

WSR 21-04-033

AGENDA

DEPARTMENT OF HEALTH

[Filed January 26, 2021, 1:17 p.m.]

January 2021

Rules Agenda

This report details current and anticipated rule-making activities for the department of health (DOH) and the state board of health (SBOH). If you have any questions regarding this report or DOH rule-making activities, please contact Tami Thompson at 360-628-0096. If you have any questions regarding SBOH rule-making activities, please contact Michelle Davis at 360-236-4105.

This agenda is for information purposes, and the anticipated rule-making actions are estimates. Any errors in this agenda do not affect the rules and rule-making notices filed with the office of the code reviser and published in the Washington State Register. There may be additional rule-making activities that cannot be forecasted as DOH and SBOH initiates rule making to implement new state laws, meet federal requirements, or meet unforeseen circumstances. See the "Key" below for explanations of terms and acronyms.

KEY

Blank cells in tables mean the anticipated filing date is not known at the time this rules agenda is filed.

CR: "Code reviser" on the notice forms created by the office of the code reviser for use by all state agencies.

CR-101: Preproposal statement of inquiry filed under RCW 34.05.310.

CR-102: Proposed rule-making notice filed under RCW 34.05.320 or 34.05.340.

CR-103: Rule-making order permanently adopting a rule, and filed under RCW 34.05.360 and 34.05.380.

CR-105: Expedited rule making filed under RCW 34.05.353.

RCW: Revised Code of Washington.

WAC: Washington Administrative Code.

WSR: Washington State Register official filing reference number given by the office of the code reviser when a notice is filed.

SBOH

Rule Making

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
SBOH	43.20.050 70.24.130	Chapter 246-100 WAC, Communicable and certain other diseases, and chapter 246-101 WAC, Notifiable conditions. SBOH is considering amending these chapters to implement changes made by ESHB 1551 as it relates to HIV/AIDS. SBOH may also consider other technical or editorial changes as needed.	20-15-112				Kaitlyn Donahoe and LinhPhnug Huynh	360-584-6737 360-789-6860
SBOH and DOH	43.20.050 70.104.055 43.70.545	Chapter 246-101 WAC, Notifiable conditions, and WAC 246-100-011, Communicable and certain other diseases definitions. SBOH and DOH will consider adding notification and specimen submission requirements for "new conditions" and conditions currently identified as "other rare diseases of public health	18-11-089	Anticipate filing			Alexandra Montano	360-236-4205

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
		significance"; changing notification and specimen submission requirements for existing conditions; clarifying notification requirements for suspected cases; requiring electronic lab notification; revising reporting requirements for veterinarians and the Washington state department of agriculture; updating statutory references in the rules; updating references to the 2006 Security and Confidentiality Guidelines developed by the Centers for Disease Control and Prevention to the most recent publication; harmonizing definitions between WAC 246-100-011 and chapter 246-101 WAC; and improving clarity and usability.						
SBOH	43.20.050	WAC 246-203-130 Keeping of animals.	19-21-018	Anticipate filing			Stuart Glasoe	360-236-4111
SBOH	43.20.050 70.90.120	Chapter 246-260 WAC, Water recreation facilities; and chapter 246-262 WAC, Recreational water contact facilities.	17-01-048	Anticipate filing			Peter Beaton or Kaitlyn Donahoe	360-236-4031 360-584-6737
SBOH	43.20.050	Chapter 246-272A WAC, On-site sewage systems.	18-06-082				Stuart Glasoe or Mike Dexel	360-236-4111 360-236-3011
SBOH	43.20.050	Chapter 246-272A WAC, On-site sewage systems, drainfield remediation.	06-12-108				Stuart Glasoe or Mike Dexel	360-236-4111 360-236-3011
SBOH	43.20.050 70.119A.080 70.142.010	Chapter 246-290 WAC, Group A water supplies, Per- and Polyfluoroalkyl Substances.	18-01-080	Anticipate filing			Stuart Glasoe or Jocelyn Jones	360-236-4111 360-236-3020
SBOH	43.20.050	Chapter 246-390 WAC, Lab certification and data reporting, to incorporate changes for Per- and Polyfluorylalkyl Substances.	20-05-032	Anticipate filing			Stuart Glasoe or Jocelyn Jones	360-236-4111 360-236-3020
SBOH	43.20.050 48.21.244 48.44.344 48.46.375 70.54.220	Chapter 246-680 WAC, Prenatal tests—Congenital and heritable disorders.	18-24-016	20-24-119			Samantha Pskowski	360-789-2358

DOH
Rule Making

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
Board of hearing and speech	18.35.161 43.70.250	WAC 246-828-020, 246-828-025, 246-828-04503, 246-828-075, 246-828-300, and 246-828-990, the board of hearing and speech is considering amending these rule sections to update examination standards, move part of a definition to a more appropriate section of rule, clarify supervision requirements, update expired license or certification requirements and establish fees for the hearing aid specialist practical examinations.	19-13-038	Anticipate filing			Kim-Boi Shaddock	360-236-2912
Board of hearing and speech	ESB 5210 (chapter 183, Laws of 2019)	WAC 246-828-025, 246-828-290, hearing and speech definitions, purchaser rescission rights and new section(s) addressing consumer notification.	19-20-100	20-19-146	Anticipate filing		Kim-Boi Shaddock	360-236-2912
Board of naturopathy	18.36A.160	WAC 246-836-210 Authority to use, prescribe, dispense, and order. The board of naturopathy is considering rule making regarding the practice of nonsurgical cosmetic procedures in naturopathic practice, including, education and training. The board is considering revising WAC 246-836-210 and creating a new section(s) of rule.	20-24-042				Susan Gragg	360-236-4941
Board of occupational therapy	ESHB 1551 (chapter 76, Laws of 2020)	WAC 246-847-190 AIDS education and training. Repealing rule in support of ESHB 1551.		20-24-046			Kathy Weed	360-236-4883
Board of occupational therapy	18.59.130	WAC 246-847-125 Applicants currently licensed in other states or territories. The occupational therapy practice board is opening rules to consider clarifying and modernizing the requirements for applicants that are licensed in another state and seeking Washington licensure.	20-08-073	20-24-043	Anticipate filing		Kathy Weed	360-236-2901
Board of optometry	ESHB 1551 (chapter 76, Laws of 2020)	Chapter 246-851 WAC, the board of optometry is considering adding a new section for suicide prevention training, and repealing AIDS education requirements.	20-17-025	Anticipate filing			Loralei Walker	360-236-4947

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
Board of osteopathic physicians and surgeons	18.57.005 18.130.050	Chapter 246-853 WAC, Osteopathic physicians and surgeons. The board of osteopathic medicine and surgery is considering creating a new rule section(s) to regulate the use of telemedicine.	20-18-039				Tracie Drake	360-236-4766
Board of physical therapy	ESHB 1551 (chapter 76, Laws of 2020)	WAC 246-915-110 AIDS education and training. The board of physical therapy is proposing repealing rules concerning AIDS training and education in support of ESHB 1551.			Anticipate filing	20-20-103	Kris Waidely	360-236-4847
Board of physical therapy	18.74.023	WAC 246-915-120 Foreign educated applicants. The board of physical therapy is considering changes to the requirement that passing scores for the internet-based test of English as a foreign language all be earned during the same test sitting.	21-01-056	Anticipate filing			Kris Waidely	360-236-4847
Board of physical therapy	18.74.023	Chapter 246-915 WAC, Continuing competency—Physical therapists and physical therapist assistants. The board of physical therapy is considering general updates, revisions, and housekeeping amendments.	20-19-142	Anticipate filing			Kris Waidely	360-236-4847
Board of physical therapy	18.74.023 and HB 2446 (chapter 222, Laws of 2018)	Chapter 246-915 WAC, Physical therapists and physical therapist assistants. The board of physical therapy is considering necessary changes to existing rules for physical therapist supervision of assistive personnel per HB 2446. The board is also proposing chapter amendments to make general updates, revisions, and housekeeping amendments.	18-17-127				Kris Waidely	360-236-4847
Chiropractic quality assurance commission	18.25.0171 18.130.050	WAC 246-808-105, 246-808-115, 246-808-130, 246-808-133, 246-808-135, 246-808-140, 246-808-180, 246-808-181, 246-808-190, 246-808-201, 246-808-215, 246-808-510, and 246-808-535, regarding Licensure—Application and eligibility requirements. The chiropractic quality assurance commission is considering revising the rules and proposing to establish new temporary practice rules for military status or military-related status.	16-21-080				Bob Nicoloff	360-236-4924

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
Chiropractic quality assurance commission	18.25.0171 18.130.050	WAC 246-808-540 Billing, 246-808-545 Improper billing practices, 246-808-550 Future care contracts prohibited, 246-808-560 Documentation of care, 246-808-565 Radiographic standards, 246-808-570 Pelvic or prostrate examination prohibited, 246-808-575 Intravaginal adjustment restricted, 246-808-580 Acupuncture, 246-808-585 Clinically necessary X-rays, and 246-808-590 Sexual misconduct. The chiropractic quality assurance commission is considering amending these rules to align with current practice standards.	16-23-106				Bob Nicoloff	360-236-4924
Chiropractic quality assurance commission	18.25.0171 18.130.050	WAC 246-808-010, 246-808-505, 246-808-600, 246-808-605, 246-808-610, 246-808-615, 246-808-620, 246-808-625, 246-808-630, 246-808-650, 246-808-655, 246-808-660, 246-808-670, 246-808-680, 246-808-685, 246-808-690, 246-808-695, 246-808-720, and 246-808-810. The chiropractic quality assurance commission is considering revising these rules regarding definitions, procedures, instrumentation, publicity, advertising, printed materials, transactions, costs, records, duties, mandatory reporting, associations, societies, insurance and professional liability carriers, courts, state and federal agencies, and conflict of interest.	16-23-120				Bob Nicoloff	360-236-4924
Chiropractic quality assurance commission	18.25.0171 18.130.050	Chapter 246-808 WAC, independent chiropractic examinations. The chiropractic quality assurance commission is considering creating rules to set standards for independent chiropractic physical examinations and patient records reviews.	15-21-047				Bob Nicoloff	360-236-4924

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
Dental quality assurance commission	18.32.002 18.32.0365 18.32.640	WAC 246-817-701 through 246-817-790, administration of anesthetic agents for dental procedures. The dental quality assurance commission is considering amendments to update general requirements. In addition to general updates, the commission is also considering amendments to address twenty-four hour on-call availability after a complex dental procedure, on-site inspections for all dentists holding sedation permits, and creation of a pediatric sedation endorsement.	17-17-089				Jennifer Santiago	360-236-4893
Dental quality assurance commission	18.32.002 18.32.0357 18.32.0356 18.32.180	WAC 246-817-420 Specialty representation. The dental quality assurance commission is considering amendments to recognized specialties to include the American Board of Dental Specialties boards/areas of specialty and other potential specialties.	17-23-124	Anticipate filing			Jennifer Santiago	360-236-4893
Dental quality assurance commission	18.260.040 18.260.070 18.29.050 18.32.002 18.32.0365	WAC 246-817-580 Novel coronavirus disease 2019 screening. The dental quality assurance commission is considering permanent rule making to allow dentists to delegate administration of novel coronavirus disease 2019 (COVID-19) screening tests to registered dental assistants, licensed expanded function dental auxiliaries, and licensed dental hygienists with appropriate supervision and demonstration of competency.	Anticipate filing				Jennifer Santiago	360-236-4893
Dental quality assurance commission	18.32.002 18.32.0365 18.32.040	WAC 246-817-120 Examination content. The dental quality assurance commission is considering permanent rule making to add the Joint Commission on National Dental Examination's Dental Licensure Objective Structured Clinical Examination, a non-patient-based examination, to allowable practical/clinical examinations in WAC 246-817-120. The commission is also considering amendments to allow an applicant to pass components of the practical examination using one or more testing agencies, rather than only one agency.	20-18-040	Anticipate filing			Jennifer Santiago	360-236-4893

