

**WSR 20-23-002**  
**HEALTH CARE AUTHORITY**

[Filed November 5, 2020, 7:47 a.m.]

**NOTICE**

Title or Subject: Medicaid State Plan Amendment (SPA) 20-0023 Consumer Directed Employer.

Effective Date: July 1, 2021.

Description: In 2018, the Washington state legislature passed SB 6199, authorizing the creation of a consumer directed employer program. To implement this program, the health care authority (HCA) in conjunction with the aging and long-term support administration in the department of social and health services (DSHS) intend to submit medicaid SPA 20-0023 selective contracting, which will apply to the following home and community-based programs, effective July 1, 2021:

- 1915(k) community first choice state plan option.
- Optional state plan personal care services.

SPA 20-0023 is expected to have no effect on payment to individual providers.

SPA 20-0023 is in the development process; therefore a copy is not yet available for review. HCA and DSHS would appreciate any input or concerns regarding this SPA. To request a copy when it becomes available, you may contact the person named below. To submit comments, please contact the person named below (please note that all comments are subject to public review and disclosure, as are the names of those who comment).

Contact Jamie Tong, Waiver Program Manager, 4450 10th Avenue S.E., Lacey, WA 98504, 360-725-3293, TTY 711, email [Jamie.tong@dshs.wa.gov](mailto:Jamie.tong@dshs.wa.gov).

**WSR 20-23-009**  
**RULES COORDINATOR**  
**CLARK COLLEGE**

[Filed November 5, 2020, 5:08 p.m.]

Pursuant to RCW 34.05.312, the rules coordinator for the Clark College is Christina A. Longo, 1933 Fort Vancouver Way, BRD 133, Vancouver, WA 98663, phone 360-992-2317, fax 360-992-2873, email [clongo@clark.edu](mailto:clongo@clark.edu).

Christina A. Longo  
Director of Compliance

**WSR 20-23-015**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**

[Filed November 6, 2020, 11:57 a.m.]

**NOTICE OF ADOPTION OF A POLICY STATEMENT**

Title of Policy Statement: Temporary Worker Housing - Monitoring COVID-19 symptomatic or positive occupants by medical assistants. Policy Number: PS20-01.

Issuing Entity: Department of health, health systems quality assurance.

Subject Matter: Use of medical assistant-certified and medical assistant-registered to collect health information and document systems, vital signs, and oxygen via pulse oximetry, to monitor COVID-19 symptomatic or positive temporary worker housing occupants.

Effective Date: November 9, 2020.

Contact Person: Tracie Drake, program manager, medical assistant program, [Tracie.drake@doh.wa.gov](mailto:Tracie.drake@doh.wa.gov), 360-236-4766.

**WSR 20-23-016**  
**PUBLIC RECORDS OFFICER**  
**CLARK COLLEGE**

[Filed November 6, 2020, 12:38 p.m.]

Pursuant to RCW 42.56.580, the public records officer for the Clark College is Tanya Kerr, 1933 Fort Vancouver Way, Vancouver, WA 98663, phone 360-992-2956, fax 360-992-2875, email [tkerr@clark.edu](mailto:tkerr@clark.edu).

Karin Edwards  
President

**WSR 20-23-024**  
**PUBLIC RECORDS OFFICER**  
**OFFICE OF THE**  
**STATE TREASURER**

[Filed November 9, 2020, 1:33 p.m.]

Pursuant to RCW 42.56.580, the public records officer for the office of the state treasurer is Jennifer Merchant, P.O. Box 40202, Olympia, WA 98504, phone 360-902-8944, fax 360-902-9037, email [jen.merchant@tre.wa.gov](mailto:jen.merchant@tre.wa.gov).

Duane A. Davidson  
Washington State Treasurer

**WSR 20-23-026**  
**NOTICE OF PUBLIC MEETINGS**  
**HEALTH CARE AUTHORITY**  
(Health Technology Clinical Committee)

[Filed November 9, 2020, 6:40 p.m.]

The health technology clinical committee (HTCC) has added a January meeting to its schedule in 2021.

Date	Time	Location
January 15, 2021	8:00 a.m. - 12:00 p.m.	Webinar*

Information on joining HTCC webinars will be posted on the health care authority (HCA) website fourteen days prior to each meeting. Go to <https://www.hca.wa.gov/about-hca/health-technology-assessment>.

Interested parties may sign up to receive notice of HTCC meetings, including a link to register for meeting/webinars, by registering to receive HCA email updates. To do so, visit <https://public.govdelivery.co/accounts/WAHCA/subscriber/new> [<https://public.govdelivery.com/accounts/WAHCA/subscriber/new>].

For further information contact Christine Masters, program specialist, health technology assessment, [christine.masters@hca.wa.gov](mailto:christine.masters@hca.wa.gov), desk 360-725-5126.

**WSR 20-23-028**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH  
(Washington Medical Commission)**

[Filed November 10, 2020, 8:30 a.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of policy committee for the Washington medical commission (commission), for the year 2020. The policy committee meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via GovDelivery and the commission website (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the commission reserves the right to change or amend agendas at the meeting.

Date	Time	Location
January 14, 2021	4:00 p.m.	Virtual meeting - information will be available on our website
March 4, 2021	4:00 p.m.	Virtual meeting - information will be available on our website
April 8, 2021	4:00 p.m.	Virtual meeting - information will be available on our website
May 13, 2021	4:00 p.m.	Virtual meeting - information will be available on our website
July 8, 2021	4:00 p.m.	To be determined
August 19, 2021	4:00 p.m.	To be determined
November 18, 2021	4:00 p.m.	To be determined

If you need further information, please contact Amelia Boyd, Program Manager, Washington Medical Commission, P.O. Box 47866, Olympia, WA 98504-7866, phone 360-236-2727, [amelia.boyd@wmc.wa.gov](mailto:amelia.boyd@wmc.wa.gov), <https://wmc.wa.gov/about-commission/meetings>.

Please be advised the commission is required to comply with the Public Disclosure [Records] Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the commission, including personal information, may ultimately be subject to disclosure as a public record.

**WSR 20-23-029**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH  
(Washington Medical Commission)**

[Filed November 10, 2020, 8:30 a.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the Washington medical commission (commission) for the year 2021. The commission meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via GovDelivery and the commission website (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the commission reserves the right to change or amend agendas at the meeting.

Date	Time	Location
January 15, 2021	8:00 a.m.	Virtual meeting - information will be available on our website
March 4, 2021	8:00 a.m.	Virtual meeting - information will be available on our website
April 9, 2021	8:00 a.m.	Virtual meeting - information will be available on our website
May 14, 2021	8:00 a.m.	Virtual meeting - information will be available on our website
July 9, 2021	8:00 a.m.	To be determined
August 20, 2021	8:00 a.m.	To be determined
November 19, 2021	8:00 a.m.	To be determined

If you need further information, please contact Amelia Boyd, Program Manager, Washington Medical Commission, P.O. Box 47866, Olympia, WA 98504-7866, phone 360-236-2727, [amelia.boyd@wmc.wa.gov](mailto:amelia.boyd@wmc.wa.gov), <https://wmc.wa.gov/about-commission/meetings>.

Please be advised the commission is required to comply with the Public Disclosure [Records] Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the commission, including personal information, may ultimately be subject to disclosure as a public record.

**WSR 20-23-033**

**HEALTH CARE AUTHORITY**

[Filed November 10, 2020, 10:47 a.m.]

**NOTICE**

Title or Subject: Medicaid State Plan Amendment (SPA) 20-0026 Telehealth Supplemental Notice.

Effective Date: October 1, 2020.

Description: The health care authority (HCA) filed notice of its intent to submit medicaid SPA 20-0026 under WSR 20-17-030. SPA 20-0026 will update and streamline the information regarding telehealth/telemedicine services in the medicaid state plan. Because telehealth/telemedicine is a method of delivering services and not an actual service, the

Centers for Medicare and Medicaid Services (CMS) informed HCA that it is not necessary to include information about telehealth/telemedicine in Attachment 3, which is the section of the state plan that describes medicaid services. Therefore SPA 20-0026 is updating Attachment 3 by removing that information. In addition, the SPA will remove the list of originating sites in Attachment 4, which is the section of the state plan that describes the payment methodology for services delivered via telehealth/telemedicine. Subsequently, HCA made the decision to align the payment methodology for telehealth/telemedicine with the methodology for physicians' services. Therefore HCA is updating the methodology by including that rates may be established and updated using a flat fee (based upon market value, other states' fees, budget impacts, etc.) in addition to the current RBRVS methodology as adopted in the medicare fee schedule data base (MFSDB).

SPA 20-0026 is expected to have no effect on the annual aggregate reimbursement/payment for services delivered via telehealth/telemedicine.

A draft of SPA 20-0026 is available for review. HCA would appreciate any input or concerns regarding this SPA. To request a copy or submit comments, please contact the person named below (please note that all comments are subject to public review and disclosure, as are the names of those who comment).

Contact Jodi Kunkel, Occupational Nurse Consultant, Clinical Evaluation, 626 8th Avenue S.E., Olympia, WA 98504, TTY 711, email [Jodi.kunkel@hca.wa.gov](mailto:Jodi.kunkel@hca.wa.gov).

### WSR 20-23-034

#### NOTICE OF PUBLIC MEETINGS

#### LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' PLAN 2 RETIREMENT BOARD

[Filed November 10, 2020, 10:56 a.m.]

#### 2021 Meeting Schedule

The law enforcement officers' and firefighters' plan 2 retirement board has scheduled their meetings for 2021.

Please feel free to contact Jessie Jackson at 360-586-2330 or by email [jessie.jackson@leoff.wa.gov](mailto:jessie.jackson@leoff.wa.gov) should you have any questions.

Wednesday, January 20  
 Wednesday, February 24  
 Wednesday, March 24  
 Wednesday, April 28  
 Wednesday, May 26  
 Wednesday, June 16  
 Wednesday, July 28  
 Wednesday, August 25  
 Wednesday, September 29  
 Wednesday, October 27  
 Wednesday, November 17  
 Wednesday, December 15

### WSR 20-23-036

#### NOTICE OF PUBLIC MEETINGS RECREATION AND CONSERVATION OFFICE

(Salmon Recovery Funding Board)

[Filed November 10, 2020, 11:39 a.m.]

