven clock hours of AIDS education as required by RCW 70.24.270 and chapter 246-12 WAC, Part 8.))~~

AMENDATORY SECTION (Amending WSR 04-13-053, filed 6/11/04, effective 6/11/04)

WAC 246-840-905 How to register as a nursing technician. (1) An individual shall complete an application for registration on an application form prepared and provided by the secretary of the department of health. This application shall be submitted to P.O. Box 47864, Olympia, Washington, 98504-7864.

(2) Every applicant shall provide:

(a) The application fee under WAC 246-840-990.

(b) ~~((Verification of seven clock hours of AIDS education as required by RCW 70.24.270 and chapter 246-12 WAC, Part 8.~~

~~((c))~~) A signed statement from the applicant's nursing program verifying enrollment in, or graduation from, the nursing program. If the applicant has not yet graduated, this statement will include the anticipated graduation date.

~~((d))~~) (c) A signed statement from the applicant's employer or prospective employer certifying that the employer understands the role of the nursing technician and agrees to meet the requirements of RCW 18.79.360(4).

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-490 Core curriculum in approved nursing assistant-certified training programs. (1) The curriculum must be competency based. It must be composed of learning objectives and activities that will lead to knowledge and skills required for the graduate to demonstrate mastery of the core competencies as provided in WAC 246-841-400.

(2) The program director will determine the amount of time required in the curriculum to achieve the objectives. The time designated may vary with characteristics of the learners and teaching or learning variables. There must be a minimum of eighty-five hours total, with a minimum of thirty-five hours of classroom training and a minimum of fifty hours of clinical training.

~~((Of the thirty-five hours of classroom training, a minimum of seven hours must be in AIDS education as required by chapter 246-12 WAC, Part 8.~~

~~((b))~~) Of the fifty hours of clinical training, at least forty clinical hours must be in the practice setting.

~~((c))~~) (b) Training to orient the student to the health care facility and facility policies and procedures are not to be included in the minimum hours above.

(3) Each unit of the core curriculum will have:

(a) Behavioral objectives, which are statements of specific observable actions and behaviors that the learner is to perform or exhibit.

(b) An outline of information the learner will need to know in order to meet the objectives.

(c) Learning activities such as lecture, discussion, readings, film, or clinical practice designed to enable the student to achieve the stated objectives.

(4) Clinical teaching in a competency area is closely correlated with classroom teaching to integrate knowledge with manual skills.

(a) Students must wear name tags clearly identifying them as students when interacting with patients, clients or residents, and families.

(b) An identified instructor(s) will supervise clinical teaching or learning at all times. At no time will the ratio of students to instructor exceed ten students to one instructor in the clinical setting.

(5) The curriculum must include evaluation processes to assess mastery of competencies. Students cannot perform any clinical skill on clients or residents until first demonstrating the skill satisfactorily to an instructor in the practice setting.

AMENDATORY SECTION (Amending WSR 11-16-042, filed 7/27/11, effective 8/27/11)

WAC 246-841-578 Application requirements. To be eligible to apply for nursing assistant-certified from an alternative program the applicant must:

(1) Be currently credentialed as a home care aide-certified; or

(2) Be a medical assistant-certified as defined in WAC 246-841-535;

(3) Have completed a cardiopulmonary resuscitation course; and

~~((Have completed seven hours of AIDS education and training as required in chapter 246-12 WAC, part 8; and~~

~~((5))~~) Have successfully completed the competency evaluation.

AMENDATORY SECTION (Amending WSR 11-16-042, filed 7/27/11, effective 8/27/11)

WAC 246-841-585 Application for nursing assistant-certified from an alternative program. (1) An applicant for nursing assistant-certified who has successfully completed an approved alternative program as a home care aide-certified must submit to the department:

(a) A completed application for nursing assistant-certified.

(b) A copy of certificate of completion from an approved alternative program for home care aides-certified.

(c) Documentation verifying current certification as a home care aide.

(d) Evidence of completion of a cardiopulmonary resuscitation course.

~~((Evidence of completion of seven hours of AIDS education and training.~~

~~((f))~~) Applicable fees as required in WAC 246-841-990.

(2) An applicant for nursing assistant-certified who successfully completed an approved alternative program as a medical assistant-certified must submit to the department:

(a) A completed application for nursing assistant-certified;

(b) A copy of certificate of completion from approved alternative program for medical assistant-certified;

(c) An official transcript from the nationally accredited medical assistant program;

(d) Evidence of completion of an adult cardiopulmonary resuscitation course; and

~~((Evidence of completion of seven hours of AIDS education and training; and~~

(f)) Applicable fees as required in WAC 246-841-990.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-841-610 AIDS prevention and information education requirements.