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
DOH	70.342.075 43.70.040	Title 246 WAC, creating a new chapter of rules to establish nicotine content measurement standards for closed system nicotine containers use with vapor products.	17-15-026				Stacia Wasmundt or Liz Clement	360-236-2568 (Stacia) or 360-236-3309
DOH	Chapter 43.70 RCW	Title 246 WAC, establishing a new chapter relating to rapid health information network data reporting.	17-21-075				Amanda Morse	206-437-2045
DOH	43.70.250 43.70.280	Title 246 WAC, Fees, WAC 246-843-990 nursing home administration, 246-810-990 counselors and hypnotherapist; and 246-849-990 ocularist.	20-01-072	Anticipate filing			Cori Tarzwell	360-236-4981
DOH	34.05.220 34.05.240 42.56.070 43.70.040	Chapter 246-08 WAC, Practice and procedure, rules regarding DOH adjudicative proceedings for declaratory orders; public record requests; agency indexes; and general agency administrative processes. DOH is reviewing existing rules within the chapter to identify amendments that may be necessary as a result of changes in statutes, changes in internal operations, opportunities to streamline processes to reduce regulatory burden without compromising public health and safety, and to provide clear, concise and reasonable rules. This rule making excludes: WAC 246-08-390 Acquisition, security, disclosure and destruction of health information, and 246-08-400, how much can a health care provider charge for searching and duplicating health care records.	19-16-114				Tami Thompson	360-628-0096
DOH	43.70.040 34.05.220 (1)(a)	WAC 246-10-109 and 246-11-080. DOH is considering amending the procedural rules applicable to adjudicative proceedings conducted by DOH and health professions boards and commissions in order to facilitate filing and serving documents. DOH is considering adding the option of e-filing documents with DOH's adjudicative clerk's office and serving documents to a party or a party's designated representative. DOH is considering retaining the option to file by hand delivery.	20-15-095	Anticipate filing			Tami Thompson	360-628-0096

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
DOH	43.70.280	Chapter 246-12 WAC, Administrative procedures and requirements for credentialed health care providers.	17-10-007				Stephanie Vaughn	360-236-4617
DOH	43.70.280	WAC 246-12-XXX Closure of abandoned incomplete health care credential applications.	17-10-045				Stephanie Vaughn	360-236-4617
DOH	43.70.075, and SHB 1049 (chapter 62, Laws of 2019)	Chapter 246-15 WAC, Whistleblower complaints in health care settings.	20-07-054	Anticipate filing			Marlee O'Neill	360-236-4845
DOH	43.70.510	Chapter 246-50 WAC, Coordinated quality improvement program (CQIP). DOH will review the CQIP chapter and will consider updating the rules for clarification, streamlining, modernization, and other necessary updates for compliance with state statute.	19-11-021	20-21-099	Anticipate filing		Jovi Swanson	360-545-7315
DOH	Chapter 43.70 RCW and ESHB 1094 (chapter 203, Laws of 2019)	Chapter 246-72 WAC, Medical marijuana consultant certification. DOH is opening chapter 246-72 WAC to consider amendments that would enhance and clarify training requirements and practice parameters of a medical marijuana certified consultant.	20-06-027	Anticipate filing			Shelly Rowden	360-236-2820
DOH	70.38.115 70.38.135 43.70.040	Chapter 246-310 WAC, Certificate of need. Amending, creating, and repealing rules in order to clarify, streamline, and modernize language including need methodologies.	20-02-008				Eric Hernandez	360-236-2956
DOH	70.41.030	Chapter 246-320 WAC, Hospital licensing regulations (construction standards only).	18-17-045				Susan Upton and John Williams	360-236-2950
DOH	71.12.670 43.70.040	Chapters 246-322 and 246-324 WAC, private psychiatric, alcoholism, and chemical dependency hospitals. Updating construction standards and merging chapters into one chapter.	16-19-037				Julie Tomaro	360-236-4987
DOH	SHB 2426 (chapter 115, Laws of 2020)	Chapter 246-322 WAC, Private psychiatric and alcoholism hospitals. DOH is considering creating a severity matrix for fines related to psychiatric hospital enforcement in order to implement SHB 2426.	20-14-108				Julie Tomaro	360-236-2937

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
DOH	71.12.670	WAC 246-337-040 Construction review services requirements. DOH is considering updating residential treatment facility rules to reflect upcoming changes to the Washington state building code.	20-07-124				John Hilger	360-236-2929
DOH	Chapters 71.05 and 71.24 RCW	Chapter 246-341 WAC, Behavioral health services administrative requirements. DOH is considering updating the chapter of rules for licensed and certified behavioral health agencies that will include: (1) Changes to reflect legislation; (2) changes related to federal requirements; (3) requests from partners and stakeholders for clarification, and areas of clean up that have been identified since DOH began regulating behavioral health agencies in 2018.	20-14-121	Anticipate filing			Julie Tomaro	360-236-2937
DOH	Chapters 70.114A and 43.70 RCW	Chapter 246-358 WAC, Temporary worker housing. DOH in conjunction with the department of labor and industries is considering including increased protections for housing occupants from communicable diseases such as COVID-19.	20-19-047				Dave Gifford	360-236-3074
DOH	43.70.040 70.170.060	Chapter 246-453 WAC, Hospital charity care.	18-18-073				Jennifer Landacre	360-236-2960
DOH	70.225.090 (2)(b)	Chapter 246-470 WAC, Prescription monitoring program (PMP). DOH is proposing to add a new section in rule to establish a waiver process and criteria for facilities, entities, offices, or provider groups with ten or more prescribers to apply for an exemption from the PMP and electronic health record integration required by SSB 5380.	20-03-038				Carly Bartz-Overman	360-236-3044
DOH	43.70.780	Chapter 246-770 WAC, Fruit and vegetable incentives. DOH is considering creating a new chapter to implement a fruit and vegetable incentives program.	21-01-186				Alyssa Auvienen	360-999-8967
DOH	18.380.110	Chapter 246-805 WAC, Applied behavior analysts (ABA). DOH is considering adopting a new section of rule to address temporary licensure for ABA practitioners.	17-17-020				Jeff Wise	360-236-4987

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
DOH	18.225.040 18.225.090	Chapter 246-809 WAC, Licensure for mental health counselors, marriage and family therapists, and social workers. Amending the topics of education, recordkeeping, mandatory reporting, supervision, approved supervisor, continuing education, and other licensing standards to make needed clarifications and technical changes.	18-11-029				Brandon Williams	360-236-4611
DOH	ESHB 2411 (chapter 229, Laws of 2020)	WAC 246-809-080, 246-809-615, 246-809-630, and 246-809-632, licensure for mental health counselors, marriage and family therapists, and social workers. DOH is considering amending rules to reflect legislation.	Anticipate filing				Brandon Williams	360-236-4611
DOH	18.205.060	Chapter 246-811 WAC, Chemical dependency professionals and chemical dependency professional trainees. DOH is considering amendments regarding chemical dependency professional trainee certification, supervision, approved supervisor requirements, disclosure information, disclosure statements, definitions, and clarifying and technical changes to other requirements, as needed.	18-11-030				Ted Dale	360-236-2991
DOH	18.138.070	Chapter 246-822 WAC, Dietitians or nutritionists. DOH is considering rule making to amend or repeal several existing sections of rule. Specific sections focus on mandatory reporting, examinations, and curriculum.	18-10-059				Ted Dale	360-236-2991
DOH	18.50.135	Chapter 246-834 WAC, Midwives. DOH is considering proposing revisions to WAC 246-834-050 Examination requirements for licensure as a midwife, 246-834-060 Initial application requirements for licensure as a midwife, 246-834-160 Student midwife permit, 246-834-250 Legend drugs and devices, and 246-834-370 Data submission.	Anticipate filing				Kathy Weed	360-236-4883

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
DOH	18.84.040 43.70.040	Chapter 246-926 WAC, Radiological technologists. DOH is considering clarifying, streamlining, and modernize [modernizing] the rules for cardiovascular invasive specialists, radiologic technologists, radiologist assistants, and X-ray technicians.	19-16-115				Debra Mendoza	360-236-4841
DOH	18.89.040 18.89.050	Chapter 246-928 WAC, DOH is considering creating a new section of rule to clarify the scope of practice regarding the administration of medications by respiratory therapists.	10-17-099				Ted Dale	360-236-2991
DOH	ESSB 6641 (chapter 266, Laws of 2020)	Chapter 246-930 WAC, Sex offender treatment provider. DOH is considering updating the chapter of rules for sex offender treatment providers to include changes to reflect legislation.	20-16-003	Anticipate filing			Brandon Williams	360-236-4611
DOH	18.64.005 18.64.043 18.64.044 18.64.045 18.64.046 18.64.047 18.64.080 18.64.140 18.64.205 18.64.310 18.64.460	Chapter 246-945 WAC, addressing fees. DOH, in consultation with the pharmacy, quality assurance commission (commission), is considering creating a new section to move fees for all license types collected by the commission into the newly created chapter 246-945 WAC. DOH, in consultation with the commission, will consider changes to renewal cycles, restructuring the fees for drug researchers as requested by stakeholders during public comment of the pharmacy chapter rewrite, and adding a new fee for the new registration of remote dispensing sites created by the passage of SSB 6086 (chapter 244, Laws of 2020).	20-14-129	Anticipate filing			Cori Tarzwell	360-236-4981
DOH	Chapters 70.168 and 18.73 RCW	Chapter 246-976 WAC, excluding WAC 246-976-420, 246-976-580, and 246-976-700. DOH is considering updating the chapter to align with the national standards and streamline applications.	17-24-013				Catie Holstein	360-236-2830

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
DOH	SSB 5380 (section 19, chapter 314, Laws of 2019)	Chapter 246-976 WAC, Emergency medical services (EMS) and trauma care systems. DOH is considering updating the sections of this chapter relating to EMS data to respond to legislative requirements required by SSB 5380. New sections may be added as required.	20-17-011				Jim Jansen	360-236-2821
DOH	18.88B.021 18.88B.060	Chapter 246-980 WAC, Home care aides, DOH is considering amending the rules to allow a one-time opportunity to extend the applicant's work period beyond the initial date of hire to allow individuals to complete their initial certification and reduce barriers to reentry.	20-07-049	Anticipate filing			Stacey Saunders	360-236-2813
Examining board of psychology	18.83.090	WAC 246-924-230 Continuing education requirements. The board of psychology is considering reducing the number of hours required for continuing education.	Anticipate filing				Stacey Saunders	360-236-2813
Examining board of psychology	ESHB 2411 (chapter 229, Laws of 2020) and ESHB 1551 (chapter 76, Laws of 2020)	WAC 246-924-255 and 246-924-110, the examining board of psychology is considering amending WAC 246-924-255 to implement ESHB 2411 (suicide intervention) and considering repealing WAC 246-924-110 to implement ESHB 1551 to repeal AIDS training requirements.	20-17-082	Anticipate filing			Stacey Saunders	360-236-2813
Nursing care quality assurance commission	18.79.110	WAC 246-840-111, 246-840-125, 246-840-200 through 246-840-260, nursing continuing competency.	19-01-001	Anticipate filing			Shad Bell	360-236-4711
Nursing care quality assurance commission	18.79.110 18.79.250 18.79.260 18.79.270	WAC 246-840-300, 246-840-700 through 246-840-710, nursing scope of practice.	19-01-002				Shad Bell	360-236-4711
Nursing care quality assurance commission	18.79.110 18.79.400 18.79.800	Chapter 246-840 WAC, Practical and registered nursing—Advanced practice pain management rules.	19-15-092				Shad Bell	360-236-4711
Nursing care quality assurance commission	18.79.110	WAC 246-840-010, 246-840-840, 246-840-850, 246-840-860, and 246-840-905, include licensed practical nurse students as eligible for the nursing technician credential.	20-11-044	Anticipate filing			Shad Bell	360-236-4711