In accordance with Gubernatorial Proclamation 2020-28, the salmon recovery funding board is changing the **location, date** and **time** of the regular meeting for November 18-19, 2020:

**FROM:** November 18-19, 2020, from 9:00 a.m. to 5:00 p.m., at Room 175A & B Natural Resource Building, 1111 Washington Street S.E., Olympia, WA 98501.

**TO: November 19, 2020,** from 9:00 a.m. to **4:45 p.m., online only: [https://zoom.us/webinar/register/WN\\_IuJqxGPQQYuTisqK8ZeOjw](https://zoom.us/webinar/register/WN_IuJqxGPQQYuTisqK8ZeOjw)**, phone option: 669-900-6833, Webinar ID: 961 4542 0863.

For further information, please contact Julia McNamara, [julia.mcnamara@rco.wa.gov](mailto:julia.mcnamara@rco.wa.gov), or check the recreation and conservation office's web page at [http://www.rco.wa.gov/boards/srfb\\_meetings.shtml](http://www.rco.wa.gov/boards/srfb_meetings.shtml).

The RCO schedules all public meetings at barrier free sites. Persons who need special assistance may contact Leslie Frank at 360-902-0220 or by email at [leslie.frank@rco.wa.gov](mailto:leslie.frank@rco.wa.gov).

### WSR 20-23-039

#### NOTICE OF PUBLIC MEETINGS BEEF COMMISSION

[Filed November 10, 2020, 2:24 p.m.]

#### 2020 Meeting Schedule - Updated

(All meetings begin at 9:00 a.m.)

The Washington state beef commission's November meeting has been scheduled for November 19, 2020, and will take place as a virtual meeting beginning at 9:00 a.m.

If you have any questions or need more information, please contact Madison Triggs at 206-444-2902.

### WSR 20-23-042

#### NOTICE OF PUBLIC MEETINGS RENTON TECHNICAL COLLEGE

[Filed November 12, 2020, 9:43 a.m.]

#### NOTICE OF REVISED PUBLIC MEETING

In compliance with the Governor's extension of Proclamation 20-28 requiring a change from a physical meeting location to a virtual meeting, the regularly scheduled meeting on November 18, 2020, of the board of trustees of Community College District 27, 3000 Fourth Street, Renton, WA, is canceled. Instead, a special **virtual** meeting will be scheduled, with no physical meeting location. The meeting will begin at 3:00 p.m. (via Zoom).

Join Zoom Meeting: URL <https://rtcedu.zoom.us/j/89385307920> or by phone +1 253 215 8782 US (Tacoma).

**PUBLIC COMMENT:** All board meetings include an opportunity for public comment, and the agenda for this meeting will not differ, providing for public comment via Zoom, telephone or emailed **in advance of the meeting** to the board secretary at dbeers@rtc.edu. Please put "**Public Comment**" in the subject of your email.

If you have questions, please contact Di Beers at 425-235-2426.

**WSR 20-23-046**

**NOTICE OF PUBLIC MEETINGS  
BATES TECHNICAL COLLEGE**

[Filed November 12, 2020, 11:27 a.m.]

The board of trustees of Bates Technical College, at their scheduled board retreat on October 12, 2020, identified the following dates for their monthly meetings in the year 2021, in compliance with RCW 42.30.075.

Most meetings are the fourth Monday of the month and will consist of a study session at 2 p.m. and a regular meeting at 3 p.m. at the Downtown Campus at 1101 South Yakima Avenue, Tacoma, WA 98405, or via a virtual meeting platform for observation of applicable COVID-19 restrictions. The April meeting will be held at the South Campus at 2201 South 78th Street, Tacoma, WA 98409, and the October meeting will be held at the Central Campus at 2320 South 19th Street, Tacoma, WA 98405.

**Board of Trustees Meeting Calendar 2020-2021**

November 30, 2020	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
December, 2020	No meeting	
January 25, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
February 22, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
March 22, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
April 26, 2021	2:00 p.m.	Study session South campus or virtual
	3:00 p.m.	Meeting South campus or virtual
May 24, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
June 7, 2021	6:00 p.m.	<b>Commencement</b> Tacoma Dome or virtual

June 28, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
July 26, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
August, 2021	To be determined	<b>Board Retreat</b> To be determined
September 27, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
October 25, 2021	2:00 p.m.	Study session Central campus or virtual
	3:00 p.m.	Meeting Central campus or virtual
November 29, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual
December 20, 2021	2:00 p.m.	Study session Downtown campus or virtual
	3:00 p.m.	Meeting Downtown campus or virtual

**WSR 20-23-048**

**NOTICE OF APPEAL  
OFFICE OF THE GOVERNOR**

[Filed November 12, 2020, 11:58 a.m.]

**NOTICE OF APPEAL  
RCW 34.05.330(3)**

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On November 11, 2020, the Governor's Office received an appeal from Lucas S. Hunter, relating to the Washington State Liquor and Cannabis Board's denial of a petition to repeal or amend WAC 314-55-020 (*Marijuana license qualifications and application process—Licensing change requests.*).

DATE: November 12, 2020

Taylor K. Wonhoff  
Deputy General Counsel  
to the Governor

**WSR 20-23-051**  
**NOTICE OF APPEAL**  
**OFFICE OF THE GOVERNOR**  
 [Filed November 12, 2020, 3:48 p.m.]

**NOTICE OF APPEAL**  
 RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On November 12, 2020, the Governor's Office received an appeal from Ryan Agnew on behalf of the Gravity Force LLC, relating to the Washington State Liquor and Cannabis Board's denial of a petition to repeal or amend WAC 314-55-104(8) (*Marijuana processor license extraction requirements*).

DATE: November 12, 2020

Taylor K. Wonhoff  
 Deputy General Counsel  
 to the Governor

Date	Time
January 5, 2021	10:00 a.m.
February 9, 2021	10:00 a.m.
<b>March 16, 2021</b>	10:00 a.m.
April 13, 2021	10:00 a.m.
May 11, 2021	10:00 a.m.
June 8, 2021	10:00 a.m.
July 13, 2021	10:00 a.m.
August 10, 2021	10:00 a.m.
September 14, 2021	10:00 a.m.
October 12, 2021	10:00 a.m.
November 9, 2021	10:00 a.m.
December 2021	No meeting

If you need further information contact Vanessa Smith at [vanessa.smith@perc.wa.gov](mailto:vanessa.smith@perc.wa.gov) or 360-570-7332.

**WSR 20-23-060**  
**HEALTH CARE AUTHORITY**  
 (Health Technology Clinical Committee)  
 [Filed November 16, 2020, 9:02 a.m.]

The health technology clinical committee reached a final coverage decision for the following technologies at their July 10, 2020, public meeting:

- Tinnitus: Noninvasive, nonpharmacologic treatments\* Decision No. 20200515A
- Vagal nerve stimulation for depression and epilepsy\* Decision No. 20200515B
- \* Final coverage decision previously reported as June 12, 2020.
- Stem cell therapy for musculoskeletal conditions Decision No. 20200612A

All documents related to these evidence assessments, including the final coverage decisions, are available on the health technology assessment program website [www.hca.wa.gov/about-hca/health-technology-assessment](http://www.hca.wa.gov/about-hca/health-technology-assessment).

For further information contact Christine Masters, Program Specialist, WA - Health Technology Assessment, P.O. Box 626, 8th Avenue S.E., Olympia, WA 98504-2712, desk 360-725-5126, fax 360-586-8827, [christine.masters@hca.wa.gov](mailto:christine.masters@hca.wa.gov).

**WSR 20-23-068**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed November 16, 2020, 10:55 a.m.]

The date(s) in **bold** have changed in the following schedule of regular meetings of the public employment relations commission in 2021, all to be tentatively held via Zoom with location and format subject to change:

**WSR 20-23-071**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF**  
**CIVIL LEGAL AID**  
 (Civil Legal Aid Oversight Committee)  
 [Filed November 16, 2020, 11:49 a.m.]

The civil legal aid oversight committee established by RCW 2.53.010 will meet and conduct business on the following dates during calendar year 2021: Friday, April 2, 2021, Friday, June 25, 2021, Friday, September 17, 2021, and Friday, December 17, 2021.

Meetings generally run from 10:30 a.m. to 2:00 p.m. Specific meeting times and agendas will be published prior to each meeting and materials will be available on the civil legal aid oversight committee's website at <http://ocla.wa.gov/oversight-committee>. All meetings will be virtual and open to the public except for those portions for which the oversight committee may meet in executive session. Virtual meeting links will be posted on the oversight committee's website at least ten days prior to the meeting.

Access for Persons With Disabilities/Requests for Accommodation: The civil legal aid oversight committee complies with applicable laws ensuring access for persons with disabilities. Upon request, the civil legal aid oversight committee will make reasonable accommodation to ensure full accessibility and meaningful opportunity for interested individuals to participate in the meeting, regardless of physical, mental, cognitive or other disabilities. We request that you let us know at least one week in advance if you need interpreter services or assistive technology.

For further information about these meetings and/or to request reasonable accommodation, please contact James A. Bamberger, director, office of civil legal aid, 360-280-1477, [jim.bamberger@ocla.wa.gov](mailto:jim.bamberger@ocla.wa.gov).

**WSR 20-23-077**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE**  
**BAR ASSOCIATION**

[Filed November 17, 2020, 8:21 a.m.]

**RESOLUTION ADOPTING SCHEDULE OF REGULAR MEETINGS OF THE**  
**WASHINGTON STATE BAR ASSOCIATION (WSBA) BOARD OF GOVERNORS**

Whereas, RCW 2.48.050 authorizes the board of governors to adopt rules concerning annual and special meetings; and

Whereas, WSBA Bylaws Article VII.B.8 provides that each bar entity will set regular and special meetings as needed;

Whereas, due to Washington state and King County emergency orders in response to the COVID-19 public health emergency, all meetings will be conducted virtually, pursuant to the Governor's Proclamation 20-28;

NOW, BE IT RESOLVED THAT on November 14, 2020, the Washington State Bar Association board of governors adopts this 2021 meeting schedule and directs the executive director to file this resolution with the code reviser.