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
Nursing care quality assurance commission	ESHB 1551 (chapter 76, Laws of 2020)	WAC 246-840-025, 246-840-030, 246-840-045, 246-840-090, 246-840-539, 246-840-541, 246-840-860, 246-840-905, 246-841-490, 246-841-578, 246-841-585 and 246-841-610, repealing requirements for AIDS education and training in support of ESHB 1551.			Anticipate filing	20-18-045	Shad Bell	360-236-4711
Nursing care quality assurance commission	18.88A.060	Chapters 246-841 and 246-842 WAC, nursing assistants chapter review.	Anticipate filing				Shad Bell	360-236-4711
Pharmacy quality assurance commission and DOH	SSB 5380 (chapter 314, Laws of 2019)	Chapter 246-945 WAC, the pharmacy quality assurance commission and DOH, jointly, are considering creating a new section to implement a waiver to the e-prescribing requirement as outlined in SSB 5380.	20-03-020	Anticipate filing			Lindsay Trant	360-236-2932
Pharmacy quality assurance commission	18.64.005 18.64.080 18.130.075 18.64.043 18.64.044 18.64.045 18.64.046 18.64.370 18.64.460 69.50.310 18.64.011 18.64.245 18.64.470 18.64.255 18.64.205 18.64.253 18.64.410 18.64.500 18.64.590	Chapters 246-856, 246-858, 246-860, 246-863, 246-865, 246-867, 246-869, 246-870, 246-871, 246-873, 246-874, 246-875, 246-877, 246-878, 246-879, 246-881, 246-883, 246-885, 246-886, 246-887, 246-888, 246-889, 246-891, 246-895, 246-897, 246-899, 246-901 (except for WAC 246-901-061), 246-903, 246-904, and 246-905 WAC. The pharmacy quality assurance commission (commission) consolidated multiple chapters of rules into one chapter, chapter 246-945 WAC, that covers the practice of pharmacy. The commission is proposing to repeal these old chapters relating to the practice of pharmacy.			Anticipate filing	20-16-045	Lindsay Trant	360-236-2932
Pharmacy quality assurance commission	SSB 6086 (chapter 244, Laws of 2020)	Chapter 246-945 WAC, considering creating a new section to allow remote dispensing sites for opioid use disorder as required by SSB 6086.	20-14-129				Lindsay Trant	360-236-2932
Pharmacy quality assurance commission	SSB 6526 (chapter 264, Laws of 2020)	Chapter 246-945 WAC, creating a new section allowing for the donation and reuse of unexpired drugs as required by SSB 6526.	20-17-143				Lindsay Trant	360-236-2932
Podiatric medical board	Chapter 18.22 RCW	Chapter 246-922 WAC, opening the chapter to consider amendments to update and modernize the chapter following review under RCW 43.70.041.	Anticipate filing				Susan Gragg	360-236-4941

Authority	RCW or Session Law	WAC and Rule Title	CR-101 WSR #	CR-102 WSR #	CR-103 WSR #	CR-105 WSR #	Program Contact Name	Program Contact Phone
Veterinary board of governors	18.92.030 18.92.260	WAC 246-933-501 through 246-933-590, authorizing animal care and control agencies and nonprofit humane societies to provide veterinary services.	20-01-013	Anticipate filing			Loralei Walker	360-236-4947
Veterinary board of governors	ESHB 2411 (chapter 229, Laws of 2020) and ESHB 1551 (chapter 76, Laws of 2020)	Chapter 246-933 WAC, suicide prevention education, and repealing AIDS education requirements.	20-24-095				Loralei Walker	360-236-4947
Washington medical commission	18.71.017 18.71.002 18.130.050	Chapters 246-919 and 246-918 WAC, the Washington medical commission (commission) is considering creating two new rule sections that will establish a clinical assistance program to resolve practice deficiencies that may not rise to the level of a license sanction or revocation through a plan of education, training, and/or supervision for allopathic physicians and physician assistants. The commission will consider amending other related rules as needed.	18-06-007	Anticipate filing			Amelia Boyd	360-236-2727
Washington medical commission	18.71.017 18.71A.020	WAC 246-918-801 (physician assistants) Exclusion and 246-919-851 (physicians) Exclusions. The Washington medical commission is considering amendments to expand the types of patents [patients] who are exempt from certain provisions of rule when being prescribed opioid drugs.	20-08-070				Amelia Boyd	360-236-2727
Washington medical commission	18.71.017 18.130.050	Chapters 246-918 and 246-919 WAC, adding new sections regarding telemedicine.	19-19-072	Anticipate filing			Amelia Boyd	360-236-4766
Washington medical commission	18.71.017 18.130.050	Chapters 246-918 and 246-919 WAC, adding new sections regarding stem cell therapies.	20-09-132	Anticipate filing			Amelia Boyd	360-236-4766
Washington medical commission	18.71.017 18.130.050 18.71A.020	Chapters 246-918 and 246-919 WAC, adding new sections regarding collaborative drug therapy agreements.	Anticipate filing				Amelia Boyd	360-236-4766
Washington medical commission	SB 6551 (chapter 325, Laws of 2020)	Chapter 246-919 WAC, considering adding new sections of rule establishing a waiver and experience license for international medical grads as required by SB 6551.	Anticipate filing				Amelia Boyd	360-236-4766

WSR 21-04-075
AGENDA
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed January 29, 2021, 2:29 p.m.]

Following is the department of labor and industries' (L&I) semi-annual rules development agenda for January 1 through June 30, 2021.

This report details current and anticipated rule-making activities for L&I. This agenda is for information purposes, and the noted dates of anticipated rule-making actions are estimates. There may be additional rule-making activities not anticipated at this time, such as to implement new state laws, meet federal requirements, or other circumstances.

Please contact Tracy West at 360-902-6954 or Tracy.West@Lni.wa.gov if you have any questions.