Day(s)	Date(s)	Start Time	Location	Description of Meeting
Tuesday	January 5, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Wednesday	January 6, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Wednesday	January 6, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Friday	January 8, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Saturday	January 9, 2021	10:00 a.m.	WSBA Seattle, Washington	Washington young lawyers committee
Monday	January 11, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee
Tuesday	January 12, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Thursday - Friday	January 14-15, 2021	9:00 a.m.	WSBA Seattle, Washington	Board of governors meeting
Tuesday	January 19[, 2021]	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	January 20, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Monday	January 25, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Wednesday	January 27, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	January 27, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Tuesday	February 2, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Friday	February 5, 2021	10:00 a.m.	WSBA Seattle, Washington	Law clerk board
Friday	February 5, 2021	10:00 a.m.	WSBA Seattle, Washington	Committee on professional ethics
Tuesday	February 9, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Monday	February 15, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee

Day(s)	Date(s)	Start Time	Location	Description of Meeting
Tuesday	February 16, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	February 17, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Friday	February 19, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Monday	February 22, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Saturday	February 27, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Saturday	February 27, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Monday	March 1, 2021	9:00 a.m.	WSBA Seattle, Washington	BOG executive committee
Tuesday	March 2, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Friday	March 5, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Monday	March 8, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee
Tuesday	March 9, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Saturday	March 13, 2021	10:00 a.m.	WSBA Seattle, Washington	Washington young lawyers committee
Monday	March 15, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Tuesday	March 16, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	March 17, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Thursday - Friday	March 18-19, 2021	9:00 a.m.	Hotel RL Olympia, Washington	Board of governors meeting
Friday	March 19, 2021	9:00 a.m.	Temple of Justice Olympia, Washington	Board of governors meeting with supreme court
Wednesday	March 24, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	March 24, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Monday	March 29, 2021	9:00 a.m.	WSBA Seattle, Washington	BOG executive committee
Tuesday	April 6, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Friday	April 9, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Friday	April 9, 2021	10:00 a.m.	WSBA Seattle, Washington	Committee on professional ethics
Monday	April 12, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee

Day(s)	Date(s)	Start Time	Location	Description of Meeting
Tuesday	April 13, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Friday - Saturday	April 16-17, 2021	9:00 a.m.	Davenport Hotel Spokane, Washington	Board of governors meeting
Monday	April 19, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Tuesday	April 20, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	April 21, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	April 21, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Wednesday	April 21, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Monday	May 3, 2021	9:00 a.m.	WSBA Seattle, Washington	BOG executive committee
Tuesday	May 4, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Friday	May 7, 2021	11:00 a.m.	WSBA Seattle, Washington	Law clerk board
Friday	May 7, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Saturday	May 8, 2021	10:00 a.m.	WSBA Seattle, Washington	Washington young lawyers committee
Monday	May 10, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee
Tuesday	May 11, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Monday	May 17, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Tuesday	May 18, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	May 19, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Thursday - Friday	May 20-21, 2021	9:00 a.m.	WSBA Seattle, Washington	Board of governors meeting
Wednesday	May 26, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	May 26, 2021	1:00 p.m.	WSBA	Budget and audit committee
Tuesday	June 1, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Friday	June 4, 2021	10:00 a.m.	WSBA Seattle, Washington	Committee on professional ethics
Tuesday	June 8, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Monday	June 14, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee



Day(s)	Date(s)	Start Time	Location	Description of Meeting
Tuesday	June 15, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	June 16, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Friday	June 18, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Monday	June 21, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Wednesday	June 23, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	June 23, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Monday	June 28, 2021	9:00 a.m.	WSBA Seattle, Washington	BOG executive committee
Tuesday	July 6, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Wednesday	July 7, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	July 7, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Friday	July 9, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Monday	July 12, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee
Tuesday	July 13, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Thursday	July 15, 2021	9:00 a.m.	Hilton Portland Downtown Portland, Oregon	Board of governors retreat
Friday - Saturday	July 16-17, 2021	9:00 a.m.	Hilton Portland Downtown Portland, Oregon	Board of governors meeting
Saturday	July 17, 2021	10:00 a.m.	Hilton Portland Downtown Portland, Oregon	Washington young lawyers committee
Monday	July 19, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Tuesday	July 20, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	July 21, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Monday	August 2, 2021	9:00 a.m.	WSBA Seattle, Washington	BOG executive committee
Tuesday	August 3, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Friday	August 6, 2021	12:00 p.m.	WSBA Seattle, Washington	Law clerk board
Monday	August 9, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee
Tuesday	August 10, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee

Day(s)	Date(s)	Start Time	Location	Description of Meeting
Wednesday	August 11, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Wednesday	August 11, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Friday	August 13, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Monday	August 16, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Tuesday	August 17, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Wednesday	August 18, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Friday - Saturday	August 20-21, 2021	9:00 a.m.	TBD Boise, Idaho	Board of governors meeting
Friday	August 27, 2021	10:00 a.m.	WSBA Seattle, Washington	Committee on professional ethics
Tuesday	August 31, 2021	9:00 a.m.	WSBA Seattle, Washington	BOG executive committee
Monday	September 6, 2021	9:00 a.m.	WSBA Seattle, Washington	Member engagement workgroup
Monday	September 6, 2021	1:00 p.m.	WSBA Seattle, Washington	Budget and audit committee
Tuesday	September 7, 2021	1:00 p.m.	WSBA Seattle, Washington	Pro bono and public service committee
Saturday	September 11, 2021	10:00 a.m.	WSBA Seattle, Washington	Washington young lawyers committee
Monday	September 13, 2021	9:30 a.m.	WSBA Seattle, Washington	Court rules and procedures committee
Tuesday	September 14, 2021	12:00 p.m.	WSBA Seattle, Washington	Diversity committee
Wednesday	September 15, 2021	12:00 p.m.	WSBA Seattle, Washington	Editorial advisory committee
Friday	September 17, 2021	10:00 a.m.	WSBA Seattle, Washington	Council on public defense
Monday	September 20, 2021	12:00 p.m.	WSBA Seattle, Washington	BOG personnel committee
Tuesday	September 21, 2021	12:00 p.m.	WSBA Seattle, Washington	Board nominations committee
Thursday - Friday	September 23-24, 2021	9:00 a.m.	WSBA Seattle, Washington	Board of governors meeting
Saturday	November 13, 2021	10:00 a.m.	WSBA Seattle, Washington	Washington young lawyers committee

Adopted by the board of governors on November 14, 2020.

Kyle Sciuchetti, President  
Washington State Bar Association

**WSR 20-23-078**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**  
 [Filed November 17, 2020, 8:34 a.m.]

Update to December 10-11, 2020, board of trustees meeting.

**ORIGINAL POSTING:**

Date	Meeting Component	Location	Time
December 10, 2020	Board work session	EWU Cheney Campus, HAR 223	1:00-5:00 p.m.
	Dinner	EWU Cheney Campus, HAR 223	5:00-7:00 p.m.
December 11, 2020	Committee of the whole	EWU Cheney Campus, TAW 215 B&C	8:00-11:45 a.m.
	Executive session lunch	EWU Cheney Campus, TAW 215 A	11:45[a.m.]-1:00 p.m.
	Board meeting	EWU Cheney Campus, TAW 215 B&C	1:00-3:00 p.m.

**UPDATED POSTING:**

Date	Meeting Component	Location	Time
December 10, 2020	Board work session	Virtual: <a href="https://ewu.zoom.us/j/96781661805?pwd=Ri9ZVzIhYlhPeWxnUEpCbGFla1c3QT09">https://ewu.zoom.us/j/96781661805?pwd=Ri9ZVzIhYlhPeWxnUEpCbGFla1c3QT09</a>	1:00-5:30 p.m.
December 11, 2020	Executive session	Virtual. Private link.	8:00-9:00 a.m.
	Committee of the whole and regular board meeting	Virtual: <a href="https://ewu.zoom.us/j/98218784246?pwd=UklGNUxnMmxzSXY3SFo2VTNvYkRVZz09">https://ewu.zoom.us/j/98218784246?pwd=UklGNUxnMmxzSXY3SFo2VTNvYkRVZz09</a>	9:00 a.m.-2:00 p.m.

**WSR 20-23-082**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Board of Hearing and Speech)  
 [Filed November 17, 2020, 1:03 p.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of hearing and speech, for the year 2021. The board of hearing and speech meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via listserv and the department of health website (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the board of hearing and speech reserves the right to change or amend agendas at the meeting.

Date	Time	Location
February 5, 2021	9:00 a.m.	To be determined and webinar
May 7, 2021	9:00 a.m.	To be determined and webinar

Date	Time	Location
July 30, 2021	9:00 a.m.	Department of Health Town Center 2 Room 166 111 Israel Road S.E. Tumwater, WA 98501
November 5, 2021	9:00 a.m.	Department of Health Creekside Two at CenterPoint 20425 72nd Avenue South Room 307 Kent, WA 98032

If you need further information, please contact Kim-Boi Shadduck, Program Manager, Board of Hearing and Speech Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-2912, fax 360-236-2901, kim-boi.shadduck@doh.wa.gov, www.doh.wa.gov.

Please be advised the board of hearing and speech is required to comply with the Public Disclosure [Records] Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

WSR 20-23-092
DEPARTMENT OF ECOLOGY
[Filed November 17, 2020, 2:35 p.m.]

Extending the Public Comment Period on the Draft Per- and Polyfluoralkyl Substances (PFAS) Chemical Action Plan (CAP) Through January 4, 2021

The Washington department of ecology issued the Draft PFAS CAP for public comment on October 7, 2020. This announcement notifies the public that the comment period for the Draft PFAS CAP is now extended through January 4, 2021.

The Draft PFAS CAP is available on the ecology website https://fortress.wa.gov/ecy/publications/summarypages/2004035.html.

Ecology will accept written comments on the draft. Comments must be received by January 4, 2021, to be considered. Submit comments using one of the following methods:

Online: Use the online comment form at http://hwtr.ecology.commentinput.com/?id=j4eJD; or send an email to ChemActionPlans@ecy.wa.gov.

By mail: Mail comments to Irina Makarow, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600. (Mailed comments must be postmarked by January 4, 2021.)

For information, or to request copies of the Draft PFAS CAP, contact Irina Makarow, chemical action planner: Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6250, fax 360-407-6715, email irina.makarow@ecy.wa.gov.

Additional information about the Draft PFAS CAP is available on the PFAS CAP website https://www.ezview.wa.gov/?alias=1962&pageid=37105.

If you require special accommodations or need this public notice in a format for the visually impaired, contact ecology by phone at 360-407-6700 or email at hwtrpubs@ecy.wa.gov. Persons with hearing loss can call 711 for Washington relay service. Persons with a speech disability can call 877-833-6341.

WSR 20-23-093
NOTICE OF PUBLIC MEETINGS
BIG BEND
COMMUNITY COLLEGE
[Filed November 17, 2020, 2:45 p.m.]

This notice is in accordance with RCW 42.30.075 that the board of trustees for Big Bend Community College, District No. 18, have set their 2021 board meeting schedule.

Table with 2 columns: Date and Time. Rows include Thursday, January 7, 2021 (1:30 p.m.), Thursday, February 11, 2021 (1:30 p.m.), Thursday, March 25, 2021 (1:30 p.m.), Thursday, May 6, 2021 (1:30 p.m.), Thursday, June 10, 2021 (1:30 p.m.), Thursday, August 26, 2021 (Retreat), Thursday, September 9, 2021 (1:30 p.m.).

Thursday, October 28, 2021 1:30 p.m.
Thursday, December 9, 2021 1:30 p.m.

WSR 20-23-099
RULES OF COURT
STATE SUPREME COURT
[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO RPC 1.15A (h)(9)— ) NO. 25700-A-1308
SAFEGUARDING PROPERTY AND )
LLLT RPC 1.15A (h)(9)—SAFEGUARD- )
ING PROPERTY )

The Washington State Bar Association Board of Governors, having recommended the adoption of the proposed amendments to RPC 1.15A (h)(9)—Safeguarding Property and LLLT RPC 1.15A (h)(9)—Safeguarding Property, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Table of judges: Stephens, C.J.; Johnson, J.; Madsen, J.; Owens, J.; Gonzalez, J.; Gordon McCloud, J.; Yu, J.; Montoya-Lewis, J.; Whitener, J.

RULES OF PROFESSIONAL CONDUCT
1.15A - SAFEGUARDING PROPERTY

RPC 1.15A SAFEGUARDING PROPERTY

(a) - (g) [Unchanged.]

(h) A lawyer must comply with the following for all trust accounts:

(1) - (8) [Unchanged.]

(9) Only a lawyer admitted to practice law or an LLLT may be an authorized signatory on the account. If a lawyer is associated in a practice with one or more LLLT's, any check or other instrument requiring a signature must be signed by a signatory lawyer in the firm.

(i) - (j) [Unchanged.]

LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT
1.15A - SAFEGUARDING PROPERTY

LLLT RPC 1.15A SAFEGUARDING PROPERTY

(a) - (g) [Unchanged.]

(h) An LLLT must comply with the following for all trust accounts:

(1) - (8) [Unchanged.]

(9) Only an LLLT or a lawyer admitted to practice law may be an authorized signatory on the account. ~~If an LLLT is associated in a practice with one or more lawyers, any check or other instrument requiring a signature must be signed by a signatory lawyer in the firm.~~

(i) [Unchanged.]

Comment

[1] - [2] [Unchanged.]

WSR 20-23-100
RULES OF COURT
STATE SUPREME COURT
[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO CrR 3.1 Stds, CrRLJ ) NO. 25700-A-1309
3.1 Stds, JuCR 9.2 Stds, AND NEW MPR )
2.1 Stds )

The Washington State Bar Association Board of Governors, having recommended the adoption of the proposed amendments to CrR 3.1 Stds, CrRLJ 3.1 Stds, JuCR 9.2 Stds, and new MPR 2.1 Stds, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Stephens, C.J.
Johnson, J.
Madsen, J.
Owens, J.
Gonzalez, J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.
Whitener, J.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 20-24 issue of the Register.

WSR 20-23-101
RULES OF COURT
STATE SUPREME COURT
[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO GR 29—PRESID- ) NO. 25700-A-1310
ING JUDGE IN SUPERIOR COURT DIS- )
TRICT AND LIMITED JURISDICTION )

The District and Municipal Court Judges' Association, having recommended the adoption of the proposed amendments to GR 29—Presiding Judge in Superior Court District and Limited Jurisdiction Court District, and CrRLJ 1.3—Effect, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Stephens, C.J.
Johnson, J.
Madsen, J.
Owens, J.
Gonzalez, J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.
Whitener, J.

GR 29
PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND
LIMITED JURISDICTION COURT DISTRICT

(a) - (j) [Unchanged]

(k) Employment Contracts. A part-time judicial officer may contract with a municipal or county authority for salary and benefits. The employment contract shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and Washington State Court rules. A part-time judicial officer's employment contract shall comply with GR 29(k) and contain the following provisions, which shall not be contradicted or abrogated by other provisions within the contract.

(L) Required Provisions of a Part-Time Judicial Officer Employment Contract.

(1) Term of Office and Salary. The judge's term of office shall be four years, as provided in RCW 3.50.050. The judge's salary shall be fixed by ordinance in accordance with RCW 3.50.080, and the salary shall not be diminished during the term of office.

(2) *Judicial Duties.* The judge shall perform all duties legally prescribed for a judicial officer according to state law, the requirements of the Code of Judicial Conduct, and Washington State court rules.

(3) *Judicial Independence and Administration of the Court.* The court is an independent branch of government. The judge shall supervise the daily operations of the court and all personnel assigned to perform court functions in accordance with the provisions of GR 29 (e) and (f), and RCW 3.50.080. Under no circumstances should judicial retention decisions be made on the basis of a judge's or a court's performance relative to generating revenue from the imposition of legal financial obligations.

(4) *Termination and Discipline.* The judge may only be admonished, reprimanded, censured, suspended, removed, or retired during the judge's term of office only upon action of the Washington State Supreme Court, as provided in article IV, section 31 of the Washington State Constitution.

CrRLJ 1.3  
EFFECT

Except as otherwise provided elsewhere in these rules, on their effective date;

~~(a) Any acts done before the effective date in any proceedings then pending or any action taken in any proceeding pending under rules of procedure in effect prior to the effective date of these rules are not impaired by these rules.~~

~~(b) These rules also apply to any proceedings in court then pending or thereafter commenced regardless of when the proceedings were commenced, except to the extent that in the opinion of the court, the former procedure should continue to be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedures of these rules.~~

**WSR 20-23-102**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER  
AMENDMENTS TO CR 30—DEPOSI- ) NO. 25700-A-1311  
TIONS UPON ORAL EXAMINATION )

The Washington Court Reporters Association, having recommended the adoption of the proposed amendments to CR 30—Depositions Upon Oral Examination, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

	Stephens, C.J.
Johnson, J.	Gordon McCloud, J.
Madsen, J.	Yu, J.
Owens, J.	Montoya-Lewis, J.
Gonzalez, J.	Whitener, J.

**CR 30**

**DEPOSITIONS UPON ORAL EXAMINATION**

(a) [Unchanged.]

**(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Video Recording.**

(1) - (6) [Unchanged.]

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or by other electronic means. For the purposes of this rule and rules 28(a), 37 (a)(1), 37 (b)(1), and 45(d), a deposition taken by telephone or by other electronic means is taken at the place where the deponent is to answer the propounded questions.

(8) [Unchanged.]

**(c) Examination and Cross Examination; Record of Examination; Oath; Objections.**

Examination and cross examination of witnesses may proceed as permitted at the trial under the provisions of the Washington Rules of Evidence (ER). The officer before whom the deposition is to be taken under rule 28(a) shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. However, such oath and recording may be administered by the officer from a location remote from the deponent, provided that the officer is located within this state. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subsection (b)(4) of this rule. If requested by one of the parties, the testimony shall be transcribed.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. A judge of the superior court, or a special master if one is appointed pursuant to rule 53.3, may make telephone rulings on objections made during depositions. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) - (h) [Unchanged.]

WSR 20-23-103
RULES OF COURT
STATE SUPREME COURT
[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO CR 30 (b)(1)— ) NO. 25700-A-1312
DEPOSITIONS UPON ORAL EXAM- )
INATION, AND CR 43 (f)(1)—TAKING )
OF TESTIMONY )

Aderant CompuLaw, having recommended the adoption of the proposed amendments to CR 30 (b)(1)—Depositions Upon Oral Examination, and CR 43 (f)(1)—Taking of Testimony, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Table of signatures: Johnson, J.; Madsen, J.; Owens, J.; Gonzalez, J.; Stephens, C.J.; Gordon McCloud, J.; Yu, J.; Montoya-Lewis, J.; Whitener, J.

CR 30
DEPOSITIONS UPON ORAL EXAMINATION

(a) [Unchanged.]

(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Video Tape Recording.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than 5 days (exclusive of the day of service, Saturdays, Sundays and court holidays) pursuant to CR 6 to every other party to the action and to the deponent, if not a party or a managing agent of a party. Notice to a deponent who is not a party or a managing agent of a party may be given by mail or by any means reasonably likely to provide actual notice. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the deponent or the particular class or group to which the deponent belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. A party seeking to compel the attendance of a deponent who is not a party or a managing agent of a party must serve a subpoena on that deponent in accordance with rule

45. Failure to give 5 days notice to a deponent who is not a party or a managing agent of a party may be grounds for the imposition of sanctions in favor of the deponent, but shall not constitute grounds for quashing the subpoena.

(c) - (h) [Unchanged.]

CR 43
TAKING OF TESTIMONY

(a) - (e) [Unchanged.]

(f) Adverse Party as Witness.

(1) Party or Managing Agent as Adverse Witness. A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association that is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in rule 30 (b)(1) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays) pursuant to CR 6. For good cause shown in the manner prescribed in rule 26(c), the court may make orders for the protection of the party or managing agent to be examined.

(2) - (3) [Unchanged.]

(g) - (h) [Unchanged.]

WSR 20-23-104
RULES OF COURT
STATE SUPREME COURT

[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENT TO GR 7—LOCAL ) NO. 25700-A-1313
RULES—FILING AND EFFECTIVE )
DATE )

The Washington State Association of County Clerks, having recommended the adoption of the proposed amendment to GR 7—Local Rules—Filing and Effective Date, and the Court having considered the proposed amendment, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendment as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendment will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Table of signatures: Johnson, J.; Stephens, C.J.; Gordon McCloud, J.