Semi-Annual Rules Development Agenda
January 1 - June 30, 2021

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Division: Administrative Services						
296-30 296-31 296-33	Crime victims compensation	Maty Brimmer Crime Victims 360-902-6707	TBD	TBD	TBD	This rule making pertains to the administration of the crime victims compensation (CVC) program, mental health treatment rules and fees, and attendant services. This rule making will consider adopting some rules from chapters 296-14, 296-20, 296-21, 296-23, 296-23A, and 296-23B WAC.
Division: Division of Occupational Safety and Health (DOSH)						
296-36 296-155 Part Q	Compressed air (tunnels)	Chris Miller DOSH Standards Program 360-902-5516	9/18/12	TBD	TBD	This rule making is in response to petitions and other requests from labor and business industry stakeholders to update the compressed air work requirements in chapters 296-36 and 296-155 WAC Part Q.
296-62 296-155	Lead	Chris Miller DOSH Standards Program 360-902-5516	4/19/16	TBD	TBD	This rule making is in response to a petition and a series of stakeholder meetings. This rule making was initiated to update existing lead standards in both general industry and construction in light of increasing evidence of the hazards associated with occupational lead exposure.
296-67	Process safety management of highly hazardous chemicals (PSM) for petroleum refineries	Chris Miller DOSH Standards Program 360-902-5516	8/22/17	TBD	TBD	The purpose of this rule making is to amend existing sections and create several new sections in chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals, which will only apply to petrochemical refining facilities. The current rules are outdated, not having been updated in over twenty years and do not reflect current industry practices.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-52	Safety standards for possession, handling, and use of explosives	Chris Miller DOSH Standards Program 360-902-5516	1/23/18	TBD	TBD	In order to reflect technological advancements in explosives over the past ten to thirty years, and better align with federal regulations, L&I is updating the safety standards for possession, handling, and use of explosives. Focus areas will likely include definitions, licensing, storage, background check requirements, public disclosure, and transportation, among others sections.
296-155	Crane incident reporting requirement	Chris Miller DOSH Standards Program 360-902-5516	3/20/18	TBD	TBD	The purpose of this rule making is to provide clarity on L&I's interpretation of requirements relating to crane decertification and reinstatement. This rule making intends to address what activities are covered, and will clearly state that damage to critical parts of the crane would require notification, rather than just implying it. This rule making will include additional housekeeping changes as well.
296-155 Part S	Demolition standards	Chris Miller DOSH Standards Program 360-902-5516	7/5/18	2/2/21	4/20/21	The purpose of this rule making is to update the requirements regarding demolition standards. This rule making will remove confusing and unnecessary language, as well as add clarification where necessary throughout the rule to improve safety. Other updates and housekeeping changes may also be made throughout the chapter.
296-800	Adult entertainer safety (EHB 1756)	Chris Miller DOSH Standards Program 360-902-5516	11/5/19	TBD	TBD	The purpose of this rule making is to implement the requirements of EHB 1756 (chapter 304, Laws of 2019) codified under RCW 49.17.470, for adult entertainer safety in the accident prevention plan and other measures.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-155 Part L	Cranes, rigging, and personnel lifting	Chris Miller DOSH Standards Program 360-902-5516	11/19/19	TBD	TBD	This rule making [is] in response to Occupational Safety and Health Administration (OSHA) updating their standards for crane operator licensing/certification requirements and establishing minimum requirements for determining operator competency. Additionally, state-initiated amendments will also be proposed to address other areas in rule relating to cranes that either need to be updated based on current industry practice or clarifying some of the language to maintain safety and health protections for employees.
296-67	High hazard facilities workforce (ESHB 1817)	Chris Miller DOSH Standards Program 360-902-5516	2/18/20	TBD	TBD	The purpose of this rule making is to implement 2019's ESHB 1817, chapter 49.80 RCW, high hazard facility workforce. Chapter 49.80 RCW requires owners of petroleum refining or petrochemical manufacturing facilities use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work. This rule will address the advanced safety-training curriculum and training provider approval requirements.
296-307	Temporary worker housing (TWH)	Chris Miller DOSH Standards Program 360-902-5516	9/10/20	TBD	TBD	The purpose of this rule making, in conjunction with the department of health (DOH), is to consider permanent amendments to further protect occupants in TWH and cherry harvest camps. In February 2020, Governor Inslee proclaimed a State of Emergency in Washington state as a result of the coronavirus disease 2019 (COVID-19) outbreak, followed by proclamations and amendments. DOH and L&I also responded to the COVID-19 pandemic by adopting emergency rules to protect occupants from COVID-19 hazards in licensed TWH.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-62	Wildfire smoke	Chris Miller DOSH Standards Program 360-902-5516	10/20/20	TBD	TBD	The purpose of this rule making is to develop new workplace safety and health rules regarding wildfire smoke. Some of the issues that may be addressed include: Identification of harmful exposures, communication, training and instruction, and control of harmful exposures.
296-307 Parts A, I, and O	eRules reformatting, Phase XII	Chris Miller DOSH Standards Program 360-902-5516	11/3/20 (CR-105 Expedited)	N/A	2/2/21	This rule making is the twelfth filing package to reformat all DOSH rules. The purpose of this rule making is to provide consistency in formatting and design, and accessibility to the rules via mobile electronic devices.
296-900	Posting citation and notices	Chris Miller DOSH Standards Program 360-902-5516	12/22/20	TBD	TBD	The purpose of this rule making is to update WAC 296-900-13015, changing the length of time that a citation and notice, and any correspondence related to an employee complaint, needs to be posted on an employee safety bulletin board. L&I is considering changing the amount of time will be updated from three working days to seven working days.
296-800	Biological hazards	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The purpose of this rule making is to clarify to protect employees from all biological agents be it airborne, droplets, fluids, or any other methods.
296-307 Part I	Worker protection standard (pesticides) administrative changes	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The purpose of this rule making is to amend for house-keeping corrections from previous rule making to align language with the department of agriculture and add a table that is missing.
296-850	Beryllium	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	This rule making is in response to OSHA updating their standards [for] beryllium, beryllium compounds and dermal exposure issues.
296-823	Infectious diseases	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The purpose of this rule making is to establish control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. During public health emergencies, disease outbreaks involving community spread of a pathogen may endanger workers in a wide range of settings.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-840 296-307	Respirable crystalline silica (agriculture)	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The purpose of this rule making is to clarify the application of the respirable crystalline silica rules in agriculture.
269-307 Part Y	Precommercial thinning	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The rule making is to consider establishing minimum safety standards for precommercial thinning in agriculture.
Division: Field Services and Public Safety						
296-150F	Factory assembled structures (FAS): Factory-built housing and commercial structures	Alicia Curry Field Services and Public Safety 360-902-6244	7/2/19	TBD	TBD	The purpose of this rule making is to update the rules regarding factory-built housing and commercial structures, to include panelized construction. This rule making will include intent to make the rules related to E2SHB 1257 Energy efficiency, HB 1486 Delegation of authority, and SB 5383 Tiny homes.
296-150I 296-150M	FAS: Manufactured homes and manufactured home installer training and certification program	Alicia Curry Field Services and Public Safety 360-902-6244	8/20/19	4/20/21	7/6/21	The purpose of this rule making is to update existing rules to comply with United States Department of Housing and Urban Development (HUD) regulations. In 2017, HUD reviewed FAS rules and standards for manufactured housing installations to ensure the program's compliance with HUD regulations. This rule making addresses HUD's findings that require revisions to L&I's rules. Additionally, the program is reviewing all rules in chapter 296-150I WAC for updates, clarity, and housekeeping changes.
296-96	Elevator rules	Alicia Curry Field Services and Public Safety 360-902-6244	10/22/19	TBD	TBD	The purpose of this rule making is to consider changes to the elevator rules. L&I's elevator program is reviewing specific sections of the elevator rules to update and clarify existing rules, make reference corrections, perform general housekeeping, and consider other rule changes.
296-104	Boiler rules and fee increase	Alicia Curry Field Services and Public Safety 360-902-6244	10/6/20	12/1/20	1/19/21	The purpose of this rule making is to update and clarify existing rules, increase fees by the fiscal growth factor of 5.91 percent for fiscal year 2021 to support operating expenses for inspections, and to modify the civil penalties for repairs and alterations to improve public safety.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-150C 296-150F 296-150I 296-150M 296-150P 296-150T 296-150V	FAS fee increase	Alicia Curry Field Services and Public Safety 360-902-6244	11/3/20	12/22/20	2/16/21	The purpose of this rule making is to update FAS rules to increase fees by 5.91 percent for fiscal year 2021. The budget and projected revenue of the FAS program was evaluated and a fee increase is needed to support the cost of ongoing services.
296-46B	Electrical board—Appeal rights and hearings	Alicia Curry Field Services and Public Safety 360-902-6244	12/1/20	3/2/21	5/18/21	The purpose of this rule making is to consider amendments to the electrical rules governing appeals and the appeal process under WAC 296-46B-995. The state's electrical board petitioned L&I to amend the rules for the purpose of clarifying, simplifying, and making the procedures for appeals to the board easier to understand and navigate.
296-46B	Electrical fee increase	Alicia Curry Field Services and Public Safety 360-902-6244	2/16/21	4/6/21	5/18/21	The purpose of this rule making is to consider a fee increase of 5.79 percent for the electrical program to support operating expenses for inspections. This is the office of financial management's (OFM) maximum allowable fiscal growth rate for fiscal year 2022. L&I evaluated the budget and projected revenue of the program and determined a fee increase is needed to help cover the cost of ongoing services.
296-104	Boiler fee increase	Alicia Curry Field Services and Public Safety 360-902-6244	TBD	TBD	TBD	The purpose of this rule making is to consider a fee increase of 5.79 percent for the boiler program to support operating expenses for inspections. This is OFM's maximum allowable fiscal growth rate for fiscal year 2022. L&I evaluated the budget and projected revenue of the program and determined a fee increase is needed to help cover the cost of ongoing services.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Division: Fraud Prevention and Labor Standards						
296-140 (new)	Clean energy labor standards certification	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	11/27/19	TBD	TBD	The Clean Energy Transformation Act (E2SSB 5116) of 2019 requires L&I adopt permanent rules related to labor standard certification for certain tax exemptions for alternative energy projects. The purpose of this rule making is to define and set minimum requirements for all labor standards associated with the certification for tax remittance; set requirements for all good faith efforts; and set other requirements for documentation and the certification process. L&I filed emergency rules on November 27, 2019, which became effective on January 1, 2020. Emergency rules were filed again on March 27, July 23, and November 20, 2020, as rule making is still ongoing.
296-05	Apprenticeship rules	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	1/19/21	TBD	TBD	The purpose of this rule making is to amend WAC 296-05-008 Meetings and adjudicative proceedings, to allow the Washington state apprenticeship and training council to hold special meetings to meet more often than quarterly to consider records and enter final orders following adjudication processes. L&I adopted emergency rules on January 19, 2021.
296-200A	Contractor registration	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	TBD	TBD	TBD	The purpose of this rule making is to consider changes to the contractor registration rules. L&I's contractor registration program is reviewing specific sections of the contractor rules to update and clarify existing rules, make reference corrections, perform general housekeeping, and pursue a fiscal growth factor increase for fiscal year 2022 (5.79 percent).
296-400A	Plumber certification rules	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	TBD	TBD	TBD	The purpose of this rule making is to consider changes to the plumbing rules. L&I's plumber program is reviewing specific sections of the plumber rules to update and clarify existing rules, make reference corrections, perform general housekeeping, and look at fee increases for fiscal year 2022.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Division: Insurance Services						
296-17 296-17A	Employment covered by RCW 51.32.187 (department of energy Hanford site contractors)	Jo Anne Attwood Employer Services 360-902-4723	3/3/20	9/22/20 (withdrawn 1/22/21)	TBD	The purpose of this rule making is to allow contractors of the United States Department of Energy working at the Hanford site to have their contractors and subcontractors covered under the state fund. L&I filed continuances on October 27 and November 6, 2020, ultimately extending the comment period to February 1, 2021. The CR-102 Proposal was withdrawn on January 22, 2021, due to the need for more stakeholder involvement and coordination. L&I will continue working with stakeholders to refine proposed rules for potential future rule making.
296-17 296-17A	Classification and reporting amendments 2022	Jo Anne Attwood Employer Services 360-902-4777	TBD	TBD	TBD	The purpose of this rule making is to implement clear rule writing to ensure L&I staff and customers can easily understand and apply the workers' compensation insurance classifications and reporting rules. Classification development studied some subclassifications for potential reduction in number, and reviewed reporting rules for improvement.
296-17 296-17B	Industrial insurance premium rates 2022	Jo Anne Attwood Employer Services 360-902-4777	6/22/21	9/21/21	11/30/21	This rule making establishes the premium rates and experience rating parameters for calendar year 2022.
296-23	Independent medical examinations (IMEs)	Kristen Baldwin-Boe Health Services Analysis 360-902-6815	10/6/20	TBD	TBD	The purpose of this rule making is to create new rules required by ESSB 6440 to address how to accommodate an injured worker if no approved independent medical examiner in the specialty needed is available in a reasonably convenient location, as well as how telemedicine IMEs may be used.
296-20 296-23	Medical aid rules update	Emily Stinson Health Services Analysis 360-902-5974	12/22/20	3/2/21	5/18/21	The purpose of this rule making is to update payment rates for health care services, which are published annually in the medical aid rules and fee schedules.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-23A	Outpatient hospitals (medical aid rules)	Dee Hahn Health Services Analysis 360-902-2868	TBD	TBD	TBD	The purpose of this rule making is to consider amending two rules that L&I determined are in conflict with each other because the underlying federal regulations (per Centers for Medicare and Medicaid Services) changed January 1, 2017 (creating the conflict).
296-14	Presumptive posttraumatic stress disorder (PTSD) coverage (SSB 6214)	Suzy Campbell Legal Services 360-902-5003	8/21/18	TBD	TBD	The purpose of this rule making is to update existing rules and create new rules needed to implement SSB 6214, allowing industrial insurance coverage for PTSD of law enforcement, firefighters and emergency medical technicians.
296-14	Occupational disease presumption	Jordan Ely Legal Services 360-902-4616	11/19/19	TBD	TBD	The purpose of this rule making is to amend existing rules that conflict with RCW 51.32.185, and clarify presumptive coverage for certain firefighters, law enforcement officers, and emergency medical technicians covered under workers' compensation. Legislation passed during the 2019 and 2018 sessions (chapter 133, Laws of 2019, HB 1913; and chapter 264, Laws of 2018, SSB 6214) resulted in updates to RCW 51.32.185.
296-21	Master's level therapists pilot	Suzy Campbell Legal Services 360-902-5003	12/3/19	TBD	TBD	The purpose of this pilot rule making is to allow master's level therapists (MLTs) to treat injured workers. L&I decided to initiate a pilot to help determine how MLTs can best be incorporated into the workers' compensation setting. Under this pilot, these current provisions related to treatment by MLTs are waived for pilot participants only. The pilot will begin on January 1, 2020, and the exceptions granted are effective throughout a four-year pilot period or as otherwise specified.
296-14	Pension discount rate 2021	Suzy Campbell Legal Services 360-902-5003	8/18/20	10/20/20	1/5/21	The purpose of this rule making was to reduce the current pension discount rate for 2021. The pension discount rate is the interest rate used to account for the time value of money when evaluating the present value of future pension payments.

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-17B	Retrospective rating for workers' compensation insurance	Rachelle Bohler Retrospective Rating 360-902-5967	11/5/13	TBD	TBD	This rule making will address extending requirements for businesses that enroll in individual retro plans and revise enrollment requirements for businesses under common majority ownership.
296-17B	Retrospective rating for workers' compensation insurance—Common ownership (pilot)	Rachelle Bohler Retrospective Rating 360-902-5967	8/5/15	TBD	TBD	This pilot rule making will consider/allow exceptions to the retroactive rating program's current common ownership rule (WAC 296-17B-770) as written.
296-15	Licensing and certification of administrators (SHB 2409)	Sue Callaghan Strategic Business Office 360-902-4913; Starla Treznoski Self-Insurance 360-902-5668	10/6/20	3/2/21	5/18/21	The purpose of this rule making is to update existing rules and create new rules as needed to implement SHB 2409, which requires the licensing of third party administrators and certification of all claims administrators.
296-15	Self-insurance financial rules	Brian Schmidkofer Self-Insurance 360-902-6839	11/17/20	TBD	TBD	The purpose of this rule making is to update the rules for the financial qualification and maintenance of self-insurance certification, so that these rules are consistent with modern business practices. Existing rules will be amended, and new sections may be added.
296-15	Communication of mental health information (SHB 1909)	LaNae Lien Self-Insurance 360-902-6968	11/17/20 (withdrawn 1/26/21)			The purpose of [this] rule making was to amend the existing claim file confidentiality rules regarding the release of mental health records to align with recent amendments to statute RCW 51.28.070. The CR-101 preproposal was withdrawn on January 26, 2021. Based on stakeholder input, L&I decided not to proceed with rule making and instead will put the worker's rights language on the self-insured accident report form (SIF-2).

Tracy West
Rules Coordinator

WSR 21-04-083
RULES OF COURT
STATE SUPREME COURT

[December 2, 2020]

IN THE MATTER OF THE PROPOSED) ORDER
AMENDMENTS TO GR 13—USE OF) NO. 25700-A-1324
UNSWORN STATEMENT IN LIEU OF)
AFFIDAVIT, GR 30—ELECTRONIC)
FILING AND SERVICE, CrR 2.2—WAR-)
RANT OF ARREST AND SUMMONS,)
CrR 2.3—SEARCH AND SEIZURE, CrR)
3.2.1—PROCEDURE FOLLOWING W)
ARRANTLESS ARREST—PRELIMI-)
NARY APPEARANCE, CrRLJ 2.1—)
COMPLAINT—CITATION AND)
NOTICE, CrRLJ 2.2—WARRANT OF)
ARREST OR SUMMONS UPON COM-)
PLAINT, CrRLJ 2.3—SEARCH AND)
SEIZURE, CrRLJ 3.2.1—PROCEDURE)
FOLLOWING WARRANTLESS)
ARREST—PRELIMINARY HEARING,)
CrRLJ 3.6—SUPPRESSION PROCE-)
DURE, IRLJ 6.7—IDENTITY CHAL-)
LENGES AND RELIEF FROM JUDG-)
MENT, RALJ 6.3.1—TRANSCRIPT OF)
ELECTRONIC RECORD, JuCR 7.3—)
DETENTION AND RELEASE, SPR)
98.16W—ESTATES—GUARDIAN-)
SHIP—SETTLEMENT OF CLAIMS OF)
MINORS AND INCAPACITATED PER-)
SONS)

The Board of Judicial Administration, Superior Court Judges' Association and District and Municipal Court Judges' Association Legislative Committees, having recommended the adoption of the Proposed Amendments to GR 13—Use of Unsworn Statement in Lieu of Affidavit, GR 30—Electronic Filing and Service, CrR 2.2—Warrant of Arrest and Summons, CrR 2.3—Search and Seizure, CrR 3.2.1—Procedure Following Warrantless Arrest—Preliminary Appearance, CrRLJ 2.1—Complaint—Citation and Notice, CrRLJ 2.2—Warrant of Arrest or Summons Upon Complaint, CrRLJ 2.3—Search and Seizure, CrRLJ 3.2.1—Procedure Following Warrantless Arrest—Preliminary Hearing, CrRLJ 3.6—Suppression Procedure, IRLJ 6.7—Identity Challenges and Relief From Judgment, RALJ 6.3.1—Transcript of Electronic Record, JuCR 7.3—Detention and Release, SPR 98.16W—Estates—Guardianship—Settlement of Claims of Minors and Incapacitated Persons, 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 2nd day of December, 2020.

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

PROPOSED AMENDMENT:
GR 13
USE OF UNSWORN STATEMENT IN LIEU OF AFFIDAVIT

(a) Definitions.

(a) Unsworn Statement Permitted. Except as provided in section (b) whenever a matter is required or permitted to be supported or proved by affidavit, the matter may be supported or proved by an unsworn written statement, declaration, verification, or certificate executed by affixing or placing their signature in accordance with RCW 9A.72.085 GR 30.

The unsworn statement must state: (1) that it is certified or declared by the person to be true under penalty of perjury; (2) the date and place of its execution; and (3) that it is so certified or declared under the laws of the state of Washington.

The certification or declaration may be in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:

(Date and Place)

(Signature)

(b) Exceptions. [Unchanged.]

PROPOSED AMENDMENT:
GR 30
ELECTRONIC FILING AND SERVICE

(a) Definitions.

(1) "Digital signature" is defined in RCW 19.34.020.

(2) "Electronic Filing" is the electronic transmission of information to a court or clerk for case processing.

(2)(3) "Electronic Document" is an electronic version of information traditionally filed in paper form, except for documents filed by facsimile which are addressed in GR 17. An electronic document has the same legal effect as a paper document.

(3)(4) "Electronic Filing Technical Standards" are those standards, not inconsistent with this rule, adopted by the Judicial Information System committee to implement electronic filing.

(4) "Electronic signature" is an electronic image of the handwritten signature of an individual; or other electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, including but not limited to "/s/ [name of signatory]".

(5) "Filer" is the person whose user ID and password are used to file an electronic document.

Comment

The form of "digital signature" that is acceptable is not limited to the procedure defined by chapter 19.34 RCW, but

may include other equivalently reliable forms of authentication as adopted by local court rule or general order.

(b) - (c) [Unchanged.]

(d) Authentication of Electronic Documents.

(1) [Unchanged.]

(2) *Signatures*

(A) Attorney Signatures—An electronic document which requires an attorney's signature may be signed with a ~~digital~~ an electronic signature or signed in the following manner:

s/John Attorney
State Bar Number 12345
ABC Law Firm
123 South Fifth Avenue
Seattle, WA 98104
Telephone: (206) 123-4567
Fax: (206) 123-4567
E-mail: John.Attorney@lawfirm.com

(B) Non-attorney signatures—An electronic document which requires a non-attorney's signature and is not signed under penalty of perjury may be signed with a ~~digital~~ an electronic signature or signed in the following manner:

s/John Citizen
123 South Fifth Avenue
Seattle, WA 98104
Telephone: (206) 123-4567
Fax: (206) 123-4567
E-mail: John.Citizen@email.com

(C) Non-attorney signatures on documents signed under penalty of perjury—Except as set forth in (d)(2)(D) of this rule, if the original document requires the signature of a non-attorney signed under penalty of perjury, the filer must either:

(i) Scan and electronically file the entire document, including the signature page with the signature, and maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter; or

(ii) Ensure the electronic document has the ~~digital~~ electronic signature of the signer.

(D) [Unchanged.]

(E) Multiple signatures—If the original document requires multiple signatures, the filer shall scan and electronically file the entire document, including the signature page with the signatures, unless:

(i) The electronic document contains the ~~digital~~ electronic signatures of all signers; or

(ii) For a document that is not signed under penalty of perjury, the signator has the express authority to sign for an attorney or party and represents having that authority in the document.

If any of the non-~~digital~~ electronic signatures are of non-attorneys, the filer shall maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter.

(F) [Unchanged.]

(3) An electronic document filed in accordance with this rule shall bind the signer and function as the signer's signature for any purpose, including CR 11. An electronic document shall be deemed the equivalent of an original signed document if the filer has complied with this rule. All elec-

tronic documents signed under penalty of perjury must conform to the oath language requirements set forth in ~~RCW 9A.72.085 and~~ GR 13.

(e) [Unchanged.]

PROPOSED AMENDMENT:

CrR 2.2

WARRANT OF ARREST AND SUMMONS

(a) Warrant of Arrest.

(1) [Unchanged.]

(2) *Probable Cause.* Before ruling on a request for a warrant the court may require the complainant to appear personally and may examine under oath the complainant and any witnesses the complainant may produce. A warrant of arrest may not issue unless the court determines that there is probable cause to believe that the defendant committed the offense charged. The court shall determine probable cause based on an affidavit, a ~~document~~ statement as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically, stenographically, or through any other reliable means. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

(3) [Unchanged.]

(b) - (g) [Unchanged.]

PROPOSED AMENDMENT:

CrR 2.3

SEARCH AND SEIZURE

(a) - (b) [Unchanged.]

(c) **Issuance and Contents.** A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. The evidence in support of the warrant must be in the form of affidavits, a ~~document~~ statement as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony establishing the grounds for issuing the warrant and may be provided to the court by any reliable means. Any sworn testimony must be recorded and made part of the court record and shall be transcribed if requested by a party if there is a challenge to the validity of the warrant or if ordered by the court. The evidence in support of the finding of probable cause shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purpose to affix the court's signature to a warrant identifying the property or person and naming or describing the person, place, or thing to be searched. The court's authorization may be communicated by any reliable means. A record shall be made of any additional evidence on which the court relies. The warrant shall be directed to any peace officer and shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place, or thing named for the property or person specified. The warrant shall designate the court to which the warrant shall be returned. The warrant may be served at any time

(d) - (f) [Unchanged.]

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

PROPOSED AMENDMENT:

CrR 3.2.1

**PROCEDURE FOLLOWING WARRANTLESS ARREST—
PRELIMINARY APPEARANCE**

(a) [Unchanged.]

(b) **How Determined.** The court shall determine probable cause on evidence presented by a peace officer or prosecuting authority in the same manner as provided for a warrant of arrest in CrR 2.2(a). If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for subsequent court hearings, the court shall proceed to determine whether probable cause exists to believe that the accused committed the crime alleged, unless this determination has previously been made by a court. Before making the determination, the court may consider affidavits, ~~documents statements~~ as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony, and further may examine under oath the affiant and any witnesses the affiant may produce. Evidence may be provided by any reliable means. Sworn testimony shall be recorded electronically, stenographically, or through any other reliable means. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations, and may be hearsay in whole or in part. The court's probable cause determination may be recorded by any reliable means.

(c) - (f) [Unchanged.]

PROPOSED AMENDMENT:

CrRLJ 2.1

COMPLAINT—CITATION AND NOTICE

(a) **Complaint.** [Unchanged.]

(b) **Citation and Notice To Appear.**

(1) - (3) [Unchanged.]

(4) *Certificate.* The citation and notice shall contain a form of certificate by the citing official that he or she certifies, under penalties of perjury, as provided by ~~RCW 9A.72.085, and any law amendatory thereto~~ GR 13, that he or she has probable cause to believe the person committed the offense charged contrary to law. The certificate need not be made before a magistrate or any other person.

(5) [Unchanged.]

(c) - (d) [Unchanged.]

PROPOSED AMENDMENT:

CrRLJ 2.2

WARRANT OF ARREST OR SUMMONS UPON COMPLAINT

(a) **Issuance of Warrant of Arrest.**

(1) [Unchanged.]

(2) *Probable Cause.* A warrant of arrest must be supported by an affidavit, a ~~document statement~~ as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically, stenographically, or by any reliable method. The evidence shall be preserved. The court must determine there is probable cause to believe that the defendant has committed the crime alleged before issuing the warrant. The evidence shall be subject to

constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

(3) [Unchanged.]

(b) - (g) [Unchanged.]

PROPOSED AMENDMENT:

CrRLJ 2.3

SEARCH AND SEIZURE

(a) - (b) [Unchanged.]

(c) **Issuance and Contents.** A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. An affidavit, a ~~document statement~~ as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony establishing the grounds for issuing the warrant must be provided or transmitted to the court by any reliable method. Sworn testimony must be in writing, recorded, or otherwise preserved. The record shall include any additional evidence relied upon by the court. The recording, or a duplication of the recording, shall be a part of the court record and shall be provided if requested or if ordered by the court. The evidence in support of the finding of probable cause shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purposes to affix the court's signature to a warrant. The authorization of the warrant may be done through any reliable method. The warrant may be directed to any peace officer. The warrant shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place, or thing named for the property or person specified. The warrant shall designate the court to which the warrant shall be returned. The warrant shall be returned to the issuing court, filed in the court record, and available for public review unless ordered sealed by the court. Unless otherwise designated by the issuing court, the warrant may be served at any time of day or night.

(d) - (g) [Unchanged.]

Comment

[Unchanged.]

PROPOSED AMENDMENT:

CrRLJ 3.2.1

**PROCEDURE FOLLOWING WARRANTLESS ARREST—
PRELIMINARY HEARING**

(a) **Probable Cause Determination.** [Unchanged.]

(b) **How Determined.** The court shall determine probable cause on evidence presented by a peace officer or prosecuting authority in the same manner as provided for a warrant of arrest in CrRLJ 2.2(a). In making the probable cause determination, the court may consider an affidavit, a ~~document statement~~ as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony, and further may examine under oath the affiant and any witnesses the affiant may produce. Sworn testimony, including telephonic statements, shall be recorded electronically, stenographically, or by any reliable method. The written or recorded evidence considered by the court may be hearsay in whole or part. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations. The

court's probable cause determination may be recorded through any reliable method. If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for a court hearing, the court shall proceed to determine whether probable cause exists to believe that the accused committed the crime alleged, unless this determination has previously been made by a court.

(c) - (g) [Unchanged.]

**PROPOSED AMENDMENT:
CrRLJ 3.6
SUPPRESSION PROCEDURE**

(a) Pleadings; Determination Regarding Hearing. Motions to suppress physical, oral or identification evidence other than motions pursuant to ~~rule CrRLJ 3.5~~ shall be in writing supported by an affidavit or ~~document statement~~ as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, setting forth the facts the moving party anticipates will be elicited at a hearing. If there are no disputed facts, the court shall determine whether an evidentiary hearing is required. If the court determines that no evidentiary hearing is required, the court shall set forth its reasons for not conducting an evidentiary hearing.

(b) Decision. [Unchanged.]

**PROPOSED AMENDMENT:
IRLJ 6.7
IDENTITY CHALLENGES AND RELIEF FROM JUDGMENT**

(a) [Unchanged.]

(b) Identity Challenge.

(1) [Unchanged.]

(2) *Identity Affidavit.* A defendant moving to vacate a judgment for mistaken identification shall file an affidavit or certification ~~under RCW 9A.72.085~~ with the court in which the infraction was found committed and with the office of the prosecuting authority assigned to the court stating that he or she could not be the person identified by the citing officer as having committed the infraction, citing a factual basis for the assertion and stating that he or she was not served with the notice of infraction.

(3) - (6) [Unchanged.]

**PROPOSED AMENDMENT:
RALJ 6.3.1
TRANSCRIPT OF ELECTRONIC RECORD**

(a) - (c) [No changes.]

(d) Transcript Generally.

(1) *Form.* [No changes.]

(2) *Certification.* The person preparing the transcript shall certify or declare under penalty of perjury that it is true and correct in accordance with ~~RCW 9A.72.085 or any law amendatory thereof~~ GR 13.

(3) *Disputes.* [No changes.]

(e) - (g) [No changes.]

**PROPOSED AMENDMENT:
JuCR 7.3
DETENTION AND RELEASE**

(a) Time for First Appearance Generally. [Unchanged.]

(b) Determination of Probable Cause. The court shall determine probable cause based on an affidavit, a ~~document statement~~ as provided in ~~RCW 9A.72.085 or any law amendatory thereto~~ GR 13, or sworn testimony. The sworn testimony shall be electronically or stenographically recorded. The evidence shall be preserved. The evidence shall be subject to constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

(c) - (f) [Unchanged.]

**PROPOSED AMENDMENT:
SPR 98.16W
Superior Court Special Proceedings Rules
ESTATES—GUARDIANSHIP—SETTLEMENT
OF CLAIMS OF MINORS AND INCAPACITATED PERSONS**

(a) - (f) [Unchanged.]