Madsen, J.	Yu, J.
Owens, J.	Montoya-Lewis, J.
Gonzalez, J.	Whitener, J.

**WSR 20-23-105**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
 [November 6, 2020]

**GR 7**  
**LOCAL COURT RULEMAKING RULES — FILING AND**  
**EFFECTIVE DATE**

- (a) [Unchanged.]
- (b) Review and Comment

(1) No court may adopt an amended or new local rule without first distributing the proposal and allowing at least 30 days for comment. The court shall distribute the proposal by posting it on the court's website and sending the proposal to the county prosecutor, the county clerk, a representative of the county public defender, and the local bar association (with a request that the association notify its members). The court may also take other actions to distribute the proposal.

(2) The court shall direct that all comments on the proposal be submitted in writing to the court by a deadline the court sets. The court shall post on its website all comments it receives.

(3) After the comment period closes and the court considers any comments, the court may adopt, amend, or reject the proposal or take such other action as the court deems appropriate.

**(bc) Form.** All local rules shall be consistent with rules adopted by the Supreme Court, and shall conform in numbering system and in format to these rules to facilitate their use. Each rule and amendment filed shall state its effective date in brackets following the rule. Prior to adopting a local rule, the court may informally submit a copy of its local rule to the Administrative Office of the Courts for comments as to its conformity in number and format to the Official Rules of Court, and suggestions with reference thereto.

**(ed) Distribution.** On or before September 1 of each year, the Administrative Office of the Courts shall distribute all local rules, and amendments thereto, to the state law library, the libraries of the three divisions of the Court of Appeals, all county law libraries, Washington law school libraries, and to such other places as are deemed appropriate by the Administrative Office of the Courts.

**(de) Availability of Local Rules.** The clerk of the court adopting the rules shall maintain a complete set of current local rules, which shall be available for inspection and copying.

**(ef) Emergency Rules.**

- (1) [Unchanged.]

(2) A rule or amendment adopted on an emergency basis shall become effective immediately on filing with the Administrative Office of the Courts. The rule or amendment shall remain effective for a period of 90 days after filing, unless readopted in accordance with section ~~(e)(1)~~ (f)(1) or submitted as a permanent rule or amendment under section (a) within the 90-day period.

**(fg) Filing Local Rules Electronically.** The Administrative Office of the Courts shall establish the specifications necessary for a court to file its local court rules electronically.

IN THE MATTER OF THE PROPOSED ) ORDER  
 AMENDMENTS TO CrR 8.2— ) NO. 25700-A-1314  
 MOTIONS, AND CrRLJ 8.2—MOTIONS )

The Washington State Bar Association Court Rules and Procedures Committee, having recommended the adoption of the proposed amendments to CrR 8.2—Motions, and CrRLJ 8.2—Motions, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

	Stephens, C.J.
Johnson, J.	Gordon McCloud, J.
Madsen, J.	Yu, J.
Owens, J.	Montoya-Lewis, J.
Gonzalez, J.	Whitener, J.

**SUPERIOR COURT CRIMINAL RULES (CrR)**  
**RULE 8.2 MOTIONS**

Rules 3.5 and 3.6 and CR 7(b) shall govern motions in criminal cases. A motion for reconsideration shall be governed by CR 59 (b), (e), and (j).

**CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION**  
**(CrRLJ)**  
**RULE 8.2 MOTIONS**

Rules 3.5 and 3.6 and CRLJ 7(b) shall govern motions in criminal cases. A motion for reconsideration shall be governed by CRLJ 59 (b), (e), and (j).

**WSR 20-23-106**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
 [November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER  
 AMENDMENT TO SPR 98.16W— ) NO. 25700-A-1315  
 ESTATES—GUARDIANSHIP—SET- )  
 TLEMENT OF CLAIMS OF MINORS )  
 AND INCAPACITATED PERSONS )



The Superior Court Judges' Association, having recommended the adoption of the proposed amendment to SPR 98.16W—Estates—Guardianship—Settlement of Claims of Minors and Incapacitated Persons, and the Court having considered the proposed amendment, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendment as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendment will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

	Stephens, C.J.
Johnson, J.	Gordon McCloud, J.
Madsen, J.	Yu, J.
Owens, J.	Montoya-Lewis, J.
Gonzalez, J.	Whitener, J.

**Superior Court Special Proceedings Rules**

**SPR 98.16W. ESTATES—GUARDIANSHIP—SETTLEMENT OF CLAIMS OF MINORS AND INCAPACITATED PERSONS**

(a) - (i) [Unchanged.]

(j) **Control and Orders for Remaining Funds.** In calculating the amount remaining from a structured settlement, if the settlement required court approval only because the affected person was an unemancipated minor, then only the payments received and to be received before attaining majority age are counted. All orders directing funds to a blocked account should recite that the funds are payable upon further order of the court or to the affected person at his or her age of majority, which date should be specified. Upon approval of settlement and payment of all authorized fees, bills and expenses, the court shall order one of the following actions:

(1) ~~\$25,000~~ \$50,000 or Less. If the money or the value of other property remaining after deduction for all approved fees, bills and expenses is ~~\$25,000~~ \$50,000 or less, the court shall require that:

(A) - (C) [Unchanged.]

(2) *More Than* ~~\$25,000~~ \$50,000. If the money or the value of other property remaining after deduction for all approved fees, bills and expenses exceeds ~~\$25,000~~ \$50,000, the court in the order or judgment shall:

(A) - (C) [Unchanged.]

(3) [Unchanged.]

(k) [Unchanged.]

**WSR 20-23-107  
RULES OF COURT  
STATE SUPREME COURT**

[November 6, 2020]

IN THE MATTER OF THE PROPOSED	)	ORDER
AMENDMENTS TO CrR 3.1—RIGHT	)	NO. 25700-A-1316
TO AND ASSIGNMENT OF LAWYER,	)	
CrRLJ 3.1—RIGHT TO AND ASSIGN-	)	
MENT OF LAWYER, AND JuCR 9.3—	)	
RIGHT TO APPOINTMENT OF	)	
EXPERTS IN JUVENILE OFFENSE	)	
PROCEEDINGS AND ASSIGNMENT	)	
OF LAWYER	)	

The Washington Defender Association, having recommended the adoption of the proposed amendments to CrR 3.1—Right to and Assignment of Lawyer, CrRLJ 3.1—Right to and Assignment of Lawyer, and JuCR 9.3—Right to Appointment of Experts in Juvenile Offense Proceedings and Assignment of Lawyer, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

	Stephens, C.J.
Madsen, J.	Yu, J.
Owens, J.	Montoya-Lewis, J.
Gonzalez, J.	Whitener, J.

**CrR 3.1 RIGHT TO AND ASSIGNMENT OF LAWYER**

(a) - (e) [Unchanged.]

(f) **Services Other Than a Lawyer.**

(1) [Unchanged.]

(2) Upon finding that the services are necessary and that the defendant is financially unable to obtain them, the court, or a person or agency to whom the administration of the program may have been delegated by local court rule, shall authorize the services. The motion ~~may~~ shall be made ex parte, and, upon a showing of good cause, the moving papers may be ordered sealed by the court, and shall remain sealed until further order of the court. The court, in the interest of justice and on a finding that timely procurement of necessary services could not await prior authorization, shall ratify such services after they have been obtained.

(3) [Unchanged.]

Comment

[Unchanged.]

CrRLJ 3.1 RIGHT TO AND ASSIGNMENT OF LAWYER

(a) - (e) [Unchanged.]

(f) Services Other Than a Lawyer.

(1) [Unchanged.]

(2) Upon finding that the services are necessary and that the defendant is financially unable to obtain them, the court, or a person or agency to whom the administration of the program may have been delegated by local court rule, shall authorize the services. The motion may shall be made ex parte, and, upon a showing of good cause, the moving papers may be ordered sealed by the court, and shall remain sealed until further order of the court. The court, in the interest of justice and on a finding that timely procurement of necessary services could not await prior authorization, shall ratify such services after they have been obtained.

(3) [Unchanged.]

JuCR 9.3 RIGHT TO APPOINTMENT OF EXPERTS IN JUVENILE OFFENSE PROCEEDINGS AND ASSIGNMENT OF LAWYER

(a) Appointment. A juvenile who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense may request that these services be provided at public expense by a motion. The motion shall be made ex parte and, upon a showing of good cause, the moving papers may be ordered sealed by the court and shall remain sealed until further order of the court. Upon finding that the services are necessary and that the juvenile is financially unable to obtain them without substantial hardship to himself or herself or the juvenile's family, the court shall authorize counsel to obtain the services on the behalf of the juvenile. The ability to pay part of the cost of the services shall not preclude the provision of those services by the court. A juvenile shall not be deprived of necessary services because a parent, guardian, or custodian refuses to pay for those services. The court, in the interest of justice and on a finding that timely procurement of necessary services could not await prior authorization, may ratify services after they have been obtained.

(b) [Unchanged.]

WSR 20-23-108
RULES OF COURT
STATE SUPREME COURT

[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENT TO SCCAR 7.2—PRO- ) NO. 25700-A-1317
CEDURE AFTER REQUEST FOR )
TRIAL DE NOVO )

The Washington State Association of County Clerks, having recommended the adoption of the proposed amendment to SCCAR 7.2—Procedure After Request for Trial de Novo, and the Court having considered the proposed amendment, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendment as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendment will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Stephens, C.J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.
Whitener, J.
Johnson, J.
Madsen, J.
Owens, J.
Gonzalez, J.

SCCAR MAR 7.2

PROCEDURE AFTER REQUEST FOR TRIAL DE NOVO

(a) Sealing. The clerk shall seal any arbitration award if a trial de novo is requested. Such sealing shall prohibit judicial officers' access to the award until the trial de novo is completed or the case is otherwise completed, at which time the clerk shall unseal the award.

(b) - (d) [Unchanged.]

WSR 20-23-109
RULES OF COURT
STATE SUPREME COURT

[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
NEW JuCR 7.16—GOVERNING WAR- ) NO. 25700-A-1318
RANT QUASHES )

The Washington Defender Association and TeamChild, et al., having recommended the adoption of new JuCR 7.16—Governing Warrant Quashes, and the Court having considered the proposed amendment, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed new rule as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendment will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Stephens, C.J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.
Whitener, J.
Johnson, J.
Madsen, J.
Gonzalez, J.

JuCR 7.16

QUASHING AND ISSUING WARRANTS

(a) Quash Warrants Issued for Violation of Court Order Related to Juvenile Offense Proceedings. For all juvenile offense proceedings, all outstanding warrants due to an alleged "Violation of a Court Order" shall be quashed by the court within 10 days of this court rule being enacted unless a finding of serious public safety threat is made in the record of the case to support the warrant's continued status. No new warrants shall issue unless a finding is made that the individual circumstances of the alleged "Violation of a Court Order" pose a serious threat to public safety.

(1) Following the quashing of a warrant related to a community supervision matter, the Court may make a finding that community supervision is tolled until the next court hearing where the respondent is present either in person, by phone, or by video.

(2) If a future court date is set, the Superior Court shall make best efforts to provide written notice to the respondent of the new court date.

(b) Quash Warrants Issued for Failure To Appear for a Court Hearing Related to Juvenile Offense Proceedings. For all juvenile offense proceedings, all outstanding warrants issued for a Failure to Appear juvenile offense proceeding shall be quashed by the court within 10 days of this court rule being enacted unless a finding of serious public safety threat is made in the record of the case to support the warrant's continued status. No new warrants shall issue unless a finding is made that the individual circumstances of the Failure to Appear poses a serious threat to public safety.

(1) Following the quashing of the warrant, the Superior Court shall make best efforts to provide written notice to the respondent of the new court date.

(2) Pursuant to CrR 3.3(c), the new commencement date shall be the date of the respondent's next appearance in person, by phone, or by video.

WSR 20-23-110

RULES OF COURT

STATE SUPREME COURT

[November 6, 2020]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO CrRLJ 3.4—PRES- ) NO. 25700-A-1319
ENCE OF THE DEFENDANT AND CrR )
3.4—PRESENCE OF THE DEFEN- )
DANT )

The Washington Defender Association, having recommended the adoption of the proposed amendments to CrRLJ 3.4—Presence of the Defendant and CrR 3.4—Presence of the Defendant, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Table with 2 columns: Names of judges (Johnson, J., Madsen, J., Owens, J., Gonzalez, J.) and their signatures (Stephens, C.J., Gordon McCloud, J., Yu, J., Montoya-Lewis, J., Whitener, J.).

CrRLJ 3.4

PRESENCE OF THE DEFENDANT

(a) Presence Defined. Unless a court order or this rule specifically requires the physical presence of the defendant, the defendant may appear remotely or through counsel. Appearance through counsel requires that counsel either (i) present a waiver the defendant has signed indicating the defendant wishes to appear through counsel, or (ii) affirm, in writing or in open court, that this is the defendant's preference.

(b) When Necessary. The defendant shall be present physically or remotely (in the court's discretion) at the arraignment (if one is held), at every stage of the trial including the empanelling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(c) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(d) Defendant Not Present. In order to require the defendant's physical or remote presence at any hearing other than those listed in subpart (b), the court must find good cause. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(e) [unchanged]

(f) [unchanged]

CrR 3.4

PRESENCE OF THE DEFENDANT

(a) Presence Defined. Unless a court order or this rule specifically requires the physical presence of the defendant, the defendant may appear remotely or through counsel. Appearance through counsel requires that counsel either (i) present a waiver the defendant has signed indicating the defendant wishes to appear through counsel, or (ii) affirm, in

writing or in open court, that this is the defendant's preference.

~~(a)~~**(b) When Necessary.** The defendant shall be present physically or remotely (in the court's discretion) at the arraignment (if one is held), at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

~~(b)~~**(c) Effect of Voluntary Absence.** The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

~~(c)~~**(d) Defendant Not Present.** In order to require the defendant's physical or remote presence at any hearing other than those listed in subpart (b), the court must find good cause. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

~~(d)~~**(e)** [unchanged]

~~(e)~~**(f)** [unchanged]

**WSR 20-23-111**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[November 6, 2020]

IN THE MATTER OF THE SUGGESTED ) ORDER  
AMENDMENTS TO RPC 7.2—ADVER- ) NO. 25700-A-1320  
TISING, WASHINGTON REVISION )  
COMMENT [6], RPC 5.4 NEW ADDI- )  
TIONAL WASHINGTON COMMENT )  
[5]—PROFESSIONAL INDEPEN- )  
DENCE OF A LAWYER, AND RPC )  
1.5—FEES) )

The Washington State Bar Association Board of Governors, having recommended the suggested amendments to RPC 7.2—Advertising, Washington revision comment [6], RPC 5.4 new additional Washington comment [5]—Professional Independence of a Lawyer, and RPC 1.5—Fees, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov). Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of November, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

**GR 9 COVER SHEET**  
**Suggested Amendments to**  
**THE RULES OF PROFESSIONAL CONDUCT (RPC)**

**Rule 7.2 (b)(2), Comment [6] to Rule 7.2, Comment [5] to Rule 5.4, and Rule 1.5 (e)(2)**  
**Submitted by the Board of Governors of the Washington State Bar Association**

**A. Name of Proponent:** Washington State Bar Association

**B. Spokespersons:**

Rajeev D. Majumdar, President  
Washington State Bar Association  
1325 4th Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 214-5177

Jeanne Marie Clavere, Professional Responsibility Counsel

Washington State Bar Association  
1325 4th Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 727-8298

**C. Purpose:**

The purpose of this proposal is to authorize not-for-profit qualified lawyer referral service organizations, including bar associations, to be paid a portion of a lawyer's fee.

RPC 1.5 (e)(2) states "a division of a fee between lawyers who are not in the same firm may be made only if: [...] (2) the division is between the lawyer and a duly authorized lawyer referral service of either the Washington State Bar Association or one of the county bar associates of this state."

In 2012, the WSBA RPC Committee interpreted the "duly authorized" language to mean "some kind of affirmative approval by the Washington Bar Association, or by one of the county bar associations of this state." The opinion added that "This committee does not have the power to grant such approval, and it does not have any special insights to offer the inquirer on how to obtain such approval." WSBA Ethics Advisory Op. 2227 (2012).

The WSBA does not have and never has had any mechanism in place to "authorize" lawyer referral services, and we surmise there is little interest within the WSBA to process such requests. Representatives of Spokane, Pierce and King County Bar Associations have advised they have no such mechanism.

The WSBA Committee on Professional Ethics proposes:  
1) deletion of RPC 1.5 (e)(2) and, 2) relocation of the authority for lawyers to work with lawyer referral services to RPC 7.2.

The committee proposes amending RPC 7.2 as follows:

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service, and share a fee with a not-for-profit lawyer referral service that qualifies under Section 501 of the Internal Revenue Code or Washington's Nonprofit Corporation Act, or is a program sponsored by a non-profit organization or a court as authorized under Rule 6.5(a);

(3)....

The committee proposes amending Comment [6] to RPC 7.2:

[6] **[Washington revision]** A lawyer may pay the usual charges of a legal service plan or a not-for-profit lawyer referral service. A "legal service plan" is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A "lawyer referral service," on the other hand, is any individual or entity that operates for the direct or indirect purpose of referring potential clients to lawyers, regardless of whether the term "referral service" is used, organization that holds itself out to the public as a lawyer referral service. Such referral services ~~Not-for-profit lawyer referral services~~ are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. ~~Consequently, this Rule only permits a lawyer to pay the usual charges of~~ a not-for-profit lawyer referral service. The "usual charges" of a legal services plan or not-for-profit lawyer referral service are fees that are openly promulgated and uniformly applied. A lawyer also may share a percentage of a fee in exchange for a referral from not-for-profit lawyer referral services, because these services help to facilitate access to justice and, if they operate under Section 501 of the Internal Revenue Code or the Washington Nonprofit Corporation Act, will use the fee only to defray reasonable operating costs. The fee paid by a client who is referred by the service, however, should not exceed the total charges that the client would have paid if the lawyer referral service was not involved.

The language of this comment draws on both comment [15] to proposed RPC 7.3 (b)(2), as part of the proposed revisions to Title 7 of the RPC (November 2018 proposed rules published for comment), and Arizona RPC 7.2 (b)(2).

Third, the committee further proposes new Washington Comment [5] to RPC 5.4 (Professional Independence of a Lawyer) that cross-references proposed RPC 7.2 (b)(2).

RPC 5.4:

....

Additional Washington Comments (3-45)

[3] Paragraph (a)(5) was taken from former Washington RPC 5.4 (a)(2).

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

[5] For circumstances when a lawyer can share a fee with a not-for-profit lawyer referral service, See Rule 7.2 (b)(2).

**D. Hearing:**

None is requested.

**E. Expedited Consideration:**

None is requested.

**F. Supporting Material:**

- RPC 1.5(e) - Redline
- RPC 7.2(b) - Redline
- RPC 5.4 - Redline

**SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL  
CONDUCT  
RPC 7.2 ADVERTISING**

**RPC 7.2**

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service, and share a fee with a not-for-profit lawyer referral service that qualifies under Section 501 of the Internal Revenue Code or Washington's Nonprofit Corporation Act, or is a program sponsored by a non-profit organization or a court as authorized under Rule 6.5(a);

(3) pay for a law practice in accordance with Rule 1.17; and

(4) refer clients to another lawyer or LLLT pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and

(ii) the client is informed of the existence and nature of the agreement.

(c) Any communication made pursuant to this Rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

**Comment**

[1] - [5] Unchanged.

[6] **[Washington revision]** A lawyer may pay the usual charges of a legal service plan or a not-for-profit lawyer referral service. A "legal service plan" is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A "lawyer referral service," on the other hand, is any individual or entity that operates for the direct or indirect purpose of referring potential clients to lawyers, regardless of whether the term "referral service" is used, organization that holds itself out to the public as a lawyer referral service. Such referral services

Not-for-profit lawyer referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. ~~Consequently, this Rule only permits a lawyer to pay the usual charges of a not for profit lawyer referral service. The "usual charges" of a legal services plan or not-for-profit lawyer referral service are fees that are openly promulgated and uniformly applied. A lawyer also may share a percentage of a fee in exchange for a referral from not-for-profit lawyer referral services, because these services help to facilitate access to justice and, if they operate under Section 501 of the Internal Revenue Code or the Washington Nonprofit Corporation Act, will use the fee only to defray reasonable operating costs. The fee paid by a client who is referred by the service, however, should not exceed the total charges that the client would have paid if the lawyer referral service was not involved.~~

**SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT**

**RPC 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER**

**RPC 5.4**

(a) - (d) Unchanged.