(g) Attorney's Fees and Costs. Any attorney claiming fees, costs or other charges incident to representation of the affected person, from the claim proceeds or otherwise, shall file an affidavit or declaration ~~under RCW 9A.72.085~~ in support thereof. Copies of any written fee agreements must be attached to the affidavit or declaration.

(h) - (k) [Unchanged.]

**WSR 21-04-090
RULES OF COURT
STATE SUPREME COURT
[December 2, 2020]**

IN THE MATTER OF THE SUGGESTED) ORDER
AMENDMENTS TO COUNCIL ON) NO. 25700-A-1331
PUBLIC DEFENSE'S INDIGENT)
DEFENSE APPELLATE PERFOR-)
MANCE GUIDELINES AND PRO-)
POSED AMENDMENTS TO CrR 3.1)
Stds, CrRLJ 3.1 Stds, AND JuCR 9.2 Stds)

The Washington State Bar Association Board of Governors, having recommended the suggested amendments to Council on Public Defense's Indigent Defense Appellate Performance Guidelines and Proposed Amendments to CrR 3.1 Stds, CrRLJ 3.1 Stds, and JuCR 9.2 Stds, 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 supremecourts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of December, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment

Adoption of the *Washington State Guidelines for Appointed Counsel in Indigent Appeals* and amendment to the Standards Certification of Compliance for CrR 3.1, CrRLJ 3.1 and JuCR 9.2

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

A. Name of Proponent:

Washington State Bar Association

B. Spokespersons:

Kyle Sculichetti, President, Washington State Bar Association, 1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539 (telephone 360-332-7000)

Travis Stearns, Chair, Council on Public Defense, Washington State Bar Association, Seattle, WA 98101-2539 (telephone 206-587-2711)

Diana Singleton, Access to Justice Manager, Washington State Bar Association, 1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539 (telephone 206-727-8205)

C. Purpose:

The *Standards for Indigent Defense* adopted by the Washington Supreme Court set a caseload limit for appointed counsel representing clients in criminal cases, including those representing persons in their appeals. The *Standards for Indigent Defense* also require appointed counsel in criminal cases to be familiar with the *Performance Guidelines for Criminal Defense Representation* and the *Performance Guidelines for Juvenile Defense Representation* approved by the Washington State Bar Association.

Unlike trial lawyers, before the creation of the *Washington State Guidelines for Appointed Counsel in Indigent Appeals*, no uniform guidance for appellate attorneys existed. These guidelines were created to provide guidance to attorneys who handle appeals for cases where there is a constitutional right to appellate counsel.

These guidelines were originally drafted by an experienced group of appellate attorneys, including the Federal Public Defender, two Washington Appellate Project lawyers, two indigent defense attorneys who worked outside an office structure, and a specialist in Personal Restraint Petitions. The Washington State Office of Public Defense assisted in drafting the guidelines. The drafters of the guidelines modelled them after guidelines adopted in other states and by national organizations, including the American Bar Association and the National Legal Aid and Defender Association.

After the guidelines were drafted, they were sent out to every attorney who represents persons in indigent defense cases. After their feedback was incorporated into the guidelines, the Washington State Office of Public Defense incorporated compliance with them into its contracts. With some

minor changes, the guidelines have been used by the Office of Public Defense for several years.

The guidelines were proposed for adoption by the Supreme Court this year. With some amendments, they were approved by a super majority of the Council on Public Defense. They were then sent to the Board of Governors, where it was recommended that the guidelines be sent to the Supreme Court to be added to the *Standards for Indigent Defense*.

The Council on Public Defense recommends adoption of the guidelines and that they be incorporated into the *Standards for Indigent Defense*. The appellate guidelines fill a gap not otherwise addressed in the current guidelines the Supreme Court has. The appellate guidelines also have broad stakeholder support. Their adoption will continue to improve the quality of indigent appellate defense.

D. Hearing:

A hearing is not recommended.

E. Expedited Consideration:

Expedited consideration is not requested.

F. Supporting Material:

Washington State Guidelines for Appointed Counsel in Indigent Appeals.

Proposed redlined amendments to CrRLJ 3.1, CrR 3.1, and JuCR 9.2.

CrR 3.1

STANDARDS FOR INDIGENT DEFENSE

Preamble

The Washington Supreme Court adopts the following Standards to address certain basic elements of public defense practice related to the effective assistance of counsel. The Certification of Appointed Counsel of Compliance with Standards Required by CrR 3.1/CrRLJ 3.1/JuCR 9.2 references specific "Applicable Standards." The Court adopts additional Standards beyond those required for certification as guidance for public defense attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wash.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign. To the extent that certain Standards may refer to or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining Certifications.

[Adopted effective October 1, 2012.]

Standard 1. Compensation

[Reserved.]

Standard 2. Duties and Responsibilities of Counsel

[Reserved.]

Standard 3. Caseload Limits and Types of Cases

[Unchanged.]

Standard 4. Responsibility of Expert Witnesses

[Reserved.]

Standard 5. Administrative Costs

Standard 5.1. [Reserved.]

Standard 5.2.

A. Contracts for public defense services should provide for or include administrative costs associated with providing legal representation. These costs should include but are not limited to travel; telephones; law library, including electronic legal research; financial accounting; case management systems; computers and software; office space and supplies; training; meeting the reporting requirements imposed by these standards; and other costs necessarily incurred in the day-to-day management of the contract.

B. Public defense attorneys shall have (1) access to an office that accommodates confidential meetings with clients and (2) a postal address, and adequate telephone services to ensure prompt response to client contact.

[Adopted effective October 1, 2012.]

Standard 6. Investigators

Standard 6.1. Public defense attorneys shall use investigation services as appropriate.

[Adopted effective October 1, 2012.]

Standards 7-12

[Reserved.]

Standard 13. Limitations on Private Practice

Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

[Adopted effective October 1, 2012.]

Standard 14. Qualifications of Attorneys

Standard 14.1. In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:

A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and

B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and

C. Be familiar with the Washington Rules of Professional Conduct; and

D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association and when representing youth, be familiar with the Performance Guidelines for Juvenile Defense Representation approved by the Washington State Bar Association; and

E. Be familiar with the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and

F. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and

G. Be familiar with mental health issues and be able to identify the need to obtain expert services; and

H. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

[Adopted effective October 1, 2012; amended effective April 24, 2018.]

Standard 14.2. Attorneys' qualifications according to severity or type of case¹:

¹ Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.

A-P. [Unchanged.]

Standard 14.3. Appellate Representation. Each attorney who is counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of Appeals shall meet the following requirements:

A. The minimum requirements as outlined in Section 1; and

B. Either:

i. has filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or

ii. has equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing, or other comparable work.

C. Attorneys with primary responsibility for handling a death penalty appeal shall have at least five years' criminal experience, preferably including at least one homicide trial and at least six appeals from felony convictions, and meet the requirements of SPRC 2.

RALJ Misdemeanor Appeals to Superior Court: Each attorney who is counsel alone for a case on appeal to the Superior Court from a court of limited jurisdiction should meet the minimum requirements as outlined in Section 1, and have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing a RALJ appeal.

[Adopted effective October 1, 2012.]

Standard 14.4. Legal Interns.

A. Legal interns must meet the requirements set out in APR 9.

B. Legal interns shall receive training pursuant to APR 9, and in offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held.

[Adopted effective October 1, 2012.]

Standards 15-18

[Reserved.]

CERTIFICATION OF COMPLIANCE

For criminal and juvenile offender cases, a signed Certification of Compliance with Applicable Standards must be filed by an appointed attorney by separate written certification on a quarterly basis in each court in which the attorney has been appointed as counsel.

The certification must be in substantially the following form:

SEPARATE CERTIFICATION FORM

Court of Washington for _____ State of Washington _____,	[] No.: _____ [] Administrative Filing	Plaintiff CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CrR 3.1/CrRLJ 3.1/JuCR 9.2 vs. _____, Defendant
--	---	--

The undersigned attorney hereby certifies:

1. Approximately _____% of my total practice time is devoted to indigent defense cases.

2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that:

a. Basic Qualifications: I meet the minimum basic professional qualifications in Standard 14.1.

b. Office: I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.

c. Investigators: I have investigators available to me and will use investigative services as appropriate, in compliance with Standard 6.1.

d. Caseload: I will comply with Standard 3.2 during representation of the defendant in my cases. [Effective October 1, 2013 for felony and juvenile offender caseloads; effective January 1, 2015 for misdemeanor caseloads: I should not accept a greater number of cases (or a proportional mix of different case types) than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time, and taking into account the case counting and weighting system applicable in my jurisdiction.]

e. Case Specific Qualifications: I am familiar with the specific case qualifications in Standard 14.2, Sections B-K and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case. [Effective October 1, 2013]

Signature, WSBA#

Date

CrRLJ 3.1

STANDARDS FOR INDIGENT DEFENSE

Preamble

The Washington Supreme Court adopts the following Standards to address certain basic elements of public defense practice related to the effective assistance of counsel. The Certification of Appointed Counsel of Compliance with Standards Required by CrR 3.1/CrRLJ 3.1/JuCR 9.2 references specific "Applicable Standards." The Court adopts additional Standards beyond those required for certification as guidance for public defense attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wash.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign. To the extent that certain Standards may refer to

or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining Certifications.

[Adopted effective October 1, 2012.]

Standard 1. Compensation

[Reserved.]

Standard 2. Duties and Responsibilities of Counsel

[Reserved.]

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[Unchanged]

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[Reserved.]

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[Unchanged.]

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[Reserved.]

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[Unchanged.]

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A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and

B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and

C. Be familiar with the Washington Rules of Professional Conduct; and

D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association and when representing youth, be familiar with the Performance Guidelines for Juvenile Defense Representation approved by the Washington State Bar Association; and

E. Be familiar with the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and

F. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and

G. Be familiar with mental health issues and be able to identify the need to obtain expert services; and

H. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice. [Adopted effective October 1, 2012; amended effective April 24, 2018.]

Standard 14.2. Attorneys' qualifications according to severity or type of case¹:

1 Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.

A-P. [Unchanged.]

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A. The minimum requirements as outlined in Section 1; and

B. Either:

i. has filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or

ii. has equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing, or other comparable work.

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[Reserved.]

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The certification must be in substantially the following form:

SEPARATE CERTIFICATION FORM

Court of Washington	[] No.: _____
for _____	
State of Washington _____ , Plaintiff	[] Administrative Filing
vs.	CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CrR 3.1/CrRLJ 3.1/JuCR 9.2
_____, Defendant	

The undersigned attorney hereby certifies:

1. Approximately _____% of my total practice time is devoted to indigent defense cases.

2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that:

a. **Basic Qualifications:** I meet the minimum basic professional qualifications in Standard 14.1.

b. **Office:** I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.

c. **Investigators:** I have investigators available to me and will use investigative services as appropriate, in compliance with Standard 6.1.

d. **Caseload:** I will comply with Standard 3.2 during representation of the defendant in my cases. [Effective October 1, 2013 for felony and juvenile offender caseloads; effective January 1, 2015 for misdemeanor caseloads: I should not accept a greater number of cases (or a proportional mix of different case types) than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time, and taking into account the case counting and weighting system applicable in my jurisdiction.]

e. **Case Specific Qualifications:** I am familiar with the specific case qualifications in Standard 14.2, Sections B-K and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case. [Effective October 1, 2013]

Signature, WSBA#

Date

JuCR 9.2

STANDARDS FOR INDIGENT DEFENSE

Preamble

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[Reserved.]

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[Reserved.]

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[Unchanged.]

Standard 4. Responsibility of Expert Witnesses

[Reserved.]

Standard 5. Administrative Costs

[Unchanged.]

Standard 6. Investigators

Standard 6.1. Public defense attorneys shall use investigation services as appropriate.

[Adopted effective October 1, 2012.]

Standards 7-12

[Reserved.]

Standard 13. Limitations on Private Practice

[Unchanged.]

Standard 14. Qualifications of Attorneys

Standard 14.1. In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:

A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and

B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and

C. Be familiar with the Washington Rules of Professional Conduct; and

D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association, and when representing youth, be familiar with the Performance Guidelines for Juvenile Defense Representation approved by the Washington State Bar Association; and

E. Be familiar with the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and

F. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and

G. Be familiar with mental health issues and be able to identify the need to obtain expert services; and

H. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

[Adopted effective October 1, 2012; amended effective April 24, 2018.]