**Comment**

[1] - [2] Unchanged.

**Additional Washington Comments (3-45)**

[3] Paragraph (a)(5) was taken from former Washington RPC 5.4 (a)(2).

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

[5] For circumstances when a lawyer can share a fee with a not-for-profit lawyer referral service, see Rule 7.2 (b)(2).

**SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT**

**RPC 1.5 FEES**

**RPC 1.5**

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

~~(1)(i)~~ the division is in proportion to the services provided by each lawyer or each lawyer assumes joint responsibility for the representation;

~~(2)(ii)~~ the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and

~~(3)(iii)~~ the total fee is reasonable; ~~or~~

~~(2) the division is between the lawyer and a duly authorized lawyer referral service of either the Washington State Bar Association or of one of the county bar associations of this state.~~

**WSR 20-23-112  
RULES OF COURT  
STATE SUPREME COURT**

[November 6, 2020]

IN THE MATTER OF THE SUGGESTED ) ORDER  
AMENDMENTS TO RPC 1.13—ORGA- ) NO. 25700-A-1321  
NIZATION AS CLIENT, CMT. [4] AND )  
RPC 1.16—DECLINING OR TERMI- )  
NATING REPRESENTATION, NEW )  
WASHINGTON CMT. [16] )

The Washington State Bar Association Board of Governors, having recommended the suggested amendments to RPC 1.13—Organization as Client, cmt. [4] and RPC 1.16—Declining or Terminating Representation, new Washington cmt. [16], and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov). Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of November, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

**GR9 COVER SHEET**

**Suggested Amendments to  
THE RULES OF PROFESSIONAL CONDUCT (RPC)  
Rule 1.16, Comment [4] and Rule 1.13 Additional  
Washington Comment [16]**

**Submitted by the Board of Governors of the Washington  
State Bar Association**

**A. Name of Proponent:** Washington State Bar Association

**B. Spokespersons:**

Rajeev Majumdar, President, Washington State Bar Association, 1325 4th Avenue, Suite 600, Seattle, Washington 98101-2539

Jeanne Marie Clavere, Professional Responsibility Counsel, Washington State Bar Association, 1325 4th Avenue, Suite 600, Seattle, Washington 98101-2539

**C. Purpose:**

The purpose of the suggested amendments are to alert lawyers to consult the holding of a recent decision of the Washington State Supreme Court, *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.2d 1185 (2019). RPC 1.16 (a)(3) provides that "a lawyer shall not represent a client ... if ... the lawyer is discharged." Current comment [4] to the rule provides that "A client may discharge a lawyer at any time, with or without cause, subject to liability for the lawyer's services." On its face, the Rule and comment suggest that any lawyer may be fired by a client without any recourse by the lawyer except for fees already earned.

In *Karstetter*, the Court held that lawyers employed as in-house counsel and lawyers with comparable employment relationships face unique employment expectations. Accordingly, the Court held that such lawyers may retain the ability to bring contract and wrongful discharge actions if those actions can be brought without damaging the integrity of the client-lawyer relationship.

The suggested amendments are intended to alert lawyers consulting the RPCs to this decision in two places. First, RPC 1.16 is directly impacted by the *Karstetter* decision. The suggested amendment adds additional language to Comment [4] pointing lawyers consulting the rule to the *Karstetter* decision. The new language of Comment [4], which would be a Washington revision, would read as follows: "However, the rule may apply differently with respect to in-house lawyers and lawyers with comparable employment situations. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019)."

Second, RPC 1.13 is focused on the responsibilities of lawyers for entities. As such, it would be appropriate to also add a reference to *Karstetter* in the comments to that rule. The amendment would add an "Additional Washington Comment [16]" at the end of the RPC 1.13 comments, which would read as follows: "In-house lawyers and lawyers with comparable employment situations may face unique employment expectations that impact their rights if discharged by the client. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019); Comment [4] to Rule 1.16."

**D. Hearing:** A hearing is not requested.

**E. Expedited Consideration:** Expedited consideration is not requested.

**F. Supporting Material:** RPC 1.16 (redline), RPC 1.13 (redline)

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT  
RULES 1.16 AND 1.13

RPC 1.16 - DECLINING OR TERMINATING REPRESENTATION

(a) - (d) Unchanged.

**Comment**

[1] - [3] Unchanged.

[4] [**Washington revision**] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. However, the rule may apply differently with respect to in-house lawyers and lawyers with comparable employment situations. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019); Washington Comment [16] to Rule 1.13. Where future dispute about the withdrawal may be

anticipated, it may be advisable to prepare a written statement reciting the circumstances.

RPC 1.13 - ORGANIZATION AS CLIENT

(a) - (h) Unchanged.

**Comment**

[1] - [14] Unchanged.

**Additional Washington Comments [15-16]**

[15] Unchanged.

[16] In-house lawyers and lawyers with comparable employment situations may face unique employment expectations that impact their rights if discharged by the client. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019); Comment [4] to Rule 1.16.

WSR 20-23-113  
RULES OF COURT  
STATE SUPREME COURT  
[November 6, 2020]

IN THE MATTER OF THE SUGGESTED- ) ORDER  
DAMENDMENT TO RPC 1.4—COM- ) NO. 25700-A-1322  
MUNICATION )

The Washington State Bar Association Board of Governors, having recommended the suggested amendment to RPC 1.4—Communication, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov). Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of November, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET  
Suggested Amendments to  
RULES OF PROFESSIONAL CONDUCT  
Rule 1.4

**A. Proponent**

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**C. Purpose**

The proponent recommends adoption of suggested amendments to Rule 1.4 of the Rules of Professional Conduct (RPC) that would require disclosure of a lawyer's malpractice insurance status to clients and prospective clients if the lawyer's insurance does not meet minimum levels. It would also provide guidance on the application of the rule through the addition of six new comments.

**I. Overview and History**

Washington lawyers are not required to have professional liability insurance coverage. They are, however, required to report to the Washington State Bar Association (WSBA), on a yearly basis, whether they have such coverage. Adopted by the Court in 2007, Rule 26 of the Admission and Practice Rules (APR) requires this information to be reported annually, which occurs as part of the WSBA's licensing process. All Washington lawyers are required to certify whether they are engaged in the private practice of law and, if so, whether or not they are covered by, and intend to maintain, professional liability insurance. Recent WSBA reporting data shows that 14% of Washington lawyers in private practice consistently report being uninsured.

In September 2017, the WSBA Board of Governors (BOG) approved formation of the WSBA Mandatory Malpractice Insurance Task Force to evaluate the characteristics of uninsured lawyers and the consequences for clients when lawyers are uninsured, to examine regulatory systems that require professional liability insurance, and to gather information and comments from WSBA members and others. The Task Force was also charged with determining whether to recommend mandatory malpractice insurance for lawyers in Washington, and, if so, developing a model and a draft rule for consideration by the BOG.

In February 2019, the Task Force issued its final report, recommending mandatory professional liability insurance for lawyers engaged in the private practice of law and proposing an amendment to APR 26 that would establish a "free market" regulatory model.<sup>1</sup> The Task Force cited the regulatory objectives of assuring accessible civil remedies for clients harmed by lawyer mistakes and protection of the public as chief among the reasons for its recommendation.

<sup>1</sup> The full report and related Task Force materials are available at <https://www.wsba.org/insurance-task-force>.

At its May 17, 2019, meeting, after deliberation about the Task Force report and public discussion, the BOG voted against adoption of the "free market" mandatory malpractice model. The BOG reached its decision after consideration of more than 580 comments from members and others that

expressed very real and compelling concerns regarding mandating insurance. Members overwhelmingly opposed mandatory malpractice insurance, expressing concerns regarding cost, the likely adverse impact on pro bono services provided by retiring, retired, and semi-retired members, un-insurability for some high-risk practitioners and practices, the inappropriate delegation of licensing prerogatives to the insurance industry, the risk of increasing insurance premiums for all lawyers through the creation of a captive market, and the financial burden such a mandate would impose upon individual lawyers and the viability of their practices, especially solo and small firm lawyers.<sup>2</sup>

<sup>2</sup> The full set of comments received by the Task Force and the BOG is available at <https://www.wsba.org/insurancetask-force>.

In the wake of the vote, however, several governors suggested that the BOG consider some other models evaluated by the Task Force that might serve to protect the public against the risk of errors committed by uninsured lawyers. Consequently, on January 21, 2020, WSBA Past-President Rajeev Majumdar convened the Ad Hoc Committee to Investigate Alternatives to Mandatory Malpractice Insurance to gather information and advise the BOG on potential viable alternatives to mandatory malpractice insurance.<sup>3</sup> This Committee is chaired by WSBA President Kyle Sciuchetti and composed primarily of select members of the WSBA Committee on Professional Ethics and the former WSBA Mandatory Malpractice Insurance Task Force, as well as members of the BOG and a public member.

\* Just prior to the launch of this Committee, by order dated December 4, 2019, the Supreme Court published for public comment a proposed amendment to APR 26. (The extended deadline for public comment on the proposed amendment is September 30, 2020). The proponent of the proposed amendment is Equal Justice Washington, which is unaffiliated with the WSBA. The proposed amendment is identical to the "free market" model originally proposed by the Task Force. By letter dated January 26, 2020, WSBA expressed its opposition to proposed APR 26, [https://www.courts.wa.gov/court\\_Rules/proposed/2019Dec/APR26/Rajeev%20Majumdar%20-%20APR%2026.pdf](https://www.courts.wa.gov/court_Rules/proposed/2019Dec/APR26/Rajeev%20Majumdar%20-%20APR%2026.pdf).

From March to September 2020, the Committee explored approaches to public protection other than mandating malpractice insurance, including enhanced malpractice insurance disclosure requirements and proactive management based regulation. Ultimately, the Committee focused on a rule requiring disclosure of a lawyer's insurance status to clients when the lawyer is uninsured or underinsured. The WSBA proposes this suggested rule as a less burdensome and more practicable regulatory requirement that will responsibly protect the public without having an unreasonable impact on private practitioners.

**II. SUGGESTED RULE**

The proposed rule amendment includes both a new RPC 1.4(c) and proposed new Comments [8]-[13] to RPC 1.4. The language is drawn from enhanced disclosure rules in several other states, including California, Pennsylvania, New Hampshire, New Mexico, and South Dakota, with New Mexico's RPC 16-104(c) having the most influence.

**Substance of the Proposal.** Specifically, the suggested new RPC 1.4(c) would require a lawyer, before or at the time of commencing representation of a client, to provide notice to



the client in writing if the lawyer is not covered by professional liability insurance at specified minimum levels. The lawyer would have to promptly obtain written informed consent from that client. In addition, a lawyer whose malpractice insurance policy lapses or is terminated must within 30 days either obtain a new policy or obtain written consent from existing clients.

The proposal was structured to address the major concerns underlying the BOG's decision not to require mandatory insurance. The cost to a lawyer of compliance with the proposed notice requirement, as compared to requiring acquisition of insurance, is insubstantial.

As reflected in proposed new Comment [8], a lawyer without a basic level of professional liability insurance might not pay for damages or losses a client incurs due to the lawyer's mistakes or negligence. Consequently, clients should have sufficient information about whether the lawyer maintains a minimum level of lawyer professional liability insurance so the client can intelligently determine whether they wish to engage, or continue to engage, that lawyer.

The new RPC 1.4(c) would require a lawyer to provide disclosure if the lawyer is without a specified level of lawyer professional liability insurance. The lawyer would have to promptly obtain every client's acknowledgement and informed consent to uninsured or underinsured representation. The proposed amendment includes disclosure and consent language which, if used, would serve as a "safe harbor" for compliance with the rule. A lawyer would have to maintain a record of disclosures and consents for at least six years.

Certain lawyers would be excluded from the insurance disclosure requirements, including judges, arbitrators and mediators, in-house lawyers for a single entity, and employees of governmental agencies.

A proposed comment clarifies that the notice to a client may be delayed in certain emergency situations.

**Minimum levels of professional liability insurance.** The proposal recommends that for the disclosure requirements under RPC 1.4(c), the minimum level of insurance should be at least \$100,000 per occurrence and \$300,000 in the aggregate ("\$100K/\$300K"), which are the mandatory malpractice insurance levels in Idaho and the lowest levels of insurance offered by ALPS, the WSBA-endorsed professional liability insurance provider. The Mandatory Malpractice Insurance Task Force found (at p. 17 of its report) that nationally 89.1% of malpractice claims are resolved for less than \$100,000 (including claims payments and expenses). According to ALPS, for all Washington claims where payments were made by ALPS, its average loss payment was \$119,856 and average loss expenses were about \$40,454.82. Given these statistics, the proposed minimum level of insurance of \$100K/\$300K is reasonable and sufficient.

**Lawyers covered by the rule.** The proposal would apply to each "lawyer," defined as:

- lawyers with an active status with the WSBA;
- emeritus pro bono status lawyers; and
- lawyers permitted to engage in limited practice under APR 3(g), i.e., visiting lawyers.

The disclosure requirement would not apply to:

- judges, arbitrators, and mediators not otherwise engaged in the practice of law;
- in-house counsel for a single entity;
- government lawyers practicing in that capacity; and
- employee lawyers of nonprofit legal services organizations, or volunteer lawyers, where the nonprofit entity provides malpractice insurance coverage at the minimum levels.

#### **D. Hearing:**

A hearing is not requested.

#### **E. Expedited Consideration:**

Expedited consideration is not requested.

### SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

#### 1.4—COMMUNICATION - Redline Version

##### RPC 1.4 COMMUNICATION

(a) - (b) [Unchanged.]

(c) A lawyer shall communicate to a client or prospective client a lack of minimum levels of lawyer professional liability insurance as required by the provisions of this Rule.

(1) A lawyer not covered by lawyer professional liability insurance in the amounts specified in paragraph (c)(4) shall, before or at the time of commencing representation of a client, notify the client in writing of the absence of such insurance coverage and promptly obtain the client's informed consent in writing. A lawyer who knows or reasonably should know that the lawyer's professional liability insurance policy has either lapsed or been terminated during the representation shall within 30 days either (i) obtain a new policy in the required amounts or (ii) provide notice in writing to the client and promptly obtain the client's informed consent in writing. If a lawyer does not obtain a new policy in the required amounts or provide notice to the client and obtain the client's informed consent in writing within 30 days of a lapse or termination, the lawyer shall withdraw from representation of the client (2)(i) A notice to the client in substantially the following form satisfies the notice requirements of paragraph (c)(1):

Under Rule 1.4(c) of the Washington Rules of Professional Conduct, I must obtain your informed consent to provide legal representation, and ensure that you understand and acknowledge that [I] [this Firm] [do not] [does not] [no longer] maintain[s] [any lawyer professional liability insurance (sometimes called malpractice insurance)] [lawyer professional liability insurance (sometimes called malpractice insurance)] of at least one hundred thousand dollars (\$100,000) per occurrence, and three hundred thousand dollars (\$300,000) for all claims submitted during the policy period (typically 12 months). Because [I] [we] do not carry this insurance coverage, it could be more difficult for you to recover an amount sufficient to compensate you for your loss or damages if [I am] [we are] negligent.

Lawyer's Signature

(ii) A client consent and acknowledgment in substantially the following form satisfies the informed consent requirements of paragraph (c)(1):

I acknowledge and supply this written consent, required by Rule 1.4(c) of the Washington Rules of Professional Conduct, that [insert attorney or firm's name] [does not] [no lon-

ger] maintain[s] [any lawyer professional liability insurance (sometimes called malpractice insurance)] [lawyer professional liability insurance (sometimes called malpractice insurance)] with at least maximum coverage of \$100,000 for each claim, and at least \$300,000 for all claims submitted during the policy period (typically 12 months), and I consent to representation by [the lawyer] [the firm].

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Client's Signature

(3) A lawyer shall maintain a record of notices of disclosure to clients, and the signed consents and acknowledgments received from clients, for at least six (6) years after the representation is terminated.

(4) As used in this paragraph (c), "lawyer" means an active member of the Washington State Bar Association, and any other person authorized by the Washington State Supreme Court to engage in the practice of law, including emeritus pro bono status lawyers and lawyers permitted to engage in the limited practice of law in this state as provided in Admission and Practice Rule (APR) 3(g); however, as used in this paragraph (c), "lawyer" does not include, (i) a judge, arbitrator, or mediator not otherwise engaged in the practice of law; (ii) in-house counsel for a single entity; (iii) an employee of a governmental agency practicing law in that capacity; (iv) an employee of a nonprofit legal service organization, or a lawyer volunteering with such an organization, where the nonprofit legal service organization provides lawyer professional liability insurance coverage at the minimum levels required by this paragraph to that employee or volunteer pro bono lawyer. "Lawyer professional liability insurance" means a professional liability insurance policy that provides coverage for claims made against the lawyer that arise from an act, error, or omission in the lawyer's performance of legal services to a client, with limits of liability of at least one hundred thousand dollars (\$100,000) per occurrence, and three hundred thousand dollars (\$300,000) for all claims submitted during the policy period.

**Comment**

[1] - [7] [Unchanged.]

**Additional Washington Comments (8-13)**

**Insurance Disclosure**

[8] A lawyer without a basic level of professional liability insurance might not pay for damages or losses a client incurs that result from the lawyer's mistakes or negligence. Consequently, prospective clients and clients should have sufficient information about whether the lawyer maintains a minimum level of lawyer professional liability insurance so they can intelligently determine whether they wish to engage, or continue to engage, that lawyer. Paragraph (c) requires a lawyer to provide disclosure if the lawyer is without a level of lawyer professional liability insurance specified in paragraph (c), and to obtain each client's acknowledgement and informed consent. Client consent should be obtained promptly—ordinarily within 10 days of the lawyer's providing disclosure. Certain lawyers are excluded from the disclosure requirements of Rule 1.4(c), including full-time judges, arbitrators and mediators, in-house lawyers for a single entity, and employees of governmental agencies. If a lawyer

servicing as a judge represents clients outside judicial duties, or an in-house lawyer or government employee represents other clients, such a judge or lawyer is subject to the requirements of Rule 1.4(c) regarding those representations.

[9] As used in paragraph (c), a lawyer who "maintains" or "is covered by" lawyer professional liability insurance is an insured lawyer under a lawyer professional liability insurance policy providing coverage regarding claims relating to legal services provided by that lawyer. The minimum limits of lawyer professional liability insurance specified by paragraph (c)(4) include any deductible or self-insured retention that must be paid by the lawyer or the lawyer's law firm for claim expenses and damages. Lawyer professional liability insurance, as defined in paragraph (c)(4), does not include an insurance policy with a deductible or self-insured retention that the lawyer knows or has reason to know cannot be paid by the lawyer or the firm if a loss occurs.

[10] Whether the disclosure and notice obligations of paragraph (c) apply to a Washington-licensed lawyer practicing in another jurisdiction is determined by the choice of law provisions of Rule 8.5(b).

[11] In addition to complying with paragraph (c), every active member of the bar must comply with the reporting requirements of Admission and Practice Rule (APR) 26, under which lawyers in the private practice of law are required to annually report their insurance coverage to the Washington State Bar Association.

[12] Withdrawal from a representation under paragraph (c)(1) is a circumstance where withdrawal is obligatory under Rule 1.16 (a)(1) because the representation would violate the Rules of Professional Conduct. The withdrawal shall be accomplished in conformity with the requirements of Rule 1.16 (c) and (d).

[13] In an emergency where the health, safety, or a financial interest of a person is threatened with imminent and irreparable harm, a lawyer not covered by lawyer professional liability insurance in the amounts specified in paragraph (c)(4) may take legal action on behalf of such a person even though the person cannot receive or evaluate the notice required by paragraph (c)(1) or there is insufficient time to provide it. A lawyer who represents a person in such an exigent situation shall provide the notice required by paragraph (c)(1) as soon as reasonably practicable.