Standard 14.2. Attorneys' qualifications according to severity or type of case¹:

¹ Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.

A-P. [Unchanged.]

Standard 14.3. Appellate Representation. Each attorney who is counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of Appeals shall meet the following requirements:

A. The minimum requirements as outlined in Section 1; and

B. Either:

i. has filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or

ii. has equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing, or other comparable work.

C. Attorneys with primary responsibility for handling a death penalty appeal shall have at least five years' criminal experience, preferably including at least one homicide trial and at least six appeals from felony convictions, and meet the requirements of SPRC 2.

RALJ Misdemeanor Appeals to Superior Court: Each attorney who is counsel alone for a case on appeal to the Superior Court from a court of limited jurisdiction should meet the minimum requirements as outlined in Section 1, and have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing a RALJ appeal.

[Adopted effective October 1, 2012.]

Standard 14.4. Legal Interns.

A. Legal interns must meet the requirements set out in APR 9.

B. Legal interns shall receive training pursuant to APR 9, and in offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held.

[Adopted effective October 1, 2012.]

Standards 15-18

[Reserved.]

CERTIFICATION OF COMPLIANCE

For criminal and juvenile offender cases, a signed Certification of Compliance with Applicable Standards must be filed by an appointed attorney by separate written certification on a quarterly basis in each court in which the attorney has been appointed as counsel.

The certification must be in substantially the following form:

Court of Washington	[] No.: _____
for _____	
<u>State of Washington</u> _____ ,	
Plaintiff	CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CrR 3.1/CrRLJ 3.1/JuCR 9.2
vs.	
_____,	
Defendant	

The undersigned attorney hereby certifies:

1. Approximately _____% of my total practice time is devoted to indigent defense cases.

2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that:

a. Basic Qualifications: I meet the minimum basic professional qualifications in Standard 14.1.

b. Office: I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.

c. Investigators: I have investigators available to me and will use investigative services as appropriate, in compliance with Standard 6.1.

d. Caseload: I will comply with Standard 3.2 during representation of the defendant in my cases. [Effective October 1, 2013 for felony and juvenile offender caseloads; effective January 1, 2015 for misdemeanor caseloads: I should not accept a greater number of cases (or a proportional mix of different case types) than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time, and taking into account the case counting and weighting system applicable in my jurisdiction.]

e. Specific Qualifications: I am familiar with the specific case qualifications in Standard 14.2, Sections B-K and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case. [Effective October 1, 2013]

Signature, WSBA#

Date

WSR 21-05-001

**INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF ECOLOGY**

[Filed February 3, 2021, 3:06 p.m.]

Notice of Interpretive and Policy Statements

Under RCW 42.56, ecology maintains an index that includes interpretive and policy statements issued by the agency. Under RCW 34.05.230, we are filing notice in the Washington State Register about these statements.

To obtain copies of these items, please:

- Copy and paste the web address (URL) below into a web browser to view and download; or

- Submit an email records request to ecology's public records officer at PublicRecordsOfficer@ecy.wa.gov following the instructions on the Public Records Requests web page at <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>.

New Statements:

Title of Interpretive/Policy Statement: Toxics Cleanup Program Interim Policy 730: Taking into Account Federal Human Health Surface Water Quality Criteria under MTCA.

Web Link (if applicable): <https://apps.ecology.wa.gov/publications/SummaryPages/2009059.html>.

WSR 21-05-003

**RULES COORDINATOR
BUILDING CODE COUNCIL**

[Filed February 3, 2021, 3:58 p.m.]

Pursuant to RCW 34.05.312, the new rules coordinator for the state building code council is Stoyan Bumbalov, Managing Director, Washington State Building Code Council, 1500 Jefferson Street S.E., P.O. Box 41449, Olympia, WA 98504-1449, 360-407-9277, Stoyan.bumbalov@des.wa.gov.

Diane Glenn
Council Chair

WSR 21-05-004

HEALTH CARE AUTHORITY

[Filed February 4, 2021, 8:23 a.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 21-0008 COVID[-19] Vaccine Administration Fees.

Effective Date: December 11, 2020.

Description: The health care authority (HCA) intends to submit medicaid SPA 21-0008 to implement policies and procedures that may be different from the policies and procedures otherwise applied under the medicaid state plan, during the period of the presidential and secretarial emergency declarations related to the COVID-19 outbreak. SPA 21-0008 addresses fees for administering COVID[-19] vaccines.

This SPA is the preprint developed by the Centers for Medicare and Medicaid Services to waive or modify certain requirements of Titles XVIII, XIX, and XXI of the act as a result of the consequences [of the] COVID-19 pandemic, to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

At this time HCA is unable to determine the effect of SPA 21-0008 on the annual aggregate expenditures/reimbursement/payment for professional services.

A copy of draft SPA 21-0008 is available. HCA would appreciate any input or concerns regarding this SPA. To request a copy of the SPA or 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 Rebecca Carrell, Medicaid Program Operations and Integrity, 626 8th Avenue S.E., Olympia, WA 98501, TRS 711, email rebecca.carrell@hca.wa.gov.

WSR 21-05-005
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
 (Health Technology Clinical Committee)
 [Filed February 4, 2021, 9:50 a.m.]

Updates are announced for the health technology clinical committee (HTCC) schedule of public meetings in 2021. This schedule is current as of February 1, 2021.

Date	Time	Location
March 19, 2021	8:00 a.m. - 12:00 p.m.	Webinar*
May 21, 2021	Cancelled	
July 9, 2021	9:00 - 10:00 a.m.	Webinar*
September 17, 2021	8:00 a.m. - 5:00 p.m.	Webinar*
November 19, 2021	8:00 a.m. - 5:00 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. (Go to <https://public.govdelivery.com/accounts/WA/HCA/subscriber/new>.)

For further information contact Christine Masters, Program Specialist, Health Technology Assessment, P.O. Box 626, 8th Avenue S.E., Olympia, WA 98504-2712, christine.masters@hca.wa.gov.

WSR 21-05-009
POLICY STATEMENT
DEPARTMENT OF HEALTH
 [Filed February 4, 2021, 1:08 p.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy Statement: Virtual Supervision for Psychology Internships and Preinternships During the COVID-19 Declared Emergency. Policy Number EBOP-20-02.

Issuing Entity: Examining board of psychology.

Subject Matter: "Face-to-face individual supervision" during psychology internships and preinternships may be fulfilled by virtual supervision during the COVID-19 declared emergency and ending one hundred eighty days after the emergency declaration is lifted.

Effective Date: February 29, 2020.

Contact Person: Stacey Saunders, program director, 360-236-2813. Stacey.saunders@doh.wa.gov.

WSR 21-05-013
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
ENTERPRISE SERVICES
 (State Capitol Committee)
 [Filed February 5, 2021, 9:15 a.m.]

Following is the state capitol committee (SCC) 2021 meeting dates, times and location(s):

Date	Time	Location
March 18, 2021	10:00 a.m. to 12:00 p.m.	Webinar (Zoom-based) Details will be posted on SSC [SCC] website
June 17, 2021	10:00 a.m. to 12:00 a.m. [p.m.]	Webinar (Zoom-based) Details will be posted on SSC [SCC] website
October 7, 2021	10:00 a.m. to 12:00 p.m.	To be determined, anticipate Webinar
November 18, 2021	10:00 a.m. to 12:00 p.m.	To be determined, anticipate Webinar

If you have any questions, please contact Shari Bartell at 360-407-9248 or Kevin Dragon at 360-407-7956.

WSR 21-05-014
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD
 [Filed February 5, 2021, 10:48 a.m.]

MEETING NOTICE: April 29, 2021
 County Road Administration Board
 2404 Chandler Court S.W.
 Suite 240
 Olympia, WA 98502
 Zoom attendance available
 1:00 to 5:00 p.m.
 Possible executive session

MEETING NOTICE: April 30, 2021
 County Road Administration Board
 2404 Chandler Court S.W.
 Suite 240
 Olympia, WA 98502
 Zoom attendance available
 8:30 a.m. to noon
 Possible executive session

* Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at 360-753-5989.

Hearing and speech impaired persons call 1-800-833-6384.

For questions, please call 360-753-5989.

**WSR 21-05-016
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 5, 2021, 4:55 p.m.]

**Prevailing Rate of Wage Publication -
Wage Rate Corrections**

Pursuant to RCW 39.12.015, 39.12.020; and WAC 296-127-011, on February 5, 2021, the industrial statistician determined and published on the internet a correction to the prevailing wage rates. The corrected rates become effective thirty days from publication on March 7, 2021, and impact multiple counties in Washington state.

This publication includes adjustments made to metal fabrication (in shop) rates in Pierce County. A detailed list of the corrections can be found at the following web page <https://secure.lni.wa.gov/wagelookup/correctionpublication.aspx?PubCtlId=169>.

For more information on prevailing wage or a copy of the rates please visit our website at <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/> or call 360-902-5335.

Corrected Job Classification	Corrected Wage	Incorrect Job Classification	Incorrect Wage
Fitter	\$15.25	Journey level	\$36.54
Laborer	\$13.69		
Machine operator	\$13.98		
Welder	\$13.98		

Tracy West
Rules Coordinator

**WSR 21-05-022
RULES COORDINATOR
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed February 8, 2021, 4:02 p.m.]

Pursuant to RCW 34.05.312, effective February 1, 2021, the Washington department of fish and wildlife's rules coordinator is Annie Szvetecz, phone 360-480-6536, email Annie.szvetecz@dfw.wa.gov, P.O. Box 43200, Olympia, WA 98504-3200.

Kelly Susewind
Director

**WSR 21-05-023
NOTICE OF PUBLIC MEETINGS
STATE INDEPENDENT
LIVING COUNCIL**

[Filed February 8, 2021, 4:08 p.m.]

The Washington state independent living council (WASILC) will convene an open, public meeting to discuss the redistribution of Part C and CARES Act funds on Thurs-

day, March 25, from 3:00 - 5:00 p.m. This meeting will be held via Zoom.

ASL interpreting and closed captioning services will be provided. For additional accommodations, please contact WASILC staff, Jolie Ramsey, at jolie.ramsey@dshs.wa.gov or call/text 360-791-5473.

Join Zoom meeting <https://dshs-telehealth.zoom.us/j/82975004592?pwd=M0d6TXhqBWRMd2dBcHE0NnBX-dGZlUT09>, Meeting ID 829 7500 4592, Passcode 932295.

One tap mobile +12532158782, 82975004592#, *93 2295# US (Tacoma), +13462487799, 82975004592#, *93 2295# US (Houston).

Dial by your location +1 253 215 8782 US (Tacoma), +1 346 248 7799 US (Houston), +1 669 900 6833 US (San Jose), +1 301 715 8592 US (Washington DC), +1 312 626 6799 US (Chicago), +1 929 205 6099 US (New York), Meeting ID 829 7500 4592, Passcode 932295.

ASL interpreters and closed captioning services will be provided during this meeting. For additional accommodations please email staff at jolie.ramsey@dshs.wa.gov or call 360-791-5473.

**WSR 21-05-026
POLICY STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 9, 2021, 9:59 a.m.]

Policy Statements

Under RCW 34.05.230, following are statements regarding two amended interim policies, issued by the department of labor and industries (L&I) insurance services division.

If you have any questions or need additional information, please contact Tracy West, rules coordinator, at 360-902-6954.

Title: Interim Policy 13.05 - *Scheduling Independent Medical Examinations.*

Date Issued: January 1, 2021.

Description: The policy is amended due to recent 2020 legislation specifying that L&I can issue a no show fee, defines a new medical issue, created a section requiring L&I adopt rules and policies for telemedicine for independent medical examinations, and requires L&I define accommodation when no approved medical examiner is available in the worker's community. The policy is interim because the legislation went into effect January 1, 2021.

Contact: Suzy Campbell, 7273 Linderson Way, Tumwater, WA 98501, Mailstop 4270, 360-902-5003, Suzanne.Campbell@Lni.wa.gov.

Title: Interim Policy 13.07 - *Worker Cancels or Fails to Appear for an Independent Medical Examination.*

Date Issued: January 1, 2021.

Description: The policy is amended due to recent 2020 legislation specifying that L&I can issue a no show fee. The policy is interim because the legislation went into effect January 1, 2021.

Contact: Suzy Campbell, 7273 Linderson Way, Tumwater, WA 98501, Mailstop 4270, 360-902-5003, Suzanne.Campbell@Lni.wa.gov.

Tracy West
Rules Coordinator

WSR 21-05-029

**NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
(Pullman Service and Activities Fees Committee)**
[Filed February 9, 2021, 5:20 p.m.]

Following is the schedule of regular meetings for the Washington State University - Pullman service and activities fees committee for academic year 2021-22:

Date	Time	Location
February 11, 2021	4:30-5:45 [p.m.]	https://wsu.zoom.us/j/95727144960?pwd=SXJVUzQ1eJJoK2xqWEJOYXdpUzViZz09
March 23, 2021	4:30-7:00 [p.m.]	https://wsu.zoom.us/j/98765377647?pwd=cXl0TS9rZndYc29kTDJUVUJ3TXJadZ09
March 24, 2021	4:30-7:00 [p.m.]	https://wsu.zoom.us/j/95742924248?pwd=ZUNid1RTNTZPNXp3N09BRDN2eWNiZz09
March 25, 2021	4:30-7:00 [p.m.]	https://wsu.zoom.us/j/99272519007?pwd=RHFfTFdBNghlUE1nTG1JcXlEa25Zdz09
March 30, 2021	4:30-7:00 [p.m.]	https://wsu.zoom.us/j/91874118308?pwd=OF1rWG4rbERpS2JFfejRDczFGTU1Gdz09
March 31, 2021	4:30-7:00 [p.m.]	https://wsu.zoom.us/j/94117191739?pwd=VitTMWpYYnQ0akdrQIEvUW9TOEIwZz09
April 1, 2021	4:30-7:00 [p.m.]	https://wsu.zoom.us/j/97572502419?pwd=Q3Y5MXFMeFNmMFhXNWUyRXFmWHdiQT09

Changes due to COVID-19 State of Emergency and to meet Governor Inslee's order. If you need further information contact Loretta Dragoo, Office of the Vice President for Student Affairs, Washington State University, P.O. Box 641066, Pullman, WA 99164-1066, 509-335-4531, 509-335-2791, dragoo@wsu.edu, <https://studentaffairs.wsu.edu>.

WSR 21-05-033

DEPARTMENT OF ECOLOGY
[Filed February 10, 2021, 4:15 p.m.]

**Washington's Underground Storage Tank (UST)
Program:
Tank Fee Increase in 2022**

Washington's UST fees will increase on July 1, 2022, from \$192.58 to \$204.13 per tank.

As required by law, the fiscal growth factor was used to determine the amount of fee increase. The fiscal growth fac-

tor is calculated by the economic and revenue forecast council using the average growth in state personal income for the previous ten fiscal years.

More information on the UST fee increase can be found on the Washington department of ecology's UST program web page <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Underground-storage-tanks>.

WSR 21-05-035

**POLICY STATEMENT
DEPARTMENT OF AGRICULTURE**
[Filed February 11, 2021, 9:02 a.m.]

Notice of Interpretive or Policy Statement

Policy Statement CI-21-0001 - Delay in implementation of 200 dollar late fee for applications received outside of the hemp producer application window.

On February 11, 2021, a policy statement regarding a delay in implementation of the two hundred dollar late fee for applications received outside of the hemp producer application window was signed. In 2020, the hemp program worked to finalize and implement new software for an online application system, however unforeseen delays to implementation were experienced. These implementation delays have in turn delayed our application process, preventing prospective applicants and renewal licensees from applying during January and the first days of February. To allow producers sufficient time to apply for their hemp producer's license and work with the new application software, Washington state department of agriculture will consider any application submitted prior to March 31, 2022, as timely. The application late fee in WAC 16-306-140 will then take effect on April 1, 2022.

A copy of the policy statement may be obtained by accessing our website or by contacting Gloriann Robinson, Agency Rules Coordinator, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, email wsdarulescomments@agr.wa.gov.

WSR 21-05-046

**POLICY STATEMENT
DEPARTMENT OF HEALTH**
[Filed February 11, 2021, 5:07 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy Statement: Continuing Competency Requirements During the COVID-19 Response. Policy Number: BOD 21.1

Issuing Entity: Board of denturists.

Subject Matter: Addressing the impact COVID-19 response measures are having on the dentist profession with regard to meeting the continuing competency/education requirements.

Effective Date: January 1, 2021.

Contact Person: Vicki Brown, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, 360-236-4865, vicki.brown@doh.wa.gov.

WSR 21-05-049
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 12, 2021, 10:04 a.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services (DSHS).

Ageing and Long-Term Support Administration
Division of Home and Community Services (HCS)

Document Title: Public Notice.

Subject: 1915 (b)(4) Waiver application for selective contracting to enact the consumer directed employer program.

Effective Date: October 1, 2021.

Document Description: In 2018, the Washington state legislature passed SB 6199 authorizing DSHS to create a consumer directed employer program. To implement this program, the state intended to file a 1915 (b)(4) waiver application for selective contracting, which would have applied to the following home and community-based services waiver programs effective July 1, 2021:

- 1915(c) New freedom waiver.
- 1915(c) Individual and family services waiver.
- 1915(c) Basic Plus waiver.
- 1915(c) Children's intensive in-home behavior support waiver.
- 1915(c) Core waiver.

All programs listed in this notice were also to be amended to reflect the concurrent operation with the 1915 (b)(4) waiver.

Notice was filed in the Washington State Register under WSR 20-22-087 on November 3, 2020. However, the submission of the 1915 (b)(4) application and waiver amendments were delayed; therefore the effective date for the 1915 (b)(4) waiver application and waiver amendments will be October 1, 2021.

To receive a copy of the interpretive or policy statements, contact Jamie Tong, HCS, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-725-3293, TDD/TTY 1-877-905-0454, fax 360-438-8633, email Jamie.tong@dshs.wa.gov, website <http://www.dshs.wa.gov/altsa>.

WSR 21-05-050
NOTICE OF PUBLIC MEETINGS
OFFICE OF
PUBLIC DEFENSE

[Filed February 12, 2021, 1:57 p.m.]

The Washington state office of public defense (OPD) will hold a special meeting of the advisory committee on Wednesday, February 17, 2021, at 8:00 a.m.

An agenda is posted at www.opd.wa.gov. The meeting will be held via Zoom teleconference.

Contact OPD at 360-586-3164 ext. 114 if you have questions regarding the special meeting.

WSR 21-05-056
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD

[Filed February 16, 2021, 9:20 a.m.]

The public works board announces a special meeting on February 18, 2021, at 2:00 - 3:00 p.m.

The link and password to the online meeting, along with all meeting materials will be posted on our website twenty-four hours prior to this special meeting at www.pwb.wa.gov.

For more information contact Ellen Hatleberg, Board Liaison, Public Works Board, Washington State Department of Commerce, ellen.hatleberg@commerce.wa.gov, 360-338-5739.

WSR 21-05-057
DEPARTMENT OF ECOLOGY

[Filed February 16, 2021, 9:25 a.m.]

PUBLIC NOTICE

**Announcing the Draft Boatyard General Permit
and Fact Sheet for Review and Comment**

The Washington state department of ecology (ecology) proposes to reissue the boatyard general permit (permit), a National Pollutant Discharge Elimination System and state waste discharge general permit. The permit was last issued in July 2016 and is scheduled to expire at the end of July 2021. The revised draft permit and fact sheet, which explains the legal and technical basis for the permit, are available with any associated documents for review and public comment from **March 3, 2021, through April 16, 2021, at 11:59 p.m.** Ecology will host public hearings on the draft permit.

Purpose of the Permit: The statewide permit provides coverage for boatyards that discharge stormwater runoff from areas with industrial activity directly to the ground, to a surface waterbody, or to a storm sewer system that drains to a surface waterbody. This general permit also regulates process wastewater from pressure washing in boatyards, unless the wastewater is discharged to a municipal sanitary sewer operated by a sewer authority (publicly owned treatment works) with a delegated pretreatment program. Under federal and state water quality laws (Federal Clean Water Act and State Water Pollution Control Act), a permit is required for the discharge of stormwater or wastewater from these facilities.

Applying for Coverage under the Permit: Facilities that have reapplied for coverage by February 1, 2021, and are covered under the existing permit, would be covered under a new permit. New or unpermitted facilities may obtain coverage under the permit by submitting a complete permit application to ecology and satisfying all applicable public notice and State Environmental Policy Act requirements (WAC 173-226-200). Access to the application is available online at

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Boatyard-general-permit>.

Copies of the Draft Permit and Fact Sheet: The draft permit and fact sheet will be available online at <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Boatyard-general-permit> by end of day on March 3, 2021. You may also request copies from Kim Adams at 360-407-6448 or email kimberly.adams@ecy.wa.gov.

Ecology Contact: James Hovis, Washington State Department of Ecology, P.O. Box 47696, phone 564-999-3244, Olympia, WA 98504-7696, email james.hovis@ecy.wa.gov.

Assistance for Persons with Disabilities: To request ADA accommodation for disabilities, call ecology at 360-407-7285 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington relay service at 711. People with speech disability may call TTY at 877-833-6341.

En Español: Para información en español, por favor comuníquese con Gustavo Ordóñez al 360-407-6619.

Submitting Written Comments: Ecology will accept written comments on the draft permit and fact sheet from **March 3, 2021, through April 16, 2021, by 11:59 p.m.** Ecology prefers online comment submission via the eComment form (link below) on the permit webpage. Written comments by mail must be postmarked by **April 16, 2021**. Comments should reference specific permit text when possible.

Online eComment form: <http://wq.ecology.commentinput.com/?id=MYQsb> (preferred).

By mail: Send to James Hovis (See address information above).

Public Workshops and Hearings: The purpose of the workshop is to explain the general permit and to answer questions prior to the formal public hearing. The purpose of the hearing is to provide an opportunity for people to give formal oral testimony and written comments on the proposed draft permit. Oral testimony will receive the same consideration as written comments.

The public hearing will begin immediately following the public workshop and will conclude when public testimony is complete.

The boatyard general permit hearings will occur at the following dates and times:

Evening: Monday, April 12, 2021, at 5:00 p.m., Webinar, join the Webinar* <https://watech.webex.com/watech/onstage/g.php?MTID=ed53ef308d59f82ad60b67d9adb2ab3db>.

Morning: Tuesday, April 13, 2021, at 10:00 a.m., Webinar, join the Webinar* <https://watech.webex.com/watech/onstage/g.php?MTID=e462a6dcadec11f6d91f96fdf2bd53d6f>.

* Workshops and hearings offered via webinar allow individuals to view the presentation and provide testimony via computer or mobile device. Ecology is not currently offering in-person hearings due to COVID-19 safety concerns.

Issuing the Permit: After ecology receives and considers all public comments, we will make a final decision on permit issuance. Ecology expects to make a decision on the general permit in **June 2021**.

WSR 21-05-064

**NOTICE OF PUBLIC MEETINGS
GRAIN COMMISSION**

[Filed February 16, 2021, 3:21 p.m.]

The Washington grain commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting changes for publication in the State Register. This change for the earlier published March regular meeting is submitted in the required twenty-day notice prior to the new scheduled meeting date. This meeting will be held virtually via electronic remote access due to COVID-19.

Was previously listed as: Regular - Thursday, March 11, at 8:00 - 11:00 a.m., and Friday, March 12, at 8:00 a.m.

PLEASE CHANGE TIME TO READ: Regular - Thursday, March 11, at **10:00 a.m.**, and Friday, March 12, at 8:00 a.m.

WSR 21-05-076

**NOTICE OF PUBLIC MEETINGS
HIGHLINE COLLEGE**

[Filed February 17, 2021, 10:59 a.m.]

Pursuant to RCW 42.30.075, please be advised of the below highlighted changes in the Highline College board of trustees' regular meetings for the 2021 calendar year as follows:

DATE	
January 14, 2021	
February 11, 2021	
March	No meeting
April 8, 2021	
May 6, 2021	
June 10, 2021	
July 6, 2021	
August	No meeting
September 9, 2021	
October 7, 2021	
November 4, 2021	
December 9, 2021	

During the COVID-19 pandemic, meetings are scheduled to take place via Zoom.

For further information regarding the 2021 board of trustees meetings, or general information regarding the Highline College board of trustees, please contact Danielle K. Slota at 206-592-3600.